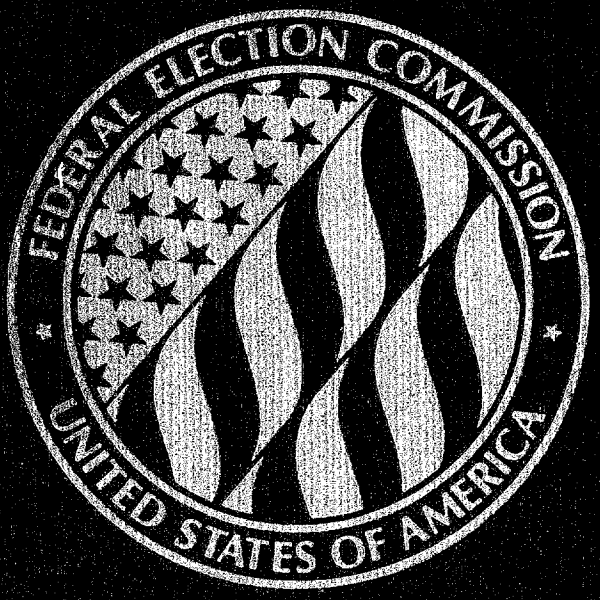
LEGISLATIVE HISTORY OF FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976



LEGISLATIVE HISTORY OF FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

THE
FEDERAL ELECTION
COMMISSION

LEGISLATIVE HISTORY OF FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Federal Election Commission
1325 K Street, Northwest
Washington, D.C. 20463

August 1977

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PREFACE

The Federal Election Commission is publishing this legislative history of the 1976 Amendments to the Federal Election Campaign Act of 1971 to provide to Commissioners and Commission staff, the Congress, and to candidates and committees affected by the Federal Election Campaign Act, easy access to the Amendments, the bills from which they derive, accompanying reports, and the floor debates.

The material is presented in a chronological fashion, and is comprehensively indexed.

The legislative history was compiled, edited and indexed under the supervision of the Office of General Counsel. A companion volume containing the legislative history of the 1974 Amendments to the Federal Election Campaign Act is being issued concurrently.

The Commission hopes that this legislative history will aid all those affected by the Federal Election Campaign Act of 1971, as amended, in better understanding and complying with the Act.

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FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS, 1976

HEARING

BEFORE THE

SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS

OF THE

COMMITTEE ON RULES AND ADMINISTRATION UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

S. 2911, S. 2911—Amdt. No. 1396, S. 2912, S. 2918, S. 2953, S. 2980, and S. 2987

BILLS TO AMEND THE FEDERAL ELECTION CAMPAIGN ACT OF 1971, AS AMENDED, TO RECONSTITUTE A FEDERAL ELECTION COMMISSION, AND FOR OTHER PURPOSES

FEBRUARY 18, 1976

Printed for the use of the
Committee on Rules and Administration

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FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS, 1976

WEDNESDAY, FEBRUARY 18, 1976

U.S. SENATE,
SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS
OF THE COMMITTEE ON RULES AND ADMINISTRATION,
Washington, D.C.

The subcommittee met, pursuant to notice, in room 301 of the Russell Senate Office Building, at 10:03 a.m., the Honorable Claiborne Pell (chairman of the subcommittee), presiding.

Present: Senators Pell, Clark, and Griffin.

Also present: Senators Cannon (chairman of the full committee), Williams, Allen, and Hugh Scott.

Subcommittee staff present: Edwin K. Hall, chief counsel; James F. Schoener, minority counsel; Mary G. Daly, secretary; Dolores Eaton, secretary; and Barbara Conroy, secretary (minority).

Full committee staff present: William McWhorter Cochrane, staff director; John P. Coder, professional staff member; Jack L. Sapp, professional staff member; Peggy Parrish, assistant chief clerk; Larry E. Smith, minority staff director; and Andrew D. Gleason, minority counsel.

OPENING STATEMENT OF HON. CLAIBORNE PELL, CHAIRMAN OF THE SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS

Senator PELL. The hearing of the Subcommittee on Privileges and Elections will come to order.

Today our subcommittee will consider proposals to amend the Federal Election Campaign Act of 1971, as amended in 1974, necessitated by the Supreme Court's decision of January 30, 1976, in *Buckley* v. *Valeo*.

We are dealing here with matters of vital importance to our democratic system of government. It is the responsibility of Congress to assure the American people that political campaigns for Federal elective office will be conducted honestly, openly, and in a manner that protects the constitutional rights of every citizen to participate in our Nation's political processes.

In these hearings, the subcommittee will be seeking the best way to protect the integrity and fairness of our system of political campaigns.

As we are aware, during the 92d Congress the Federal Election Campaign Act was enacted to provide sweeping and thorough control over, and public disclosure of, receipts and expenditures in both Federal primary and general elections. The Federal Election Campaign Act Amendments of 1974, during the 93d Congress, amended the 1971 act extensively. The resulting law provided for overall limitations on campaign expenditures and political contributions; extensive reporting and recordkeeping requirements of candidates and political committees, and the creation of a Federal Election Commission with extensive powers to administer and enforce the act. The law also provided for the public financing of Presidential primary and general elections and conventions.

On January 30, the Supreme Court, in *Buckley* v. *Valeo*, upheld the contribution limitations, the recordkeeping and disclosure requirements of the act and the provisions for public financing of Presidential elections and conventions. However, the Court held that the expenditure limitations of the act were an unconstitutional violation of the first amendment and that the enforcement and administrative powers delegated to the Commission were unconstitutional because of the way in which its members were appointed.

The Supreme Court accorded de facto validity to all actions of the Commission prior to the date of its decision, and granted a stay for a period not to exceed 30 days of that part of its judgment that affects the authority of the Commission to exercise the duties and powers granted to it under the act.

The Court stated:

> This limited stay will afford Congress an opportunity to reconstitute the Commission by law or to adopt other valid enforcement mechanisms without interrupting enforcement of the provisions the Court sustains, allowing the present Commission, in the interim, to function de facto in accordance with the substantive provisions of the Act.

It is very important that the Congress act within the 30-day period set by the Supreme Court, but it is equally important that Congress act in an informed and deliberate manner. The testimony and statements presented at this hearing will be of valuable assistance to the Senate. We hope today to receive the views on the bills pending before the Senate as well as on the general impact of the Court's decision.

At this time I submit the aforementioned bills for inclusion in the record of the hearing.

[The texts of S. 2911, S. 2911—Amdt. No. 1396, S. 2912, S. 2918, S. 2953, S. 2980, and S. 2987 follow:]

94TH CONGRESS
2D SESSION

S. 2911

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 1976

Mr. SCHWEIKER (for himself, Mr. BEALL, Mr. CRANSTON, Mr. HASKELL, Mr. MATHIAS, Mr. MONDALE, and Mr. STAFFORD) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Federal Election Campaign Act to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the text of section 310(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)) (hereinafter in this Act referred to as the "Act") is amended to read as follows: "There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and

without the right to vote, and six members appointed by the President, by and with the advice and consent of the Senate. No more than three members appointed by the President may be affiliated with the same political party.".

(b) (1) Subparagraph (A) and subparagraph (D) of section 310(a) (2) of the Act (2 U.S.C. 437c(a) (2) (A), 437c(a) (2) (D)) each are amended by striking out "of the members appointed under paragraph (1) (A)".

(2) Subparagraph (B) and subparagraph (E) of section 310(a) (2) of the Act (2 U.S.C. 437c(a) (2) (B), 437c(a) (2) (E)) each are amended by striking out "of the members appointed under paragraph (1) (B)".

(3) Subparagraph (C) and subparagraph (F) of section 310(a) (2) of the Act (2 U.S.C. 437c(a) (2) (C), 437 (a) (2) (F)) each are amended by striking out "of the members appointed under paragraph (1) (C)".

SEC. 2. (a) The terms of the persons serving as members of the Federal Election Commission upon the enactment of this Act shall terminate upon the appointment and confirmation of members of the Commission pursuant to this Act.

(b) The persons first appointed under the amendments made by the first section of this Act shall be considered to be the first appointed under section 310(a) (2) of the Act (2 U.S.C. 437c(a) (2)), as amended herein, for purposes

of determining the length of terms of those persons and their successors.

(c) The provision of section 310(a)(3) of the Act (2 U.S.C. 437c(a)(3)), forbidding appointment to the Federal Election Commission of any person currently elected or appointed as an officer or employee in the executive, legislative, or judicial branch of the Government of the United States, shall not apply to any person appointed under the amendments made by the first section of this Act solely because such person is a member of the Commission on the date of enactment of this Act.

SEC. 3. It is the sense of Congress that the importance of the Federal Election Commission and the orderly implementation of Federal election campaign laws in this election year require that the appointments authorized by the amendments made by this Act be made as soon as possible after the enactment of this Act.

94TH CONGRESS
2D SESSION

S. 2911

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 1976
Referred to the Committee on Rules and Administration and ordered to be printed

AMENDMENTS

Intended to be proposed by Mr. METCALF to S. 2911, a bill to amend the Federal Election Campaign Act to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes, viz:

On page 2, line 4, insert the following immediately before the quotation marks: "The Commission shall cease to exist on April 1, 1977.".

On page 2, strike out lines 5 through 16, and insert the following in lieu thereof:

"(b) Paragraph 2 of section 310(a) of such Act (2 U.S.C. 437c(a)) is amended to read as follows:

"'(2) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.'".

Amdt. No. 1396

On page 2, strike out all after line 21 through page 3, line 2.

On page 3, line 3, strike out "(c)" and insert in lieu thereof "(b)".

94TH CONGRESS
2D SESSION

S. 2912

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 1976

Mr. KENNEDY (for Mr. CLARK) (for himself, Mr. HUGH SCOTT, Mr. KENNEDY, Mr. EAGLETON, Mr. PHILIP A. HART, and Mr. MATHIAS) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To abolish the office of member of the Federal Election Commission, to establish the office of member of the Federal Election Commission appointed by the President, by and with the advice and consent of the Senate, to provide public financing of primary elections and general elections to the Senate, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Election Campaign Reform Act of 1976".

II

TITLE I—REESTABLISHMENT OF THE FEDERAL ELECTION COMMISSION

REESTABLISHMENT OF FEDERAL ELECTION COMMISSION

SEC. 101. (a) The Federal Election Commission established by section 310(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c) is abolished as of midnight, February 29, 1976.

(b) The text of paragraph (1) of section 310(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c) is amended to read as follows:

"There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and six members appointed by the President by and with the advice and consent of the Senate. No more than three of the members appointed by the President shall be affiliated with the same political party.".

(c) The first sentence of paragraph (2) of section 310(a) of such Act is amended to read as follows: "Members of the Commission shall serve for terms of six years, except that of the members first appointed—

"(A) two of the members, not affiliated with the same political party, shall be appointed for terms ending

on the April 30 first occurring more than eighteen months after the date on which they are appointed,

"(B) two of the members, not affiliated with the same political party, shall be appointed for terms ending two years after the April 30 on which the terms of the members referred to in subparagraph (A) end, and

"(C) two of the members, not affiliated with the same political party, shall be appointed for terms ending two years after the April 30 on which the terms of the members referred to in subparagraph (B) end.".

(d) The amendments made by subsections (b) and (c) take effect on March 1, 1976, but, until the appointment and qualification of all of the members appointed under the amendment made by subsection (b), the members of the Federal Election Commission shall continue in office and the Commission shall carry out such of its functions as are consistent with the decision of the Supreme Court of the United States in the cases styled Buckley et al. against Valeo, Secretary of the United States Senate, et al. (Nos. 75–436 and 75–437).

(e) (1) All personnel, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function carried out by the Federal Election Commission before its abolition are trans-

ferred to the Federal Election Commission established under the amendment made by subsection (b).

(2) (A) Except as provided in subparagraph (B) of this paragraph personnel engaged in functions transferred under this Act shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(f) (1) All laws relating to any function transferred under this section shall, insofar as such laws are applicable, remain in full force and effect. All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges made, issued, or granted by any office or agency or in connection with any function transferred by this Act, and in effect at the time of the transfer, shall continue in effect to the same extent as if such transfer had not occurred, until modified, superseded or repealed.

(2) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any agency, or part thereof, functions of which are transferred by this section, but such proceedings, to the extent that they relate to functions so transferred shall be continued before the Commission.

(3) No suit, action, or other proceeding commenced by or against any office or agency or any officer of the United States acting in his official capacity shall abate by reason of any transfer made pursuant to this section, but the court on motion or supplemental petition filed at any time within twelve months after such transfer takes effect, showing a necessity for the survival of such suit, action, or other proceeding to obtain a settlement of the question involved, may allow the same to be maintained by or against the appropriate office or agency or officer of the United States.

(4) With respect to any function transferred by this section and exercised after the effective date of this Act, reference in any other Federal law to any agency, office, or part thereof or any officer so transferred or functions of which are so transferred shall be deemed to mean the Commission or officer in which such function is vested pursuant to this section.

(g) The persons first appointed under the amendments made by subsection (b) shall be considered to be the first persons appointed under section 310(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as amended herein, for purposes of determining the length of terms of those persons and their successors.

(h) Nothing in the Act or in this Act shall be construed to prevent the appointment under section 102 of this

Act of any person who was a member of the Federal Election Commission on the day before the date of enactment of the Act.

SEC. 102. Section 320 of the Act (2 U.S.C. 439c) is amended by inserting before the period at the end thereof the following: ", $10,000,000 for the fiscal year ending June 30, 1976, $2,500,000 for the period from July 1, 1976, through September 30, 1976, and $10,000,000 for the fiscal year ending September 30, 1977".

TITLE II—PUBLIC FINANCING OF PRIMARY ELECTIONS AND GENERAL ELECTIONS FOR THE SENATE

SEC. 201. The Federal Election Campaign Act of 1971, as amended, is amended by adding at the end thereof the following new title:

"TITLE V—PUBLIC FINANCING OF PRIMARY ELECTIONS AND GENERAL ELECTIONS FOR THE SENATE

"DEFINITIONS

"SEC. 501. For purposes of this title, the term—

"(1) 'candidate', 'Commission', 'contribution', 'expenditure', 'political committee', 'political party', or 'State' has the meaning given it in section 301 of this Act;

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"(2) 'authorized committee' means the principal campaign committee of a candidate under section 302 of this Act or any political committee authorized in writing by that candidate to make or receive contributions or to make expenditures on his behalf;

"(3) 'general election' means any regularly scheduled or special election held for the purpose of electing a candidate to the office of Senator;

"(4) 'primary election' means (A) an election, including a runoff election, held for the nomination by a political party of a candidate for election to the office of Senator, or (B) a convention or caucus of a political party held for the nomination of such candidate;

"(5) 'eligible candidate' means a candidate who is eligible, under section 502, for payments under this title;

"(6) 'major party' means, with respect to an election for the office of Senator—

"(A) a political party whose candidate for election to that office in the preceding general election for that office received, as the candidate of that party, 25 per centum or more of the total number of votes cast in that election for all candidates for that office, or

"(B) if only one political party qualifies as a major party under the provisions of subparagraph (A), the political party whose candidate for election to that office in that election received, as the candidate of that party, the second greatest number of votes cast in that election for all candidates for that office (if such number is equal to 15 per centum or more of the total number of votes cast in that election for all candidates for that office); and

"(7) 'minor party' means, with respect to an election for the office of Senator, a political party whose candidate for election to that office in the preceding general election for that office received, as the candidate of that party, at least 5 per centum but less than 25 per centum of the total number of votes cast in that election for all candidates for that office.

"ELIGIBILITY FOR PAYMENTS

"SEC. 502. (a) To be eligible to receive payments under this title, a candidate for the office of Senator shall agree—

"(1) to obtain and to furnish to the Commission any evidence it may request about his campaign expenditures and contributions;

"(2) to keep and to furnish to the Commission any records, books, and other information it may request;

"(3) to permit an audit and examination by the Commission under section 506 and to pay any amounts required under section 506; and

"(4) to furnish statements of campaign expenditures and proposed campaign expenses required under section 507.

"(b) Every such candidate shall certify to the Commission the—

"(1) the candidate and his authorized committees will not make campaign expenditures greater than the applicable limitation under subsection (c) of section 608 of title 18, United States Code; and

"(2) no contributions will be accepted by the candidate or his authorized committees in violation of section 608 (h) of title 18, United States Code.

"(c) (1) To be eligible to receive any payments under section 505 for use in connection with a primary election campaign, a candidate shall certify to the Commission that he is seeking nomination by a political party for election to the office of Senator and he and his authorized committees have received contributions for that campaign equal in amount to the lesser of—

"(A) 20 percent of the maximum amount he may spend in connection with his primary election campaign

under subsection (c) of section 608 of title 18, United States Code; or

"(B) $125,000.

"(2) To be eligible to receive any payments under section 505 for use in connection with a primary runoff election campaign, a candidate shall certify to the Commission that he is seeking nomination by a political party for election to the office of Senator, and that he is a candidate for such nomination in a runoff primary election. Such a candidate is not required to receive any minimum amount of contributions before receiving payments under this title.

"(d) To be eligible to receive any payments under section 505 for use in connection with a general election campaign, a candidate shall certify to the Commission that—

"(1) he is the nominee of a major or minor party for election to the office of Senator; or

"(2) in the case of any other candidate, he is seeking election to such office and he and his authorized committees have received contributions for that campaign in a total amount of not less than the campaign fund required under subsection (c) of a candidate for nomination for election to that office, determined in accordance with the provisions of subsection (e).

"(e) In determining the amount of contributions received by a candidate and his authorized committees for purposes of subsection (c) (1) or subsection (d) (2)—

"(1) no contribution received by the candidate or any of his authorized committees as a subscription, loan, advance, or deposit, or as a contribution of products or services, shall be taken into account; and

"(2) no contribution from any person shall be taken into account to the extent that it exceeds $100 when added to the amount of all other contributions made by that person to or for the benefit of that candidate in connection with his campaign.

"(f) Agreements and certifications under this section shall be filed with the Commission at the time required by the Commission.

"ENTITLEMENT TO PAYMENTS

"SEC. 503. (a) (1) Every eligible candidate for the office of Senator is entitled to payments in connection with his primary election campaign in an amount which is equal to the amount of contributions he accepts for that campaign.

"(2) For purposes of paragraph (1), no contribution from any person shall be taken into account to the extent that it exceeds $100 when added to the amount of all other contributions made by that person to or for the benefit of that candidate for his primary election campaign.

"(b) (1) Every eligible candidate for the office of Senator who is nominated by a major party is entitled to payments for use in his general election campaign in an

amount which is equal to the applicable limitation for that campaign in subsection (c) of section 608 of title 18, United States Code (relating to limitations on expenditures).

"(2) Every eligible candidate for the office of Senator who is nominated by a minor party is entitled to payments for use in his general election campaign in an amount which bears the same ratio to the amount of payments to which a candidate of a major party for the same office is entitled under this subsection as the total number of popular votes received by the candidate of that minor party for that office in the preceding general election bears to the average number of popular votes received by the candidates of major parties for that office in the preceding general election.

"(3) (A) A candidate who is eligible under section 502(d) (2) to receive payments under section 505 is entitled to payments for use in his general election campaign in an amount equal to the amount determined under subparagraph (B).

"(B) If a candidate whose entitlement is determined under this paragraph received, in the preceding general election held for the office to which he seeks election, 5 per centum or more of the total number of votes cast for all candidates for that office, he is entitled to receive payments for use in his general election campaign in an amount (not in excess of the applicable limitation under subsection (c) of

section 608 of title 18, United States Code) equal to an amount which bears the same ratio to the amount of payments to which a candidate of a major party for the same office is entitled under this subsection as the total number of popular votes received by the candidate for that office in the preceding general election bears to the average number of popular votes received by the candidates of major parties for that office in the preceding general election. The entitlement of a candidate who, in the preceding general election held for that office, was the candidate of a major or minor party shall not be determined under this paragraph.

"(4) An eligible candidate who is the nominee of a minor party or whose entitlement is determined under section 502(d)(2) and who receives 5 per centum or more of the total number of votes cast in the current election is entitled to payments under section 505 after the election for expenditures made or incurred in connection with his general election campaign in an amount (not in excess of the applicable amount under subsection (c) of section 608 of title 18, United States Code) equal to—

"(A) an amount which bears the same ratio to the amount of the payment under section 505 to which the nominee of a major party was or would have been entitled for use in his campaign for election to that office as the number of votes received by the candidate in that

election bears to the average number of votes received by all major party candidates for that office in that election, reduced by

"(B) any amount paid to the candidate under section 505 before the election.

"(c) Notwithstanding the provisions of subsections (a) and (b), no candidate is entitled to the payment of any amount under this section which, when added to the total amount of contributions received by him and his authorized committees and any other payments made to him under this title for his primary or general election campaign, exceeds the amount of the expenditure limitation applicable to him for that campaign as specified under subsection (c) of section 608 of title 18, United States Code.

"CERTIFICATIONS BY COMMISSION

"SEC. 504. (a) On the basis of the evidence, books, records, and information furnished by each candidate eligible to receive payments under section 505, and prior to examination and audit under section 506, the Commission shall certify from time to time to the Secretary of the Treasury for payment to each candidate the amount to which that candidate is entitled.

"(b) Initial certifications by the Commission under subsection (a), and all determinations made by it under this title, shall be final and conclusive, except to the extent that

they are subject to examination and audit by the Commission under section 506. Notwithstanding the preceding sentence, such certifications and determinations by the Commission are subject to judicial review in accordance with the provisions of section 9041 of the Internal Revenue Code of 1954.

"PAYMENTS TO ELIGIBLE CANDIDATES; SENATE ELECTION ACCOUNT

"SEC. 505. (a) The Secretary of the Treasury shall maintain in the Presidential Election Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1954, in addition to any other account which he maintains under such section, a separate account to be known as the Senate Election Account. The Secretary shall deposit into the account, for use by the candidate of any political party who is eligible to receive payments under section 502 and this section, the amount available after the Secretary determines that amounts for payments for Presidential general elections, Presidential primary elections, and Presidential nominating conventions under subtitle H of such Code are available for such payments. In addition to the amounts appropriated to the fund under section 9006(a) of such Code, there are authorized to be appropriated to the fund such additional amounts as may be necessary to carry out the provisions of this title and subtitle H of such Code Amounts remaining in the fund after a Presidential general

election shall not be transferred to the general fund of the Treasury.

"(b) Upon receipt of a certification from the Commission under section 504, the Secretary of the Treasury shall pay the amount certified by the Commission to the candidate to whom the certification relates.

"(c) If the Secretary of the Treasury determines that the moneys in the account are not, or may not be, sufficient to pay the full amount of entitlement to all candidates eligible to receive payments, he shall reduce the amount to which each candidate is entitled in accord with the procedures established under subtitle H of the Internal Revenue Code of 1954 for Presidential elections.

"EXAMINATION AND AUDITS; REPAYMENTS

"SEC. 506. (a) After each election for the office of Senator, the Commission shall conduct a thorough examination and audit of the campaign expenditures of all candidates for such office who received payments under this title for use in campaigns relating to that election.

"(b) (1) If the Commission determines that any portion of the payments made to an eligible candidate under section 505 was in excess of the aggregate amount of the payments to which the candidate was entitled, it shall so notify that candidate, and he shall pay to the Secretary of

the Treasury an amount equal to the excess amount. If the Commission determines that any portion of the payments made to a candidate under section 505 for use in his primary election campaign or his general election campaign was not used to make expenditures in connection with that campaign, the Commission shall so notify the candidate and he shall pay an amount equal to the amount of the unexpended portion to the Secretary. In making its determination under the preceding sentence, the Commission shall consider all amounts received as contributions to have been expended before any amounts received under this title are expended.

"(2) If the Commission determines that any amount of any payment made to a candidate under section 505 was used for any purposes other than—

"(A) to defray campaign expenditures, or

"(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray campaign expenditures which were received and expended) which were used, to defray campaign expenditures,

it shall notify the candidate of the amount so used, and the candidate shall pay to the Secretary of the Treasury an amount equal to such amount.

"(3) No payment shall be required from a candidate under this subsection in excess of the total amount of all

payments received by the candidate under section 505 in connection with the campaign with respect to which the event occurred which caused the candidate to have to make a payment under this subsection.

"(c) No notification shall be made by the Commission under subsection (b) with respect to a campaign more than eighteen months after the day of the election to which the campaign related.

"(d) All payments received by the Secretary under subsection (b) shall be deposited by him in the fund.

"INFORMATION ON EXPENDITURES AND PROPOSED EXPENDITURES

"SEC. 507. (a) Every candidate shall, from time to time as the Commission requires, furnish to the Commission a detailed statement, in the form the Commission prescribes, of—

"(1) the campaign expenditures incurred by him and his authorized committees prior to the date of the statement (whether or not evidence of campaign expenditures has been furnished for purposes of section 504), and

"(2) the campaign expenditures which he and his authorized committees propose to incur on or after the date of the statement.

"(b) The Commission shall, as soon as possible after it receives a statement under subsection (a), prepare and make available for public inspection and copying a summary of the statement, together with any other data or information which it deems advisable.

"REPORTS TO CONGRESS

"SEC. 508. (a) The Commission shall, as soon as practicable after the close of each calendar year, submit a full report to the Senate setting forth—

"(1) the expenditures incurred by each candidate, and his authorized committees, who received any payment under section 505 in connection with an election;

"(2) the amounts certified by it under section 504 for payment to that candidate; and

"(3) the amount of payments, if any, required from that candidate under section 506, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) The Commission is authorized to conduct examinations and audits (in addition to the examinations and audits under sections 504 and 506), to conduct investigations, and to require the keeping and submission of any books, records, or other information necessary to carry out the functions and duties imposed on it by this title.

"PENALTY FOR VIOLATIONS

"SEC. 509. Violation of any provision of this title is punishable by a fine of not more than $50,000, or imprisonment for not more than five years, or both.

"EFFECTIVE DATE

"SEC. 510. The provisions of this title shall take effect on the date of enactment, except that the provisions applicable to primary elections for the Senate shall take effect on January 1, 1977.".

94TH CONGRESS
2D SESSION

S. 2918

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 1976

Mr. KENNEDY (for himself, Mr. HUGH SCOTT, and Mr. EAGLETON) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To enable the Comptroller General to carry out, until April 30, 1976, the functions of the Federal Election Commission with respect to the public financing of Presidential election campaigns and national nominating conventions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comptroller General of the United States shall carry out the functions of the Federal Election Commission under subtitle H of the Internal Revenue Code of 1954.

SEC. 2. This Act shall expire on April 30, 1976.

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94TH CONGRESS
2D SESSION

S. 2953

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 1976

Mr. MANSFIELD introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the text of paragraph (1) of section 310 (a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c) is amended to read as follows: "There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and six members appointed by the

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President by and with the advice and consent of the Senate. No more than three of the members appointed by the President shall be affiliated with the same political party.".

(b) Paragraph (2) of section 310(a) of such Act is amended—

(1) by striking out "under paragraph (1) (A)" in subparagraph (A) and subparagraph (D),

(2) by striking out "under paragraph (1) (B)" in subparagraph (B) and subparagraph (E), and

(3) by striking out "under paragraph (1) (C)" in subparagraph (C) and subparagraph (F).

94TH CONGRESS
2D SESSION

S. 2980

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 1976

Mr. BUCKLEY introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Federal Election Campaign Act to provide for the constitutional reinstitution of the Federal Election Commission, to establish the Election Law Section in the Department of Justice, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Campaign Act Amendments of 1976".

SECTION 1. (a) Paragraph (b) (1) of section 608 of title 18, United States Code, relating to limitations on contributions, is amended to read as follows:

"(b) (1) No person or organization shall make contributions to any candidate, party, or political committee which, in the aggregate, exceed—

"(A) $50,000, in the case of a candidate for election to the office of President of the United States;

"(B) $25,000, in the case of a candidate for election to the office of United States Senator;

"(C) $10,000, in the case of a candidate for the office of Representative; or

"(D) $100,000, in the case of a party or political committee.

Notwithstanding anything in this section to the contrary, the limitation of contributions for any year after 1976 shall be equal to the amount enumerated for each of the respective recipients in paragraphs (b) (1) (A), (b) (1) (B), (b) (1) (C), and (b) (1) (D), multiplied by the ratio which the Consumer Price Index for the year in which the contribution is made bears to the Consumer Price Index for 1976.".

(b) Paragraphs (b) (2) and (b) (4) of section 608 of title 18, United States Code, are hereby repealed.

(c) Paragraph (b) (3) of section 608 of title 18, United States Code, is redesignated as paragraph (b) (2), and is amended by deleting "$25,000" and inserting in lieu thereof "$100,000, multiplied by the ratio which the Consumer Price Index for the year in which the contributions are made bears to the Consumer Price Index for 1976".

(d) Paragraphs (b) (5) and (b) (6) of section 608

of title 18, United States Code, are redesignated as paragraphs (b) (3) and (b) (4), respectively.

(e) Section 608 of title 18, United States Code, relating to limitations on expenditures and contributions, is amended by deleting paragraphs (c), (d), (e), (g), (h), and (i), and inserting in lieu thereof the following:

"(c) No candidate or political committee, or officer, agent, or employee thereof, shall knowingly accept any contribution made in violation of the provisions of this section.

"(d) Any person who violates any provision of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both.".

(f) Paragraph (a) of section 608 of title 18, United States Code, is repealed. In lieu thereof the following is inserted:

"(a) For purposes of this section, contributions made for any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made for the candidate of such party for election to the office of President of the United States.".

SEC. 2. (a) Section 434 of title 2, United States Code, is amended by deleting "$100" wherever it shall appear, and inserting in lieu thereof "the threshold amount (as defined in section 435)".

(b) Section 435 of title 2, United States Code, is amended to read as follows:

"§ 435. Disclosure thresholds

"(a) Notwithstanding any other provisions in this title to the contrary, a political committee or candidate shall not be required to disclose the source of any contribution not exceeding the following threshold amounts:

"(1) $1,000, in the case of a candidate for election to the office of President of the United States, or a political committee making contributions to a candidate for election to the office of President of the United States;

"(2) $500, in the case of a candidate for election to the office of United States Senator, or a political committee making contributions to a candidate for election to the office of United States Senator; or

"(3) $250, in the case of a candidate for election to the office of Representative, or a political committee making contributions to a candidate for election to the office of Representative.

In the case of a political committee making contributions to candidates for more than one of the offices enumerated above, then the lowest applicable amount shall apply.

"(b) Every person who makes expenditures for communication that expressly advocates the election or defeat

of a clearly identified candidate, other than by contribution to a political committee, party, or candidate (as defined in section 431 of this title) in an aggregate amount in excess of $2,500 within a calendar year shall file with the Commission a statement containing the information required by this section. Statements required by this subsection shall be filed on the date on which reports by political committees are filed, but need not be cumulative.

"(c) Notwithstanding anything contained in this section to the contrary, the President shall, every four years commencing four years from the effective date of this section, review the amounts contained in this section, and shall adjust each amount by multiplying it by the ratio which the Consumer Price Index for that year bears to the Consumer Price Index for 1976.".

(c) Subsection (c) of section 432 of title 2, United States Code, is amended by deleting "$10" and inserting in lieu thereof "$100".

(d) Paragraph (a) (7) of section 438 of title 2, United States Code, is amended by deleting "$100" and inserting in lieu thereof "the threshold amount (as defined in section 435)".

(e) Paragraph (2) of section 302(c) of the Federal Election Campaign Act of 1971 is amended by deleting "and, if a person's contribution aggregate more than $100, the

account shall include occupation, and the principal place of business (if any) ;" and inserting in lieu thereof a semicolon.

(f) Section 308 of the Federal Campaign Act of 1971 is repealed.

(g) Paragraph 304 (e) of the Federal Campaign Act of 1971 is repealed.

SEC. 3. (a) Paragraph (e) of section 301 of the Federal Election Campaign Act of 1971, relating to definitions, and paragraph (e) of section 591 of title 18, United States Code, relating to definitions, are amended to read as follows:

"(e) (1) The term 'contribution' means:

"(A) a gift, subscription, loan, advance, or deposit of money or anything of value for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

"(ii) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States,

made knowingly by a person or organization or the agent thereof to a recipient who is a candidate, party, or political committee, or the agent thereof.

"(B) a contract, promise, or agreement, whether express or implied, enforceable or unenforceable, which is entered into by a person or organization, and by which such person or organization knowingly contracts to make a contribution to a recipient who is a candidate, party, or political committee, for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

"(ii) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States;

"(C) funds received by a party or political committee which are transferred to such committee or party from another political committee or party;

"(D) the employment of money or anything else of value, and any agreement to so employ, made knowingly by any person at the express direction and with the consent and prior knowledge of a candidate, party, or political committee, for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or for the

purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

"(ii) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States; and

"(E) payment, by any person other than a candidate, party, or political committee, of compensation for the personal services of another person which are rendered to such candidate, party, or political committee without charge for any such purpose.

"(2) The term 'contribution' does not include—

"(A) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

"(B) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

"(C) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use

in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

"(D) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate;

"(E) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or other similar types of general public political advertising;

"(F) any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization; or

"(G) any payment made to a political committee

not making contributions (as otherwise defined in this section).

"(3) A contribution to a person or organization authorized by the candidate to receive contributions or make expenditures on behalf of the candidate shall be deemed a contribution to the candidate.

"(A) A person shall be deemed to be authorized by a candidate to receive contributions or make expenditures on behalf of the candidate if there has been prior written or oral request or consent by the candidate or his agents that the person or organization receive contributions or make expenditures on behalf of the candidate, and if the person or organization is acting pursuant to that consent or request.

"(B) A person or organization required to file a report under section 434 of title 2, United States Code, shall state in the report the identity of any candidate who has authorized that person or organization to receive contributions or make expenditures on behalf of his candidacy.".

(b) Paragraph (d) of section 591 of title 18, United States Code, relating to the definition of "political committee," is amended to read as follows:

"(d) 'political committee' means any committee, club, association, or other group of persons which makes

contributions during a calendar year in an aggregate amount exceeding $1,000, and is registered in accordance with the guidelines promulgated by the Election Law Section of the Department of Justice.".

(c) Paragraph (d) of section 301 of the Federal Campaign Act of 1971, relating to definitions, is amended to read as follows:

"(d) 'political committee' means any committee, club, association, or other group of persons which make contributions during a calendar year in an aggregate amount exceeding $1,000, and is registered in accordance with the guidelines promulgated by the Election Law Section of the Department of Justice.".

(d) Paragraph (9) of section 9002 of the Internal Revenue Code of 1954 is amended to read as follows:

"(9) 'political committee' means any committee, club, association, or other group of persons which makes contributions during a calendar year in an aggregate amount exceeding $1,000, and is registered in accordance with the guidelines promulgated by the Election Law Section of the Department of Justice.".

(e) Paragraph (8) of section 9032 of the Internal Revenue Code of 1954 is amended to read as follows:

"(8) 'political committee' means any committee, club, association, or other group of persons which make

contributions during a calendar year in an aggregate amount exceeding $1,000, and is registered in accordance with the guidelines promulgated by the Election Law Section of the Department of Justice.".

SEC. 4. (a) Section 310 of the Federal Election Campaign Act is amended by—

(1) deleting section 310(a) (1) and (2) and inserting in lieu thereof the following:

"(a) (1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and six members appointed by the President with the advice and consent of the Senate: *Provided, however,* That no more than three members of the Commission at one time shall be of the same political party.

"(2) Members of the Commission shall serve for terms of six years, except that of the members first appointed—

"(A) two of them shall be appointed for a term ending on the April 30 first occurring more than two years after the date on which they are appointed;

"(B) two of them shall be appointed for a term ending on the April 30 first occurring more than four years after the date on which they are appointed; and

"(C) two of them shall be appointed for a term ending the April 30 first occurring more than six years after the date on which they are appointed. An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.".

(2) deleting subsection (b); and

(3) redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

(b) (1) Sections 311, 312, 313, 314, 315, and 316 of the Federal Election Campaign Act of 1971 are repealed.

(2) Title III of the Federal Election Campaign Act of 1971 is amended by inserting immediately after section 309 the following new sections:

"POWERS OF THE FEDERAL ELECTION COMMISSION

"SEC. 311. (a) The Federal Election Commission shall have authority under this section to—

"(1) receive and review reports filed under this title;

"(2) certify candidates for receipt of funds under chapters 95 and 96 of the Internal Revenue Code of 1954;

"(3) conduct audits in accordance with the provisions of chapters 95 and 96 of the Internal Revenue Code of 1954;

"(4) make public information which has been provided to it under the provisions of this title;

"(5) develop forms to be employed in filing reports in accordance with the provisions of this title;

"(6) compile and maintain a cumulative index of reports and statements filed with it, which shall be published in the Federal Register at regular intervals and which shall be available for purchase directly or by mail for a reasonable price;

"(7) prepare and publish from time to time special reports listing those candidates for whom reports were filed as required by this title and those candidates for whom such reports were not filed as so required;

"(8) prepare and publish an annual report including compilations of (A) total reported contributions and expenditures for all candidates, political committees, and other persons during the year; (B) total amounts expended according to such categories as it

shall determine and broken down into candidate, party, and nonparty expenditures on the National, State, and local levels; (C) total amounts contributed according to such categories of amounts as it shall determine and broken down into contributions on the National, State, and local levels for candidates and political committees; and (D) aggregate amounts contributed by any contributor shown to have contributed in excess of the threshold amounts defined in section 435 of this title;

"(9) prepare and publish such other reports as it may deem appropriate;

"(10) preserve reports and statements required to be filed under this title for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt; and

"(11) report apparent violations of law to the appropriate law enforcement authorities.

"(b) The Commission shall encourage, and cooperate with, the election officials in the several States to develop procedures which will eliminate the necessity of multiple filings by permitting the filing of copies of Federal reports to satisfy the State requirements.

"THE ELECTION LAW SECTION

"SEC. 312. (a) There is established in the Department of Justice a section to be known as the Election Law Section.

"(b) The Election Law Section shall be an independent section responsible directly to the Attorney General.

"(c) The Election Law Section shall have the power—

"(1) to enforce the Federal election laws contained in this title, title 18, and the Internal Revenue Code;

"(2) to issue guidelines and advisory opinions concerning the Federal election laws;

"(3) to seek to obtain compliance with the Federal election laws by informal methods of conference, conciliation, and persuasion;

"(4) to conduct investigations concerning possible violations of the Federal election laws;

"(5) to initiate (through civil proceedings for injunctive, declaratory, or other appropriate relief), defend, or appeal any civil action in the name of the United States for the purpose of enforcing the provisions of the Federal election laws; and

"(6) to initiate criminal proceedings against persons or organizations suspected of violating the criminal provisions of the Federal election laws.

"(d) (1) The Election Law Section shall be headed by a Director, who shall be appointed by the President with the advice and consent of the Senate for a term of four years. The Director shall receive compensation equivalent to the compensation paid at level IV of the Executive Schedule, and shall be subject to dismissal during his term only for cause.

"(2) The President, with the advice and consent of the Senate, shall appoint a Deputy Director of the Election Law Section, who shall be of a party other than that of the Director, and who shall serve for a term of four years. The Deputy Director shall receive compensation equivalent to the compensation paid at level V of the Executive Schedule, and shall be subject to dismissal during his term only for cause.

"ENFORCEMENT

"SEC. 313. (a) The Election Law Section, upon the reasonable belief that a violation of the Federal election laws contained in this title, title 18, or the Internal Revenue Code has occurred, may file a civil or criminal complaint in the United States district court for the district in which the person or organization against which the complaint is brought is found, resides, or transacts business.

"(b) In any case in which the Clerk of the House of Representatives or the Secretary of the Senate has reason

to believe a violation of this title, title 18, or the Internal Revenue Code has occurred, he shall refer such apparent violation to the Election Law Section.

"(c) Upon a proper showing in a United States district court having venue that such person has engaged in such acts or practices, the court shall grant such civil or criminal relief as this Act shall provide, or as the court in the exercise of its equitable powers shall deem appropriate.

"(d) Any action brought under this section shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than actions brought under this section).

"ADVISORY OPINIONS

"SEC. 314. (a) Upon written request to the Election Law Section by any person substantially affected or likely to be substantially affected by the operation of the Federal election laws, the Election Law Section shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this Act, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or of section 608, 610, 611, 613, 615, 616, or 617 of title 18, United States Code.

"(b) (1) Notwithstanding any other provision of law,

any person who acts in good faith in accordance with the provisions and findings of an advisory opinion or guideline promulgated by the Election Law Section shall be presumed to be in compliance with the provisions of this Act, of chapter 95 or 96 of the Internal Revenue Code of 1954, or of section 608, 610, 611, 613, 615, 616, or 617 of title 18, United States Code, with respect to which such advisory opinion or guideline was promulgated.

"(2) Notwithstanding any other provision of this title to the contrary, noncompliance with an advisory opinion or guideline promulgated by the Election Law Section shall create no presumption of compliance or noncompliance with the provisions of this Act, of chapter 95 or 96 of the Internal Revenue Code of 1954, or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code, with respect to which the advisory opinion or guideline was promulgated.

"(c) Any request made under subsection (a) shall be made public by the Election Law Section. The Election Law Section shall, before rendering an advisory opinion with respect to such request, provide any interested party with an opportunity to transmit written comments to the Election Law Section with respect to such request.

"(d) All advisory opinions and guidelines promulgated by the Election Law Section shall be made public by publi-

cation in the Federal Register within a reasonable time following issuance.".

(c) Title III of the Federal Campaign Act of 1971 is amended—

(1) by striking out "Commission" in section 302(d) and inserting in lieu thereof "Election Law Section";

(2) by amending section 304, relating to reports by political committees and candidates by striking out "Commission" where it appears in paragraphs (12) and (13) of subsection (b) and inserting in lieu thereof "Election Law Section"; and

(3) by amending section 306 (a), (b), and (c), relating to requirements respecting reports and statements, by striking out "Commission" wherever it shall appear and inserting in lieu thereof "Election Law Section".

(d) Section 304(a)(3) of the Federal Election Campaign Act of 1971 is amended by deleting the final sentence, and by deleting "Commission" wherever it shall appear and inserting in lieu thereof "Election Law Section".

(e) Paragraphs (b) and (c) of section 309 of the Federal Election Campaign Act of 1971 are amended to read as follows:

"(b) A political committee may maintain a petty cash

fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the Election Law Section, and such statements and reports thereof shall be furnished to the Commission as may be required.

"(c) A candidate for nomination for election, or for election, to the office of President of the United States may establish one such depository in each State, which shall be considered as his campaign depository for such State by his principal campaign committee and any other political committee authorized by him to receive contributions or to make expenditures on his behalf in such State. The campaign depository of the candidate of a political party for election to the office of Vice President of the United States shall be the campaign depository designated by the candidate of such party for election to the office of President of the United States.".

(f) Section 318 of the Federal Election Campaign Act of 1971 is amended by striking out the final sentence.

(g) Section 320 of the Federal Campaign Act of 1971 is amended by striking out "Commission" and inserting in lieu thereof "Commission and Election Law Section".

(h) Section 407 of the Federal Election Campaign Act of 1971 is repealed.

AMENDMENTS TO THE INTERNAL REVENUE CODE

SEC. 5. (a) Section 9032 (4) of the Internal Revenue Code of 1954 is amended to read as follows:

"(4) (1) The term 'contribution' means:

"(A) a gift, subscription, loan, advance, or deposit of money or anything of value for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party; or

"(ii) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States

made knowingly by a person or organization or the agent thereof to a recipient who is a candidate, party, or political committee, or the agent thereof;

"(B) a contract, promise, or agreement, whether express or implied, enforceable or unenforceable, which is entered into by a person or organization, and by which such person or organization knowingly contracts

to make a contribution to a recipient who is a candidate, party, or political committee, for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party; or

"(ii) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States;

"(C) funds received by a party or political committee which are transferred to such committee or party from another political committee or party;

"(D) the employment of money or anything else of value, and any agreement to so employ, made knowingly by any person at the express direction and with the consent and prior knowledge of a candidate, party, or political committee, for the purpose of—

"(i) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

"(ii) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States; and

"(E) payment, by any person other than a candidate, party, or political committee, of compensation for the personal services of another person which are rendered to such candidate, party, or political committee without charge for any such purpose.

"(2) The term 'contribution' does not include—

"(A) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

"(B) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

"(C) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

"(D) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate;

"(E) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or other similar types of general public political advertising;

"(F) any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization; or

"(G) any payment made to a political committee not making contributions (as otherwise defined in this section).

"(3) A contribution to a person or organization author-

ized by the candidate to receive contributions or make expenditures on behalf of the candidate shall be deemed a contribution to the candidate.

"(A) A person shall be deemed to be authorized by a candidate to receive contributions or make expenditures on behalf of the candidate if there has been prior written or oral request or consent by the candidate or his agents that the person or organization receive contributions or make expenditures on behalf of the candidate, and if the person or organization is acting pursuant to that consent or request.

"(B) A person or organization required to file a report under section 434 of title 2, United States Code, shall state in the report the identity of any candidate who has authorized that person or organization to receive contributions or make expenditures on behalf of his candidacy.".

(b) Sections 9009(c) and 9039(c) of the Internal Revenue Code of 1954 are repealed.

(c) Section 9008 is amended in subsection (d) by striking "Commission" wherever it shall appear and inserting in lieu thereof "Election Law Section".

(d) Section 9039(b) is amended to read as follows:

"(b) GUIDELINES, ETC.—The Election Law Section is authorized to prescribe guidelines and to conduct investi-

gations relating to the enforcement of this chapter. The Commission is authorized to conduct examinations and audits (in addition to the examinations and audits required by section 9038(a)) and to require the keeping and submission of any books, records, and information which it determines to be necessary to carry out its responsibilities under this chapter.".

(e) Section 9040 of the Internal Revenue Code of 1954 is amended by striking out "Commission" wherever it shall appear and inserting in lieu thereof "Election Law Section".

(f) Section 9035 is amended to read as follows:

"(a) No candidate receiving funds under this chapter shall knowingly incur qualified campaign expenses in excess of the expenditure limitation prescribed by this section.

"(b) The expenditure limitation on candidates receiving funds under this chapter shall be equal to—

"(1) $10,000,000, in the case of a candidate for nomination for election to the office of President of the United States, except that the aggregate of expenditures under this paragraph in any one State shall not exceed 16 cents multiplied by the voting age population of the State or $200,000, whichever is greater.

"(2) $20,000,000, in the case of a candidate for election to the office of President of the United States.

"(c) For purposes of this section—

"(1) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(2) an expenditure is made on behalf of a candidate, including a Vice-Presidential candidate, if it is made by—

"(A) an authorized committee or any agent of the candidate for the purposes of making any expenditure; or

"(B) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditure.

"(d) The limitations imposed by this section shall apply separately with respect to each election.

"(e) The Election Law Section shall prescribe guidelines under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each State, based on the voting age population in each State which can reasonably be expected to be influenced by such expenditure.

"(f) (1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and the Election Law Section and publish in the Federal Register the per centum difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (g) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(g) Notwithstanding other provisions of this section to the contrary, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may, even if authorized by the candidate to receive contributions and make expenditures on behalf of his candidacy, make expenditures in connection with the general election campaign of that candidate

without reducing the amount which that candidate may spend under subsection (b): *Provided*, That the national committee of that political party may not make expenditures in excess of 2 cents multiplied by the voting age population of the United States.

"(h) During the first week of each calendar year, the Secretary of Commerce shall certify to the Commission and the Election Law Section and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the 1st day of July next preceding the date of certification. The term 'voting age population' means resident population, 18 years of age or older.".

(g) Section 9009(b) is amended to read as follows:

"(b) GUIDELINES, ETC.—The Election Law Section is authorized to prescribe guidelines and to conduct investigations relating to the enforcement of this chapter. The Commission is authorized to conduct examinations and audits (in addition to the examinations and audits required by section 9007(a)) and to require the keeping and submission of any books, records, and information which it determines to be necessary to carry out its responsibilities under this chapter.".

(h) Sections 9010 and 9011(b) are amended by striking out "Commission" wherever it shall appear and inserting in lieu thereof "Election Law Section".

(i) The heading for section 9010 is amended by striking out "**COMMISSION**" and inserting in lieu thereof "**ELECTION LAW SECTION**".

(j) Section 9002(11) is amended by striking out "Commission prescribes by rules and regulations" and inserting in lieu thereof "Election Law Section prescribes in its guidelines".

(k) Section 9003 is amended by striking the final sentences in subsections (b) and (c) and inserting in lieu thereof the following: "Such certification shall be made within such time prior to the day of the Presidential election as the Election Law Section shall prescribe through its guidelines.".

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94TH CONGRESS
2D SESSION

S. 2987

IN THE SENATE OF THE UNITED STATES

FEBRUARY 18, 1976

Mr. GRIFFIN introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To establish the offices of members of the Federal Election Commission as officers appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

SEC. 2. (a) The text of paragraph 1 of section 310(a) of the Federal Election Campaign Act of 1971 (hereinafter the "Act") (2 U.S.C. 437c(a)) is amended to read as follows: "There is established a Commission to be known as the Federal Election Commission. The Commission is composed of six members, appointed by the President, by

and with the advice and consent of the Senate. No more than three of the members shall be affiliated with the same political party.".

(b) (1) Subparagraph (A) and subparagraph (D) of section 310(a)(2) of the Act (2 U.S.C. 437c(a)(2)(A), 437c(a)(2)(D)) each are amended by striking out "of the members appointed under paragraph (1)(A)".

(2) Subparagraph (B) and subparagraph (E) of section 310(a)(2) of the Act (2 U.S.C. 437c(a)(2)(B), 437c(a)(2)(E)) each are amended by striking out "of the members appointed under paragraph (1)(B)".

(3) Subparagraph (C) and subparagraph (F) of section 310(a)(2) of the Act (2 U.S.C. 437c(a)(2)(C), 437(a)(2)(F)) each are amended by striking out "of the members appointed under paragraph (1)(C)".

SEC. 3. (a) The terms of the persons serving as members of the Federal Election Commission upon the enactment of this Act shall terminate upon the appointment and confirmation of members of the Commission pursuant to this Act.

(b) The persons first appointed under the amendments made by the first section of this Act shall be considered to be the first appointed under section 310(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as amended herein, for purposes

of determining the length of terms of those persons and their successors.

(c) The provision of section 310(a)(3) of the Act (2 U.S.C. 437c(a)(3)), forbidding appointment to the Federal Election Commission of any person currently elected or appointed as an officer or employee in the executive, legislative, or judicial branch of the Government of the United States, shall not apply to any person appointed under the amendments made by the first section of this Act solely because such person is a member of the Commission on the date of enactment of this Act.

(d) Section 310(a)(4) of the Act (2 U.S.C. 437c(a)(4)) is amended by striking out "(other than the Secretary of the Senate and the Clerk of the House of Representatives)".

(e) Section 310(a)(5) of the Act (2 U.S.C. 437c(a)(5)) is amended by striking out "(other than the Secretary of the Senate and the Clerk of the House of Representatives)".

SEC. 4. All actions heretofore taken by the Commission shall remain in effect until modified, superseded, or repealed according to law.

SEC. 5. The provisions of chapter 14 of title 2, the United States Code, of section 608 of title 18, and of chapters

95 and 96 of title 26 shall not apply to any election, as defined in section 301 of the Act (2 U.S.C. 431(a)), that occurs after December 31, 1976, except runoffs relating to elections occurring before such date.

Senator PELL. Senator Clark?

STATEMENT OF HON. DICK CLARK, MEMBER, SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS

Senator CLARK. Thank you very much, Mr. Chairman. As a new member of this subcommittee, I am pleased to join with you today as we begin considering legislation to amend the Federal Election Campaign Act in the aftermath of the Supreme Court's decision in the case of *Buckley* v. *Valeo*. It was in hearings before this subcommittee more than 2 years ago that the 1974 Campaign Act was born. I am hopeful that this subcommittee, under your leadership, will again play a major role in the effort to insure clean, fair, and honest elections.

As one of the authors of the 1974 Campaign Act, I am greatly encouraged by the Court's recent decision. For the Court upheld the constitutionality of what are, in my judgment, the three most critical elements of that law: Full public disclosure of campaign contributions and expenditures; limitations on the campaign contributions from individuals and organizations; and—most important of all—public financing of elections.

It is true that the Court's decision requires that some changes be made. But I believe that presents a golden opportunity to make real progress in the fight to achieve tough campaign law enforcement and further diminish the influence of the wealthy and the special interests in the political process.

That is why I will urge the subcommittee to report favorably S. 2912, which I have introduced, with a bipartisan group of our colleagues. The details of S. 2912 will be spelled out in a few minutes by Senator Kennedy and Senator Scott, who have joined with me in sponsoring this legislation, and who have been in the forefront of the campaign reform effort for many years.

But I would like to touch on two major points, Mr. Chairman, in this opening statement.

The Court's ruling against the composition of the Federal Election Commission makes it imperative that we proceed to reconstitute that body so that it can be truly independent and capable of enforcing election laws with real clout. Recent events make clear that campaign regulation cannot be left to a commission that is under the thumb of those who are to be regulated. But neither is it acceptable to return enforcement to the sole control of the Department of Justice, where violations of the Corrupt Practices Act and other past election statutes were scrupulously ignored for years.

I believe, rather, that the Federal Election Commission must be allowed to continue its work as an independent executive branch agency. The Commission has had its problems—largely because it was faced with administering a new and complex law with inadequate funding and very little support. But in my judgment the loud protests against the FEC that have been heard in these halls are ample proof that the Commission is doing its job. After all, we are the people whose activities the FEC is charged to regulate. And if every Commission action over the past months had been received in Congress with un-

qualified support, or even quiet acceptance, we would have known that the FEC had failed.

Mr. Chairman, as you know, the original Senate version of the 1974 Campaign Act called for a Presidentially appointed commission, subject to the advice and consent of the Senate, as required by the Constitution. The Court's ruling makes adoption of such a commission an absolute necessity.

But we cannot stop there. Just as urgent, in the wake of *Buckley* v. *Valeo*, is the need to extend public financing to campaigns for Congress.

The Supreme Court decision makes clear that only in the context of a system of public financing can any limitations be placed on campaign expenditures. Only with public financing can we place any checks on what rich candidates can spend on their own behalf.

Twice in the 93d Congress the Senate passed legislation to establish congressional public financing. If the need was great then, it is far greater today. For with public financing of the 1976 Presidential campaign, and with limits on campaign spending struck down by the Court, the 1976 congressional elections are in grave danger of literally being flooded with money from rich "fat cats" and special-interest groups.

Mr. Chairman, the Court's unequivocal ruling in favor of the constitutionality of public financing of elections should end—once and for all—the lingering doubts about our efforts to halt the treachery of the private dollar in public's business. We have a green light to proceed without delay to the adoption of public financing for congressional campaigns. Only public financing can prevent the Congress from becoming an exclusive preserve for the wealthy and those with access to wealth.

Mr. Chairman, I would like to close with a brief comment on the message on campaign legislation which Presidet Ford sent to Congress 2 days ago. The President asked, first, for action to reconstitute the FEC—and I am certainly glad, as I think most of the Members of the Congress are, to have the President's support on that issue.

But, second, the President asked—and I quote—"that we limit through the 1976 elections the application of those laws administered by the Commission."

The President, it seems, wants us simply to wipe the slate clean.

Well, Mr. Chairman, I can only wonder at whether President Ford is serious about retreating from all the progress we have made in recent years to prevent the kind of abuses which Watergate epitomized. If so, I am afraid he is totally out of tune with the Congress and, I think, with the country.

Thank you, Mr. Chairman.

Senator PELL. Thank you, Senator Clark. We are privileged to have the chairman of the full committee with us, Senator Cannon, and I wonder if he has some remarks he would care to make.

Senator CANNON. Thank you, Mr. Chairman. I have no remarks at this time.

Senator PELL. Thank you very much for being at the hearing.

Senator PELL. Our first witnesses today will be Senators Hugh Scott and Kennedy. If they would care to come forward. If you would care to sit up here, Senator Scott, as a member of the committee.

STATEMENT BY HON. HUGH SCOTT, A U.S. SENATOR FROM THE COMMONWEALTH OF PENNSYLVANIA, AND HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE COMMONWEALTH OF MASSACHUSETTS, JOINTLY

Senator SCOTT. Thank you, Mr. Chairman, Senator Cannon, Senator Clark. It is a pleasure for Senator Kennedy and myself to appear this morning before this subcommittee, to offer our suggestions with respect to appropriate Senate action in the wake of the Supreme Court's recent decision on the Election Reform Act of 1974.

The principal action we favor is set out in S. 2912, cosponsored by Senator Kennedy and myself, with Senator Clark, now pending before the committee. And that legislation would accomplish two major goals. It would reconstitute the Federal Election Commission to meet the constitutional defect found by the Supreme Court in *Buckley* v. *Valeo*. And it would extend to Senate campaigns the provisions on public financing of elections now applicable only to Presidential elections.

The establishment of the FEC as an independent agency to enforce the Federal election laws was one of the key victories of the 1974 reforms. Fortunately, the constitutional defect found by the Supreme Court in the establishment of the Commission can be easily cured by legislation. As President Ford's statement yesterday indicates, there is broad bipartisan support for enacting such legislation as promptly as possible, so that the Commission may continue its important work and so that the 1976 Presidential and congressional elections may proceed with minimal disruption and dislocation.

Title I of the bill is intended to accomplish this result. It proposes to reconstitute the Federal Election Commission as an independent agency within the executive branch, with its six members nominated by the President and confirmed by the Senate.

In the 1974 act, Congress established the Commission to administer and enforce the Federal election laws. The Supreme Court, in its decision on the Commission, found no fault with this purpose—only with the method of choosing Commission members. The Court ruled that the combined congressional-Presidential appointment method violated the separation-of-powers doctrine—specifically, the "Appointments Clause" of the Constitution, which denies Congress the power to appoint officers of the United States with executive functions. This bill, by eliminating the congressional appointment power and requiring the members of the Commission to be appointed solely by the President with the advice and consent of the Senate, will remedy the constitutional defect found by the Court and will establish the Commission on a sound constitutional basis.

And I may add that I believe it is a better bill than other bills which have been offered in that it more clearly defines the powers, functions, and duties of the Commission.

In fact, as originally approved by the Senate in 1974, the election reform law did not contain the congressional appointment power. Now, by approving the proposed change, the Senate is simply returning to the version of the Commission it initially approved.

An unsatisfactory alternative would be to return to the pre-Watergate system—with the Clerk of the House and the Secretary of the Senate administering the campaign law and the Attorney General enforcing it. We believe that would be a serious mistake. Each of these officers has other important duties to perform. Their record of implementing the election laws in the past is persuasive evidence that more vigorous administrative, investigative, and enforcement machinery is needed. In addition, a system that requires employees of Congress to implement the laws under which Members of Congress are elected, creates at least the appearance of conflict of interest. In our view, the most satisfactory way to insure that the Federal election laws are fairly and firmly implemented is to reconstitute the Federal Election Commission as the vigorous and independent enforcement agency that Congress intended in 1974.

For similar reasons, we urge the committee to resist efforts that would reconstitute the Commission but would strip it of some or all of its principal investigative and enforcement powers. The restoration of public confidence in the election process requires an active watchdog in this area, not a toothless lapdog.

We also take this opportunity to express our satisfaction with the effective and expeditious way the present Commission has carried out its complex and sometimes thankless task. Obvioulsy, there have been growing pains. Inevitably, some actions by the Commission have put it on a collision course with Congress. But we think on the whole that the frequent sounds of pain emanating from some corners of Congress over the Commission are a sign that the medicine prescribed in the 1974 reforms is working well, a sign that the abuses infecting and corrupting our election system are actually being cured, and a sign that the Federal Election Commission is the right doctor for the job.

Finally, we would make three additional points on the legislation to reconstitute the Commission:

1. In technical respects, the legislation should facilitate a smooth transition to the new Presidentially appointed Commission. The bill we have introduced deals with a number of these areas, such as the provisions for continuity of the Commission's actions and resources. and the provisions enabling the President to reappoint the current members of the new Commission. We have also included an authorization for the Commission at the $10 million annual level approved by the Senate last year but stalled awaiting conference for many months.

2. We feel it would be unwise to place any time limit on the Commission's existence or on the current election laws. Such a step would, we believe, play into the hands of those who wish to weaken the enforcement agency and destroy the 1974 reforms. And I would add parenthetically here, that the President has made clear to the leadership of both parties that his purpose in proposing a termination act was to give the Congress full leeway to proceed with new and substantive legislation. I happen to believe that that is not necessary, that our action will accomplish the purpose, and that we do need permanent legislation. The President has not taken a position against permanent legislation in any degree, but has proposed that the power remain with the Congress as, of course, it does. It is better that we have the permanent legislation now.

The act has now passed a difficult constitutional test in the Supreme Court. With the exception of the expenditure limits struck down by the Court, all of the other major provisions have survived essentially intact. If changes in the law are necessary, there will be ample opportunity to enact them next year, after the experience of the 1976 elections. But to set a firm date now for expiration of the act would, in my judgment, be unwise and unjustified.

3. One of the most immediate problems in the aftermath of the Supreme Court's decision is the danger that the Presidential primary campaigns may be disrupted, because of the expiration on February 29 of the Commission's executive powers, including the authority to certify the eligibility of Presidential primary candidates for matching public funds.

Senator Kennedy and I have suggested, as a stopgap measure, that the Comptroller General may be given authority until April 30 to carry out the functions of the Commission with respect to the public financing provisions of the law, should that become necessary. We hope, however, that Congress can enact the pending legislation in time to meet the Supreme Court's February 29 deadline. If not, it is possible that the Court may stay its order for an additional period, so that legislation may be completed without disrupting the flow of public funds to the candidates in the Presidential primaries. What is clear, however, is that the pressure of the imminent deadline should not become an excuse for compromising other important goals, such as a strong Federal Election Commission or public financing of congressional elections.

Title II of our bill would establish public financing for Senate campaigns in a manner parallel to the Presidential public financing provisions upheld by the Supreme Court in *Buckley* v. *Valeo*. Essentially all of these provisions for congressional elections were approved by the Senate in 1973. They were approved again in 1974, after the Senate broke a filibuster under the old two-thirds procedure on the Senate floor.

As adopted by the Senate in 1973 and 1974, the public financing provisions applied to both Senate and House elections. The provisions we are now proposing would apply only to Senate elections. We are hopeful that the House of Representatives will enact public financing for its own elections, but we feel it is appropriate at this time that such a measure should originate in the House rather than in the Senate. In fact, a major current effort in the House is underway. The pending House legislation already has strong bipartisan support, with cosponsorship representing more than half the Members of the House, and we look forward to its success.

In accordance with the Presidential model, the public financing of Senate elections would function as follows under the bill we have proposed:

First, full public funding would be available for candidates of major parties in general elections for the Senate. A major party is defined as a party whose candidate received 25 percent or more of the vote in the preceding election. These provisions would go into effect for the general election in 1976.

Each candidate of a major party would receive public funds equal to the amount of the spending ceiling specified under the 1974 act—generally 12 cents a voter, or $150,000, whichever is greater. No candidate would be required to accept public funds. Any candidate could choose to rely on private funds, or he could use a mix of funds, partly public and partly private. However, in accordance with the Court's ruling, any candidate using public funds would be subject to the expenditure limitations in the law.

Partial public financing would be available for minor party candidates in general elections, based on the party's showing in the preceding election. A minor party candidate would also be eligible for funding retroactively after the current election, on the basis of his showing in that election. In general, a minor party is defined as a party whose candidate received 5 percent or more, but less than 25 percent, of the vote in the preceding election or the current election.

Second, a system of matching grants of public funds would be established for Senate primary elections. Candidates who raise a threshold sum—20 percent of the spending limit for Senate races—generally 8 cents a voter or $100,000, whichever is greater—would be eligible to receive matching grants of public funds for each private contribution of $100 or less. These provisions would go into effect for the primary elections in 1978.

The cost of the title will be modest. We estimate it at $34 million for each biennial Senate election, or about $17 million a year. Probably it could be funded through the existing dollar checkoff, although the bill contains an authorization for additional appropriations, if necessary.

We know that the dollar checkoff is working well for Presidential elections. Each year, as the checkoff becomes more familiar, increasing numbers of taxpayers are using their tax forms to provide the funds for public financing.

In 1972, the first year of the checkoff, only 3 percent of the taxpayers used it, largely because the checkoff was on a separate IRS form that taxpayers overlooked. In 1973, participation jumped to 13 percent, after the IRS put the checkoff on page 1 of the tax return. In 1974, participation jumped again, to a remarkable 24 percent, as taxpayers became more familiar with the new procedure. And according to preliminary information recently available on 1975 tax returns now being received by IRS, participation is rising once again, with 26 percent of the returns filed so far using the checkoff.

The growing public acceptance of public financing of Presidential elections offers important encouragement for extending this reform to congressional elections. The Supreme Court's decision is a clear green light for Congress to adopt public financing for all elections to Federal office. To stop now, after achieving reform for Presidential elections, would leave the job half done, and perpetuate a double standard for elections that Congress should not tolerate. Now that the Supreme Court has affirmed the constitutionality of this reform, the time is ripe to take this next important step toward clean, honest, and open elections.

Since public financing is already available for Presidential elections, the need for action on congressional elections is especially

urgent. Under the 1974 act, Presidential campaigns will be largely insulated from the influence of special-interest money and massive private spending. But all that private money and all that special influence are still there, looking for fresh fields to conquer.

That is why we believe public financing for congressional elections is needed now. The danger is that without reform, the 1976 congressional elections will be swamped with special-interest money, as big contributors and organized interest groups vie with one another to gain new footholds in the Senate and House, and increase their already powerful sway over Congress and its work.

Public financing guarantees a fairly financed election for every candidate to Federal office. And it guarantees that once elected, a successful candidate will take his oath of office with no strings attached. Gone will be the possibility of dubious relationships created for the benefit of those who may have an interest in his votes and his other actions once he is in Congress.

Moreover, the Supreme Court's recent action outlawing spending limits provides an additional reason and a new agency for public financing of congressional elections. The effect of the court's decision is to eliminate any spending limits, but to leave in place the $1,000 and $5,000 limits on contributions by individuals and political committees, respectively. As a result, Senate and House candidates of modest means have a new and greater vulnerability to wealthy challengers or to challengers with wealthy friends. As the court's decision makes clear, such challengers and their friends may spend unlimited resources of their own to win an election. Yet candidates of modest means will be required to raise their funds under the strict contribution limits of the act.

We believe that public financing is the best antidote to the wealthy opponent problem in Senate and House elections. With public financing, candidates of modest means would have a ready source of funds to finance their campaigns. And, as the Supreme Court's decision makes clear, spending limits can be constitutionally imposed as a condition of receiving public funds, so that the likely result of adopting public financing of congressional elections will be to achieve reasonable limits on campaign spending for all candidates, rich and poor alike.

And the cost of the reform is extremely small—$17 million a year for public financing of Senate elections. To us that is the wisest single investment the hard-pressed American taxpayer can make in the future of the country. From that reform alone can flow many benefits in every aspect of our work, as Members of Congress become more responsive to the country and its needs.

The debate is well known and familiar to us all. The issue is whether elections belong to all the people or just the wealthy and special interests. In 1974, Congress achieved a major breakthrough for reform in the financing of Presidential elections. If public financing is right for Presidential elections, it is right for Senate and House elections, too. And the sooner we accept that fact, the sooner we shall have a Congresas responsive to the people, and the healthier our democracy will be.

Thank you, Mr. Chairman.

Senator KENNEDY. Mr. Chairman, the statement that Senator Scott has presented is in behalf of both of us. I would like to just very, very briefly, because I know you have a full range of witnesses this morning, mention a couple of matters which we consider to be of great urgency and importance.

But before I do, I could not let the opportunity pass without recognizing the extraordinary contributions, in terms of election reforms, that have been made by this committee. Under Senator Cannon, who has been the spearhead on this committee, and also on the floor—and, I might say, in some tough bargaining with the House of Representatives—much of what was voted on and presented by the Senate of the United States was defended and I think all of us who are interested in this issue are in his debt. We are also in your debt, Senator Pell, for chairing these hearings and for continuing to present this issue in a very important and intelligent and rational way to the American people. The work that has been done in this committee has been excellent.

My colleague, Senator Scott, who has presented our joint statement this morning, is really the father of the Federal Election Commission. He has sponsored this concept for a number of years. It can, in and of itself, provide a very important contribution to insuring the integrity of the election system. He has also been a leader on public financing, both in the Presidential election system and hopefully—if the position which he and I, and Senator Clark and others, including Senator Mathias and Senator Eagleton, have taken is accepted—in the extension of public financing to Senatorial elections and Congressional elections. And, of course, we pay tribute to the prime sponsor of S. 2912, the legislation, which we are testifying in favor of today, your junior member of this committee, Senator Clark, who has been so effective in this whole area.

So we know we are talking to members of a committee that are extremely familiar with this issue. We know these matters have been discussed within the committee and on the floor of the Senate. We urge your favorable consideration of the proposals which we put forward here today, and which have, as Senator Scott mentioned, been debated and discussed at length in this committee and on the floor of the Senate and on the floor of the House of Representatives.

As Senator Clark pointed out, the decision of the Supreme Court is encouraging. It recognized three very important points.

First of all, it recognized the constitutionality of public financing of Presidential campaigns. And, having recognized that, I think we have to ask ourselves whether we are going to let an opportunity pass to provide for the public financing of senatorial campaigns and congressional campaigns. As a matter of comity, I think we have to recognize our limitations in the Senate in adopting a proposal for the House of Representatives. But we should not let an opportunity like this go by to deal with Senate elections, after the Supreme Court of the United States has ruled, recognizing the constitutionality of public financing. After we in the Congress have looked over the whole series of Watergate scandals, we cannot say we are going to provide public financing

for the Presidency, but we think our own house is in good order without that reform.

I think it is important for us to act. And I think, quite frankly, it is the wisest investment of American taxpayers' money. You and I have often heard, both on the floor of the Senate and in our committees, the criticism—why should we use the American taxpayers' funds for this? After all, it is politics. But you and I and the Members of this body understand that the special, powerful, private interests use their contributions to make their influence felt on various issues that, in effect, require the spending of billions of taxpayers' dollars.

So it is imperative, I think, that we consider public financing for the Senate.

Second, in the Supreme Court decision, we are gratified that the Court upheld the limitations on contributions although we regret that Court rejected the limitations on expenditures. The latter is an extremely complex, involved first amendment issue, but we would hope that this committee might be able to make some recommendations to close these new loopholes—and I am sure that Senator Clark and Senator Scott and I would endorse them warmly.

Finally, the Supreme Court has invited us to remedy the imperfections in the Federal Election Commission. I am completely satisfied that if the Senate-House conference had accepted what had originally been passed by the Senate, the Commission would have been upheld by the Supreme Court. And so it seems to us that going back to what was initially recommended by Senator Scott and the other Members of that bipartisan effort makes sense now, to remedy the separation-of-powers defect which was found by the Supreme Court.

So I am very hopeful, Mr. Chairman, that we can pass this legislation. It is timely legislation. It is important. It will restore the integrity of the election process for Members of the Senate and House, and make the election of Senators and Congressmen accountable to the people rather than dependent upon the large financial contributors, which have much too much influence in a democratic society.

I would also like to say how much we appreciated the representation of Mr. Archibald Cox in defending the Senate's position in the Supreme Court. We feel he did an outstanding job, and I think represented not only the positions that were taken by those that had introduced the legislation, but generally of the Senate as a whole. And we were, of course, very much honored to have his participation.

Senator PELL. Thank you very much, Senators, for presenting your views.

As we look into the legislation, there is a good deal of nitty-gritty that has to be examined, to see how it would be implemented, how it will survive, whether it will fly.

One question that comes up here is in connection with the President's proposal to take away the ex officio representation of the Secretary of the Senate and the Clerk of the House. And I was wondering if you felt that that was correct or not. I notice your bill has their representation in, the President has proposed that it be knocked out.

Do you have a view?

Senator KENNEDY. I think they should be part of the Commission, but not voting members. I think having their expertise, knowledge,

and understanding is useful for the Commission. As ex officio members, they can provide their expertise and make it available to the Commission.

Senator SCOTT. I don't think they have interposed any objection to being nonvoting members. Mr. Valeo doesn't make that point in his letter to the chairman of the committee.

Senator PELL. Thank you.

Senator Griffin?

Senator GRIFFIN. I want to thank both of you for your testimony and for the leadership that you have provided in the past on this very important subject.

I would like to ask a practical question about the length of time that we have to deal with this subject. As I make the computation, it is 11 days.

Regardless of how we feel as individuals about the public financing of Senate races, I think we would have to agree that it is controversial.

Do you think it is realistic that within 11 days we can pass a bill that will not only reconstitute the Commission and provide for the Presidential appointment of the members, but also include such a controversial provision as this public financing of Senators' elections?

Senator KENNEDY. I think there are two important points, perhaps three important points, that are to be made.

First of all, the legislation which we are sponsoring is legislation which has already passed the Senate. Actually, it is legislation on which we broke a filibuster in 1974. It has passed the Senate twice. It was reported favorably by this committee. So it is not a new debate, not a new discussion, not a new issue.

Second, we have provided an option, if we are unable to act for an interim period up to April 30, so that GAO would be able to continue the process. And we feel that could be an alternative to meet the time pressures.

And, finally, I don't think it is inconceivable that we could get an additional stay by the Supreme Court. They have done that in the redistricting cases for up to a period of 2 years, I understand. Obviously the most we would ask for is perhaps a few more weeks. I don't think that that possibility ought to be discounted—I think the Court would need to be impressed by the progress on our legislation in the House and Senate, but I do think we have some flexibility on it.

I would hope that we could move expeditiously, but I think there are these options which are available to us.

Senator GRIFFIN. I thank the Senator for that response. I think it is good to have your response on the record, because I rather suspect this is a question that is on a lot of people's minds.

Thank you.

Senator PELL. Senator Clark?

Senator CLARK. Just one question, Senator Kennedy. Is it not true that the only way that we can have expenditure limitations in congressional elections is to pass legislation which would establish public financing? Without that, the lid is off and we have no limit of any kind—isn't that true?

Senator KENNEDY. The Senator is absolutely correct. It is clear, as the Supreme Court has stated.

Senator PELL. I would like to interpolate a thought here. The lid is off anyway if they don't accept it. So I think the general public should be aware of that.

Senator KENNEDY. The lid, though, rather interestingly, Mr. Chairman, is on because I think the immediate record of all the Presidential candidates who are in the race now is that they have accepted public funds. So the limits are on. And I think it would be an extraordinary Member of the Congress or Senate who would go the independent route. I think, given the climate and atmosphere of this time, woe to the candidate who says that he is not going to go the public-financing route. Even those who go the private route would probably feel bound by the limits anyway.

Senator PELL. I would agree with you, those of us who are frugal New Englanders would probably keep it under the ceiling.

Senator Cannon?

Senator CANNON. Thank you, Mr. Chairman. First, I want to thank Senator Kennedy for his very kind remarks. We spent a lot of time trying to develop the bill that we did get out. And that raises a question in my mind.

I am sure that both of you are well aware of the difficulties we encountered. Do you think realistically there is an opportunity to get a bill through in a reasonably short period of time—when I say through, through both Houses of Congress—providing for public financing of congressional elections?

Senator KENNEDY. The interesting points in the House are these. First of all, a majority of Members of the House have actually co-sponsored a bill for public financing of House elections—so this is impressive. And, second, I have also been impressed by what has been happening in the House among a number of different Members about the value of the Federal Election Commission.

Even Mr. Hays, who has been outspoken in his opposition, has been more willing recently to accept a Federal Election Commission. Obviously we have different views about what its powers should be—but I do think that in the period of the last few days, there has been some extremely interesting movement. And I am very hopeful that, with a strong position by the Senate, there would be an opportunity to meet the deadline and also to act on public financing.

Senator SCOTT. I would like us to try it. I think that public opinion is moving very strongly in favor of public financing, and I would hope we could try it.

I do want to thank the chairman and the members for the work they did on the original bill—really magnificent work was done under the chairman's leadership. And serving on the committee, I was greatly impressed at how well he guided the conferees in very difficult situations. And while we didn't get all we wanted, we did get the basic law and we got some important advances out of that bill.

Senator CANNON. I thank the Senator for his kind remarks. Let me ask this—if it came to a choice between the question of public financing of congressional races and the extension of the life of the Commission independently, what would be the position of the Senator? In other words, should we hold fast—if the Senate passes it, should we hold fast and have no bill at all, or should we try to find an inter-

mediate ground extending the life of the Commission, and consider this as two separate issues?

Senator KENNEDY. Well, Mr. Chairman, I feel very strongly that the Members of the Senate as well as the House ought to have an opportunity to express their views on both these important issues. I think we have an important responsibility to carry this issue as far as we can in terms of advancing the public interest. Obviously, we do not want to disrupt the national Presidential campaign, in which candidates have undertaken this effort with the idea of being able to participate in public financing.

So I think that would be unfair and unwise. But I do feel that we have a very basic and fundamental and important responsibility to present this issue to our membership in the Senate and go to conference with a strong position and make every legitimate effort to work out any differences and adjustments with the House.

Senator SCOTT. The Senator has expressed my views.

Senator CANNON. Both of you have certainly pointed out the danger of unlimited spending and why it would be better to go to public financing of congressional races. However, that still leaves unanswered, as I understand it, both in your bill and, importantly, by the decision of the Supreme Court, the question of independent spending, of unlimited spending on the part of individuals or groups, either supporting or in opposition to the particular candidate.

And I wonder if you have any suggestive thoughts as to whether there is or is not any way to arrive at this one defect that would still remain in the law?

Senator SCOTT. Well, I think that it is extremely difficult to meet that. I think we should, in the committee, ask advice of counsel, possibly outside counsel as well, as to whether there is any way to cure this most unfortunate loophole which the Court has left in the bill.

I think it was by far the worst part of the Court's decision. And if there is any way by which limitations can be imposed, other than those which we do impose by virtue of accepting the matching fund.

Senator CANNON. No, I am referring to the spending by others.

Senator SCOTT. That is what I meant.

Senator CANNON. In other words, someone independent from the candidate.

Senator SCOTT. If we could impose limitations on outside spending, I would be in favor of it. I think the committee might be well advised to get advice of counsel. I do not know any way by which the Congress can overrule that part of the Supreme Court's decision other than by the matching funds provision.

It is going to be extremely difficult to change that part of the Supreme Court's ruling in view of the wording they use in the opinion. But I would like to see something tried.

Senator KENNEDY. I would just say one word on it. I am a strong supporter of imposing whatever limitations we can, Mr. Chairman. I do recognize the first amendment questions. I hope that perhaps we may be able to address the problem. It is enormously complex, although I do think there may be some opportunity to move in this area.

At least, we can require disclosure. I think we have every right to expect that, any time individuals are spending money, we are entitled

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to very clear notice as to who is spending, how much is being spent, and who receives the benefit.

I think there are efforts in this area which can be important in terms of public notification.

I think with regard to the proliferation of various committees, I think there are probably areas here where the committees can move. We have some ideas, perhaps some suggestions, which we could submit.

Senator CANNON. You both recall, of course, that we had the first amendment question very well in mind during our conference, and we were aware of the problems. But we did take a shot at some of the proposed limitations in the event that they would be upheld.

I have a question as to why you have the provision that the public financing is voluntary rather than mandatory, because if you still have it so that an individual can come in and not accept public financing, that individual can spend unlimited under that provision of the law. Why wouldn't you be better off to require it, make it a mandatory provision?

Senator SCOTT. I am wondering whether we wouldn't run into the Constitution on that, that is what has bothered me about it.

Senator KENNEDY. I would say that I myself would favor it. We could make it mandatory. What we were attempting to do was to track what has been recognized by the Supreme Court in terms of constitutionality.

As you know, we debated that issue at some length in the Senate in 1973 and 1974. I myself would favor making it required, but it does seem to me that we are on completely solid ground from the constitutional point of view in the way that we have proceeded.

Senator CANNON. Now, do I understand your bill—well, first let me ask about the effective date. I think our analysis here showed the effective date for the primaries, January 1977—but I notice that Senator Scott read from his statement January 1978.

Which is correct?

Senator SCOTT. It should be 1977.

Senator CANNON. And your bill would provide that for the general elections it would take effect this year.

Senator KENNEDY. Yes.

Senator CANNON. Now, do I correctly understand that the matching provision would relate only to primary elections and would be in amounts—contributions of $100 or less—that would be eligible for matching funds, and that there would be no matching fund required for the general election, but simply the maximum amount, according to the formula, would be made available; is that correct?

Senator SCOTT. That is my understanding.

Senator KENNEDY. The Senator is correct.

Senator CANNON. Now, what happens under the provisions of your bill if there are not sufficient funds earmarked through the dollar checkoff provision to take care of the Presidential races and Congressional races? Is there a pro rata between them or do you take care of the Presidential races first and then pro rate insofar as the money is available for the Congressional races?

Senator KENNEDY. Well, as you know, Senator, the first year that we had the checkoff, we had 3-percent participation. Now, in the ad-

vance payments of taxes in 1976, it is already up to 26 percent. We believe that there is an increasing appreciation of its importance, and that there will be increasing funds for it. And, as we pointed out, we are talking about $34 million for Senate elections on a biennial basis, which is a reasonable amount—$17 million a year.

We also provide an appropriation to make up any shortfall if there is one. If not, it would have to be pro rated.

Senator CANNON. But do you provide for any pro rata in——

Senator KENNEDY. I think there is a provision for pro rating, Senator.

Senator CANNON. You believe that if there isn't one in there, there should be.

Senator SCOTT. There should be if there isn't one.

Senator KENNEDY. There should be a provision in there, and it should follow after the Presidential elections. The Presidential elections come first and it should be pro rated after that.

Senator CANNON. In your proposal, you have an authorization for $10 million for the Federal Election Commission. They are operating on the basis of $5 million now, and I am wondering why you use the $10 million figure. Do you have some justification as to additional funds that may be needed? They are proceeding on the basis of $5 million now.

Senator KENNEDY. I think the figure was the one that the Senate passed before. We would be guided by this committee's judgment, but the figure was taken from the previous Senate bill.

Senator CANNON. Well, I wondered if you had any specific information, because before we were sort of shooting in the dark, we didn't know what would be required—and the rate now of spending, or at least the rate of money made available to the Commission, is at the $5 million rate at the present time. And there are some people in the Congress who feel the Commission has had too much money already, that they have gone far afield, beyond the limits that Congress originally envisioned, in developing their rules and regulations and advisory opinions, as you well know.

So that may be a controversial issue at some point in the development of this legislation.

Now, what would you envision would happen with respect to candidates who have already raised funds in this particular year, if this should pass and be made effective immediately? What happens there with respect to the candidate's funds on hand who is a candidate in the November election?

Senator KENNEDY. We are open to suggestions on it. I think it is a very fair, practical question—we would be wide open on it.

Senator CANNON. There are many congressional races who have raised funds and probably more than enough to meet the spending limit of the primary election. And I was just curious to know what would happen to those funds, those unused funds, then, if one were to go to public financing.

The committee I am sure can——

Senator KENNEDY. Give some thought to it. I would expect that most of the moneys that have been raised have been for primary races, but, of course, there are cases where that wouldn't be so—and

we would be guided by both the Commission's and the committee's judgment on that.

Senator SCOTT. I would like to respectfully suggest to those Senators who may propose simply the reconstitution of the Federal Election Commission that they look at the details of our bill. We think that we have tried to be somewhat specific as to the authority and the powers, and we may have gone further than some of the other bills. We think it is desirable that we should, and we hope that those introducing other bills will give some consideration to this.

Senator CANNON. In other words—is it title I of your bill?

Senator SCOTT. Title I, yes.

Senator CANNON. You have imposed some limitations on the authority of the Commission beyond the broad limitations that they were exercising under in the previous period of time.

Senator SCOTT. Yes. We are making the authority, we think, somewhat clearer than it is made in some of the other bills offered and on which testimony will be given.

Senator CANNON. Thank you, Mr. Chairman.

Senator PELL. Thank you, Senator Cannon. There is one further question I wanted to ask both of you, your opinion on, at the suggestion of committee counsel, because it is a question presently before the Commission. When we come to the single-issue candidates, whether it is antiabortion or proabortion or gun control or SST, do you think they should be able to qualify for public matching funds, or should they demonstrate a broader spectrum of interest?

Senator SCOTT. I don't believe that you would have a right to exclude them if they come under the qualification of minor candidates, because you would be excluding them on the basis of their ideas. Because a Democrat or a Republican presumably holds certain ideas—a vegetarian's ideas may be different, but they are still ideas. I don't think we ought to get into the realm of ideas and the realm of exclusion of ideas.

Senator KENNEDY. I would agree, Mr. Chairman. I do feel that, you go back over recent times, some might say that those involved in the 1968 campaign were involved in a one-issue matter about ending the war in Southeast Asia. I would be strongly opposed toward providing any kind of limitation.

If they can qualify, no matter what their views are, then they ought to be eligible for public funds.

I would be strongly opposed to trying to exclude those we think are one-issue candidates. If they can meet the qualifications, they ought to be eligible.

Senator CANNON. If the Senator would yield, I don't think there is any way we could constitutionally pick and choose who could or could not be candidates or be eligible, beyond the constitutional limitations.

I think a limitation based on the issues would clearly fall of its own weight.

Senator SCOTT. The Constitution didn't even contemplate parties in the first place.

Senator CANNON. Incidentally, Chairman Hays' name was mentioned earlier, and I have just been notified that he is holding a press conference at 2 p.m. today on the FEC.

Senator PELL. Thank you. I would agree with both of you in connection with your response to my question regarding a one-issue candidate, which essentially was the situation in the 1968 campaign—and the 1972 campaign, too.

So I thank you very much.

Senator GRIFFIN. Mr. Chairman.

Senator PELL. Senator Griffin?

Senator GRIFFIN. Mr. Chairman, if I could just comment. I want to indicate that I introduced the President's proposal today (S. 2987), and I want to indicate that as a result of listennig to your testimony and studying your proposal, I see at least two features in here that I want to indicate agreement with.

One is the matter of the ex officio service of the Secretary of the Senate and the Clerk of the House of Representatives—this may be an unfortunate omission in the President's bill. If it is constitutional, I believe I would be in favor of that change.

And then also I notice in your bill you provide the six-member Commission—the terms of two would expire every 2 years. In other words, it would be staggered. No one President after the initial appointment would be able to appoint a whole Commission again. I think that is a desirable feature that the terms of any Commission be staggered.

Thank you, Mr. Chairman.

Senator KENNEDY. Thank you very much.

Senator SCOTT. Thank you.

Senator PELL. Thank you very much indeed.

STATEMENTS OF HON. RICHARD S. SCHWEIKER, A U.S. SENATOR FROM THE COMMONWEALTH OF PENNSYLVANIA, AND HON. WALTER F. MONDALE, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator PELL. Our next witnesses will be Senators Schweiker and Mondale who will be testifying on S. 2911. Senators, welcome, and proceed as you will.

Senator SCHWEIKER. Thank you, Mr. Chairman and members of the committee. With the committee's permission, I would like to insert my full statement into the record, in view of the schedule you have.

Senator PELL. Without objection, your written statement will be inserted in the hearing record in its entirety.

[The written statement of Senator Schweiker follows:]

STATEMENT OF HON. RICHARD S. SCHWEIKER, A U.S. SENATOR FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. Chairman, I appreciate the opportunity to appear this morning to discuss our bill, S. 2911, to reconstitute the Federal Election Commission.

We in the Congress have been handed what is really a pretty simple problem by the Supreme Court. We passed an election reform law in 1974 which contained a great many provisions. One of those said that the law would be administered by a Commission with six members, two chosen by the President, two by the House leadership, and two by the Senate leadership. This Commission would receive reports, issue rules and regulations, give advisory opinions, certify federal campaign matching funds, and investigate apparent violations of the law.

On January 30, the Supreme Court handed down its decision in *Buckley* v. *Valeo*, the major challenge to the constitutionality of the election law. Some parts of the law were upheld, and others were found to be unconstitutional.

With regard to the Federal Election Commission, the Court said that the make-up approved by Congress could not stand. The laws of our country, under the Constitution, must be administered by "Officers of the United States" appointed by the President and subject to confirmation by the Senate. Four of the six members of the FEC are presently approved by Congress, not by the President, however, and all six are subject to approval, not by the Senate alone, but by both the House and the Senate. This set-up, the Court concluded, makes the FEC in effect a Congressional body, with no more power than Congress could give to one of its Committees.

Specifically, the Court held the Commission could exercise only the informational functions granted to it under the law. It could no longer:

(a) Certify any public matching funds for the Presidential election;

(b) Issue any binding advisory opinions;

(c) Issue any binding regulations interpreting the law; or

(d) Hold any administrative hearings or exercise any civil enforcement powers.

The Court recognized the chaos that would result if the FEC were killed outright, and so it gave Congress 30 days, until the end of February, to reconstitute the Commission in a constitutionally valid fashion.

In response to this decision, I immediately introduced S. 2911 to reconstitute the Federal Election Commission. We believe this bill will promptly resolve the problem created by the Court's decision.

The bill is very simple. Let me outline its provisions. Section One recreates the Commission with six members appointed for staggered six-year terms by the President, subject to the advice and consent of the Senate, and two members, the Secretary of the Senate and the Clerk of the House, serving ex officio and without vote. No more than three members appointed by the President may be from any political party.

Section Two of our bill provides for a transition between the present Commission and the new Commission. It is our intent that the terms of the old Commissioners expire on the appointment of their successors, and that the present Commissioners be eligible for appointment to the new Commission although we take no position on whether they should be named. We believe our bill adequately provides for continuity and provides the authority required for staff and files to be carried over to a new Commission.

Finally, Section Three urges the President to act as quickly as possible to fill the positions created by our bill so that the orderly implementation of the Federal election campaign laws may be continued.

Mr. Chairman, this last point is what this controversy is all about. Despite all the other issues which have been raised since the Supreme Court's decision, the overriding, primary concern of all of us must be the assurance that the election laws are not thrown into further disarray. We must re-establish a mechanism to administer the federal campaign matching funds and, perhaps most important, to give authoritative interpretation and enforcement of the election laws by an independent body.

The simplest and most effective way to do this, particularly at this time in an election year, is to reconstitute the Federal Election Commission. The Commission has assembled a staff which has acquired expertise by administering the Federal election law for the last several months. Given the success of the first legal attack on this law, we should not overlook the fact that the Court has indicated that it approves of a Presidentially-appointed Commission. Any other proposal could bring about a new lawsuit, and the possibility of another crisis later in the election year.

Let's look briefly at some of the other alternatives which have been suggested, either before this Committee or in the press in the past few weeks. One approach has been to gut the Commission, by taking all enforcement powers for Congressional elections out of the Commission and leaving it only the job of certifying the matching funds. The law would then theoretically be enforced by the Congress.

This approach really puts election law back into a pre-Watergate posture. In the public's eye, giving the 535 Members of Congress power to enforce the election laws would be like giving enforcement of the antitrust laws over to Fortune's 500 corporations. This country would not stand for it. We decided

in 1974 that an independent body must implement these laws to assure that they are enforced impartially. The Congress cannot forget that the appearance of justice is an important part of justice itself, and we should not place ourselves in the indefensible position of seeking to have our activities beyond independent review.

Another proposal has been to transfer the administration of the Presidential matching money to the General Accounting Office, either temporarily or permanently, and let the rest of the law lapse. The Comptroller General has answered this proposal very effectively by pointing out that the GAO does not have the staff or the expertise to administer this law, and that this transfer would be very disruptive. I would like to insert a copy of a letter from the Comptroller General in the record at this point. (See letter addressed to Chairman Cannon by Comptroller General Staats, which letter may be found on p. 148 of these hearings.) In addition to not maintaining smooth administration of the matching funds, this proposal would stop all new rules and regulations from being issued.

This is an important point. We have seen the law chopped in half by the Supreme Court. All the rules and regulations previously issued by the Commission should be reexamined to see if they are still valid. To take away the power to make rules and advisory opinions from the FEC will require every candidate for federal office in the country to act without guidance in this complex legal situation, not knowing whether his actions are within the law until he finds out he is under indictment by some state attorney general or the U.S. Justice Department. The orderly administration of the election laws does not simply mean handing out public funds on an expeditious basis; it includes giving candidates the guidelines needed to stay within the law.

Another proposal has been to address public financing and "loophole closing" at this time. I have favored public financing of Congressional races in the past, and I think that we should make another effort to take big money out of our political system. But these are complicated issues which cannot be dealt with properly in the short period of time remaining for us in February. We are learning a lot about public financing in its first trial run at the Presidential level, and there are some things about it which we may want to take another look at. The problem of loopholes is even more complex. There is no possibility that a comprehensive bill on this subject would move quickly enough through the Congress to meet the Court's deadline.

Further campaign reform must be addressed, but not under the deadline pressure we now face. I hope that this Committee will schedule early hearings on the questions of Congressional public financing and revisions in the substance of the campaign laws, with a view toward reporting out a bill later in the spring if possible.

Mr. Chairman, the President has asked the Congress to reconstitute the Commission, and the Comptroller General thinks it is the best way to go. The American Bar Association and Common Cause agree that this Commission must be renewed before the end of February. Our bill, which will do just that, has 13 cosponsors in the Senate, and an identical bill has 56 in the House. We ask this Committee to send S. 2911 to the floor so that the American people will know that we care about the orderly and fair administration of the election law, and also to show that Congress can indeed get a job done on time.

Thank you. I would be happy to answer any questions you might have.

Senator SCHWEIKER. I will try just to summarize, Mr. Chairman, some of the important points of the bill that we are proposing.

I think it is important, Mr. Chairman, to consider the time factor in the problem at hand. We have less than 11 days to solve a very serious problem. And having served in the House of Representatives for four terms. I am not very optimistic that they are going to pass any other part of a bill except the bill that Senator Mondale and I are proposing today.

In my judgment there is no way the House is going to accept the public financing. We battled this for many months—your committee has led the fight, you have done the work, and after months and months of work and effort, it was scratched in conference.

So I think we are somewhat deluding ourselves if we think that we can get public financing, or really anything else that might be desirable, into this bill. I happen to be a sponsor of public financing, I am all for it, I strongly support it, I will fight for it—but not at this time and place.

I think also that it is important to realize that if we lose everything, what happens? First, if the FEC goes out of commission, in addition to not having public matching funds for Presidential elections, they cannot issue any binding advisory opinions, they cannot issue any binding regulations interpreting the law, they cannot hold any administrative hearings or exercise any civil enforcement powers. In short, we have organized chaos. And the Supreme Court recognized this—that is why they gave us 30 days to get it straightened out. So I think it is important to put our priorities where they should be.

Second, as was mentioned earlier, and I would like to reemphasize it, this committee led the way in the Senate, led the way in the Congress, in 1974 when we decided that we wanted an independent body to implement these laws so that they are impartially enforced. And the Congress cannot forget that the appearance of justice is just as important as part of justice itself.

I don't believe that we should place ourselves in the indefensible position of seeking to have our activities beyond independent review. We should not look like we are having the fox guarding the chicken coop. And that is what would happen if FEC expires.

Our bill has broad support. President Ford indicated that he supports this concept, the ABA convention assembled in Philadelphia just passed a resolution endorsing this concept—and I would like to include that in the record, Mr. Chairman, if that would be all right.

Senator PELL. Without objection, it will be included.

[The resolution referred to follows:]

AMERICAN BAR ASSOCIATION REPORT TO THE HOUSE OF DELEGATES
SPECIAL COMMITTEE ON ELECTION REFORM

RECOMMENDATION

Resolved, that the American Bar Association urges the Congress to immediately enact legislation to reconstitute and to preserve an independent Federal Election Commission and, it is, further

Resolved, that the President of the United States and the Senate are urged, through their respective powers of appointment and confirmation, to recognize the importance of some continuity in the membership of a reconstituted Federal Election Commission and, it is, further

Resolved, that the American Bar Association urge Congress to continue its attempts to fashion a fair and equitable election law consistent with the principles adopted by the American Bar Association at its August, 1975 meeting.

Passed by the ABA House of Delegates, February 17, 1976.

REPORT

After extensive activity in the area of federal election reform in the years since its creation in 1973, the ABA Special Committee on Election Reform has withheld any major effort this year pending the decision of the United States Supreme Court in the case of *Buckley* v. *Valeo*. The *Buckley* case dealt with a very wide range of constitutional issues resulting from enactment of the Federal Election Campaign Act Amendments of 1974 and was before the Court on an expedited appeal.

The *Buckley* v. *Valeo* opinion, announced on January 29, 1976, held invalid the procedure for appointment of the Federal Election Commission. However,

the opinion recognized the very critical work being done by the Federal Election Commission and allowed it to continue its existence until March 1, during which time Congress could consider possible alternatives for reconstituting the Commission. The necessary action itself is relatively simple, in that the appointments must be made by the President pursuant to Article II, Section 2 of the Constitution of the United States.

In August, 1975, the ABA House of Delegates took a position favoring an independent commission and the following language was included in the statement of principles concerning election reform:

> Federal election laws should be administered by a single, independent agency entrusted with effective enforcement power and the resources to discharge its responsibilities.

The ABA Special Committee on Election Reform recommends that the suggested resolutions be adopted so as to impress upon Congress and the President the importance of not disrupting in mid-campaign the Federal Election Commission machinery and staff. The committee also feels that the independence of the Commission is essential for the integrity of its operation and that this independence be viewed by Congress as primary to any other criteria it may consider in reconstituting the Commission.

Respectfully submitted

TALBOT D'ALEMBERTE, *Chairman.*
CHARLES G. ARMSTRONG.
JOHN D. FEERICK.
DANIEL L. GOLDEN.
WILLIAM D. RUCKELSHAUS.
STEPHEN I. SCHLOSSBERG.
EARL SNEED.
WILLIAM P. TRENKLE, Jr.

Senator SCHWEIKER. Common Cause also indicates their support for this. We have some 15 Senate cosponsors, some 65 House cosponsors—and I think that this is really what we need to do to the problem at hand.

That is all I have, Mr. Chairman.

Senator PELL. Thank you.

Senator MONDALE. Thank you very much, Mr. Chairman and members of the committee. I would ask that my full statement appear in the record as though read.

Senator PELL. Without objection, it will be done.

[The written statement of Senator Mondale follows:]

STATEMENT OF HON. WALTER F. MONDALE, U.S. SENATOR FROM THE STATE OF MINNESOTA

Mr. Chairman, I appreciate the opportunity to appear this morning to discuss S. 2911, our bill to reconstitute the Federal Election Commission.

I am pleased to join with Senator Schweiker in sponsoring S. 2911. As you well know, a little over two weeks ago the Supreme Court ruled that the exercise of certain executive functions by the Federal Election Commission, as presently constituted, is unconstitutional.

The Court held that unless the Commission was reconstituted with members appointed by the President with the advice and consent of the Senate it would lose its enforcement and rulemaking authority. S. 2911 seeks to accomplish the clear mandate of that decision and reconstitute a Presidentially appointed independent Federal Election Commission.

Near the end of the Watergate era, a period in which we witnessed the resignation of both the President and his Vice President under a storm of political corruption, the Congress took a historic step in establishing an independent commission to monitor and regulate the infusion of money into the political process. The public outcry was loud and the movement toward political reform had great impetus. We ought not let this noble experiment die just because in the wake of the Supreme Court decision we have no Watergate scandal on the front pages of our newspapers and on our television screens.

Unless the Congress acts immediately to restore the Commission's regulatory authority, the upcoming Presidential primaries will be conducted without answers to at least two critically important questions.

First, "How much money can a candidate accept in contributions from a wealthy wife or husband or a wealthy family member?" The Court held that a wealthy candidate could spend as much of his own money as he chose, but left the question of contributions from family members subject to an uncertain Congressional definition.

Second, "What constitutes an 'independent' expenditures by a wealthy individual or a heavily endowed union or corporate political action committee in behalf of a candidate?" The Court struck down the $1,000 limit on such campaign expenditures, but left the definition of "independent expenditure" to be determined by another agency.

In addition to these two pressing questions, many more critical ones will surely arise as we approach the election. If the Commission's regulatory authority lapses on March 1, no other body is prepared to decide which expenditures are "independent" and which are not, and no other agency is prepared to draft guidelines to check the unlimited flow of money into political campaigns under the guise of independent activity.

Those who feel that the Supreme Court's decision is being violated could always take their case to court, but the primaries would almost certainly be over before a decision could be reached. A ruling by the Justice Department could take less time, but their legal staff does not have the expertise that the FEC's staff has gained over this nine month period.

In addition to interpreting the law, we must have an agency to ensure that our own efforts to achieve reform are being carried out. One of the most pressing reasons for reconstituting the Commission immediately is to ensure that the Presidential candidates are not left without matching funds. These candidates have run their campaigns in good faith and in reliance on the fact that these funds would be available. We must see that they get the funds they are entitled to under the law. It would be tragic not only for them but for the entire political process if Congressional delay in reconstituting the Commission prevents these candidates from receiving the matching funds to which they are entitled and perhaps thereby influence the outcome of the Presidential nominating contests. This is an urgent matter, and therefore I want to stress the need to reconstitute the Commission before the March 1 deadline.

Given the history of weak enforcement of campaign financing laws and the extensive evidence of misuse of law enforcement agencies for political purposes, it is no wonder that the public watches with some skepticism our efforts to reconstitute this Commission.

Even with the most conscientious and well-intentioned Clerk of the House and Secretary of the Senate, the public is certain to question the objectivity and zeal of their enforcement efforts involving persons to whom they owe their jobs. During the Watergate investigation, the public did not begin to have confidence that the whole truth would be unearthed until the authority was shifted from the Justice Department, whose attorney general owed his job to the President, to an independent special prosecutor. The same principle is involved here.

I have been a long-time supporter of public financing of Congressional elections. I have introduced a bill calling for public financing and am hopeful that the Rules Committee will see that this important question is dealt with during this session of Congress, even though it may not become effective until the 1978 elections.

It is my own feeling, however, that the importance of reconstituting the FEC is so great that perhaps this is not the best time to take up public financing as a provision of this legislation. I do hope, however, that there will be an opportunity later this spring to deal with Congressional public financing.

On February 24 the first Presidential primary will be held and on March 16, the first Congressional primary is scheduled. We cannot afford to wait until the extended debate these reforms deserve has run its course. We must have a commission to assist the over 1,000 Federal candidates, their staffs, and the network of volunteers all of whom need the guidance of an independent commission to understand and abide by the mandates of the sweeping and often complex reforms we have written into the campaign law.

The Commission is one of the most important and far-reaching experiments in our political history. Nine months is not an adequate trial period. While the commission is not perfect, it must be given a chance to prove that we can reform our system of campaign financing in a responsible and sensible manner.

Senator MONDALE. I am please to join with Senator Schweiker in sponsoring S. 2911 to amend and extend the FEC. I think there are two or three very crucial reasons why we must immediately amend and extend the Commission.

Mr. Dooley said around the turn of the century that it is not clear that the Constitution follows the flag, but it is clear that the Supreme Court follows the election returns. And that may be true. But I think, as good as that decision was, it is clear that none of them had ever run for public office, because they drew distinctions that may make sense in legal theory but that are just unbelievably difficult to manage and interpret in the real life of American politics. For example, they said that a candidate could spend as much as he had running for office, leaving the question open as to how much a family might contribute. And it is only through the reconstitution of this Commission that we can possibly sort out an area of what could be tremendous abuse and something that could contribute enormously to cynicism in this country.

Second, the Supreme Court said that a wealthy individual or a heavily endowed union or corporate political action committee, if it was called, quote, independent, could spend as much as it pleased on behalf of a candidate. Now, that provision, unless properly policed and interpreted, could go far toward the destruction of the fine work of this committee and the Senate to try to bottle up the compromising and corrupting influence of big money in American politics. And without the immediate re-creation of this Commission to sort out these questions and to interpret them in a way that makes sense, those two exceptions written into the Court could be mischievous to the ultimate degree.

In addition to that, there are over 1,000 candidates running for Congress, probably more committees than that, each with questions that must be answered if this law is going to make sense. And it is only the Commission that can answer those questions.

And for those reasons, I think we must immediately reconstitute the Commission on a constitutional basis.

Finally, it is only the Commission that can distribute matching funds under the public financing provisions of the law. The candidates that are now running for President, without the reconstitution of this Commission, would be left without matching funds. These candidates have run their campaigns in good faith and in reliance that these funds would be made available. And I think it would be tragic if we failed to reconstitute the institution essential to the distribution of those moneys.

Finally, may I say, I think the American people look on all of us in this whole process with a great deal of skepticism. They have seen in recent years example after example of utterly outrageous abuse of money, which compromises and occasionally corrupts the sacred process of freedom in our society.

If we fail to immediately reconstitute this Commission and correct what is really a minor but essential constitutional flaw, I think we will be contributing enormously to this sense of cynicism and despair which is found in too much abundance in American life today.

I join with Senator Schweiker in believing that we should not put the public financing provisions on this particular measure. But if we

do, I hope we will proceed on the basis of a matching grant rather than a direct total Treasury contribution, as contemplated by an alternative provision.

Congressman Burton in the House, as I understand, has such a bill introduced—and now there are over 225 cosponsors. Last time when we tried the direct total Treasury contribution to candidates, we met with stonewall opposition from the House—and I would hope for many reasons—first of all, it is more hopeful in the House; second, it is through a match that we can prevent giving massive funds to frivolous candidates; and thirdly, I think people feel a lot better about these public financing provisions if, through a checkoff, and if, through a match, they have something to say about how much money a candidate is going to get.

So that I would hope that we would extend the Commission for the reasons given. I would hope that we would try to find another vehicle for public financing for congressional campaigns that I feel to be crucial, particularly in the light of the Supreme Court decision, which leaves us no other way in which to impose essential ceilings.

But if we do, I hope we do it through some kind of private matching system, rather than a direct total Treasury grant.

Senator SCHWEIKER. Mr. Chairman, I have a written statement from Senator Cranston who is tied up at another meeting, and he would like to include his statement as one of our principal cosponsors.

Senator PELL. Without objection, it will be included in the record.

[The written statement of Senator Cranston follows:]

STATEMENT OF HON. ALAN CRANSTON, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Mr. Chairman, the 1976 elections were to give us the first opportunity to test the 1974 Federal Elections Campaign Act and the effectiveness of public financing of the Presidential election in combating the insidious influence of big money in our political processes.

Instead, as a result of the Supreme Court's January 30 decision in *Buckley* v. *Valeo*, we now face the prospect of uncertainty and chaos in those same elections.

After February 29, the independent agency which was to administer and enforce the 1974 law and its public financing system—the Federal Elections Commission—will cease to exist as an enforcement and rulemaking body unless it can be re-established in accordance with the Appointments Clause of the Constitution. If no action is taken to fill the void, the FEC becomes an informational service at best. Moreover, effective enforcement and rulemaking, as well as administration of the public financing system for the 1976 elections will be nonexistent.

It must be pointed out that the Supreme Court found no problem with the FEC's purpose. Its objection was to the means of choosing the FEC's members.

If we can reconstitute the FEC, by giving the power to appoint the Commissioners to the President with the advice and consent of the Senate, we can insure an orderly federal elections process in 1976 and a fair opportunity to evaluate the public financing system.

For that reason, I urge your favorable consideration of S. 2911, which will reestablish the Federal Elections Commission and which expresses the sense of the Senate that appointments under the new procedure be made as speedily as possible to allow for "the orderly implementation of Federal election campaign laws."

As you well know, I have been a strong supporter of efforts to reform the federal elections process by placing reasonable controls over our elections processes. As a leader of the bipartisan group of Senators who spearheaded the fight for public financing in the 93d Congress, I appeared before this Subcommittee in September 1973 to enumerate certain basic principles we felt must be included in any package of public financing and election reform. Among these

basic principles was: "administration of campaign financial reporting and disclosure laws and regulations by an independent elections commission with enforcement powers."

A strong enforcement agency is essential.

However, in all this discussion of the Federal Elections Commission, there is one point that we should not fail to consider: We must not allow the FEC to become a tool for harassment by future imperial Presidents who may seek to repeat the abuses of Watergate. I understand and share the great concern expressed by some of our colleagues that the FEC has such a potential for abuse in our democratic society that the President should not be given power over the Commission. That concern led to Congressional adoption of the present method of selecting Commission members. Perhaps we should consider extending the life of the FEC for only a year and a half so that the Subcommittee, in the non-election year of 1977, will be able to take another look at how the Commission has handled enforcement and whether it should be changed, particularly in the aftermath of its implementation of the law in 1976.

Senator PELL. Senator Griffin?

Senator GRIFFIN. Thank you, Mr. Chairman. I must say that I think I generally agree with the approach that you are presenting. One thing that concerns me is whether and when Congress will get around to doing something about the enormous loopholes that have been left by the Supreme Court's decision. I rather agree with this statement in *Buckley* v. *Valeo* by Chief Justice Burger. He said:

By dissecting the act bit by bit and casting off vital parts, the Court fails to recognize that the whole of this act is greater than the sum of its parts. Congress intended to regulate all aspects of Federal campaign finances, but what remains after today's holding leaves no more than a shadow of what Congress contemplated. I question whether the residue leaves a workable program.

Certainly the matter of unlimited expenditures by an individual or by special interest groups and associations, as the Senator from Minnesota has pointed out, is or should be a matter of very grave concern.

Even though I voted against public financing before, I am also one of those that thinks that that subject should be reconsidered by the Congress, especially after we have the experience of public financing for Presidential candidates in this election.

I do question at this late stage, in this election year, whether we should attempt to provide for public financing in this election. I think that not only the problem that Senator Cannon has raised confronts us—the fact that some candidates have already raised money—but I think we have to take into account the fact that different States have different primary dates and filing dates.

It seems to me to change the rules at this late stage is of questionable wisdom. One might wonder whether people would have run for the office in this year if they had known there would be public financing. It might be an entirely different situation than it would be if we were to suddenly pass this bill and provide matching public funds.

All of this is leading me to this question: Could your bill carry the additional suggestion or provision of the President that would provide an expiration date following this election which would in effect compel the Congress to take a whole new look at what we have done in light of the Supreme Court's decision?

I don't know whether either of you want to comment on that or not. I think it is an interesting suggestion, one that would more or less force the legislative branch of Government to do what we hope it will do, but which it may not.

Senator MONDALE. Senator Griffin, I introduced a proposal for a commission to study the way in which we nominate the Presidents. It is one of the anomalies of our society that something as crucial as that—how we finance them, how we nominate them, State rules, party rules and the rest—have just grown up without any cohesive overall plan whatsoever. It was one of the great failures of the Founding Fathers to in anyway anticipate that problem. And now we don't have a system—we have 55 different systems.

And I understand the President responded favorably to the general notion of finally taking a fundamental look at that problem. And I think it would make sense to perhaps couple that with a similar thorough review of the whole system by which we nominate and elect other Federal officers, including the public financing provision.

Now, of course, this committee has been the key committee for many, many years, the best students of election problems are to be found right here. Whether that review should be conducted by some outside group or whether the committee would make it part of its ongoing work is really for you to decide.

Senator SCHWEIKER. Mr. Chairman, I would like to respond, too. I agree with Senator Griffin's question that we do need a prod, and I think that one way to handle this could be to take our bill and to put a July 1, 1977, expiration date on it. This would get us through this election, it would get us through the final reporting, which is the first quarter of next year, and would give an administration and a new Congress some 6 months to come up with something. I wouldn't favor a date earlier than that because we would make it hard to deal with the problem in Congress.

Now, second, I would like to respond to the first part of your question, Senator, and that is about the wreckage that the Supreme Court has left us—and I happen to think it is a serious wreckage of this law. I think that to go through this wreckage without an FEC would just be utter chaos—no one will know where to go, no one will know what they are doing, no one will know what is legal—it would be utter chaos.

So that while we have a wreckage, we have a chance to salvage a little bit of that wreckage by reconstituting the FEC. Fortunately, I am not running this year, but I don't know what somebody does as a candidate to determine what he is doing legally, if we don't have something like the FEC. I think that is very important.

Senator GRIFFIN. Thank you very much.

Senator PELL. Senator Clark?

Senator CLARK. Just one question. I appreciate your statement very much. I think we—most all of us at any rate—are in agreement that we need a reconstitution of the Commission.

I would like to ask you about the public financing provision. Both of you in the past, I know, have supported public financing—and I think your statement indicates that you think we ought to turn to that question very soon. But understandably you are reluctant to go ahead with that now, as you say, because you feel it might endanger the reconstitution of the Commission.

But it does seem to me that there is a real hope now, for the first time, that the House of Representatives will pass congressional public

financing. Now, you mentioned, I think, Senator Mondale, the fact that the Burton bill now has 240 sponsors.

Supposing that before we act in the Senate, the House adopts the Burton proposal, which, as I understand it, will be attached to a reconstituted Commission. Suppose that bill comes to us with public financing in it and a full power reconstituted Commission.

Would you then support in the Senate public financing?

Senator MONDALE. I would strongly support it. I said in my statement that I think we ought to choose a different vehicle for public financing, but I also said, if there is public financing being proposed, I am going to join the fight for it and I am going to fight for a matching system.

And one of my reasons for doing so is that it is much easier, I believe, to get House support on a matching basis than on a direct Treasury grant of the kind that we adopted last time.

There is not much mystery about public financing any more, there is no need for all kinds of thorough studies. This committee has been dealing with the public financing issue. The chairman of the committee, I think, probably knows more about this issue than any man in America; he has been working with it for at least a decade and perhaps more. We have debated the dollar checkoff at least since the middle sixties. We have had an enormous amount of experience with all of these matters now.

I think if we can do both, that would be a different problem. But above all we have got to get this Commission reconstituted, because if wet let that fail I think the American public will think that we used artifice and tricks to bring that disaster about.

Senator CLARK. And, Senator Schweiker, would you, if the House were to pass public financing—let's say the Burton bill or some other—and came to us before we act, do you feel that you could support public financing and a reconstituted——

Senator SCHWEIKER. Yes, Senator Clark, I would certainly support it very strongly, because my objection is not to the principle, my objection is to the practicality of it. The answer is a strong yes.

I have to say, having served in the House, they used to have a phenomenon they called the disappearing quorum over in the House in the old days—and I sort of suspect that when that FEC vote comes up on public financing, you are going to see the disappearing quorum at work during this election year. I hope I am wrong, but that is the basis for my position now.

Senator CLARK. Thank you.

Senator PELL. Senator Cannon?

Senator CANNON. Thank you, Mr. Chairman. I think there is a good possibility, in light of what has transpired, to something happening along the lines that have been suggested here, that the House may well act before we complete our action over here. And if they should act with a public financing provision in the congressional races, then, certainly, in the light of the action the Senate took before, we would have no problem getting it in.

I think, Senator Mondale, I am inclined to agree with you. I think that the general elections perhaps should also be on the matching fund basis, rather than just the primary—although I recognize the rationale

for it, that the primary is where one would demonstrate adequate support to come under a matching provision in the event there were a lot of candidates in.

But I think a limit on the amount of the matching provision, such as $100 or less, to me would give it more appeal from the matching standpoint in the general elections than just this right-out grant—and as well I keep in the back of my mind the question I asked Senators Kennedy and Scott, if there is a possibility that there may not be adequate funds if this were to take effect this year, adequate funds to finance both the Presidential races and the congressional races—I would certainly prefer to see the Presidential races taken care of in light of the fact that we have gotten a start down that road.

Senator MONDALE. Senator Griffin mentioned the possibility of maybe beginning the public financing of congressional races in the next election. I think that might be a good compromise.

But if we have a chance to act this year, I very much hope we do. And the reason I come down so strongly on the matching principle—and I am glad to hear you support that—is that I think there is something very powerful to the psychology of the American public continuing to have something to say about how much money a candidate gets and of forcing a candidate to go around and plead for funds; as long as you keep the amount that any person can contribute to an amount that couldn't possibly corrupt a candidate, all you are doing is forcing him to go around and get a lot of support, as a condition for getting public support.

And I think the public senses that and feels very strongly about it. I think the key to the success of public financing is to be found to a great extent in the checkoff in the tax returns; the public likes the notion that they have something to say about how much money would be set aside and that they can exercise that option on an ongoing basis. If you just take it out of the Treasury as a direct grant, not only do you increase opposition in the House, but you also, I think, undermine that sense of public control that is so important.

Senator SCHWEIKER. I want to say that I concur with Senator Mondale on that. I think, if we go the route of public financing and had complete Treasury financing, we would really take the sense of participation out of the whole American system. And if there is one key principle that I think that has made our country strong, it is that participatory role.

And I think it is important to keep participation in the system somehow, somewhere. I think that is a very valid point and I really strongly support that point.

Senator CANNON. Thank you, Mr. Chairman.

Senator PELL. Thank you, Senator Cannon. Incidentally, I notice that on November 16, 1973, I introduced a bill, S. 2718, that was exactly like yours with the matching provisions in it up to $100, but it was lost—those provisions were lost somewhere on its way to passage.

So I support this concept.

Senator GRIFFIN. Mr. Chairman, if I might put in the record the last dates for filing and the date of primary elections, State by State for congressional elections for this year—I think it might be of some

interest in terms of the practicality of passing a public financing bill for this year. I do have it for 1974—what I will put in will be for 1976.

[The information referred to follows:]

II. CONGRESSIONAL PRIMARIES

State	Primary date	Last day for filing[1]
Illinois	Mar. 16	Dec. 15
Pennsylvania	Apr. 27	Feb. 17
Texas	May 1	Feb. 2
Alabama	May 4	Mar. 1
District of Columbia	do	Mar. 5
Indiana	do	Mar. 15
Nebraska	May 11	Mar. 12
West Virginia	do	Feb. 7
Maryland	May 18	Mar. 8
Arkansas	May 25	Apr. 6
Kentucky	do	Mar. 31
Oregon	do	Mar. 16
Alabama	June 1[2]	
Mississippi	do	Apr. 2
Montana	do	Apr. 22
New Mexico	do	Mar. 2
South Dakota	do	Apr. 16
Texas	June 5	
California	June 8	Mar. 12
Iowa	do	Apr. 2
Arkansas	do	
Maine	do	Apr. 1
New Jersey	do	Apr. 29
Ohio	do	Mar. 25
South Carolina	do	(3)
Virginia	do	Apr. 9
Mississippi	June 22[2]	
South Carolina	do	
Idaho	Aug. 3	June 7
Kansas	do	June 20
Michigan	do	June 15
Missouri	do	Apr. 27
Tennessee	Aug. 5	June 3
Georgia	Aug. 10	June 9
Louisiana	Aug. 14	June 18
North Carolina	Aug. 17	May 28
Alaska	Aug. 24	June 1
Oklahoma	do	July 7
Georgia	Aug. 31[2]	
Arizona	Sept. 7	July 9
Connecticut	do	Aug. 6
Florida	do	July 20
North Dakota	do	July 24
Delaware	Sept. 11	Sept. 1
Colorado	Sept. 14	July 31
Massachusetts	do	July 6
Minnesota	do	July 20
Nevada	do	July 21
New Hampshire	do	July 16
New York	do	July 29
North Carolina	do	
Rhode Island	do	June 10
Utah	do	May 10
Vermont	do	Aug. 5
Wisconsin	do	July 13
Wyoming	do	July 31
Washington	Sept. 21	July 30
Oklahoma	do	
Louisiana	Sept. 25[2]	
Florida	Sept. 28[2]	
Hawaii	Oct. 2	Aug. 18

[1] Last day for filing declarations or petitions of candidacy (dates may vary due to statutory changes).
[2] Runoff date.
[3] Filing deadline is 2 weeks after State conventions close; convention closing dates are unknown at the time of publication.

Senator GRIFFIN. I might just point out that in 1974—and I assume it would be the same—the filing date in North Carolina was February 25, the filing date in Ohio was February 6 and in a number of States it is March. Of course, it seems to me it would be very difficult to——

Senator SCHWEIKER. If the Senator would yield, the Pennsylvania deadline was yesterday. We closed out our filing for all offices.

Senator CANNON. If the Senator would yield, I think one of the first primaries is in early March, the primary itself.

Senator CLARK. Would the Senator yield for a question, I am not sure that I understand the significance of that point. The bill that Senator Kennedy and I and Senator Scott have offered would in no way apply to primary elections. It would only apply to the general election.

Senator GRIFFIN. But some of the bills would apply on a national basis to primaries——

Senator SCHWEIKER. If I might respond, I think a lawsuit could be filed on the basis that they didn't know the ground rules when the things were started. They didn't know that they were going to

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have public financing, so their rights were violated because they didn't have the same opportunity that now all of a sudden the others are given.

And I think someone who didn't file could ask——

Senator CLARK. You mean in the general election?

Senator SCHWEIKER. Yes, on the basis that he was not aware he could participate on the same basis others now can who will get an after-the-fact award. I think that would be grounds for some kind of a suit right there.

Senator PELL. Thank you very much indeed, Senators.

And our next witness will be Senator Buckley on S. 2980, the bill that is introduced in the House by Representative Steiger.

Senator Buckley?

STATEMENT OF HON. JAMES L. BUCKLEY, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator BUCKLEY. Thank you, Mr. Chairman. I welcome the opportunity to discuss my bill, which was introduced yesterday. It is now 2½ weeks since the Supreme Court handed down its decision, and since then a number of bills have been introduced more or less as emergency measures that are intended to deal with only the most obvious of the gaps left by the decision.

None of these measures, I submit, addresses the full range of problems created by the Supreme Court decision, especially in congressional races.

We need to do substantially more than simply reconstitute the Federal Election Commission so that public subsidies may continue to flow to Presidential candidates. The Supreme Court's elimination of limits on individual spending has accentuated the inequities already ingrained in the Federal Election Campaign Act. They, too, must be addressed on an urgent basis.

Finally, there is broad agreement, based on actual experience with the act, that a number of its provisions are unwieldly and unduly burdensome. These can easily be corrected at this time if only we will take the trouble to do so.

Yesterday, Congressman William Steiger of Wisconsin and I introduced in our respective Houses a bill that will restructure the Federal Election Commission along constitutional lines, reallocate its responsibiiities in a more efficient manner, adjust some of the major inequities in the law as it has survived the Court's decision, and make certain modifications that we believe will simplify the administration of the Federal Election Campaign Act, as amended. In preparing our bill, we have consulted with our coplaintiffs in *Buckley* v. *Valeo*. Our bill represents a consensus that cuts across partisan and ideological lines. It is the only bill before this committee that attempts to address all the major problems that have been precipitated by the Supreme Court's decision.

Our bill does not seek to change features of the act, such as the public financing of Presidential campaigns, which the plaintiff's in *Buckley* v. *Valeo* found objectionable, but which the Supreme Court left standing. Rather, we seek only to make those corrections in the law that are urgently required as a result of the Supreme Court's de-

cision, while correcting some of the widely noted defects in the law that have become apparent since its enactment.

Specifically, our bill is addressed to the following deficiencies:

1. THE INEQUITIES AMONG CANDIDATES

The Supreme Court's rejection of limitations on expenditures by candidates and independent individuals and groups has dramatically magnified the inequities that exist under the law between different classes of candidates. On the one hand, wealthy candidates or candidates having the support of well-organized, well-financed political action groups, such as the AFL–CIO's Committee on Political Education, can now spend unlimited sums in the promotion of their candidacies. On the other hand, candidates without private means or without the support of such groups are limited to contributions that may not exceed $1,000 from individuals or $5,000 from political action committees. In practice, this has provided enormous handicaps in raising the kind of seed money that is especially important in launching the campaign of a candidate who is relatively unknown.

Our bill will help redress this imbalance by raising the limitations on individual and committee contributions to the following levels: $50,000 in the case of a Presidential candidate, $25,000 in the case of senatorial candidates, and $10,000 in the case of a candidate for the House of Representatives. These limitations are high enough to enable middle- and lower-income candidates to raise the money necessary to launch successful campaigns. Any possibility of abuse will, in our opinion, be checked by the effective enforcement of the disclosure provisions.

I would at this time point out that unless we substantially raise the limits on individual contributions, candidates for Congress running this year will face the danger of losing substantial control over their own campaigns. The $1,000 and $5,000 contribution limitations will no longer keep individuals on political committees from spending as much as they want on behalf of candidates they want to support. It will merely prevent them from coordinating their expenditures with the candidate's campaign. In other words, each one of us running for office this year could see chaos in their promotion of a single cause.

2. THE FEDERAL ELECTION COMMISSION

Aside from the fact that the Supreme Court has found the method of appointing the Federal Election Commission to be unconstitutional, the Commission in practice has been found to reflect all the deficiencies that are to be found in too many other agencies that are clothed with very broad rulemaking and enforcement responsibilities. Arbitrary and at times capricious requirements impose excessive legal and bookkeeping costs on candidates without serving any apparent public service. We have also vested in the Commission extraordinarily broad powers over a most sensitive area of national life.

I suppose there is some sort of poetic justice in having Members of the Congress finally made subject to the kind of bureaucratic harassment and regulatory uncertainties and costs to which the Congress routinely has subjected so many others in American society.

Nevertheless, our bill seeks to remedy this situation by allowing the functions currently delegated to the FEC to be reallocated between a reconstituted commission and a new election law section to be established in the Department of Justice. Our bill would vest the enforcement powers for the Federal election laws not with an independent election czar, but with appointive officials within the traditional enforcement arm of the Federal Government. The election law section would be headed by a Director and Deputy Director of different political parties who would be appointed by the President, with the advice and consent of the Senate. They would serve for 4-year terms and could be removed only for cause. We believe, in short, that this mechanism would insulate this section from political direction by an incumbent President.

This arrangement would leave audit, review, and certification responsibilities with the new Federal Election Commission while assigning the functions of enforcement, the issuance of advisory opinions, and the conduct of civil and criminal litigation to the new election law section of the Justice Department. This is the more normal arrangement, and we believe it represents better policy.

3. RECORDKEEPING AND DISCLOSURE

The current disclosure and bookkeeping provisions of the Federal Election Campaign Act impose costs that cannot be justified by any consideration of public policy. I speak of the current requirements that a record be kept of each contributor giving over $10 and that disclosure be made of each contribution in excess of $100.

With respect to the recordkeeping provisions, it is simply irrational to suppose that any candidate for national office will be influenced by a $100 contribution, let alone an $11 contribution. The only possible effect of the current provision is to discourage contributions by individuals reluctant to be identified with minor parties or unpopular causes. It does not in any way affect the problem of corruption in public office. Our bill would substantially lighten the current recordkeeping burden by limiting such records to contributions in excess of $100.

It is just as irrational to assume that candidates for national office could be bribed by the $101 contributions that must now be reported. The amount of money required to have a corruptive influence on a candidate for political office depends on the relative size of the contribution to the overall financial requirements of the campaign. In order to ameliorate the effect of disclosure provisions on public participation in a campaign, our bill would adopt various disclosure thresholds which would be calibrated to the office sought. Specifically, we would establish those thresholds at $1,000 in the case of a candidate for the Presidency, $500 in the case of a candidate for the Senate, and $250 in the case of a candidate for the House of Representatives. And I hope that no one suggests that any of us could be bought for lower sums.

4. MISCELLANEOUS PROVISIONS

The present rules appear unduly restrictive with respect to contributions to and from political parties and committees. There is also a great deal of uncertainty as to what constitutes a contribution to

a particular candidate. Our bill incorporates language which will (a) remove some of the arbitrary restrictions that have been placed on the traditional role of parties and committees, thereby broadening the diversity of groups that can have an input on the electoral process, and (b) provide for necessary statutory guidelines for determining what constitutes a contribution. This will serve to remove many of the uncertainties that now exist in the law, and will facilitate the conduct of campaigns as well as the work of the election law section that would be charged under our bill with the enforcement of Federal election laws.

As I stated at the outset, the Supreme Court's decision in *Buckley* v. *Valeo* requires corrective action that is significantly broader in scope than the reconstitution of the Federal Election Commission. Inequities have been magnified which the Congress must address if we are not to establish two classes of candidates facing vastly different problems in financing and launching their political campaigns. Furthermore, the fact that some legislative action is necessary at this time provides us with a unique opportunity to correct the deficiencies that have been widely noted, deficiencies which add materially to the cost and complexity of political campaigns without serving any identifiable public purpose.

The American people have a right to expect that we will utilize this opportunity to effect something more than incremental changes intended to preserve the status quo. They have a right to expect their representatives in Congress to enact real election reform that will remove provisions whose net effect is to protect the wealthy or special-interest candidate from successful challenge, to say nothing of incumbent Members of Congress.

I thank you, Mr. Chairman. There has been distributed a synopsis of the legislation we introduced yesterday. And I would be happy to answer any questions you may have.

Senator PELL. Thank you, Senator Buckley. It is particularly appropriate that you are presenting your legislation, that you are here, since it was your suit that precipitated the Supreme Court decision.

Senator BUCKLEY. I like to think it was the first amendment that precipitated that.

Senator PELL. I have no questions.

Senator Griffin?

Senator GRIFFIN. Senator Buckley, I think your point about the effect of that part of the Supreme Court's decision which lifts and leaves without limit expenditures by an individual or a special-interest group takes away from the candidate effective control of his campaign is a very significant point, one that needs a lot of thought and study by this Congress.

As I was reading over your statement, you talk about another group that might support a candidate. I can also conceive of a special-interest group that might not support a candidate but spend all of its time and unlimited resources opposing the other candidate.

Wouldn't that be a very nice situation for the fellow who happened to be the beneficiary of that? He wouldn't have to say anything against his opponent at all perhaps—that would all be done for him, with unlimited resources, by a group that just wants to spend all of its time attacking the other party in the race.

Senator BUCKLEY. Well, this is exactly what can happen. And, as a matter of fact, I was elected in a three-cornered race and there were some people who spread all kinds of full-page ads around New York saying don't vote for Buckley and didn't express any other preference.

But this is precisely the sort of thing that we are now going to see forced by having unlimited expenditures declared constitutional by the Supreme Court while suppressing the ability of individuals, who would probably much rather send their $10,000 or $15,000 into the campaign headquarters.

Senator GRIFFIN. Thank you for the statement.

Senator PELL. Senator Clark?

Senator CLARK. Senator Buckley, just a couple of questions.

As I understand your first proposal, it would really allow what I would consider at any rate rather massive increases in the contribution limits for both individuals and groups. For example, you would raise the contribution limit for the Senate races to $25,000.

Don't you think that in fact a Senator might be very much inclined to treat constituents who give $25,000 somewhat differently than those who give a dollar, or who give nothing?

I guess what I am saying is, aren't we in a sense opening the way for the kind of influence peddling that the law was really intended to prevent?

Senator BUCKLEY. I don't think so. No. 1, I think that full disclosure is the appropriate protection—let people draw their own conclusions. No. 2, in my experience, on the basis of one campaign, I get more pressure and so forth from people who gave $5 than anyone who gave more than $5,000. I really haven't seen it.

No. 3, I would point out——

Senator CLARK. I wasn't thinking so much of the pressure on you as rather the way in which the Senator himself or herself looks upon that problem.

Senator BUCKLEY. My belief, Senator Clark, is that the corruption in this body comes not from people who have given money but from people who say we represent a bloc of 10,000 voters on this issue or another. I think you and I have seen more votes in the Senate warped by that than the fact that somebody may have given $5,000 in a past campaign.

Senator CLARK. Why have a $25,000 limit, then? Why have any?

Senator BUCKLEY. The submission we have put in represents a consensus among the plaintiffs who have different points of view. I personally would just as soon see the lid taken off, because I do believe the disclosure is the thing that alerts the public and arms the opposition.

Senator CLARK. Well, I share the view that that is the most important single factor.

Senator BUCKLEY. But I would also like to pursue one step further the suggestion that this is the only way we avoid the abuses advertised in Watergate. I think it is a curious fact, and not generally cited, that most of the members of the Watergate Committee voted against the legislation we are talking about. They didn't think it was responsive to what they saw to be the problems.

Senator CLARK. Well, let me pursue this $25,000 contribution further. You say on the top of page 9, and I think quite accurately: "The amount of money required to have a corruptive influence on a candidate for political office depends on the relative size of the contribution to the overall financial requirements of the campaign."

Now, again, I don't like to use personal examples, but in a matter of this kind you are reluctant to use someone else's campaign. In my own case, I think I spent $250,000. Now, one contribution of $25,000 would be one-tenth of the entire campaign expenditure. Or, to put it in another way, 10 people could have financed my entire campaign under the limitations that you are suggesting.

That seems to me to be pretty excessive in terms of the possibility of opening it up to real influence.

What is your response to that?

Senator BUCKLEY. I really don't think that people are subject to that kind of influence. Maybe I am naive, maybe I am thinking of my own experience—and also, I must confess, I am talking in the perspective of a $2 million campaign rather than a $250,000 campaign.

Certainly, $25,000 in the case of one of the larger populated States would not—in the case of yours, maybe it should be a percentage of the thing. But here is the problem that I see—and I felt it very strongly. I could not have launched my campaign without having received a $50,000 loan. I will say that quite simply—and the guy has never asked anything from me since then. I needed seed money. I couldn't open an office until I put down $15,000. I couldn't get the telephone company to even look in and decide how to fit the switchboard unless I put another $15,000 down. Especially if you are a political unknown, you need what is known as seed money to establish some kind of plausibility.

We have the fact that Julian Bond ought to be a Presidential candidate today. He is not a Presidential candidate for the simple reason that he could not accept money that would have been tendered to him in amounts more than $1,000.

Senator CLARK. Well, I think what you are saying points up the great differences within the country. I think it is true that I never had a contribution in excess of $3,000 and had little trouble getting started, even though being totally unknown.

But I think it is true that passing a law that fairly applies to every State in the Union and every congressional district is complicated.

Well, last—or second, I think I have three questions—another of your recommendations is to return the enforcement of the campaign law to the Justice Department, at least as I read your testimony.

Now, for more than 40 years, the Department, I think, failed miserably to enforce the old Corrupt Practices Act. And my question is, what makes you think that the Justice Department would do any better this time around?

Doesn't your proposal really return to the old system that didn't work effectively?

Senator BUCKLEY. I don't think so. First of all, I think that one of the principal problems under the old system was that this sort of case got to the bottom of the pile. We would constitute a body that had no

other responsibility but to monitor, give the advisory opinions and prosecute.

No. 2, the Director and Deputy Director would not be serving at the pleasure of a President.

No. 3, there would be supervision by a politically independent director and deputy director, and those two people couldn't be from the same party.

No. 4, the Election Commission would have the authority under our bill to finger areas that they think required investigation.

In other words, there is plenty of opportunity to place the heat on the election body to see that it does its job.

But I do believe that the better practice, the more prudent practice, is to have the law enforcement agency of the Government do the enforcement of the laws.

Senator CLARK. But it is going to be exclusively under the control of the Attorney General and the administration in power.

Senator BUCKLEY. I don't believe that would be the case with two independent people of two different parties.

Senator CLARK. Well, lastly, your proposal, as I understood your testimony, sets a $500 limit on disclosure of campaign contributions in Senate elections. I agree with your first statement, at least in part, that the most important single factor in election reform is disclosure—I think that is even more important than contribution limitations, in my judgment. I believe strongly in limitations, but disclosure is the most important.

Why have such a high figure? Don't you think in fact that the public would have a very strong interest—and a right—in knowing whether, let us say, a Senate candidate received contributions from, let's say, 50 oil company executives of $450 each? Wouldn't that be an easy way to hide enormous contributions, by simply having a great number of different executives contribute slightly less than $500?

Senator BUCKLEY. Well, perhaps again it is the scale of looking at a $2 million campaign versus another. These contributions simply are not that significant. The paperwork is very significant. I thing you are going to find out, if you are talking about an industry slant or something of this sort, you have your political action committees of various industries that we will quickly identify. And also, incidentally, I happen to be among those who believe that money is given, whether it be by AFL–CIO or milk prodcers or oil executives, to candidates whom they believe to share the same points of view on public policy. So that it frankly does not disturb me that a particular Senator might receive large numbers of contributions from wheat farmers. This does not indicate a corruptive influence but, rather, reflects a confluence of points of view.

Senator CLARK. I share that view, but I think what I am really saying is that if disclosure is the key to cleaning up election problems, then why not have a little more of it? Why not put it down at least to a $100 contribution so you avoid this kind of——

Senator BUCKLEY. Well, two things. First of all, what purpose is being served, public curiosity, or are we talking about thresholds that could raise questions as to corruption? When you started talking about

that $500 figure, I thought probably you were going to suggest it was much too low.

But, then, on the other side of the case, you have two considerations. No. 1, sheer paperwork and cost. I am bumping into this thing right now—the mechanical difficulties.

No. 2, there is a chilling factor, there is a chill factor in terms of contributions. There are unpopular causes. There are people who work at the Chase Manhattan Bank that may want to support the Socialist Marxist party that wants to nationalize Chase Manhattan Bank. If you have too small a threshold, you are just going to drive these people out of the political process.

Senator CLARK. Well, again, let me stop, but maybe it is a difference in size. In 1972, prior to the disclosure law, I remember filing every contribution of a dollar or more—and I had one person do it—and I just did not find it to be that kind of burden.

But, again, maybe it is a different size——

Senator BUCKLEY. It has been multiplied now. I was filing, I think, $10 or more under New York State law, but now you have to keep all kinds of different books and cross checks—and you have to find out whether that guy who gave in August had given back in April, this sort of thing.

Senator CLARK. Thank you very much.

Senator PELL. Senator Cannon?

Senator CANNON. I must say, Senator Buckley, that I agree with Senator Clark on his approach to the limitation on the senatorial candidates, or congressional candidates. I think—under the old law, the limit there was $5,000, although you could give to more than one committee. But this was the law when we determined that we needed to do something about it, to reduce the effect of big money. And therefore I think the limitation we have in there for the congressional races is much more realistic than what you suggested. However, in the Presidential race, I am curious as to why you would want to raise the limit there when the Presidential candidates are all under the public financing provision—and apparently no one has had any trouble qualifying under that provision.

So what is the purpose of going to a $50,000 limit on a contribution to a Presidential campaign?

Senator BUCKLEY. You are thinking, Senator, I think, almost exclusively in terms of Republicans and Democrats—and probably people who are pretty well known to start with. Julian Bond said he withdrew for the simple reason he couldn't raise the necessary money to get himself started. Senator Eugene McCarthy is a candidate for the President of the United States.

There are enormous institutional difficulties of getting mobilized. I believe that Senator McGovern would not have been his party's candidate for the Presidency if a few people didn't have confidence in him early and didn't give him a start.

Senator CANNON. I see. You are really talking about the seed-money problem——

Senator BUCKLEY. Exactly.

Senator CANNON. Where the Presidential candidate sends out a mailer that may cost him $50,000 to mail, and he has to go out and

solicit funds with a $1,000 limit on it first, and that may create a problem.

Senator BUCKLEY. And I think the thrust of what I was trying to say earlier—and I think what this dramatizes, Senator Cannon—is that whether you like it or not, the Supreme Court has lifted the lid on individual spending by a wealthy candidate or groups interested in that candidate. This exaggerates the difficulties faced by someone without wealth or who doesn't represent such a constituency. Something has got to be done in simple justice to establish equity that will facilitate an unknown raising money.

Senator CANNON. You don't have any provision in here for financing congressional races.

Senator BUCKLEY. No, I don't.

Senator CANNON. Do you support that kind of approach? What are your views on it?

Senator BUCKLEY. I do not support it. I was interested that Senator Schweiker was saying that we want to encourage participation in the political process and that, therefore, we ought to have matching funds. Well, if that is good, why not go all the way and let part of the test of the viability of a candidate be his ability to go out and establish a sufficient interest to get support.

One of the things we need to fear, if we institute public financing, especially across the board, is you will encourage an awful lot of bland candidates. You have got to say what you believe in order to establish a reason, especially if you are an unknown, to establish a reason for somebody to support you, to have confidence in you.

There is also the fact that any system of public financing is inherently discriminatory when you get into the third-party area. I hope, incidentally, that you will ask Dr. Ralph Winter for some observations this afternoon. He has been a student of that and an effective one.

I might also like to suggest to this committee that the Supreme Court has not necessarily endorsed and found constitutional the provision for public support. I believe if you read the decision carefully you will find the suggestion an invitation for people to come back later with a factual story to tell that could demonstrate whether or not this has created unfair obstacles to a third-party candidate.

Another thing you might observe is that the Supreme Court decision dealt only with fifth amendment arguments and did not—somehow ignored or did not cope—with first amendment arguments against public financing.

And, finally, lest one go overboard, in effect utilizing public subsidies to bribe Members of the Congress to forfeit their constitutional rights of expression, as defined by the Supreme Court—one thing that the Supreme Court failed to remind itself of is a series of decisions that declared that any such attempt to bribe an individual into forfeiting constitutional rights is in itself unconstitutional. And I would cite the cases in which the Supreme Court has disallowed residency requirements——

Senator CANNON. Say that last one again there, I missed it.

Senator BUCKLEY. The Supreme Court has said in effect that it is unconstitutional to bribe somebody to forego a constitutional right.

And this doctrine was enunciated in, among other cases, the cases that threw out residency requirements for the granting of welfare.

Senator CANNON. There is one suggestion you made here I must say that I completely agree with you on, and that is where you say with respect to the recordkeeping provisions—it is certainly onerous to require that a record of a contributor giving over $10 must be maintained, even though the disclosure figure doesn't apply till you get to the $100 threshold. And I see absolutely no useful purpose, unless, as you suggest, to satisfy somebody's curiosity, as to why you have a recordkeeping provision for persons that contribute $10. Many people, through the mailer approach, send in a $10, $15, or $25 contribution—and the recordkeeping part of that alone is just horrendous when it comes to keeping those records on hand for absolutely no useful purpose.

The purpose, it seems to me, comes about in the disclosure provision, which applies at the $100 and above level. And while you suggest a higher one there, I think the figure that we have fixed for disclosure there is good, but I would certainly support a move to change that recordkeeping provision of the interim amounts of money from $10 up to the $100 level.

Senator BUCKLEY. Thank you.

Senator CANNON. Thank you very much, Mr. Chairman.

Senator PELL. Thank you very much. I agree with Senator Cannon on that point about the recordkeeping, too. Also in connection with your thought that disclosure is the most important element here, we all are in agreement. The sad thought is we never gave just disclosure a full cycle to work because it was on April 7, 1972, that disclosure came into being, and before that there was not disclosure. So we have never had an election yet where you have had just disclosure to see what sort of break that is.

But obviously if 10 percent of your money comes from the Mafia, that will not be looked at kindly by your constituents.

Thank you.

Senator BUCKLEY. Thank you, Mr. Chairman.

Senator PELL. Our next witness is Mr. Antonin Scalia, Assistant Attorney General from the Office of Legal Counsel, Department of Justice.

In view of the time factors, I would hope that whatever portion of your testimony you would care to have inserted in the record, you would.

STATEMENT OF ANTONIN SCALIA, ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL COUNSEL, DEPARTMENT OF JUSTICE, ACCOMPANIED BY JACK GOLDKLANG AND ROBERT HICKEY

Mr. SCALIA. Yes, sir, Mr. Chairman, I would ask that the entire testimony be printed, and I will try to skip over those portions that you have already been told about.

Senator PELL. Thank you very much. It will be inserted in the record.

[The written statement of Mr. Antonin Scalia follows:]

Department of Justice

STATEMENT

OF

ANTONIN SCALIA
ASSISTANT ATTORNEY GENERAL
OFFICE OF LEGAL COUNSEL

BEFORE

THE

SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS

OF THE

COMMITTEE ON RULES AND ADMINISTRATION

UNITED STATES SENATE

CONCERNING

LEGISLATION TO AMEND THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 AS AMENDED, 1974

February 18, 1976

Mr. Chairman and Members of the Subcommittee:

On January 30, 1976 the decision of the Supreme Court in Buckley v. Valeo, No. 75-436, cut a gaping hole in the Federal Election Campaign Act of 1971 -- or, to be more faithful to the constitutional theory of what occurred, the decision found that a gaping hole already existed. The damage was so substantial that the Chief Justice, in his dissenting opinion, expressed the view that the entire Act should have been stricken down since, as altered by the Court's decision, it is "unworkable and inequitable." (Slip Opinion, Dissent, p. 18)/* In the aftermath of the Valeo case there are two sets of decisions which must be taken by the Congress, one of which is extraordinarily difficult, and the other extraordinarily urgent. The extraordinarily difficult question can be taken verbatim from Chief Justice Burger's dissent: "when central segments, key operative provisions, of this Act, are stricken, can what remains function in anything like the way Congress intended?" (Dissent, pp. 20-21) The Congress will obviously have to address this issue eventually, to determine whether the elimination of certain features that were the quids or quos in a long debated and carefully crafted legislative package,

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* All subsequent citations to Buckely v. Valeo will be to the Slip Opinion.

leaves a residue which is still an approximation of legislative will. I have no reason to believe -- and indeed, the press reports since the Valeo decision lead me to doubt -- that that process of reconsideration will be any less difficult or protracted than that which produced the 1974 Amendments.

There is, however, a second issue which must be resolved. It can, I think, be separated from the first, if not by logic, then at least by the genius for compromise and practicality which is the hallmark and the prerequisite of our democratic system. And approached with good will and with overriding concern for the national interest by all sides, it need not be as difficult an issue. I refer to the immediate, pressing necessity of making such minimal adjustments as are absolutely essential to prevent the enactment and subsequent partial invalidation of the 1974 Amendments from seriously distorting the 1976 election campaigns. Those campaigns are now well under way; they have at all levels -- but especially at the Presidential level -- been planned and conducted on the basis of certain assumptions which, unless the Constitution requires, it would be a public disservice to upset.

It is essentially the second of these issues which I wish to discuss today, in the context of the Administration

bill, S.2987, designed to meet our immediate problems. I will also discuss, as you have requested, three other bills, S.2911, S.2912 and S.2918, which in my view -- though I hesitate to speak for their sponsors -- likewise offer no complete solution for the problems generated by the Valeo case but seek to minimize to the extent possible the distortion of the present election campaign.

Let me begin with a brief analysis of the principal effects of the Valeo decision. These may be divided into two categories, which roughly though perhaps not precisely parallel the two basic issues for your decision which I have discussed above. First, there are its effects upon what might be termed the substantive provisions of the election law. A large gap has been created in that portion of the law which previously limited campaign expenditures, both by candidates and by persons acting independently of candidates. 18 U.S.C. 608. That limitation has been held invalid except as applied to candidates who voluntarily accept Federal funding -- at the present time, only Presidential candidates. 26 U.S.C. 9004. Since there is no Federal funding for House and Senate races, no expenditure limitations are applicable to any candidates there; nor, even in the Presidential campaigns, is there any

limitation upon expenditures that are not "controlled by or coordinated with the candidate and his campaign." (pp. 40-41)

The Court upheld limitations upon contributions to candidates, even those candidates who have not accepted Federal funding. Moreover, it made clear that "expenditures controlled by or coordinated with the candidate and his campaign" can be treated as contributions (pp. 40-41) though expenditures "made totally independently of the candidate and his campaign" cannot be restricted (pp. 41 ff).

The disclosure provisions of the law were upheld, with respect to all types of contributions and expenditures (pp. 69 ff).

Even in the brief time since the Valeo decision, much has been said and written concerning the likely effects of these substantive changes. By limiting contributions but not limiting expenditures on the part of candidates who have received no Federal funding, the post-Valeo law undoubtedly increases the importance of the candidate's personal wealth. By drawing a crucial line between expenditures "controlled by or coordinated with the candidate" (which can be limited) and those which are "independent"

(which cannot) the post-Valeo law creates a distinction that may be impossible to administer. Perhaps most important of all, by enabling contributions above the established limits to be funneled into campaigns only through organizations separate from the candidate himself, the post-Valeo law may sap the strength of our "political party" system, and foster elections whose major themes are selected by issue-oriented or narrowly factional groups, rather than by the candidate or even the candidate's political party.

These results may or may not be desirable; they may or may not be as severe as some predict. We will presumably know more about that after the present election campaign is completed. The point is, however, that they render a reconsideration of the Court-modified election laws essential. The total system which now exists is one which, in substantial and important respects, has been designed by no Congress and approved by no President. One of the purposes of the President's legislative proposal is to assure, insofar as possible, this needed reconsideration at a time when it can intelligently and dispassionately occur.

Turning now to the second category of effects of the Valeo decision, its effects upon the administration of the Federal Election Campaign Act: The clear holding

of the Supreme Court was that the Federal Election Commission's composition violates the Appointments Clause of the Constitution as to all but its investigatory and informative powers (p. 131). As you know, a majority of its members were appointed by congressional officers. 2 U.S.C. 437c. As long as the Commissioners are not appointed by the President with the advice and consent of the Senate, or by the President alone, in accordance with Article II, § 2, clause 2, the Commission cannot perform executive, i.e., enforcement functions. These include primary responsibility for bringing civil actions against violators, for making rules to carry out the Act, for making administrative determinations and for issuing advisory opinions (p. 131). The Court mitigated the effects of its opinion by staying its judgment "for a period not to exceed 30 days * * * insofar as it affects the authority of the Commission to exercise the duties and powers granted it under the Act" (pp. 136-37). The stay seems to mean that until 30 days from January 30, 1976, the Commission may continue to exercise all of the powers given to it by statute with respect to the substantive provisions which have been upheld, including the public financing of Federal elections (pp. 136-37). We understand from press accounts that this is in fact how the Commission has proceeded.

Beyond the 30-day period the legal situation, if Congress does not act, becomes more complicated. One safe statement is that there will be plenty of work for lawyers trying to figure out the application of Valeo to concrete situations. I will try to review some of the problem areas with you. First of all, to borrow from Mark Twain, the reports of the Commission's total demise are somewhat exaggerated. The Court said that the Commission could unquestionably continue to exercise those powers which are "essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one of its own committees" (p. 131). These powers were also described as "functions relating to the flow of necessary information -- receipt, dissemination, and investigation" (p. 131).

As to those substantive provisions of the Act which, as I have indicated above, are not invalidated by the Valeo decision, we are left in the following enforcement position. (Bear in mind that I am not trying to cover every contingency but am only sketching the general outlines that must be considered.) It is clear that the criminal provisions of the Act can still be enforced. Title 18 of the United States Code includes a number of criminal provisions of the election law which are under

the jurisdiction of the Fraud Section of the Criminal Division of the Department of Justice. Section 608, dealing with limitations on contributions and expenditures has, as mentioned, been truncated by the Court's decision; but the remainder of Section 608 and other provisions over which the Commission has had concurrent enforcement jurisdiction are left unaffected. These include Sections 610, 611, and 613-617 of Title 18 which deal with contributions by banks, corporations, labor unions, government contractors and foreign nationals, anonymous contributions, cash contributions and similar matters. Complaints can be filed directly with the Department of Justice or with the Commission. As the law stands now, if the Commission receives a complaint or has information concerning an apparent criminal violation it can report the matter to the Attorney General. 2 U.S.C. 437g(a)(2) and (a)(6). This collection and referral of information seems to be covered by the Supreme Court's permission for the Commission to engage in "functions relating to the flow of necessary information" (p. 131). To use another standard suggested by the Court, it is the kind of function that might be performed by a committee of the Congress (p. 131).

The Commission can, however, no longer bring civil actions to enforce the campaign financing restrictions.

The law had previously vested in the Commission "primary jurisdiction with respect to the civil enforcement" of the election laws, 2 U.S.C. 437c(b) and 437g(a)(5), including the power to obtain injunctive relief in certain circumstances, 26 U.S.C. 9011(b)(1) and 9040(c), and to sue for return of overpayments made by the Secretary of the Treasury, 26 U.S.C. 9010(b), 9040(b). As the Court read the applicable provisions, none of these powers required the concurrence or participation of the Attorney General (p. 105); they were all held unconstitutional.

If Congress does not act, we will be faced with the question whether the Attorney General can, without further legislation, assume the civil enforcement responsibilities which the Commission has been compelled to abandon. The law contains a provision whereby the Attorney General as well as the Commission can institute civil actions with respect to certain provisions -- but he cannot do so entirely on his own. The law states (2 U.S.C. 437g(a)(7)):

> "Whenever in the judgment of the Commission, after affording due notice and an opportunity for a hearing, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provisions of this Act or of Section 608, 610, 611, 613, 614, 615, 616, or 617 of Title 18, United States Code, upon request by the Commission the Attorney General on behalf of the United States shall institute a civil action for relief * * *."

The judgment required by the Commission -- to refer a matter to the Attorney General after notice and hearing -- would seem to involve the kind of administrative determination and hearing necessary to ensure compliance with the statute that the Court said the Commission could not perform (p. 131). To be sure, congressional committees can hold investigative hearings and refer violations, if they suspect them, to the Justice Department; but such referral is not, as this provision seeks to make it, a precondition to the Executive's enforcement of the law. We must conclude that the provision for Attorney General enforcement only upon Commission referral is invalid. This leaves open the question whether -- the referral provision having been stricken -- the remainder of the provision, giving the Attorney General enforcement authority, subsists. This is, in lawyer's terms, an issue of the "severability" of the invalidated provisions, a field of inquiry in which it is fair to say there are no clear answers. The most we can say is that if the Congress does not act, the Department of Justice will seek to use the enforcement mechanisms of 2 U.S.C. 437 g(a)(7) without prerequisite Commission referral. Whether such authority will be upheld is uncertain. I may note, moreover,

that this device, even if successful, would not apply to enforcement of Title 26 and the campaign financing features of the law.

It may be, however, that the Attorney General has independent, non-statutory, authority to bring civil actions. There is a line of cases holding that the Attorney General may sue without specific statutory authorization if the United States has an interest to protect or defend. E.g., Wyandotte v. United States, 389 U.S. 191, 201-202 (1967). See 28 U.S.C. 516-519. These cases deal with laws in which the Congress has been silent on the right to sue; it is not clear that they would be applicable where, as here, the power was vested elsewhere and held unconstitutional. Thus, the entire problem of civil suits after Valeo remains unclear.

Other issues involve certification of expenses, rulemaking and advisory opinions. Under Title 26 of the United States Code, the Commission was charged with the duty to receive and pass upon requests by eligible candidates for campaign money, and to certify such requests to the Secretary of the Treasury for the latter's disbursement. 26 U.S.C. 9005, 9036. The Commission was also given rulemaking authority, 2 U.S.C. 437d(a)(8), 438(a)(10);

26 U.S.C. 9009(b), 9039(b), and the power to issue advisory opinions upon which the requester was entitled to rely, 2 U.S.C. 437f. The Court held in Valeo that assignment of these powers to the Commission was inconsistent with fundamental notions of separation of powers (pp. 134-35):

> All aspects of the Act are brought within the Commission's broad administrative powers: rule-making, advisory opinions, and determinations of eligibility for funds and even for federal elective office itself. These functions, exercised free from day-to-day supervision of either Congress or the Executive Branch, are more legislative and judicial in nature than are the Commission's enforcement powers, and are of kinds usually performed by independent regulatory agencies or by some department in the Executive Branch under the direction of an Act of Congress. Congress viewed these broad powers as essential to effective and impartial administration of the entire substantive framework of the Act. Yet each of these functions also represents the performance of a significant governmental duty exercised pursuant to a public law. While the President may not insist that such functions be delegated to an appointee of his removal at will, * * * none of them operates merely in aid of congressional authority to legislate or is sufficiently removed from the administration and enforcement of public law to allow it to be performed by the present Commission. These administrative functions may therefore be exercised only by persons who are "Officers of the United States." (emphasis added.)

The result of this holding is a large gap in administration of the law. Unless the Congress acts, there will be no clear or easy method of handling certification of eligibility for funds. Treasury will of course be reluctant to disburse the significant amounts of money involved without

following the statutory certification procedure, even when the claim of the candidate seems clear. No one is specifically authorized to take over the prescribing of regulations. The Department of Justice could issue advisory opinions, or at least provide some guidance as to how we intend to enforce the particular provisions that fall within our jurisdiction. (Indeed, we did that prior to the creation of the Commission.) But that would not be an adequate substitute for the kind of advice on all aspects of the law that the Commission was authorized to provide.

Based on these broad conclusions, it seems clear to us that legislation is urgently needed, and that temporary inaction--at least with respect to these administrative provisions--is not a realistic option. As I have suggested above, however, it is possible to segregate these features from the more substantive provisions calling for congressional reconsideration; and thus to facilitate the prompt legislative action which is essential. The purposes of the President's proposal are two-fold: First, to assure the smooth operation of the campaign laws during the current elections by making the minimal administrative changes necessary for that purpose. Second, to provide assurance that there will occur at a later date congressional reconsideration of the entire election law

package, as substantively altered by the Supreme Court's decision. These two objectives are not unrelated. It is our hope that those in Congress who desire major substantive change can, in the interest of prompt action, be persuaded merely to defer that legislative battle, though not to abandon it entirely. As noted in his transmittal letter to the President of the Senate, in order to set an example for the suppression of those controversial issues which can be reserved for next year, the President has on his part even refrained from including in his proposal the revision of a clearly administrative feature to which he has strenuous objection, now that the Commission has been held to be performing executive functions--namely, the one-House congressional veto of Commission rules. It is hoped that all Members of Congress--who we know have strong feelings on many substantive features of this law--can likewise be induced to submerge those feelings, for the time being, in the national interest.

Let me now provide an outline of what the President's legislation would accomplish. Section 2(a) provides for the appointment of all Commission members by the President, by and with the advice and consent of the Senate. This is no more than the Constitution, as interpreted in Valeo, requires. Section 2(b) includes a number of technical conforming amendments

which eliminate language relevant to the system under which Commissioners were previously appointed.

I should mention that there is one feature of Section 2 which was not directly addressed by the Supreme Court. Section 2 would eliminate the Secretary of the Senate and the Clerk of the House as non-voting, ex officio members of the Commission. We believe that the spirit of the opinion, and even the letter of the Constitution, require this result. The connection of these two officers to the legislative branch is even closer than that of the present congressionally appointed members who have the right to vote. They are not only appointed by Congress, but paid by it and removable by it. We believe that the absence of voting power is not determinative for constitutional purposes. The power to be present and to participate in discussions is the power to influence. Normally, a judge, commissioner or juror, or even a corporate director, who is disqualified for conflict of interest, is expected to recuse himself not only from voting but from deliberations as well. In Wiener v. United States, 357 U.S. 349, 355-56 (1958), the Supreme Court stressed that an independent agency should decide matters on the merits "entirely free from the control or coercive influence, direct or indirect * * * of either the Executive or the Congress." In Valeo the Court used similar words in describing the Commission's functions as "exercised

free from day-to-day supervision of either Congress or the Executive Branch" (p. 134). As long as two officers of the legislative branch sit on the Commission there is thus a danger that constitutional requirements will not be met and that, at the very least, the entire law will be subject to further litigation and challenge.

Section 3 includes a number of technical provisions designed to make the new appointment provision in Section 2 dovetail with the requirements of the present law. Thus, the terms of the present commissioners are ended upon the appointment and confirmation of the new appointees. The provision forbidding present officeholders from being appointed is made inapplicable to present Commission members, so that the President would not be barred from appointing incumbents. For the purpose of setting terms on a staggered basis the new appointees would be treated as those first appointed. In addition, certain references to the Secretary of the Senate and the Clerk of the House, made obsolete by our revisions in Section 2, would be eliminated.

Section 4 provides that all actions heretofore taken by the Commission shall remain in effect until modified, superseded or repealed according to law. This reenforces the statement of the Supreme Court that past acts of the Commission and interim acts until the end of the 30-day stay are accorded de

facto validity (pp. 136-37). We understand this to mean, for example, that money disbursed in good faith under the Act will be treated as legally disbursed even if the Commission that disbursed it was not appointed under the Constitution.

Section 5 provides that the laws relating to the Federal Election Commission (Title 2, Chapter 14), contribution limitations (18 U.S.C. 608) and primary and election financing (Title 26, Chapters 95 and 96) shall not apply to any election that occurs after this year except run-offs of elections held this year. The provisions of Title 18 which include basic measures dealing with such matters as contributions by corporations, unions, and government contractors, and with anonymous and cash contributions, would not be affected. In addition, the provisions for tax credits for contributions for candidates to public office (26 U.S.C. 41) and the $1.00 tax check-off system (26 U.S.C. 6096) would be retained. Thus, potential methods of financing would be available even if there were a halt in the authority to disburse funds. In addition, this provision would not terminate the Commission. It could continue to work on matters relating to the 1976 elections as long after those elections as necessary, or on matters not related to a specific election.

We hope that this cut-off provision will facilitate passage of the bill we have presented. By providing for future

lapse of the now distorted 1974 substantive changes, it is intended to assure--and we believe will be successful in achieving--thorough reconsideration of these problems in 1977 when there will be time to act deliberately and on the basis of experience. There is no time to resolve fundamental differences now. Upon the expiration of the Court's 30-day stay, and until the Congress acts, we will have a legal jigsaw puzzle to contend with. We therefore urge you to pass S. 2987 as a concededly incomplete solution, a least common denominator, a prudent and temporary compromise.

I would like to comment briefly on the other bills that are before this Subcommittee. They are S. 2911, introduced by Senator Schweiker, and S. 2912 and S. 2918, introduced by Senator Kennedy.

We agree with most of the provisions of S. 2911, as far as they go. It is basically designed to provide for Presidential appointment and Senate confirmation of the Commissioners. As I indicated earlier, however, we believe that retaining the Secretary of the Senate and the Clerk of the House perpetuates a serious constitutional issue, and may produce litigation once again impeding administration of the Act. The two non-voting members, however influential, are hardly worth that cost. More importantly, however, we object to the absence

from S. 2911 of any mechanism which will assure reconsideration of the election financing "package" next year. We think it is unreasonable to ask the Congress to accept in haste a new status quo which, in the absence of future congressional action, will perpetuate a system, in an extraordinarily delicate area, which the Congress has never in reality approved.

The second bill, S. 2912 presents the same issue concerning non-voting, ex officio members. Otherwise Title I of S. 2912 differs only in drafting technique from Sections 2-4 of the Administration's bill. Section 102 deals with authorizations for funding of the Commission; we are not prepared to comment on what the proper level should be. Title II of S. 2912 would create a complete new title for the Federal Election Campaign Act of 1971, providing public financing of primary and general elections for the Senate. This is an idea which has had support previously, but not enough to pass both Houses. We are opposed to consideration of Title II of S. 2912 at this time. This opposition is not necessarily on the merits, but for the reasons of time that I have discussed previously.

The final bill, S. 2918, provides that the Comptroller General shall carry out the functions of the Federal Election Commission under subtitle H of the Internal Revenue Code of

1954. Subtitle H includes ~~Titles~~ Chapters 95 and 96 of Title 26, which are the Presidential Election Campaign Fund Act and the Presidential Primary Matching Payment Account Act. This bill would, by its terms, expire on April 30, 1976.

We oppose this bill for both practical and legal reasons. As we understand it, the bill would not terminate the Federal Election Commission. The Commission and other agencies would presumably continue to function as best as they can under Buckley v. Valeo in regard to the Commission's remaining powers under Title 2 and Title 18. Meanwhile, the duties of the Commission regarding matching funds for primaries would be completely shifted, in midstream, to different personnel in a different agency--with the further possibility that another shift would take place next April. (S. 2912 does not concern itself with what would happen after April 30, 1976.) The purpose of this provision is presumably to carry the funding system along while the Congress attempts to give fundamental reconsideration to the law produced by the Valeo decision. We doubt, to begin with, whether that period would be long enough--or, indeed, whether any period can produce intelligent and dispassionate reconsideration in the midst of an election year. Moreover, the temporary transfer does not make much practical sense. It is our understanding from press accounts that some of the early administrative

difficulties associated with the new law are now being overcome by the Commission, and that requests for certification of matching funds are now being processed more rapidly. It hardly seems that this would be an appropriate time to give the job to someone else.

Beyond these practical considerations, significant constitutional problems would arise from this proposal, paralleling the issues raised in Valeo. Both Title 95 and 96 include administrative and enforcement powers similar to those provided under Title 2, such as the power to initiate civil actions (26 U.S.C. 9010, 9011, 9040, 9041), in addition to the power to make administrative determinations as to certification of payments from the Treasury. Assuming a willingness to litigate, we would almost be guaranteed a new challenge as to whether, in light of Valeo, the Comptroller General can assume the functions of the Commission. At the least, we would have another period of uncertainty. In my view the Comptroller General cannot assume these functions of the Commission.

The Comptroller General is appointed by the President, by and with the advice and consent of the Senate. Unquestionably, therefore, S.2918 would assure compliance with the Appointments Clause. It mistakes the Valeo

decision, however, to assume that it is based exclusively upon failure to comply with that relative technicality. The Court was at pains to point out that the issue "touches upon the fundamental principles of the Government established by the Framers of the Constitution" (p. 113). The Commission's enforcement power, exemplified by its discretionary power to seek judicial relief, is authority that cannot possibly be regarded as merely in aid of the legislative function of Congress. A lawsuit is the ultimate remedy for a breach of the law, and it is to the President, and not to the Congress, that the Constitution entrusts the responsibility to "take Care that the Laws be faithfully executed." Art. II, § 3 (p. 132).

The Comptroller General is an officer of the legislative branch, removable only by the legislature (31 U.S.C. 41, 42, 43, 65(d)). See U.S. Government Manual 43 ff. (Revised May 1975). It is true that he had significant duties under the 1971 election law until it was amended in 1974 and the Commission was created. P.L. 92-225, § 308, 86 Stat. 3. These were not, however, as extensive as the powers later assigned to the Commission which would be retransferred to the Comptroller under S.2918. For example, under the 1971 Act the Comptroller could not bring civil

actions. See 2 U.S.C. 438(d)(1) (Supp. III, 1973). Moreover, the Supreme Court never had the opportunity to rule on even the limited powers which the Comptroller exercised under the 1971 law. In the Valeo litigation, the Commission relied for analogous support on the duties of the Comptroller General under the 1971 Act (p. 122, note 165). In response to this contention the Court stated that "irrespective of Congress' designation [of the Comptroller General as legislative], the Comptroller General is appointed by the President in conformity with the Appointments Clause" (p. 122, note 165). If read by itself, this footnote might be taken as a suggestion that conformity with the Appointments Clause is sufficient. However, as I have indicated earlier, the basis for the Court's opinion rests on more than the Appointments Clause, and it would be foolhardy to rely upon this rejoinder to a narrow argument as indicating a narrow scope for the opinion as a whole. To the contrary, the whole thrust of the case is that the doctrine of separation of powers precludes Congress or its officers from both enacting the laws and taking care that they be faithfully executed. Art. II, § 3; pp. 113-17. By assigning the Commission's functions to the Comptroller General, S.2918 would once again violate the doctrine of separation of powers and

"engraft executive duties upon a legislative office" (p. 133). We therefore oppose this bill on constitutional as well as practical grounds.

* * * * *

In conclusion, may I again express the hope that this subcommittee will give prompt and favorable consideration to S. . I will be happy to respond, to the best of my ability, to any questions you may have concerning that bill or the other proposals I have briefly discussed.

(See text of S. 2987.)

Mr. SCALIA. I have with me, Mr. Chairman, Jack Goldklang a staff attorney at OLC, and Robert Hickey, Chief of the Elections Unit, Fraud Section, Criminal Division, of the Department of Justice, who will assist me in answering any questions you may have.

On January 30, 1976, the decision of the Supreme Court in *Buckley* v. *Valeo* cut a gaping hole in the Federal Election Campaign Act of 1971. The damage was so substantial that Chief Justice Burger, in his dissenting opinion, expressed the view that the entire act should have been stricken down, since, as altered by the Court's decision, it was in his view "unworkable and inequitable."

In the aftermath of the *Valeo* case, there are two sets of decisions which must be taken by the Congress, one of which is extraordinarily difficult and the other extraordinarily urgent. The extraordinarily difficult question can be taken verbatim from Chief Justice Burger's dissent—

> When central segments, key operative provisions, of this act, are stricken, can what remains function in anything like the way Congress intended?

The Congress will obviously have to address this issue eventually, to determine whether the elimination of certain features that were the quids or quos in a long debated and carefully crafted legislative package leaves a residue which is still an approximation of legislative will. I have no reason to believe—and indeed, the press reports since the *Valeo* decision lead me to doubt—that that process of reconsideration will be any less difficult or protracted than that which produced the 1974 amendments. I may add that I am confirmed in that opinion by the widely divergent testimony I have heard here today. There is just a tremendous spectrum of opinion on what ought to be done with respect to the basic substantive provisions of the election campaign law.

There is, however, a second issue which must be resolved. It can, I think, be separated from the first, if not by logic, then at least by the genius for compromise and practicality which is the hallmark and the prerequisite of our democratic system. Approached with good will and with overriding concern for the national interest by all sides, it need not be as difficult as the first issue. I refer to the immediate, pressing necessity of making such minimal changes as are absolutely essential to prevent the enactment and subsequent partial invalidation of the 1974 amendments from seriously distorting the 1976 election campaigns. Those campaigns are now well underway; they have at all levels—but especially at the Presidential level—been planned and conducted on the basis of certain assumptions which, unless the Constitution requires, it would be a public disservice to upset.

It is essentially the second of these issues which I wish to discuss today, in the context of the administration bill, S. 2987, which Senator Griffin introduced this morning, designed to meet our immediate problems. I will also discuss, as you requested, three other bills—S. 2911, S. 2912, and S. 2918—which in my view, though I hesitate to speak for their sponsors, likewise offer no complete solution for the problems generated by the *Valeo* case but seek to minimize to the extent possible the distortion of the present election campaign.

I will skip, Mr. Chairman, that portion of my text which discusses principal effects of *Valeo*. Essentially they have been discussed already—the gap that has been created in expenditure limitations.

Even in the brief time since the *Valeo* decision, much has been said and written concerning the likely effects of the Court's opinion. By limiting contributions but not limiting expenditures on the part of candidates who have received no Federal funding, the post-*Valeo* law undoubtedly increases the importance of the candidate's personal wealth. By drawing a crucial line between expenditures "controlled by or coordinated with the candidates"—which can be limited—and those which are "independent"—which cannot be limited—the post-*Valeo* law creates a distinction that may be impossible to administer. Perhaps most important of all, by enabling contributions above the established limits to be funneled into campaigns through organizations separate from the candidate himself, the post-*Valeo* law may sap the strength of our political party system and foster elections whose major themes are selected by issue-oriented or narrowly factional groups, rather than by the candidate or even the candidate's political party.

These results may or may not be desirable; they may or may not be as severe as some predict. We will presumably know more about that after the present election campaign is completed. The point is, however, that they render a reconsideration of the Court-modified election laws essential. The total system which now exists is one which, in substantial and important respects, has been designed by no Congress and approved by no President. One of the purposes of the President's legislative proposal is to assure, insofar as possible, this needed reconsideration at a time when it can intelligently and dispassionately occur.

Turning now to the second category of effects of the *Valeo* decision, its effects upon the administration of the Federal Election Campaign Act: The clear holding of the Supreme Court was that the Federal Election Commission's composition violates the appointments clause of the Constitution as to all but its investigatory and informative powers. As you know, a majority of its members were appointed by congressional officers. As long as the Commissioners are not appointed by the President with the advice and consent of the Senate, or by the President alone, in accordance with article II, section 2, clause 2, the Commission cannot perform, the Court said, executive, that is, enforcement functions. These include primary responsibility for bringing civil actions against violators, for making rules to carry out the act, for making administrative determinations and for issuing advisory opinions. The Court mitigated the effects of its opinion by staying its judgment for 30 days. The stay seems to mean that until 30 days from January 30, 1976, the Commission may continue to exercise all of the powers given it with respect to the substantive provisions which have been upheld, including the public financing of Federal elections. We understand from press accounts that this is in fact how the Commission has proceeded.

Beyond the 30-day period, however, the legal situation, if Congress does not act, becomes much more complicated. One safe statement is that there will be plenty of work for lawyers trying to figure out the application of *Valeo* to concrete situations. I will try to review some of the problem areas with you. First of all, to borrow from Mark Twain, the reports of the Commission's total demise are some-

what exaggerated. The Court said that the Commission could unquestionably continue to exercise those powers which are "essentially of an investigative and informative nature, falling in the same general category as those powers which Congress might delegate to one of its own committees." These powers were also described as "functions relating to the flow of necessary information—receipt, dissemination, and investigation."

As to those substantive provisions of the act which, as I have indicated above, are not invalidated by the *Valeo* decision, we are left in the following enforcement position. Bear in mind that I am not trying to cover every contingency but am only sketching the general outline. It is clear that the criminal provisions of the act can still be enforced. Title 18 of the United States Code includes a number of criminal provisions of the election law which are under the jurisdiction of the Fraud Section of the Criminal Division of the Department of Justice. Section 608, dealing with limitations on contributions and expenditures, has, as I mentioned, been truncated by the Court's decision—but the remainder of section 608 and other provisions over which the Commission has had concurrent enforcement jurisdiction are left unaffected. These include sections 610, 611, and 613–617 of title 18 which deal with contributions by banks, corporations, labor unions, Government contractors and foreign nationals, anonymous contributions, cash contributions and similar matters. Complaints can be filed directly with the Department of Justice or with the Commission. As the law stands now, if the Commission receives a complaint or has information concerning an apparent criminal violation, it can report the matter to the Attorney General. This collection and referral of information seems to be covered by the Supreme Court's permission for the Commission to engage in "functions relating to the flow of necessary information." To use another standard suggested by the Court, it is the kind of function that might be performed by a committee of the Congress, so we think this referral function of the Commission with respect to violation of the criminal laws could continue to be performed.

The Commission, can, however, no longer bring civil actions to enforce the campaign financing restrictions. The law had previously vested in the Commission primary jurisdiction with respect to the civil enforcement of the election laws, including the power to obtain injunctive relief in certain circumstances, and to sue for return of overpayments made by the Secretary of the Treasury. As the Court read the applicable provisions, none of these powers required the concurrence or participation of the Attorney General; they were all held unconstitutional.

If Congress does not act, we will be faced with the question whether the Attorney General can, without further legislation, assume the civil enforcement responsibilities which the Commission has been compelled to abandon. The law contains a provision whereby the Attorney General as well as the Commission can institute civil actions with respect to certain provisions, but he cannot do so entirely on his own. The law requires that he be requested to do so by the Commission.

The judgment required by the Commission—to refer a matter to the Attorney General after notice and hearing—would seem to involve the kind of administrative determination and hearing necessary to insure compliance with the statute that the Court said the Commission could not perform. To be sure, congressional committees can hold investigative hearings and refer violations, if they suspect them, to the Justice Department; but such referral is not, as this provision seeks to make it, a precondition to the executive's enforcement of the law. We must conclude that the provision for Attorney General enforcement only upon Commission referral is invalid. This leaves open the question whether, the referral provision having been stricken, the remainder of the provision, giving the Attorney General enforcement authority, subsists. This is, in lawyer's terms, an issue of the severability of the invalidated provisions, a field of inquiry in which it is fair to say there are no clear answers. The most we can say is that if the Congress does not act, the Department of Justice will seek to use the enforcement mechanisms of 2 U.S.C. 437g(a)(7) without prerequisite Commission referral. Whether such authority will be upheld is uncertain. I may note, however, that this device even if successful, would not apply to enforcement of title 26 and the campaign financing features of the law.

There is some argument that can be made that the Attorney General, apart from any statutory, explicit statutory, authority, has general nonstatutory power to bring civil actions whenever the interests of the United States are involved, and there is some case law which supports such a theory. However, those cases generally deal with situations in which the Congress has been entirely silent on the right to sue. And it is not at all certain whether they could be used in this situation where the Congress has said it is the Commission which will sue, but that provision has been stricken down.

It is at least doubtful whether any general civil enforcement authority of the Attorney General could be used.

Other issues involve the certification of expenses, rulemaking and advisory opinions. Under title 26 of the United States Code, the Commission was charged with the duty to receive and pass upon requests by eligible candidates for campaign money, and to certify such requests to the Secretary of the Treasury for the latter's disbursement. The Commission was also given rulemaking authority and the power to issue advisory opinions upon which the requester was entitled to rely. The Court held in *Valeo* that assignment of these powers to the Commission was inconsistent with fundamental notions of the separation of powers.

The result of this holding is a large gap in administration of the law. Unless the Congress acts, there will be no clear or easy method of handling certification of eligibility for funds. Treasury will, of course, be reluctant to disburse the significant amounts of money involved without following the statutory certification procedure, even when the claim of the candidate seems clear. No one is specifically authorized to take over the prescribing of regulations. The Department of Justice could issue advisory opinions, or at least provide some guidance as to how we intend to enforce the particular provisions that fall within our jurisdiction, which is not all of them. (Indeed,

we did that prior to the creation of the Commission.) But that would not be an adequate substitute for the kind of advice on all aspects of the law that the Commission was authorized to provide.

Based on these broad conclusions, it seems clear to us that legislation is urgently needed, and that temporary inaction—at least with respect to these administrative provisions—is not a realistic option. As I have suggested above, however, it is possible to segregate these features from the more substantive provisions calling for congressional reconsideration; and thus to facilitate the prompt legislative action which is essential.

The purposes of the bill which the President has proposed are twofold. First, to assure the smooth operation of the campaign laws during the current elections by making the minimal administrative changes necessary for that purpose. And, second, to provide assurance that there will occur at a later date congressional reconsideration of the entire election law package, as substantively altered by the Supreme Court's decision. These two objectives are not unrelated. It is our hope that those in Congress who desire major substantive change can, in the interest of prompt action, be persuaded merely to defer that legislative battle, though not to abandon it entirely. As noted in his transmittal letter to the President of the Senate—and, incidentally, Mr. Chairman, I would ask that that be inserted in the record—in order to set an example for the suppression of those controversial issues which can be reserved for next year, the President has on his part refrained from including in his proposal the revision of a clearly administrative feature to which he has strenuous objection, now that the Commission has been held to be performing executive functions—namely, the one-House congressional veto of Commission rules. It is hoped that all Members of Congress—who we know have strong feelings on many substantive features of this law—can likewise be induced to submerge those feelings, for the time being, in the national interest.

Let me now provide an outline of S. 2987.

Senator PELL. Without objection, the letter from the President will be inserted in the record.

Mr. SCALIA. Thank you, Mr. Chairman.

[The message from the President follows:]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

TRANSMITTING A DRAFT OF PROPOSED LEGISLATION TO ESTABLISH THE OFFICES OF MEMBERS OF THE FEDERAL ELECTION COMMISSION AS OFFICERS APPOINTED BY THE PRESIDENT, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, AND FOR OTHER PURPOSES

To the Congress of the United States:

In only two weeks time, unless there is affirmative action by the Congress, the Federal Election Commission will be stripped of most of its powers.

We must not allow that to happen. The American people can and should expect that our elections in this Bicentennial year, as well as other years, will be free of abuse. And they know that the Federal Election Commission is the single most effective unit for meeting that challenge.

The Commission has become the chief instrument for achieving clean Federal elections in 1976. If it becomes an empty shell, public confidence in our political process will be further eroded and the door will be opened to possible abuses in the coming elections. There would be no one to interpret, advise or provide needed certainty to the candidates with regard to the complexities of the Federal

Election law. If we maintain the Commission, we can rebuild and restore the public faith that is essential for a democracy.

The fate of the Commission has been called into question, of course, by the decision of the Supreme Court on January 30. The Court ruled that the Commission was improperly constituted. The Congress gave the Commission executive powers but then, in violation of the Constitution, the Congress reserved to itself the authority to appoint four of the six members of the Commission. The Court said that this defect could be cured by having all members of the Commission nominated by the President upon the advice and consent of the Senate. Under the Court's ruling, the Commission was given a 30-day lease on life so that the defect might be corrected.

I fully recognize that other aspects of the Court's decision and that, indeed, the original law itself have created valid concerns among Members of Congress. I share many of those concerns, and I share in a desire to reform and improve upon the current law. For instance, one section of the law provides for a one-House veto of Commission regulations, a requirement that is unconstitutional as applied to regulations of an agency performing Executive functions. I am willing to defer legislative resolution of this problem, just as I hope the members of Congress will defer adjustment of other provisions in the interest of the prompt action which is now essential.

It is clear that the 30-day period provided by the Court to reconstitute the Commission is not sufficient to undertake a comprehensive review and reform of the campaign laws. And most assuredly, this 30-day period must not become a convenient excuse to make ineffective the campaign reforms that are already on the books and have been upheld by the Court. There is a growing danger that the opponents of campaign reform will exploit this opportunity for the wrong purposes. This cannot be tolerated; there must be no retreat from our commitment to clean elections.

Therefore, I am today submitting remedial legislation to the Congress for immediate action. This legislation incorporates two recommendations that I discussed with the bipartisan leaders of the Congress shortly after the Court issued its opinion.

First, I propose that the Federal Election Commission be reconstituted so that all of its six members are nominated by the President and confirmed by the Senate. This action must be taken before the February 29 deadline.

Second, to ensure that a full-scale review and reform of the election laws are ultimately undertaken, I propose that we limit through the 1976 elections the application of those laws administered by the Commission. When the elections have been completed and all of us have a better understanding of the problems in our current statutes, I will submit to the Congress a new, comprehensive election reform bill to apply to future elections. I also pledge that I will work with the Congress to enact a new law that will meet many of the objections of the current system.

I know there is widespread disagreement within the Congress on what reforms should be undertaken. That controversy is healthy; it bespeaks of a vigorous interest in our political system. But we must not allow our divergent views to disrupt the approaching elections. Our most important task now is to ensure the continued life of the Federal Election Commission, and I urge the Congress to work with me in achieving that goal.

GERALD R. FORD.

THE WHITE HOUSE, *February 16, 1976.*

[See text of S. 2987.]

Senator GRIFFIN. Could I ask, are you skipping over now some sections, portions?

Mr. SCALIA. I skipped some earlier.

Senator GRIFFIN. Where are you now?

Mr. SCALIA. I am on page 14, Senator, the bottom of page 14, coming to a summary of S. 2987, the President's proposed bill.

Senator GRIFFIN. I see you are going to discuss something that I commented on earlier—and I am glad to see you are going to discuss it—and that is the omission of the Secretary of the Senate and the Clerk of the House.

Mr. SCALIA. Yes, sir; we will discuss it.

Section 2(a) of the bill provides for the appointment of all Commission members by the President, by and with the advice and consent of the Senate. This is no more than the Constitution, as interpreted in *Valeo*, requires. Section 2(b) includes a number of technical conforming amendments which eliminate language relevant to the system under which Commissioners were previously appointed.

There is one feature of section 2 which was not directly addressed by the Supreme Court. Section 2 would eliminate the Secretary of the Senate and the Clerk of the House as nonvoting ex efficio members of the Commission. We believe that the spirit of the *Valeo* opinion, and even the letter of the Constitution, require this result. The connection of these two officers to the legislative branch is even closer than that of the present congressionally appointed members who have the right to vote. They are not only appointed by Congress, but paid by it and removable by it. We believe that the absence of voting power is not determinative for constitutional purposes. The power to be present and to participate in discussions is the power to influence. Normally, a judge, commissioner, or juror, or even a corporate director, who is disqualified for conflict of interest, is expected to recuse himself not only from voting but from deliberations as well. In *Wiener* v. *United States*, the Supreme Court stressed that an independent agency should decide matters on the merits "entirely free from the control or coercive influence, direct or indirect * * * of either the Executive or the Congress" 357 U.S. 349, 355–56. In *Valeo* the Court used similar words in describing the Commission's functions as "exercised free from day-to-day supervision of either Congress or the executive branch." As long as two officers of the legislative branch sit on the Commission, there is thus a danger that constitutional requirements will not be met and that, at the very least, the entire law will be subject to further litigation and challenge.

Senator GRIFFIN. I think that is very interesting and it does raise some questions that I frankly had not thought about. It may well be that it wouldn't be a good idea. I am certainly going to take a look at it anyway.

Mr. SCALIA. Senator, it seems to me a guide to your thinking might be to ask yourself whether you think that such a provision would be constitutional or even, that aside, would be desirable with respect to the Federal Communications Commission or any one of the independent regulatory agencies. Should the Congress have two, albeit nonvoting, members serving as members of this executive agency?

I think the answer is clearly no. I think the Supreme Court would say it is no as a matter of law. In any case, it doesn't seem to me to be worth the risk to get the entire administrative structure of the act kicked over once again.

Senator CANNON. If I may, Mr. Chairman, it seems to me that you have raised also another very interesting question on page 15, where you say "Normally, a judge, commissioner or juror, or even a corporate director, who is disqualified for conflict of interest, is expected to recuse himself not only from voting but from deliberations as well."

Now, that raises a question in my mind as to whether Members of Congress would be able to even enter into a discussion of this bill, if

we have the campaign financing provision in there—and, if so, would they be eligible to vote on it without recusing themselves.

Mr. SCALIA. Senator, I think those provisions do not apply to the legislative process, only to the executive and judicial process.

Senator CANNON. I see.

Mr. SCALIA. You have no worry on that score. Section 3 of the bill includes a number of technical provisions designed to make the new appointment provision in section 2 dovetail with the requirements of the present law. Thus, the terms of the present commissioners are ended upon the appointment and confirmation of the new appointees. The provision forbidding present officeholders from being appointed is made inapplicable to present Commission members, so that the President would not be barred from appointing incumbents. For the purpose of setting terms on a staggered basis the new appointees would be treated as those first appointed.

Section 4 provides that all actions heretofore taken by the Commission shall remain in effect until modified, superseded or repealed according to law. This reenforces the statement of the Supreme Court that past acts of the Commission and interim acts until the end of the 30-day stay are accorded de facto validity. We understand this to mean, for example, that money disbursed in good faith under the act will be treated as legally disbursed even if the Commission that disbursed it was not appointed under the Constitution.

Section 5 provides that the laws relating to the Federal Election Commission (title 2 of chapter 14), contribution limitations (18 U.S.C. 608) and primary and election financing (title 26, chapters 95 and 96) shall not apply to any election that occurs after this year except run-offs of elections held this year. The provisions of title 18 which include basic measures dealing with such matters as contributions by corporations, unions, and Government contractors, anonymous and cash contributions, would not be affected. In addition, the provisions for tax credits for contributions for candidates to public office and the $1 tax checkoff system would be retained. Thus, potential methods of financing would be available next year even if there were a halt in the authority to disburse funds. In other words, if the Congress decided on reconsideration next year to set up the same kind of a system, the money would be there.

In addition, this provision would not terminate the Federal Election Commission. It would continue to work on matters relating to the 1976 elections as long after those elections are necessary, or on matters not related to a specific election.

We hope that this cut-off provision will facilitate passage of the bill we have presented. By providing for future lapse of the now distorted 1974 substantive changes, it is intended to assure—and we believe will be successful in assuring—thorough reconsideration of these problems in 1977 when there will be time to act deliberately and on the basis of experience. There is no time to resolve fundamental differences now. Upon the expiration of the Court's 30-day stay, and until the Congress acts, we will have a legal jigsaw puzzle to contend with. We therefore urge you to pass S. 2987 as a concededly incomplete solution, a least common denominator, a prudent and temporary compromise.

I would like, if you wish, Mr. Chairman, to comment briefly on the other bills that are before this subcommittee—S. 2911, first of all. We agree with most of the provisions of that legislation, as far as they go. It is basically designed to provide for Presidential appointment and Senate confirmation of the Commissioners. As I indicated earlier, however, we believe that retaining the Secretary of the Senate and the Clerk of the House perpetuates a serious constitutional issue and may produce litigation once again impeding administration of the act. The two nonvoting members, however influential, are hardly worth that cost. More importantly, however, we object to the absence from S. 2911 of any mechanism which will assure reconsideration of the election financing package next year. We think it is unreasonable to ask the Congress to accept in haste a new status quo which, in the absence of future congressional action, will perpetuate a system, in an extraordinarily delicate area, which the Congress has never in reality approved.

I might note that Senator Schweiker in his testimony indicated that he would favor the addition of a cut-off provision to his bill, so perhaps we are not in substantive disagreement on that point.

Senator GRIFFIN. I might just interject here a thought that the presence of the Secretary of the Senate and the Clerk of the House, in part, indicates a desire on the part of the Members of Congress to take advantage of an expertise that has been developed there in the past. It would seem that maybe that could still be done in some way that wouldn't make those people members of the Commission, or not actually participate in the deliberations—but perhaps in an advisory role, or something of that kind.

Mr. SCALIA. I think there would certainly be no problem about that. I think the only obstacle is actually making them members of what has now been found to be an executive agency.

The second bill before you, S. 2912, presents the same issue concerning the two nonvoting ex officio members. Otherwise, title I of S. 2912 differs only in drafting technique from sections 2 to 4 of the administration's bill. Section 102 deals with authorizations for funding of the Commission; we are not prepared to comment on what the proper level should be. Title II of S. 2912 would create a completely new title for the Federal Election Campaign Act of 1971, providing public financing of primary and general elections for the Senate. This is an idea which has had support previously, but not enough to pass both Houses. We are opposed to consideration of title II of S. 2912 at this time. This opposition is not necessarily on the merits, but for the reasons of time that I have discussed previously.

The final bill, S. 2918, provides that the Comptroller General shall carry out the functions of the Federal Election Commission under subtitle H of the Internal Revenue Code of 1954. Subtitle H includes chapters 95 and 96 of title 26, which are the Presidential Election Campaign Fund Act and the Presidential Primary Matching Payment Account Act. This bill would, by its terms, expire on April 30, 1976.

We oppose this bill for both practical and legal reasons. As we understand it, the bill would not terminate the Federal Election Commission. The Commission and other agencies would presumably continue to function as best as they can under *Buckley* v. *Valeo* in regard to the

Commission's remaining powers under title 2 and title 18. Meanwhile, the duties of the Commission regarding matching funds for primaries would be completely shifted, in midstream, to different personnel in a different agency—with the further possibility that another shift would take place next April. S. 2912 does not concern itself with what would happen after April 30, 1976. The purpose of this provision is, I suppose, to carry the funding system along while the Congress attempts to give fundamental reconsideration to the law produced by the *Valeo* decision. We doubt, to begin with, whether that period would be long enough—or, indeed, whether any period can produce intelligent and dispassionate reconsideration in the midst of an election year. Moreover, the temporary transfer does not make much practical sense. It is our understanding from press accounts that some of the early administrative difficulties associated with the new law are now being overcome by the Commission, and that requests for certification for matching funds are now being processed more rapidly. It hardly seems that this would be an appropriate time to give the job to someone else.

Beyond these practical considerations, significant constitutional problems would arise from this proposal, paralleling the issues raised in *Valeo*. Both chapter 95 and chapter 96 include administrative and enforcement powers similar to those provided under title 2, such as the power to initiate civil actions, in addition to the power to make administrative determinations as to certification of payments from the Treasury. Assuming a willingness to litigate, we would almost be guaranteed a new challenge as to whether, in light of *Valeo*, the Comptroller General can assume the functions of the Commission. At the least, we would have another period of uncertainty. In my view, the Comptroller General cannot assume these functions of the Commission.

The Comptroller General is appointed by the President, by and with the advice and consent of the Senate. Unquestionably, therefore, S. 2918 would assure compliance with the appointments clause. It mistakes the *Valeo* decision, however, to assume that it is based exclusively upon failure to comply with that relative technicality. The Court was at pains to point out that the issue "touches upon the fundamental principles of the Government established by the Framers of the Constitution." The Commission's enforcement powers, exemplified by its discretionary power to seek judicial relief, is authority that cannot possibly be regarded as merely in aid of the legislative function of Congress. A lawsuit is the ultimate remedy for a breach of the law, and it is to the President, and not to the Congress, that the Constitution entrusts the responsibility to "take care that the laws be faithfully executed," article II, section 3.

The Comptroller General is an officer of the legislative branch, removable only by the legislature. It is true that he had significant duties under the 1971 election law until it was amended. These were not, however, as extensive as the powers later assigned to the Commission which would be retransferred to the Comptroller under S. 2918. For example, under the 1971 act the Comptroller could not bring civil actions. Moreover, the Supreme Court never had the opportunity to rule on even the limited powers which the Comptroller exercised under the 1971 law. In the *Valeo* litigation, the Commission relied for analogous support on the duties of the Comptroller General under

the 1971 act. In response to this contention the Court stated that "irrespective of Congress' designation—of the Comptroller General as legislative—the Comptroller General is appointed by the President in conformity with the appointments clause." If read by itself, this footnote might be taken as a suggestion that conformity with the appointments clause is sufficient. However, as I have indicated earlier, and as a number of excerpts from the Court's opinion indicate, the basis for the Court's opinion rests on more than the appointments clause. It would be foolhardy to rely upon this rejoinder to a narrow argument as indicating a narrow scope for the opinion as a whole. To the contrary, the whole thrust of the case is that the doctrine of separation of powers precludes Congress or its officers from both enacting the laws and taking care that they be faithfully executed. By assigning the Commission's functions to the Comptroller General, S. 2918 would once again violate the doctrine of separation of powers and "engraft executive duties upon a legislative office." We therefore oppose this bill on constitutional as well as practical grounds.

In conclusion, may I again express the hope that this subcommittee will give prompt and favorable consideration to S. 2987. I will be happy to respond, to the best of my ability, to any questions you may have concerning that bill or the other proposals I have briefly discussed.

Thank you.

Senator PELL. Thank you very much. A general question—do you believe it important that our Nation have an independent body, like the Federal Election Commission, to administer and enforce the Federal election laws, or do you believe that this is unnecessary?

Mr. SCALIA. Well, as the President's statement indicated, Mr. Chairman, we do feel that an independent commission is an important feature of the election campaign laws, and we would like to see that feature retained.

The administration bill does not abolish the Commission; although the cutoff applies to the substantive provisions of the act, the cutoff would not apply to the Commission. That demonstrates something of a bias, I suppose, that when the Congress comes to reconsider it, we hope that they will continue the Commission.

Senator PELL. There are a couple of questions, as you know, the Supreme Court left unanswered—more than a couple, I guess. But, first, do you have any views as to the standards which would be proper to employ in determining the difference between a controlled or coordinated expenditure, which the Supreme Court held would be considered a contribution subject to limitation, and an independent expenditure to expressly advocate the election or defeat of a clearly identified candidate, which may be made without limit?

Mr. SCALLA. I guess an honest answer is "No," and probably nobody does. I read it to require that control be something more than what one might call passive simultaneous action on the part of another group. I would not think that the requirement of control would be met if a group assessing a particular candidate's campaign figures out on its own what would help him the most and designs a package that will fit very nicely into that campaign. I would think that as long as it is not

actively coordinated with the candidate himself or his managers, the constitutional right to engage in such activity would continue to exist.

Senator PELL. What are your views with regard to the constitutionality of the law—section 608(F), title 18—setting expenditure limitations on national and State committees of a political party?

Mr. SCALIA. I frankly have not considered the point, Senator.

Senator PELL. Because this touches on the same question that was raised by the Supreme Court decision.

Mr. SCALIA. Yes, sir.

Senator PELL. What are your views on the constitutionality of recommending the public financing of Senate elections without providing for public financing of House elections?

Mr. SCALIA. I see no reason why that would not be constitutional, any less than providing for financing of Presidential elections but not Senate elections.

Senator PELL. Thank you. Senator Griffin?

Senator GRIFFIN. I don't have any questions. I think this is a very excellent statement, and certainly indicates that the administration didn't quickly or lightly put forth the legislation which was introduced today.

I am certainly impressed—and newly interested in that one question about whether or not the Secretary of the Senate and the Clerk of the House should be members.

One suggestion that was made by Senators Kennedy and Scott in their bill, was that instead of having the Commission members—a new member appointed every year, it seems to me they were proposing that to be appointed every 2 years in the off year. And this looks beyond really, I guess, the expiration—and really looks to what we would do next year under the legislation that you are suggesting.

But I just want to indicate, I think that has some merit. It would mean that the appointment of two would be made not in the heat of the campaign year, but in an off year—and presumably the President would appoint one Democrat and one Republican at the same time. That has a little bit of appeal to me—I just want to indicate that.

Thank you, Mr. Chairman.

Senator PELL. Senator Cannon?

Senator CANNON. Thank you, Mr. Chairman. The suggestion was made earlier that the House might possibly act before the Senate and might pass a provision for congressional financing. And my question to you is—you indicated in your statement that one of the reasons you were opposed to that consideration was because of the difficulty of getting it through.

If that should happen in the House, would you be opposed to the addition of that type of a provision in this act?

Mr. SCALIA. I really cannot speak as to the administration's position on the point, Senator. I have no idea.

Senator CANNON. Of course, that might conflict with your theory about this being enacted only until next year and then expiring.

Mr. SCALIA. Well, it seems to me that if you go that way, what you are saying is, we want to have fundamental reconsiderations this year. That is a fundamental change in the law. It seems to me that if you do go that way you are essentially rejecting the approach that the

administration's bill proposes, which is to set aside controversy as much as we can in the interests of getting through this 1976 election with as little disruption as possible.

There is another factor, too, I suppose. One might want to see how the financing scheme works in one election at the Presidential level before one extends it still further. I mentioned at several points in my testimony the value of having some experience to go on when the Congress comes to reconsider the election law next year.

But should such a provision come here from the House, which seems to me an unlikely event, I don't know what the administration's position would be.

Senator CANNON. In light of the Supreme Court's position on the unlimited expenditure possibility of persons not associated with the candidate, either in support of or in opposition to, the suggestion has been made that it might be well to amend title 18 to provide that mass media communications would clearly and conspicuously state whether the communication was authorized by a candidate and, if not authorized the name of the person or organization who financed the expenditure.

Would you care to comment on that?

Mr. SCALIA. Just off the top of my head, without having given it any consideration, the principle seems to me a good one. Obviously one of the dangers created by the Supreme Court's decision is that a candidate's campaign can be run by somebody other than the candidate. That risk could at least be minimized if all campaign advertising that was not formally sponsored by the candidate himself or herself stated specifically who it was that was sponsoring it. It seems to me like a sensible provision.

I am told that section 612 of title 18 already has a provision that, to some extent, meets this need.

Senator CANNON. What I was suggesting was an amendment to section 612—to title 18, section 612—to make it a little more clear as to what would have to take place in that instance.

Mr. SCALIA. Maybe a specific caption that says "Not approved bv the candidate" would help.

Senator CANNON. Thank you, Mr. Chairman.

Senator PELL. Thank you.

Senator Williams?

Senator WILLIAMS. Just two questions, Mr. Scalia. Yours was a very helpful statement.

I wondered—and this might touch on something that Senator Cannon just asked—this separating the independent campaign effort from the candidate's requirement to comply with the ceiling and reporting requirements leaves us where with respect to that independent effort in terms of disclosure and limits?

Mr. SCALIA. Well, disclosure is covered. The Supreme Court did nothing with disclosure requirements as to everyone, so even if you are talking about noncandidates and people totally independent of candidates, the disclosure requirements continue to apply.

Senator WILLIAMS. Are they identical in demand on who discloses and the triggering amounts?

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Mr. SCALIA. Yes, sir, I think there is no distinction as to whether one is formally a candidate or not. I think that is correct, Senator—there is no distinction—but I will check it.

[Mr. Scalia subsequently supplied the subcommittee with the following information:]

Under Title 2, section 434(e), every person (other than a political committee or candidate) who makes contributions or expenditures, other than by a contribution to a political committee or candidate in an aggregate amount in excess of $100 within a calendar year, shall file the information required by § 434 with the Commission.

The Supreme Court construed this provision so that it "imposes independent reporting requirements on individuals and groups that are not candidates or political committees only in the following circumstances: (1) when they make contributions earmarked for political purposes or authorized or requested by a candidate or his agent, to some person other than a candidate or political committee, and (2) when they make an expenditure for a communication that expressly advocates the election or defeat of a clearly indentified candidate." Slip op. p. 74.

Speaking generally, under section 434 the reporting requirements for committees and candidates apply to amounts over $1000.

Senator WILLIAMS. How do you deal with this in your bill?

Mr. SCALIA. We try not to deal with it, Senator. That is one of the problems created by the Supreme Court decision as to which there is a multitude of opinions. The whole purpose of our bill is to submerge those issues that are controversial and to do the minimal amount necessary to enable the 1976 elections to proceed.

I am not sure too much can be done with the basic problem you are concerned about. I think the major obstacle is the Constitution. I think the Supreme Court has pretty clearly said that you cannot prohibit the making of these expenditures or the spending of his own money by the candidate himself, so long as he hasn't agreed to accept Federal funds.

That also is a problem, I suppose, with any House or Senate funding bill that you consider. A candidate who does not accept the Federal funding is now, by reason of the *Valeo* decision, free to spend as much as he wants of his own funds. So your funding is going to have to be high enough to make it worthwhile for a candidate of substantial means to accept the funding rather than to spend his own money beyond the funding limit.

Senator WILLIAMS. Well, I am still worried about the opportunity for an independent campaign and how that is going to be accommodated in the whole effort here to purify the electoral process through disclosure and limits. I don't know what the limits are for those independent activities, what the disclosure requirements are. And just on the question of independents, it would seem to me that the Commission, if we continue it according to the Court's opinion, should have authority to appoint hearing examiners, because this is going to have unlimited questions.

Is there any authority in the Commission to appoint hearing examiners or will every case take 8 months?

Mr. SCALIA. I do not believe they have authority to appoint—certainly not administrative law judges. I am not sure whether they would have general authority to hire lawyers called hearing examiners without the necessity for a specific provision to that effect.

Senator WILLIAMS. Well, I think we ought to get into this later on, because one case in the House took how many months?

Mr. SCALIA. Well, I think you are quite right. The issue of whether a particular organization is coordinated with a candidate, or independent from a candidate, which is now a crucial distinction, is a factual determination that is going to be very difficult to make in a lot of cases, I would think.

Senator WILLIAMS. They can be related by osmosis, not by conference and meeting. You see a poor candidate hasn't got a billboard—all you know is that guy needs a billboard.

Mr. SCALIA. He needs a billboard. And I would think there is no way you could stop that. In judging what are independent expenses, I read the Supreme Court's opinion as allowing you to exercise your own judgment about what will help the candidate. All it prohibits is actual active coordination with the candidate himself or with his campaign committee.

Senator WILLIAMS. Well, I don't want to continue any longer—just one further question. As I look at our schedule here in the next 11 days, it doesn't seem to me there is any overriding measure that is before us that would occupy our time to the exclusion of this—I don't know anything about the House.

But if there are problems, has the Department thought in terms of asking for a further stay?

Mr. SCALIA. Yes, we have considered the point, and when the time comes we will take what action is available to us. I hope the Congress won't count on that, because even if we ask for it, there is no certitude that it will be granted. As I have indicated, I think it would really be disastrous if the extension should expire. Things are in a very chaotic state at that point concerning rulemaking and advice-giving, civil enforcement and many other features of the law.

Senator WILLIAMS. Nothing further. Thank you.

Mr. PELL. Following up that thought, you said that if the Congress does not act, the Department of Justice will seek to use the enforcement mechanisms of the present law without prerequisite Commission referral.

In such an event, would Justice be able and willing to commit the necessary resources to the enforcement of those portions of the act not ruled unconstitutional, including issuing the necessary guidelines that would be requested—this is if we do not act in time?

Mr. SCALIA. Senator, we will do our best with the available funds and manpower that we have and within the limits that the courts impose upon us. As I indicated, it is not entirely clear that we will be authorized to do it in any case.

But we think there is a solid argument to be made that we can do it—and we will try.

Senator PELL. Very well. We will do our best to get it through in time, but I think as a practical matter you had better be braced for this eventuality.

Mr. SCALIA. Yes, sir, we are braced.

Senator GRIFFIN. Mr. Chairman, may I?

Senator PELL. Yes.

Senator GRIFFIN. I want to go back to one comment that you made, that even though the lid is off in terms of expenditures by third persons and so forth, the disclosure reporting requirements are still in place.

As I understand it, the provision, section 437(a), provides any person who expends any funds or who commits any act and so forth, supporting a candidate or working for the defeat of a candidate, is required to file a report with the Commission as if such person were a political committee. I understand from counsel that provision was stricken down as unconstitutional by the Court of Appeals of the District of Columbia and was not changed upon appeal to the Supreme Court.

And if that is the case, it seems to me that your earlier statement would have to be modified a little bit.

Mr. SCALIA. No, sir, it is my understanding of the Supreme Court's opinion, my clear understanding of the Supreme Court's opinion, that all disclosure requirements remain binding. Those are not affected at all.

Senator GRIFFIN. Right behind you, Mr. Harris, who I know to be a pretty good lawyer, is shaking his head, so I just want you to know there is a question here which my counsel also——

Mr. HARRIS. Thank you, Senator. Section 437(a) was held invalid by the Court of Appeals. There was no appeal, so it was never before the Supreme Court.

Senator GRIFFIN. That is what I am told by counsel.

Mr. HARRIS. It has been treated as a nullity since the court of appeals decision. The reporting provision for independent expenditures is found on page 17, if you use this yellow book—it is 434(e)—and this provides that every person, other than a political committee or candidate, who makes contributions or expenditures other than by contribution to a political committee or a candidate in an aggregate amount in excess of $100 within a calendar year, shall file reports with the Commission as if he were a political committee.

So that actually the reporting ceiling on these independent expenditures is lower than for a committee—it is $100 instead of $1,000.

But it would require full reporting of all disbursements over $100.

Senator GRIFFIN. I see.

Mr. SCALIA. Well, I agree that the relevant provision is section 434 (e) of title II and not section 437(a), which was held unconstitutional below.

Senator GRIFFIN. I don't know that we have to decide it right now. I am just pointing up that Congress has another reason why they have got to take a real good look at the situation.

Mr. SCALIA. I think that the reporting and disclosure one is not a problem if you take the Supreme Court's opinion on its face, at least. The syllabus says the following:

> The act's disclosure and recordkeeping provisions are constitutional. The provision for disclosure by those who make independent contributions and expenditures, as narrowly construed to apply only (1) when they make contributions earmarked for political purposes, or authorized or requested by a candidate or his agent to some person other than a candidate or political committee, and (2) when they make an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate, is not unconstitutionally

vague and does not constitute a prior restraint, but is a reasonable and minimally restrictive method of furthering first amendment values by public exposure of the Federal election system.

I think the Supreme Court, in its opinion anyway, went rather out of its way to——

Senator GRIFFIN. To rule on the question.

Mr. SCALIA. Yes. You could speak to the question whether to call it a holding or not; that is another point.

Senator GRIFFIN. Thank you.

Senator PELL. The subcommittee will recess and will reconvene at 2 o'clock.

AFTERNOON SESSION

Senator PELL. The Subcommittee on Privileges and Elections will come to order.

Our next witness is Mr. Philip S. Hughes, Assistant Comptroller General and an individual who has helped this committee many times in the past.

STATEMENT OF PHILIP S. HUGHES, ASSISTANT COMPTROLLER GENERAL OF THE UNITED STATES

Mr. HUGHES. Thank you, Mr. Chairman.

I have a very short statement which I would appreciate being able to read, if I might.

Senator PELL. Fine.

Mr. HUGHES. It is on target as well as brief.

Senator PELL. Right.

Mr. HUGHES. We do appreciate the opportunity to appear before you on this very important subject, Mr. Chairman.

You have asked that oral presentations be brief, and mine certainly is. In addition to the statement, however, I would appreciate the subcommittee including in the record our letter of February 5, 1976, to Senator Cannon as chairman of the Senate Committee on Rules and Administration.

Senator PELL. Without objection, it will be included in the hearing record.

Mr. HUGHES. Thank you.

I see no need to reiterate points made in that letter except to emphasize that it will not be possible for the Comptroller General to immediately perform the required authorizations without satisfying himself as to the validity of the audit and investigative procedures followed by the Commission.

In that regard, Mr. Chairman, I might simply mention that one of the reasons that I am here as a witness was that I was the Director of the Office of Federal Elections in the era when General Accounting had some responsibility under the 1971 act. That Office was completely abolished in May of last year, and for a period of several months before that it really was simply existing in a pro forma status, pending the arrival on the scene of the new Commission.

The staff for that function and activity has been dispersed, some of them within the General Accounting Office, to their former duties and

responsibilities. Some, indeed, have gone to assist the new Commission and I am happy that one or two are serving as staff to this particular committee.

My point is that whatever our capacity at one point to perform this sort of function, we are completely out of business and would have to reconstitute some sort of an active organization to do the job.

I would like to add, moreover, that proposals to provide a temporary or interim solution for 30, 60, or 90 days to enable the Congress to deal with more fundamental legislation on the subject of campaign financing do not seem to us to offer a very practical solution to the problem. Experience with this type of legislation in the past suggests that the time for congressional action is more likely to be measured in years rather than either weeks or months.

Furthermore, whatever interim solution the Congress might provide would inevitably further weaken the position of the Commission and extend the interval during which the Commission and its staff would be handicapped in their struggle with the difficult and controversial problems confronting them.

If I could emphasize here, Mr. Chairman, also, and in light of Mr. Scalia's comments just before lunch, that our concern here is a practical and administrative concern, and we do not necessarily subscribe to the legal or constitutional theories that Mr. Scalia mentioned with regard to the propriety legally and constitutionally of the Comptroller General performing these functions.

We simply are dealing with the practical problems of assembling a staff and satisfying ourselves in administrative terms about these things.

Nothing that has occurred since our letter of February 5 has changed our view that the best and most practical course of action would be for the Congress to pass simple legislation along the lines of S. 2911, or title I of S. 2912, or, conceivably, appropriate portions of Senator Buckley's legislation. We have not examined that. We are making the general point of the desirability of reconstituting the Commission by constitutional means.

The Commission would then be able to proceed to administer the law in the manner originally contemplated by the Congress. Any alternative would inevitably disrupt the program which the Congress so recently established. If, after the experience with the 1976 elections, Congress sees the need for a major change in the Federal Election Campaign Act, this could be accomplished in an atmosphere that is not constrained by a severe time limitation within which it is required to act.

That is the end of my statement, Mr. Chairman; and I would be pleased to respond to your questions as best I can.

Senator PELL. Thank you.

I read your letter and I recall the gist was "Please do not give this to us," was it?

Mr. HUGHES. That is the essence, Mr. Chairman.

Senator PELL. What you are emphasizing here.

As you know, S. 2918 proposes to transfer the Commission's functions to the Comptroller General this year. In your own opinion, would

this be a constitutional grant of power? Would you be able to constitutionally exercise the powers?

Mr. HUGHES. I am not in a position to respond definitively, Mr. Chairman, on the constitutional question, though I would think the range of authorities we had and exercised in the 1971 act, and the fact that we successfully performed those tasks, would suggest that the delegation of those authorities to the GAO would be constitutional. Our objection is, again, the practical one of reassembling a staff and satisfying ourselves on the basis for certification, coupled with the hiatus that this interim solution would create and, again, adding the fact that we think the Congress as a whole, not just the Senate, but the Congress as a whole is going to find it very difficult to deal with the many questions that are wrapped up in this legislation within necessary time limits.

Senator PELL. If you were given this responsibility, how long would it take you to insure yourself of the questions that you want?

Mr. HUGHES. I really cannot answer that, Mr. Chairman. We have designedly, I might say, stayed away from the Federal Elections Commission. That was partly on our own initiative.

It was also suggested to us rather firmly that we should get ourselves out of the business as soon as possible, and we have tried to stay away from the Commission. We are not familiar with their procedures, with the amount of work that is being done, and it would be necessary to start anew to review the situation and estimate the time; but I would think it would inevitably be a period of several months to satisfactorily satisfy ourselves as to the propriety of certifying.

Senator PELL. What in your view would be the effect if we went ahead and enacted S. 2918? Give us a sketch or view of the scenario.

Mr. HUGHES. It would seem to me if that legislation were enacted, we would need to immediately pull together, either from within GAO or outside a staff to perform the necessary functions.

We would need to establish some sort of liaison with the Commission to find out what it had done and undertake to either follow through the processes that they have undergone or supplement them if in the judgment of the Comptroller General that was necessary.

Thereupon, we would certify or attempt to certify the propriety of disbursements here and would need to maintain a rather close liaison with the Commission in order that we perform our respective functions in some sort of synchronization. It seems to me that would be a very difficult thing to do within a short span of time, given the nature of the Commission itself, the fact that there are a number of members, each of whom in a sense is equal to all other members. The difficulty of resolving problems and achieving coordination would be considerable.

Senator PELL. Thank you very much.

Senator Allen?

Senator ALLEN. Nothing.

Senator PELL. Thank you very much indeed, Mr. Hughes. You always come to us with succinct testimony—pretty clear views.

Mr. HUGHES. Thank you, Mr. Chairman.

[The letter addressed to Chairman Cannon by Comptroller General Staats follows:]

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., February 5, 1976.

Hon. HOWARD W. CANNON,
Chairman, Committee on Rules and Administration,
U.S. Senate.

DEAR MR. CHAIRMAN: During the past several days there have been a number of references in the Congressional Record and in the press relating to the possibility that the Congress might ask the General Accounting Office to undertake responsibility for certifying eligibility for campaign finance funds for candidates for the Presidency of the United States pending legislative action to remedy the constitutional problem set forth in the recent Supreme Court decision with respect to the Federal Election Commission.

I am much concerned about the workload impact of this possible additional responsibility on this Office burdened as we are with ever-increasing responsibilities placed upon us by the Congress. As you undoubtedly know, we have no budget to undertake this assignment. Moreover, we are not familiar with procedures of the Commission as to how it has carried out its auditing and investigations preparatory to certification. As you can well appreciate, I would not want to certify payments without first-hand knowledge on my part to assure eligibility of candidates for the funds requested.

It will of course be necessary for the Congress to enact and the President to sign legislation authorizing the performance of this function by the GAO. I note that one such bill has been introduced in the Senate but it would seem highly unlikely that legislation of this type could be enacted in time to make it possible for this Office to make adequate preparation to assume the responsibility as of the date the Supreme Court has specified.

Under the circumstances, I believe it important that the Congress act within the thirty-day period to pass simple legislation authorizing the appointment of the Commission by constitutional means. The Commission could then proceed with the administration of the law in the manner originally contemplated by the Congress. In the interim, transfer of the responsibility to this Office would be disruptive to the program to say the least and would place upon this Office a responsibility that it is inadequately prepared to take.

Sincerely,

ELMER B. STAATS,
Comptroller General of the United States.

Senator PELL. Our next witnesses will be representatives of the Federal Election Commission, Commissioners Joan Aikens and Thomas Harris.

STATEMENT OF THOMAS HARRIS AND JOAN AIKENS, COMMISSIONERS, FEDERAL ELECTIONS COMMISSION; ACCOMPANIED BY ORLANDO POTTER, STAFF DIRECTOR, AND JACK MURPHY, GENERAL COUNSEL

Mr. HARRIS. Mr. Chairman and members of the subcommittee, my name is Thomas Harris. I am a member of the Federal Elections Commission. Accompanying me is Joan Aikens, who is also a commissioner; and on my right is Orlando Potter, our staff director. On the left is Jack Murphy, our general counsel. On truly difficult questions I will refer to them for answers.

I have a prepared statement with two appendices, and I ask that this be made a part of the record.

Senator PELL. Without objection, the written statement will be included in the hearing record in its entirety.

[The written statement with appendices thereto of the Federal Election Commissioners follows:]

STATEMENT OF THE FEDERAL ELECTION COMMISSION, FEBRUARY 18, 1976

Mr. Chairman and Members of the Subcommittee, my name is Thomas Harris, and I am a member of the Federal Election Commission. Accompanying me today is Commissioner Joan Aikens. We are pleased to have this opportunity to appear before your Committee on behalf of the Federal Election Commission to offer testimony with respect to S. 2911, S. 2912 and S. 2913.

These bills are addressed to problems which arise, of course, out of the Supreme Court's January 30, 1976 decision in *Buckley v. Valeo*. In that case the Supreme Court upheld certain provisions of the Federal Election Campaign Act and struck down others as unconstitutional. Attached to our statement today is a short summary of the Court's decision which we would like to make part of the record.

The key issue before this Committee today arises from the Court's holding that some of the Federal Election Commission's powers may only be exercised by Officers of the United States appointed in conformity with Article II, Section 2, Clause 2 of the Constitution, and that the present membership of the Commission was not so appointed.

The Court did uphold the disclosure and reporting requirements of Title 2 of the Act and stated that the Commission retained such powers as were necessary to implement those requirements. The Court accorded "de facto validity" to all past acts of the Commission, and further ordered a 30-day stay of judgment in order to give Congress the opportunity, if it were so inclined, to reconstitute the Commission in accordance with the Appointments Clause of Article II of the Constitution, or to provide such other remedy as is deemed appropriate. In granting the 30-day stay, the Court was clearly mindful of the drastic disruption of the political process which would occur with an abrupt termination of the Commission's functions. As the Court stated:

> This limited stay will afford Congress an opportunity to reconstitute the Commission by law or to adopt other valid enforcement mechanisms without interrupting enforcement of the provisions the Court sustains, allowing the present Commission in the interim to function de facto in accordance with the substantive provisions of the Act. (Slip Op. p. 136.)

The powers of the Commission which will lapse if the Commission is not re-established include the responsibilities for:

1. Certifying matching funds for presidential elections and convention financing,
2. Writing regulations subject to Congressional review,
3. Giving Advisory Opinions,
4. Investigating Complaints, and
5. Initiating civil suits in appropriate cases.

While it is the Commission's authority to certify presidential matching funds which has received widest notice in the press, we submit that the Commission's interpretative, informational and other functions are of equal, if not greater importance. Thousands of persons throughout the Nation rely upon the Commission's regulations and Advisory Opinions for guidance with respect to complying with this complicated election law. We are daily in communication with national, state and local parties, hundreds of multi-candidate committees, and thousands of candidates and their authorized committees. But the Court said that these important responsibilities—"Functions with respect to the Commission's task of fleshing out the Statute—Rulemaking and Advisory Opinions; and functions necessary to insure compliance with the Statute and rules—informal procedures, administrative determinations and hearings, and civil suits" (Slip Op. p. 131) are improperly reposed with the Commission as presently constituted.

The Commission's activities to date illustrate why the Congress saw the need for such an agency. The Commission has received almost 300 Advisory Opinion requests and thousands of additional requests for clarification of the law. Approximately 200 formal opinions have been issued by the Commission thus far and they have been widely disseminated through a variety of outlets. Further, the Commission has transmitted to Congress for approval six separate sets of regulations to clarify the responsibilities of those subject to the Act. In the area of reporting and disclosure, the Commission has attempted, wherever possible, to ease the reporting burdens of the candidates and committees without compro-

mising public interest in the fullest possible disclosure of relevant campaign financing data.

To date, the Commission has certified for disbursement to the national parties $1.2 million in convention financing funds. Under an audit and review procedure painstakingly established over the last eight months, the Commission has certified 12 presidential candidates as eligible for presidential matching funds. One additional presidential candidate may be certified today and another in the near future. Since January 1, the FEC has certified Treasury disbursement of over $7 million in matching funds to these candidates. An appendix describing in more detail the Commission's presidential primary matching procedures and activities is attached for inclusion in the record.

The Commission is continuing to review and certify requests for matching funds during the month of February on an expedited basis. We are continuing to respond to the many requests for clarification of the meaning of the law and for guidance as how best to comply with it. We are reviewing all previously issued opinions in light of the Supreme Court decision and are in the process of notifying persons who received these opinions of any revisions occasioned by the Court's conclusions. Similarly, we are redrafting our proposed regulations in order to bring them into conformity with the Supreme Court's determination.

Two of the three bills presently being considered by this Committee, namely S. 2911 and S. 2912, would provide for a Presidentially appointed Commission to fulfill the responsibilities which Congress originally conferred upon this Commission. These two bills would re-establish the Commission with six voting members appointed by the President, with the advice and consent of the Senate. No more than three members could be appointed from any one party. The Secretary of the Senate and Clerk of the House would serve as ex officio members, as they do now.

If the Congress wishes to preserve the reforms embodied in the 1971 and 1974 Campaign Acts, an independent agency is necessary for their proper implementation. These two bills would achieve this end. We note the particular importance of provisions contained in S. 2912 which would assure an orderly transition should the Commission be re-established.

In addition, S. 2912 provides for both primary and general election public financing for Senatorial candidates. The Commission takes no position on the merits of this public financing proposal. We would note, however, that this proposed expansion of the public financing function would require substantial increases in the Commission's staff and budget.

The third bill before your Committee is S. 2918. It amends Subchapter H of Title 26, United States Code, to transfer the administration of public financing from the Federal Election Commission to the General Accounting Office until April 30, 1976. We respectfully submit that this bill is not a viable alternative to the two bills we have already discussed. The suggested transfer of authority would create numerous special problems which we should like to mention briefly. If this bill is enacted, the General Accounting Office would be immediately responsible for:

1. Verifying the eligibility of candidates attempting to qualify for matching funds by establishing that the candidates have met the initial 20 state $5,000 matchable contribution requirement as specified under the Act;

2. Creating a mechanism for reviewing all of the submissions which the candidates would make for matching fund certification. To give you an idea of what this entails, one of the presidential aspirants has submitted a request for certification of 150,682 contributions based on 95,390 contributor record entries and a computer print-out which is 11,925 pages long. The contributions and contributor record entries must be cross-checked against one another and against the computer print-out in order to make sure that the candidate has not received "bogus" or "illegal" contributions, or contributions which otherwise may not be matched;

3. Establishing a procedure for reviewing and auditing the monthly reports of candidates;

4. Establishing a continuing audit function to effectively ensure that the repayment provisions of the Act are promptly and accurately carried out; and

5. In addition to all of the above, the GAO would have to establish procedures for certifying major party convention financing.

We respectfully suggest that in the time it might take the GAO to establish these procedures, its authority to administer them would expire under this bill. Also, S. 2918, confined as it is to a transfer of public financing functions, does not address the numerous additional needs of the political process which the Commission is presently meeting and can continue to meet if re-established.

We hope that these comments will prove useful to the Committee in its deliberations. We thank the Committee for this opportunity to appear.

APPENDIX A

SUMMARY OF SUPREME COURT DECISION IN BUCKLEY V. VALEO

The following provisions of the Federal Election Campaign Act of 1971, as amended (the Act), were found to be constitutional (reference to the slip opinion is by page number only):

1. The limitations on contributions to candidates for Federal office (6–2 vote; Burger, Blackmun, dissenting; pp. 7–33). Specifically, the Court upheld:

(*a*) the $1,000 limit on contributions by any person to a Federal candidate in any election [18 U.S.C. § 608(b)(1)] (pp. 17–29);

(*b*) the $5,000 limit on contributions by a multicandidate political committee to a Federal candidate in any election [18 U.S.C. § 608(b)(2)] (pp. 29–31);

(*c*) the $25,000 limitation on total individual contributions during any calendar year [18 U.S.C. § 608(b)(3)] (pp. 32–33).

2. The disclosure and recordkeeping provisions requiring reporting by candidates, political committees, and individuals or groups which receive contributions and make certain kinds of expenditures (6–2 vote; Burger, Blackmun, dissenting; pp. 54–79). Specifically, the Court upheld:

(*a*) the $10 and $100 thresholds for disclosure and recordkeeping requirements in 2 U.S.C. §§ 432, 434 (pp. 76–79);

(*b*) the reporting requirement of 2 U.S.C. § 434(e) for any person (other than a political committee or candidate) who makes (1) contributions to influence a Federal election or (2) expenditures for communications which expressly advocate the election or defeat of a clearly identified Federal candidate, other than to a political committee or candidate, in an amount greater than $100 in a calendar year.

3. Public financing of presidential elections through (a) the presidential primary matching fund, (b) the presidential general election campaign fund, (c) the national nominating convention fund (7–1 vote; Burger, dissenting; pp. 79–103).

Where a presidential candidate has accepted public funding of campaign efforts in an election, the candidate and his/her campaign committees are subject to the national and state expenditure limits applicable to that election [18 U.S.C. § 608(c)(1)(A)] (pp. 102–103).

The following provisions of the Act were found to be unconstitutional:

1. The limitations on expenditures (pp. 7–17, 35–52). Specifically, the Court invalidated:

(*a*) the limitations in 18 U.S.C. § 608(a) on expenditures by candidates from personal or family funds [5–3 vote; White, Marshall, Rheinquist, dissenting] (pp. 45–48);

(*b*) the overall limitations in 18 U.S.C. § 608(c) on campaign expenditures by Federal candidates in any election [7–1 vote; White, dissenting] (pp. 48–52). Note the exception above for presidential candidates who accept public funding in any election.

(*c*) The $1,000 limitation of 18 U.S.C. § 608(e) on independent expenditures [7–1 vote; White dissenting] (pp. 33–45).

2. The composition of the Federal Election Commission as to all but its informational and certain investigatory powers [8–0 vote] (pp. 103–107).

The Court accorded "de facto validity" to past acts of the Commission, and provided for a 30 day stay of judgment, during which the Commission may validly exercise all the duties and powers which it previously possessed, in order to permit Congress to reconstitute the Commission in conformity with the Appointments Clause of Article II of the Constitution (pp. 136–137).

APPENDIX B

PRESIDENTIAL PRIMARY MATCHING FUND ACTIVITY

I. INTRODUCTION

To date the Federal Election Commission has certified that 12 presidential candidates have met the threshold requirements which qualify them to receive matching funds under the provisions of Chapter 95 of the Internal Revenue Code.

In addi' n, it appears that two more candidates have met or will soon meet the threshold requirements.

Since August, 1975, the FEC has conducted 14 field audits and reviewed over 300,000 transactions. More than $7 million in contributions received by the candidates has been certified to be matched by Federal funds. In addition, $1.2 million has been paid to national committees who will hold presidential nominating conventions.

II. THE CERTIFICATION PROCESS—INITIAL FIELD AUDIT

When it is apparent from disclosure reports submitted by a presidential candidate, or other direct communication with the candidate, that the candidate has received contributions necessary to qualify for matching funds, audit teams are dispatched by the Commission to review his or her campaign committee's records. The purpose of these audits is threefold:

1. To determine whether the candidate has received eligible contributions of $5,000 in each of twenty states.
2. To acquaint campaign committee officials with the provisions of the Act and regulations applicable to matching fund procedures.
3. To assist committee officials in maintaining their bookkeeping and accounting systems in the correct manner to make orderly submissions for matching funds.

Field audit teams have consisted of three auditors who spend approximately two weeks at each audit site. To date, this has required a total of approximately 420 man-days of field work.

III. THE CERTIFICATION PROCESS—REVIEW

Considerable care must be taken at all times to ensure that all matching payment requests are carefully examined and certified. Since August 21, 1975, presidential candidates' committees have been required to retain photocopies of contributor checks which serve as documentation of the date, amount of contribution and identity of the contributor. The Commission has determined that this is the most efficient and least expensive way to obtain independent confirmation that the contributions had in fact been made by the individuals recorded in committee records.

The Commission developed Interim Guidelines for federal matching and provided all presidential candidates and committees detailed description of suggested methods of preparing their requests for matching funds.

1. Manpower needs

The initial submissions and many subsequent submissions have required 100 percent item-by-item review. Between December 3, 1975 and February 12, 1976, a staff of 28 was fully occupied in the certification process. This involved 1,120 man-days of staff time during normal working hours and 1,650 hours of night and weekend work to meet the 15-day certification deadline adopted by the Commission. With one exception, all deadlines have been met. The exception involved a submission of some 100,000 entries and 40,000 photocopied documents, which, because of its considerable deficiencies, had to be subjected to an item-by-item review.

2. Use of other personnel

In the certification process, the Commission has relied on its auditing staff, other agency personnel, 6 employees of the General Accounting Office detailed to the FEC by the Comptroller General, and an average of 8 temporary employees. A total of approximately 1,700 man-days have been devoted to the certification process.

IV. PRESENT PROCEDURES

With the evolution of final FEC certification review procedures, and with developing ability of campaign committees to prepare orderly matching requests, certification now involves three steps:

1. FEC review of supporting documentation

Every photocopied check or signed contributor card is reviewed to ensure that it is matchable. Contributions are excluded if they are:

A. Nonmatchable items:
(1) Submitted by corporate check;
(2) Submitted by labor union treasury check;
(3) Represent a contribution of another political committee;
(4) Are not contributions of money (i.e., in-kind contributions).

In these cases, the photocopies are returned to the committee with a notification that they are not matchable. In the case of corporate and union checks, of course, the committee will have to present sufficient documentation and information to establish that unlawful contributions have not been made.

B. Supported by insufficient documentation:
(1) Lack of documentation for listed item (no photocopy, etc.);
(2) Contributor's name omitted;
(3) Mailing address omitted;
(4) Contributor's signature omitted;
(5) Cash contribution of $100 or less not supported by signed contributor card;
(6) Need for additional documentation to prove contribution was made with personal funds.

Since these are possibly otherwise matchable contributions, such items are returned to the committee with a request for further information.

2. Review of candidate's master list

A complete review is also made of the alphabetical list submitted by the candidate's committee. The same criteria are applied to the master list as are applied to the supporting documentation. In addition, the list is examined to insure that the computer program permits the proper aggregation of multiple contributions made by an individual.

3. Correlation

A. Use of sampling

Sampling procedures have been used to assure that each item on the master list is backed up by an appropriate document verifying the information on the alphabetical list. Any presentation which shows an excessive error rate (over 3%) is returned to the committee for further preparation.

B. Reductions in payment

If the error rate is found not to be excessive, a calculation of the dollar range of probable error in the candidate's total request is made. That amount is then deducted from the final amount payable to the committee. The committee is given the choice of accepting the reduced amount without recourse, or withdrawing the entire presentation for later resubmission. (This percentage reduction takes place after any non-matchable payments have been deducted.)

V. PRESENT STATUS

The Commission believes that it has developed and implemented certification processing techniques which provide a practical method of making an accurate calculation of the amounts of matching funds due presidential candidates. These techniques, developed during a six-month dialogue between the candidates, their committees, and the Commission, represent a body of new knowledge in this first application of federal matching fund payments to federal candidates.

Mr. HARRIS. I think in my oral presentation, I can skip a good deal of it inasmuch as the ground was covered this morning.

Picking up my statement on the bottom of page 2, I state:

The powers of the Commission which will lapse if the Commission is not reestablished include the responsibilities for (1) certifying matching funds for Presidential elections and convention financing; (2) writing regulations subject to congressional review; (3) giving advisory opinions; (4) investigating complaints—and I would like to stop there and make a correction.

That investigative responsibility would not lapse entirely. Mr. Scalia was correct. I think that the Commission would continue to have the investigative function of the sort that the prior supervisory officials had, plus perhaps the power of subpena, but at some point

the investigation would have to culminate either in our closing a file or referring it to Justice. I think we could not take any action ourselves unless reestablished as a consequence of the investigation.

The present statute puts considerable emphasis on voluntary compliance even in the case of compliance actions and on some conciliation and the Commission is to refer the matter to Justice or bring a civil suit only if it is able to obtain satisfactory voluntary compliance or conciliation. That role would terminate, I think, if the decision—if the Commission is not reconstituted.

And certainly, item 5, initiating civil suits in appropriate cases.

While it is the Commission's authority to certify Presidential matching funds which have received widest notice in the press, we submit that the Commission's interpretive informational and other functions, are of equal if not greater importance.

Thousands of persons throughout the Nation rely upon the Commission's regulations and advisory opinions for guidance with respect to complying with the complicated election law.

We are daily in communication with national, State and local parties, hundreds of multi-candidate committees, and thousands of candidates and their authorized committees. But the Court said that these important responsibilities—it said:

> Functions with respect to the Commission's task of fleshing out the statute—rulemaking and advisory opinions; and functions necessary to insure compliance with the statute and rules—informal procedures, administrative determinations and hearings and civil suits,

All of these the Court said are:

> Improperly reposed with the Commission as presently constituted.

The Commission's activities to date illustrate why the Congress saw the need for such an agency. The Commission has received almost 300 advisory opinion requests and thousands of additional requests for clarification of the law. Approximately 200 formal opinions have been issued by the Commission thus far and they have been widely disseminated through a variety of outlets.

Further, the Commission has transmitted to Congress for approval six separate sets of regulations to clarify the responsibilities of those subject to the act. In the area of reporting and disclosure, the Commission has attempted, wherever possible, to ease the reporting burdens of the candidates and committees without compromising public interest in the fullest possible disclosure of relevant campaign financing data.

To date, the Commission has certified for disbursement to the national parties $1,200,000 in convention financing funds. Under an audit and review procedure painstakingly established over the last 8 months, the Commission has certified 12 Presidential candidates as eligible for Presidential matching funds.

One additional Presidential candidate may be certified today and another in the near future.

Senator PELL. Who would be the one tomorrow? Who will be the one tomorrow?

Mr. HARRIS. Mrs. McCormack is before the Commission tomorrow I believe.

Senator PELL. Thank you.

Mr. HARRIS. I think Senator Clark is the one down the road—Church, not Clark but Church.

Since January 1, the Commission has certified Treasury disbursement of over $7 million in matching funds to these candidates. The second of the two appendixes attached to the statement sets out in detail the functions the Commission has to discharge and in discharging this matching procedure and establishing the initial eligibility and thereafter the check—the funds for eligibility for matching. That appendix was put in of course to give the committee a basis for judging the feasibility of transfering that operation elsewhere on a temporary basis.

We agree with Mr. Hughes that that is not at all a viable alternative. It would of course be possible to put it in some other agency permanently but I think examination of the procedures and volume of work involved will convince you that it really is not feasible to transfer it elsewhere just as a temporary emergency measure.

The Commission is continuing to review and certify requests for matching funds during the month of February on an expedited basis. We are continuing to respond to many requests for clarification of the meaning of the law and guidance as how best to comply with it. We are reviewing all previously issued opinions in light of the Supreme Court decision and are in the process of notifying persons who received these opinions of any revisions occasioned by the Court's conclusions.

Similarly, we are redrafting our proposed regulations in order to bring them in conformity with the Supreme Court's determination.

If the Commission is reestablished it would be the disposition of its present Commissioners to resubmit these regulations in revised form. We also had in process a regulation dealing with compliance procedures and we contemplate overhauling that very completely and conducting public hearings on the whole subject before going forward with it.

Two of the three bills presently being considered by this committee; namely, S. 2911 and S. 2912 would provide for a Presidentially appointed Commission to fulfill the responsibilities which Congress originally conferred upon this Commission.

These two bills would reestablish the Commission with six voting members appointed by the President, with the advice and consent of the Senate. No more than three members could be appointed from any one party. The Secretary of the Senate and Clerk of the House would serve as ex officio members, as they do now.

This morning strong exception to this appointment as ex officio members was taken by Mr. Scalia. I would like to comment on the validity of his legal objections. The court did not really deal with them at all. I will say though that I think that we have found the representation of the Senate and the House with respect to the Secretary and the Clerk to be helpful. They have served in consultative functions, a liaison function and I am sure that all of the Commissioners would agree with me that we have found their service helpful rather than otherwise.

If the Congress wishes to preserve the reforms embodied in the 1974 Campaign Act we believe an independent agency is necessary for their proper implementation. Both of these two bills would achieve this end. We note the particular importance of provisions contained

in S. 2912 which would assure an orderly transition should the Commission be reestablished.

In addition to that bill, S. 2912 provides for both primary and general election public financing for senatorial candidates. The Commission takes no position on the merits of the public financing proposal. We would note, however, that this proposed expansion of the public financing function would require substantial increases in the Commission's staff and budget. And, of course, if it were extended to cover the House races I would think that a general appropriation would be necessary to meet that additional expense.

The third bill before your committee is S. 2918. It amends subchapter (h) of title 26, United States Code to transfer the administration of public financing from the Federal Election Commission to the General Accounting Office until April 30, 1976.

In our prepared statement we have spelled out a number of reasons why we think that this is not a viable alternative. Since that information is detailed there and in the appendix and since that grant has been covered by Mr. Hughes I would—we will skip that unless the committee has some questions about it.

Apart from the problems and the length of time it might take the Accounting Office to establish matching fund procedures, we would also call attention to the fact that that bill would not take care of the numerous additional needs of the political process which the Commission is now hopefully discharging, the problem of having a Commission so deeply immersed in the process available on a day-to-day basis to give advice to the many people who ask for it. We hope these comments will prove useful to the committee.

We thank you for this opportunity to appear and we will be glad to undertake any questions.

Senator PELL. Thank you.

We will get started with the questioning and then we have to recess and go over and vote and come back, but a critical matter before Congress is the need to provide for the ongoing certification of public matching funds for Presidential primaries occurring today, and I was wondering if you would give us a short explanation of how your certification process will work between now and February 29.

Mr. HARRIS. We are going ahead to certify on an expedited basis and the staff has been working day and night to check the submissions and to prepare the documents for submission to the Commission. We have been certifying weekly since the court decision instead of the former two weekly basis. We will try to clear as much out of the pipeline as we could before the 29th. We have in fact been contemplating meeting on the 28th and 29th which is Saturday or Sunday. We do not know how that would sit with the Treasury but we do intend to try to clear up as much backlog as possible. We have some $2.5 million pending submissions and how much of that we can clear before the end of the month I do not know but we will do our best.

Senator PELL. If most of the matching funds were certified by February 29 would there be any great disruption if Congress were not able to act until the middle of March?

Mr. HARRIS. Well, I think you are probably as well able to answer that Senator, as I am. Some of the candidates apparently are pretty

short and they are proceeding on a day-to-day basis. Some of them in particular apparently have regarded it even a few days delay as presenting them with some problems.

Senator PELL. But the Commission in any case would not be sent out by the Treasury until later in March, is that correct?

Mr. HARRIS. Perhaps—Mr. Potter, how long does it take them?

Mr. POTTER. Checks are sent out in a matter of 24 hours, I believe, from our certification.

I think the point should be made that the submissions now before us—$2.5 million are but one small increment in the process. Some of the candidates are in the process of making their fifth submission to us. Others are only on their second. They keep coming in and they collect money for matching and they keep presenting it to us, so we have no way of knowing that they are in fact going ahead. We surmise there is a good deal left to come.

Senator PELL. In other words, all of the funds you have certified as of February 29 would probably be distributed within a couple of days—mailed within a couple of days?

Mr. POTTER. Yes.

Senator PELL. Can you see the Commission making a request to the court for an extended stay of its order?

Mr. HARRIS. Mr. Scalia was asked that this morning and he indicated that they probably would do so if it appeared the Congress was moving and that there was a reasonable basis for applying to the court. The Commission would certainly be disposed to do so but we would enjoy being joined by the Attorney General. I have no doubt it would be more persuasive.

Senator PELL. The subcommittee will recess for a few minutes while the Members go over and vote and be back in about 10 minutes.

[Brief recess.]

Senator PELL. The subcommittee will come to order.

Mr. Harris and Ms. Aikens, if the Commission were not reconstituted what would be the extent of its power after February 29? In other words, could you make audits, field investigations——

Mr. HARRIS. Well, that question is addressed by the Supreme Court on page 131 of its opinion. It divided the functions of the Commission into three parts and specified which could be exercised and which could not. The three categories, the first function is relating to the flow of necessary information, receipt of, dissemination and investigation. That is the filing and disclosure and publicity function which they say the Commission could continue to carry on. Functions with respect to the Commission's task fleshing out the statute, rulemaking and advisory opinions. Those as they say the Commission could not carry on. The function necessary to insure compliance with the statute and rules, informal procedures, administration determination and hearings on civil suits. Those they say cannot be carried on unless the Commission were reconstituted.

In addition to those functions there is one—the clearinghouse function established in 438(a) of the act to which the Court does not refer but which seems clearly constitutional, that is 438(b). That is the function of serving as a national clearinghouse for information in respect to the administration of elections, letting out contracts, and

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conducting studies and research on various matters relating to the elections. That was formerly done by the General Acounting Office and I guess——

Senator PELL. In other words, could your General Counsel continue to issue informal opinions?

Mr. HARRIS. Well, I think we could carry on what they call our informational functions, that is we could answer inquiries of a nontechnical nature that do not really involve any complicated construction of the statute but I take it that our advisory opinion function would be out and the opinion of the counsel function would be out. Anything beyond informational, I think we could not do after the 29th.

Senator PELL. How many requests for advisory opinions have you received, roughly?

Mr. HARRIS. Jack, could you——

Mr. MURPHY. Approximately 300.

Senator PELL. How many have you answered?

Mr. MURPHY. We have answered approximately 100 advisory opinion forms. Many of those advisory opinion requests however have been changed in designation to either opinion of counsel or to a simple request to which an informational response can be given by another section of the Commission.

The total output of the Commission in terms of opinions in which we look at some of the tougher issues arising under the act is approaching 200 and we are, in my judgment, rapidly eliminating the backlog of inquiries requiring very careful analysis, and, of course, as you well know, this act left many questions unanswered and we sought to supply those answers where we could.

With the advent of the election year, of course the questions continue to come in at an accelerated rate but our opinion production has also accelerated and I am confident we can meet the needs of the inquiring parties.

Senator PELL. I would mention here in a personal vein I asked for an advisory opinion in connection with charitable gifts on October 22, 1975, and have yet to receive an opinion or reaction on it.

Mr. MURPHY. I will check on that.

Senator PELL. Presumably this is not unique but that is October, November, December, January, February—about 4 months and with the staff of lawyers and the regulations that have been interpreted I would think that greater attention should have been given so that we could get our advisory opinions more quickly. The staff, as you know, as has been pointed out to the Congress, is substantial and I think a 4-month delay for an individual Senator to get a reply back is too long.

Mr. MURPHY. I will assure the Senator that I will check on that the first thing when I return to my office this afternoon.

If the question had to do with the tax issue, it is highly possible that that matter was referred to IRS.

Senator PELL. Nothing to do with taxes. It had to do with charitable gifts and whether they should be included in the amount of funds that will be counted against your total.

Mr. MURPHY. We have a number of questions which are even more senior than that one and I think I speak for the Commission when I say we regret the delays but the Senator will understand that some of these issues are extraordinarily sensitive and the Commission has cautioned me to proceed with great care lest we issue views that prove to be ill-advised. I will certainly check on this inquiry personally but, in general, delays have been occasioned by the vast work effort we have been under and I regret to note a number of inquiries have gone unanswered for protracted periods and, as I say, we are eliminating that backlog but it is a backlog which we have to live with.

Senator PELL. What would you think is the average delay? Mine is 4 months. What would be the average?

Mr. MURPHY. It is very difficult to say because we had so many when we started. There were approximately 100 inquiries when I was appointed on May 1 and we have answered many of those; and, of course, although there are a few that may go back as early as June which pose questions of such difficulty or involve such policy determinations that the Commission has been unable to resolve them to this date and there is no way of averaging because we are looking at a startup period during which we faced a backlog—at the outset of which we faced a backlog.

We expect, I should tell you, to have an average turnaround time on opinions of 4 to 5 weeks and I hope that process will be in place within the next 6 weeks.

Senator PELL. Provided you are in place.

Mr. MURPHY. Yes, sir.

Senator PELL. Does the Commission provide legal advice to those people who do not have legal standing to request advisory opinions?

Mr. MURPHY. Yes, sir, we have. We have supplied opinions of counsel to persons other than the candidates, committees or incumbents who are given standing for advisory opinions under 437(f) of the title.

The opinion of counsel has been a handy vehicle for supplying persons with information that they might not otherwise receive. We also have of course an even more informal information function through the circulation of brochures and through seminars and a lot of telephonic communication.

Mr. HARRIS. The statute provides for advisory opinion only by an individual holding Federal office, a candidate for a Federal office or a political committee. It seemed to us that anyone who was covered by this statute might be in violation should have the same standing. The statute does not read that way so all we can do is give them an opinion of counsel.

Senator PELL. What forms of advice does the Commission offer—what other forms of written opinions, verbal opinions, or informal opinions?

Mr. HARRIS. We will not give a verbal opinion except on something very simple and clearcut like—what form do we fill out or when is the next filing date or something like that. Apart from that the most formal would be an advisory opinion, then an opinion of counsel, then we have a lot of routine letters that simply go out of the information section.

We also put out a good many publications. We have a simplified version of the statute. We put out a weekly publication. We have a lot of general informational stuff, thus far.

Senator PELL. Do you believe that it is important that we have a separate Federal Election Commission this way? Do you believe that the function could be carried on by the Department of Justice and General Accounting Office?

Mr. HARRIS. Well, I think we reason that the Commission was created at the time it was dissatisfaction with enforcement by the Department of Justice over the years. The Department was probably faced with the problem that it would have to proceed with indictments, criminal prosecution, or else do nothing. I think that some kind of civil enforcement, particularly in the case of the innumerable inadvertent filing violations is desirable. There needs to be some agency that can oversee compliance with the filing requirements and with the complexities of the law and bring some corrective to bear short of a criminal prosecution.

If you look at the annotation to the United States Code under the provisions of the Election Act which the Department of Justice has been administering, it is evident that they have been very few and far between and since there was no civil enforcement agency this means not much enforcement.

I do think that is a sound idea, to have an independent Commission that would be on this civil enforcement function.

Senator PELL. Has the Commission determined which of its advisory opinions are no longer valid because of the Supreme Court's opinion? Have you been able to go through the opinions you have made to determine which ones of them have been invalidated by the Supreme Court decision?

Mr. HARRIS. Yes.

Mr. MURPHY. That was done immediately, Mr. Chairman, and we have communicated or are in the process of communicating with all persons who have received those opinions to indicate where modification of the Commission's views is occasioned by the Court's holding. Once that is done we plan to publish in the Federal Register and otherwise distribute a general statement reviewing the modifications of all of the opinions issued heretofore so that in one place any person who has been reading the opinions will have the amendments set forth and can read the previous opinions in light of those amendments.

Senator PELL. Will this be done in the next week or so?

Mr. MURPHY. I am not certain it will be done in the next week, but it will be done by the end of the month.

Senator PELL. So then a list of the opinions that have been invalidated will be made available to the public at one place?

Mr. MURPHY. That is correct.

Senator PELL. Thank you.

Senator Griffin?

Senator GRIFFIN. If you had a request for an advisory opinion that started out: "We request you provide us with an opinion of whether or not the contributions hereafter described will be charged to campaign limitation" in light of the Supreme Court decision, that would be pretty easy to answer now, would it not?

Mr. MURPHY. The question involved contribution limitations which will remain in force.

Senator GRIFFIN. I see, but isn't this an expenditure?

Mr. MURPHY. Yes.

Senator GRIFFIN. The question does relate actually to charged to campaign expenditure limitations. That is whether or not certain charitable contributions would be charged against the expenditure limitation of the candidate. I understand in the Supreme Court decision there would not be any question about that.

Mr. MURPHY. Except for publicly financed campaigns. Of course, there is no expenditure limitation.

Senator GRIFFIN. That would be a Presidential campaign?

Mr. MURPHY. That would be correct.

We have identified—we immediately identified six pending advisory opinion requests which were utterly obviated by the Supreme Court opinion; but the typical request involved several issues, not just one, and will have to be therefore partially answered by analysis by the Commission and partially answered by a statement that the Court's opinion——

Senator GRIFFIN. Are you continuing to issue advisory opinions even though the Supreme Court says you are not constitutionally able to do that?

Mr. MURPHY. The Commission decided to suspend its advisory opinion function pending a determination by Congress as to what its status should be. I am, however, continuing to issue opinions of counsel.

Senator GRIFFIN. Thank you, Mr. Chairman.

Senator PELL. Senator Cannon.

Senator CANNON. Thank you, Mr. Chairman.

Have you had the opportunity to analyze the proposal that was made by Congressman Hayes today?

Mr. HARRIS. I read it about 2 minutes ago, Senator.

Senator CANNON. I note you have a press release there. I will skim through some of it briefly.

Among other things he, of course, proposes the continuance of the Commission to provide for Presidential appointments, and that all matters arising out of or relating to the regulation of political campaigns shall be within the exclusive jurisdiction of the Commission.

I presume that you would not argue with that.

Another one would prohibit the Commission from making investigations on the basis of anonymous complaints, and would require the Commission to attempt to reach a conciliation agreement before civil or criminal proceeding may be initiated.

He has also suggested that the Commission propose advisory opinions of general applicability as rules; and a majority vote of all members before authorizing investigations, civil proceedings, or referrals to the Justice Department.

He would propose putting a yearly limit of $1,000 on individual contributions to a political committee; and limiting contributions by political committees to contributions of $5,000 annually to other political committees.

He suggests full reports and disclosure of independent expenditures, including clear statements on communication of the name of the person who made or financed such an expenditure.

He also has proposed that corporations and political committees be prohibited from soliciting employees who are union members, and that an employee be permitted to make a voluntary checkoff in favor of a union political committee, if a corporation provides such a system for its political committee. That is sort of a rough sketch of what Congressman Hayes has proposed, and a number of these items are items that I know have been under discussion at the Commission and in the Senate.

I wonder if therefore you would want to comment or feel you are able to comment on any of these at the present time.

Mr. HARRIS. What we have here is simply a press release. I would think that it would be inappropriate for the Commission or the individual Commissioners to comment in the substantive proposal, in any event. It would, of course, be proper for us to comment, I think, on those that go to the administration of the act, but the Commission obviously has not seen those or taken any position on them.

I could give you a personal reaction to some of them and perhaps Commissioner Aikens could, too.

For example, the provision that a major vote of the entire Commission would be necessary to authorize investigations. That prevails now under the procedures which we have adopted. That is our internal rules—rules of internal procedure which are required before starting an investigation.

Senator CANNON. Has that been in effect for some time?

Mr. HARRIS. Yes; it has been in effect at all times—since August, at least. The anonymous complaints, I know, is a touchy issue. It is my personal feeling that an agency which has investigative authority must be able at least to look at anonymous complaints and, if they seem detailed with circumstances and something that can be easily checked out that they ought to take a look.

Certainly they better find something before going very far with such an investigation; but it is my personal view that they should not be ruled out entirely as a basis of proceeding. Maybe some of the other Commissioners do not agree with that.

I think an awful lot of wrongdoing has been encouraged where the investigation started simply on the basis of an anonymous complaint and the distinction should be drawn between starting an investigation and how far you go with it on that basis.

Senator CANNON. Well, you are, of course, aware of the case that this comes out of? Let me ask, what was the outcome? Did the Commission get its fingers burnt on that?

Mr. HARRIS. I do not think that the investigation has ever been finally concluded. I think very likely that it will turn out that there was nothing to the charge but it was exceedingly specific, naming people that this item or that could be checked with, banks that this item or that could be checked with. It was not just some kind of general shotgun allegation.

Senator CANNON. I missed your opening testimony and I do not know whether you commented on the issue.

Mr. HARRIS. Senator, if I might, could I hand you a letter which Chairman Curtis sent to Mr. Hayes which in effect dealt with the matter about which you were just inquiring?

Senator CANNON. Thank you.

In your testimony you discuss the question of the possibility of financing congressional races.

Mr. HARRIS. No. I simply state that the Commission took no position on public financing. Obviously, we would need some more staff if we had to get into a particular matching fund operation which is very—which does take a lot of staff.

Senator CANNON. Incidentally, what is the situation now with respect to all of the Presidential candidates? Have all the known candidates qualified so far?

Mr. HARRIS. Mr. Potter, do you want to address that? I think we have two candidates who generally are considered to be in the field but not yet qualified, Mrs. McCormack and Senator Church. I think we are expecting a submission with regard to Mrs. McCormack tomorrow. I do not know where Senator Church stands.

Mr. POTTER. We have qualified 12 candidates already and funds totaling $7.7 million have been certified to those 12 candidates.

Senator CANNON. What is the current status of the fund? How much money is there now pending?

Mr. MURPHY. There was $62 million back in December. That is my recollection, Senator. They anticipate another $1 million in January, $2 million in February, $7 million in March and $20 or $22 million in April. That was a conservative estimate from the Department of the Treasury.

We hear this morning that the early returns suggest that the percentage of people checking off has increased by 2 percent over the last year, which would suggest the amount in the Treasury would far exceed the estimate that I have just given you.

At this time, we do not anticipate any problem with the adequacy of the funds available for primary matching. There is a question of which you may be aware as to whether or not, if the primary funds which come out of one of the three funds were exhausted, whether Treasury could dip into the general election fund or into the congressional financing convention fund to borrow money pending the arrival of the April returns to assure there was adequate money for continued primary financing.

There was a division of opinion within Treasury about this.

We have argued that they should consider borrowing if that becomes a necessity but we do not think the reality will arise. Our assessment of the financial situation is that sufficient money is available to meet the needs of the candidates on an ongoing basis without any fiddling with funds within the Department of the Treasury.

Senator CANNON. Do you have any estimate now as to the total amount of the funds that will be used in the primary and matching formula, and also, the total amount of the general fund?

Mr. MURPHY. No, sir.

Of course, with 12 candidates qualified, the potential there for disbursements of $60 million, since each candidate would have theoretically a right of up to $5 million, and to date we have disbursed $7.7 million or whatever, something in that range; two candidates have dropped out as the Commissioner has pointed out. There simply is no way of projecting what the demand will be because obviously with

the primary process, there will be some candidacies rising and some falling, and that, of course, will have an effect on their contributions and the amount of money they can put in for matching.

Senator GRIFFIN. What happens when a candidate drops out as far as the money is concerned that has already been provided to him?

Mr. MURPHY. We have provided in the regulations, pursuant to title 26, that the money which is given to candidates on a matching basis may be used only for what are called qualified campaign expenses. That is a phrase of art which appears in the statute.

It is my view that money expended to date for such expenditures was properly expended, and the candidate who drops, for whatever reason would be under no obligation to repay. He has under the statute a right to retain an unexpended disbursement for a period of up to 6 months after the election to wind up his costs. We have not reached any analysis as to whether or not an early termination date should apply where a candidate has dropped out far ahead of the terminal point of the primary process, but in any event, the act provides for repayment provisions by an equitable formula.

You take the amount of funds contributed on a private basis and the amount of moneys disbursed by the Treasury and see what ratio they bear to one another.

You will see then what, at the end of the campaign and windup stage, the candidate has in his account at that time; and you apply the ratio to that balance, and repayment is occasioned pursuant to the ratio. That is an awkward way of putting what the act puts more elegantly.

Senator GRIFFIN. Is there a requirement for repayment?

Mr. MURPHY. Yes, sir.

Senator GRIFFIN. Do you suggest any need for revision or change in that as long as we are now looking at the act again?

Mr. MURPHY. I am unprepared——

Senator GRIFFIN. It might be something that you would want to give some thought to, to make a submission.

Mr. MURPHY. Yes, sir.

Senator GRIFFEN. Thank you. I am sorry.

Senator CANNON. So that in any event, then, there is no possibility of a candidate not being liable for repayment of all unused funds that he got through the Government source as a matching source.

Mr. MURPHY. I think that is a proper statement, Senator. Repayment of all of the moneys left over. I think that is a correct way of characterizing it.

Senator CANNON. I wish you would check that and see, because if there is not that obligation, I think we would want to make absolutely sure that it does exist—a candidate could not retain matching funds that he received from the Government, and simply because he had not used all of that amount.

Mr. MURPHY. Yes, sir. That was the clear thrust of the statutory language.

Senator CANNON. That was our intent, I know, when we drafted it; but if there is any loophole in it, I think we ought to know so we can correct it; and if you feel from the legal standpoint that under any circumstances that a candidate could conceivably not be required to

repay some of that money that he did not use, then we would like to know about it at this time and do something.

Mr. MURPHY. I want to make sure that the record is clear that that is not my view. I hesitated in responding to you because I though you might be suggesting repayment of all moneys therefore paid out and not repayment of just the moneys left over. Obviously there is a repayment necessitated with respect to moneys left over.

Senator CANNON. Thank you.

Mr. HARRIS. I think both of the candidates who have gone on inactive status so far have leaned over backward to avoid any problem of that sort. In neither case did they totally withdraw; but I know that Governor Sanford called up and asked us to stop payment immediately; and I believe that Senator Bentsen did the same.

Senator PELL. Senator Clark has an amendment on the floor and asked me to ask you these questions in his behalf.

There being some controversy over FEC actions undertaken on the basis of unassigned complaints, does the FEC now have the authority, and should it have the authority, if it does not, to undertake investigation under its own initiative? And would not any enforcement agency that did not have this authority be hopelessly handicapped?

Mr. HARRIS. To some extent I have answered that already. The statute is certainly clear that the Commission is to proceed on any of three bases:

One, upon receiving a complaint. Now, there our procedures do require a notarized written complaint. Second, on the basis of any referral from the Clerk of the House to the Secretary of the Senate; or, third, if it has reason to believe.

Now, under that last category, I would think we would justify instituting an inquiry even upon the basis of a newspaper story if we read in the newspaper that someone has confessed to a criminal violation within the last 3 years. I would think that under that alone, it would be enough for us to take a look, and we have proceeded on that basis.

Senator PELL. Based upon your experience, what kind of shape would the various Senate or House campaigns be in if you lose your authority on February 29; and more importantly, what would be the condition of those campaigns next April or May if there is no one around to issue regulations or advisory opinions?

Mr. HARRIS. I think the candidates and their committees have openly welcomed the opportunity to get a day-by-day advisory on the meaning of the act, on how to comply with the filing requirements. There has been a very steady flow of requests for information. I think they would be seriously inconvenienced and perhaps even put in jeopardy without that.

The candidates and their committees, I may say, have been very cooperative and anxious to avoid a violation insofar as our experience has gone. We have found that all of the Presidential candidates are extremely cooperative and meticulous as to how their books should be kept; as to what kind of reports should be filed; that sort of thing.

Senator PELL. Thank you. Any other questions?

[No response.]

Senator PELL. Thank you very much indeed for being with us and for your presentation, and we hope to get legislation out in time to be of help to you, and we will do our best.

Ms. AIKENS. Thank you, sir.

Senator PELL. Our next witness is Mr. Fred Wertheimer of Common Cause.

STATEMENT OF FRED WERTHEIMER, VICE PRESIDENT OF OPERATIONS, COMMON CAUSE, ACCOMPANIED BY JACK MOSKOWITZ, LOBBYIST

Mr. WERTHEIMER. Thank you, Mr. Chairman.

I am accompanied by Mr. Jack Moskowitz, a lobbyist with Common Cause.

I have a prepared statement that I would like to submit for the record and deliver a brief portion of it now.

Senator PELL. Without objection, your statement will be inserted in the record. You may proceed.

[The written statement of Mr. Wertheimer follows:]

STATEMENT OF FRED WERTHEIMER, VICE PRESIDENT OF OPERATIONS, COMMON CAUSE

Mr. Chairman, I want to thank you and the other members of this committee for the opportunity to testify today. Common Cause believes that Congress must act promptly to reconstitute the Federal Election Commission. We believe that any temporary half measures are unnecessary and unacceptable to the goal of effective administration and enforcement of campaign finance laws. We strongly oppose any efforts to put a short term limit on the life of the Commission, which has only been in operation since April 1975.

We also strongly oppose the President's recommendation to Congress on Monday that all of the federal campaign finance laws in this country be terminated following the 1976 elections, to ensure their full scale review. We do not believe this represents a constructive proposal designed to assure meaningful review of campaign finance laws in the next Congress. Rather we believe it sets the stage for killing vital legislation which in many respects has not yet even had the opportunity to be tested in one national election. Termination is totally unnecessary. Congress always has the right to modify and review this legislation.

The Supreme Court's opinion in *Buckley* v. *Valeo* made it clear that there is no constitutional problem with a Federal Election Commission whose members are appointed by the President and confirmed by the Senate in accord with the Appointments clause of the Constitution. The Supreme Court practically invited Congress to enact a statute to re-create the FEC in this manner. In granting a 30-day stay of its judgment with regard to the FEC, the Supreme Court explained: "This limited stay will afford Congress an opportunity to reconstitute the Commission by law or to adopt other valid enforcement mechanisms without interrupting enforcement of the provisions the Court sustains (slip opinion at 136).

As suggested by the Court, the constitutional deficiencies of the Federal Election Commission are easily rectified. Common Cause urges Congress to enact a bill to provide for appointment of the six members of the FEC by the President subject to Senate confirmation. The President has said that he supports such a legislative approach.

This concept is not new. In both 1973 and 1974, the Senate passed campaign reform bills that established independent election commissions with all of their members appointed by the President.

The Supreme Court has made it clear that there is no need to return to the old, corrupt system of campaign financing that was dominated by abuses of big money and excessive secrecy. The Court upheld the essentials of campaign finance reform—disclosure, contribution limits, and public financing—and estab-

lished a foundation on which to build a constitutional Federal Election Commission. But the FEC is essential. This country's previous experience with campaign financing legislation demonstrates that without enforcement these laws become meaningless shells.

Much of what has been done to clean up our election process will ultimately be undone if the Federal Election Commission is not re-created. Failure to re-create the FEC will be an invitation to return to the corruption of the Watergate days and before.

An overwhelming number of members of Congress voted for the Federal Election Commission in 1974. If Congress fails to re-create the FEC, the public will have to read its failure to act in only one way—that Congress is not serious about ridding our electoral system of corruption. The crisis of confidence in government sparked by Vietnam and Watergate has continued to grow in the post-Watergate years. Our system of representative government should not be asked to bear the burden of another demonstration of unwillingness or inability to act on the nation's problems. Millions of citizens have demonstrated their commitment to a new way of financing elections in America by providing $1 each for the Presidential Election Campaign Fund. It would be inexcusable to fail to establish a mechanism adequate to oversee the first Presidential election paid for by their tax dollars.

Prompt re-creation of the Federal Election Commission will serve three important national interests:

(1) It will demonstrate that Congress recognizes that public confidence and meaningful enforcement depend on independent enforcement of campaign finance laws.

(2) It will prevent any interruption in disbursal of public matching funds to Presidential candidates.

(3) It will insure a continuity in the enforcement of the law and guard against arbitrary and selective enforcement.

The Need for Independent Enforcement

Common Cause has repeatedly stated that an independent federal election commission is absolutely essential to any effective system of campaign financing legislation. The long history of almost total non-enforcement of campaign financing laws in this country is well known and well documented. This abysmal record of non-enforcement was a major underlying cause of the Watergate and other campaign financing scandals that have shaken this nation in recent years. It is hardly surprising to find candidates and their agents ignoring or circumventing the law when history would give them every assurance that their violations would go unpunished. It is hardly surprising to find that citizens have become gravely disillusioned by such a process.

The highlights of the record on non-enforcement are as powerful today as they were in 1974 when Congress first created the Federal Election Commission. The first campaign financing legislation enacted in this country was the Tillman Act of 1907, which prohibited national banks and corporations from making any expenditure in connection with any election to public office (34 Stat. 814). In 1911, the Tillman Act was amended to require Senators and Representatives and political committees to file reports of receipts and expenditures before and after elections (37 Stat. 25). The first prosecution was not brought until nine years after passage of the original Act.

The Federal Corrupt Practices Act of 1925 required candidates for federal office and political committees to file contribution and expenditure reports with the Secretary of the Senate and the Clerk of the House (43 Stat. 1070). A person who failed to comply was subject to criminal sanctions. In its 47 years of existence, almost no prosecutions were brought under the 1925 Act. Responsible officials shirked their duties. In 1954, Attorney General Herbert Brownell issued an order addressed to U.S. Attorneys that took the position that the Department of Justice would not act in the absence of a request from the Clerk of the House or the Secretary of the Senate. During this period, the Clerk took the position that his duty was to receive the reports but not to make referrals to the Department of Justice.

In *Buckley* v. *Valeo*, the U.S. District Court found, "The Secretary of the Senate, the Clerk of the House and the Department of Justice have largely failed to enforce prior campaign financing practices legislation." *Buckley* v. *Valeo*, Jt. Appendix (Vol. II—part A), Dist. Court Finding 139.

No one seriously questions the fact that the history of campaign finance laws in this country is a history of non-enforcement. It is equally clear that absent effective oversight and enforcement, campaign finance laws will not work.

The Federal Election Commission was created to fill a 70-year vacuum. Its reconstitution with strong enforcement powers is essential to making our new campaign financing laws a reality and not an illusion. Any retreat from independent enforcement can only serve to further erode public confidence.

The Need for Disbursal of Public Funds to Presidential Candidates

In upholding the public financing provisions of the Federal Election Campaign Act of 1971 as amended in 1974, the Supreme Court found: "Congress was legislating for the 'General welfare'—to reduce the deleterious influence of large contributions on our political process, to facilitate communication by candidates with the electorate, and to free candidates from the rigors of fundraising (slip opinion, at 85)."

The Federal Election Commission has established and implemented a system of certification of Presidential candidates and disbursement of public matching funds. These candidates have based their campaigns on the availability of public financing. Their ability to communicate with the voters and the other values noted by the Court is at stake.

It is essential that the system of disbursement that is now in place not be replaced or interrupted. By the same token, the need for action on the certification powers cannot be allowed to serve as a convenient excuse for gutting the Federal Election Commission. Common Cause strongly opposes any effort—whether temporary or permanent—to replace the existing certification mechanism. The "take-the-money-and-run" proposal to give the General Accounting Office "temporary" responsibility is unworkable and unacceptable. It would also set the stage for a refusal to deal with the issue of reconstituting the Commission with enforcement powers. The Comptroller General has opposed this shortsighted scheme in a letter to the Democratic and Republican leadership in both Houses.

The Comptroller General has pointed out: ". . . we have no budget to undertake this assignment. Moreover, we are not familiar with the procedures of the Commission as to how it has carried out its auditing and investigations preparatory to certification. As you can well appreciate, I would not want to certify payments without firsthand knowledge on my part to assure eligibility of candidates for the funds requested . . . *transfer of the responsibility to this Office would be disruptive to the program to say the least and would place upon this Office a responsibility that it is inadequately prepared to take* (emphasis added)."

There is no conceivable justification for Congress to make a sudden shift of this $100 million program from an agency that is prepared to handle it to one that is not.

The Need to Insure a Continuity of Enforcement

Holding the 1976 federal elections without the Federal Election Commission is like playing baseball without an umpire or football without a referee. It is an invitation for chaos. The interests of all participants in the upcoming federal elections are best served by uniform, rather than ad hoc administration. The Supreme Court granted its 30-day stay of its judgment with regard to the FEC because of the obvious public interest in not interrupting the continuity of enforcement.

The Commission to date furthermore has been forced to operate on inadequate interim funding. Its initial authorization expired in June 1975 and has never been renewed. Despite the fact that both the House and Senate passed 18-month authorization bills in June, 1975, no conference has ever been held during the last eight months to work out the differences between the two bills and enact the Commission's authorization into law.

The Commission has recently stated that based on its operating experience it would need approximately $9 million for the 18-month period ending on December 31, 1976. This is a small price to pay for honest national elections.

We urge that in reconstituting the Commission, Congress also provide an adequate authorization to assure that the Commission has the funds needed to carry out its responsibilities.

* * * * * * *

It is time for Congress to do what the Senate has already done on several occasions—to pass a bill creating a properly constituted Federal Election Com-

mission. Nothing less will solve the problem. Attempts to delay or switch authority temporarily will invite chaos, confusion, and corruption. We do not believe that the public will accept this. Nor will they fail to understand how easily it could have been avoided.

Mr. WERTHEIMER. Mr. Chairman, we want to thank you and the other members of this committee for the opportunity to testify today. We believe that Congress must act promptly to reconstitute the Federal Election Commission. We believe that any temporary half measures are unnecessary and unacceptable to the goals of effective administration and enforcement of campaign finance laws.

We strongly oppose any efforts to put a short-term limit on the life of the Commission, which has only been in operation since April 1975.

We also strongly oppose the President's recommendation to Congress on Monday that all of the Federal campaign finance laws in this country be terminated following the 1976 elections, to insure their full-scale review.

We do not believe this approach is necessary or appropriate here. We think that review should take place without such a provision.

The Supreme Court's opinion in *Buckley* v. *Valeo* made it clear in our view that there is no constitutional problem with a Federal Election Commission whose members are appointed by the President and confirmed by the Senate in accord with the appointments clause of the Constitution.

We believe the Supreme Court practically invited Congress to enact a statute to re-create the FEC in this manner.

In granting a 30-day stay of its judgment, the court explained, and I quote, "This limited stay will afford Congress an opportunity to reconstitute the Commission by law or to adopt other valid enforcement mechanisms without interrupting enforcement of the provisions the court sustains."

As suggested by the Court, the constitutional deficiencies of the Commission are easily rectified.

Now, we urge Congress to enact a bill to provide for appointment of the six members of the Federal Election Commission by the President, subject to Senate confirmation. This concept is not new, particularly not new to the Senate and in both 1973 and 1974, the Senate passed campaign reform bills that established independent election commissions with all of their members appointed by the President.

Much of what has been done to clean up our election process will ultimately be undone if the Federal Election Commission is not re-created. Failure to re-create the FEC will be an invitation to return to the corruption of the Watergate days and before.

Prompt re-creation of the Federal Election Commission will serve three important national interests.

It will demonstrate that Congress recognizes that public confidence and meaningful enforcement depend on independent enforcement of campaign finance laws.

It will prevent any interruption in dispersal of public matching funds to Presidential candidates.

It will insure a continuity in the enforcement of the law and guard against arbitrary and selective enforcement.

We have repeatedly urged that an independent Federal Election Commission is essential to any effective system of campaign finance

legislation. A long history of almost total non-enforcement of campaign financing laws in this country is well known and well documented.

In *Buckley* v. *Valeo*, U.S. District Court found, "The Secretary of the Senate, the Clerk of the House, and the Department of Justice have largely failed to enforce prior campaign financing practices legislation."

I do not think anyone seriously questions the fact that the history of campaign finance laws in this country is a history of nonenforcement. And it is equally clear that, absent effective oversight and enforcement, campaign finance laws simply will not work.

We are also opposed and think it would be a serious error to replace the existing certification mechanism for public financing on an either temporary or permanent basis. That has been discussed here by the Comptroller General's representative and others. We do not think it would work. We do not think it would be effective, and it certainly could become a basis for failing to act to reconstitute the Commission.

I would just like one last point, Mr. Chairman.

The Commission to date has been forced to operate on inadequate interim funding. Its initial authorization expired in June 1975 and has never been renewed. Despite the fact both the House and Senate passed 18-month authorization bills in June 1975, no conference has ever been held during the last 8 months to work out the differences between the two bills and enact the Commission's authorization into law.

The Commission has recently stated that based on its operating expense, it would need approximately $9 million for the 18-month period ending on December 31, 1976. We think that is a small price to pay, and we urge that in reconstituting the Commission Congress also provide an adequate authorization to insure that the Commission has the funds it needs to carry out its job.

Thank you very much, Mr. Chairman. We would be happy to answer any questions.

Senator PELL. Basically, the legislation before us you would support is S. 2912; correct?

M. WERTHEIMER. We would support that or any other bill which moves to reconstitute the Commission with enforcement powers.

Senator PELL. And also which includes public financing.

What, in your view, would be the cost of public financing for the Senate and House elections if they were added in a Presidential year?

Mr. WERTHEIMER. I think that really depends on what kind of provision the Congress passes. If it passes a full grant system, the cost would be substantially higher than if it passes a matching system. I think any proposal, any specific proposal, could be costed out if you assumed you were going to limit the amount of public funds that can be made available; and I would imagine that any proposal that does would have to come foward with and should come forward with the figures.

Senator PELL. Senator Griffin.

Senator GRIFFIN. I am not sure I understand. You favor what Senator Kennedy and Senator Scott are proposing, and that is to include in legislation that we are going to pass within the next 11 days, presumably, provision for public financing of Senate-House campaigns?

Mr. WERTHEIMER. Senator Griffin, we have always been on record in favor of congressional financing, and we continue to be in favor of such legislation.

Senator GRIFFIN. Do you think we should do that at this time for this election?

Mr. WERTHEIMER. We think if the Congress is capable of acting in this period of time that it should be done.

Senator GRIFFIN. For the 1976 elections?

Mr. WERTHEIMER. We think that could be done. I would think that there are clear cost limitations that apply if you are going to take the funding out of the dollar checkoff which might limit the amount of money one made available to congressional elections in this year, and that might be one form of limitation that would apply. We do not think that congressional financing should be enacted with respect to the primary elections in 1976.

Senator GRIFFIN. Does it not concern you that public financing in 1976 could be a windfall for those who have filed within the filing dates and that others who may have run on their own, had they known there was public financing available, did not so file?

Mr. WERTHEIMER. Well, I think a large part of that problem is dealt with really if you are just focusing on the general election. I would add that one of the reasons we have overwhelmingly supported congressional public financing is that we feel that it would be very helpful in increasing competition in the political system and I think that would certainly be the case in the congressional public financing passed here.

Senator GRIFFIN. I do not think you addressed yourself to one of the major concerns that has been expressed here about the Supreme Court decision. That is, the lifting of any limit whatsoever of what individuals or special-interest organizations or associations, like Common Cause, could spend in a campaign.

Do you want to comment on that?

Mr. WERTHEIMER. Yes; we are very concerned about that. We do not spend money in support of or in opposition to candidates. That question has been raised by a U.S. Senator.

Senator GRIFFIN. You do distribute educational information, though, about people, do you not?

Mr. WERTHEIMER. Yes. That question was raised when Chairman Hayes directed the GAO to do an investigation and audit of us in 1972, which they did over a 3-month period and issued a report and reached the conclusion that in fact we were not spending money in support of or in opposition to candidates. We think there are a variety of ways of attempting to deal with this problem of independent expenditures. It is a problem.

Senator GRIFFIN. Are you willing to put that over until next year? You did not address yourself to that.

Mr. WERTHEIMER. No. In my testimony, Senator, I addressed myself to the election commission only.

Senator GRIFFIN. That is what I thought.

Mr. WERTHEIMER. No; I think that Senator Cannon, for example, mentioned some provision that Chairman Hayes might have had that dealt with the truth in advertisement to make clear that where independent expenditures were coming from, whether they were authorized

or not, whether on their face they explained that they were unauthorized and whether or not they were made in consultation with the candidate in conjunction with the standards set forth by the Supreme Court, and we think that kind of activity should be looked at and be acted upon and we would be happy to look at any language on any provision like that.

We do think it is a problem that should be dealt with.

Senator PELL. Senator Cannon.

Senator CANNON. Thank you.

You stated that you do not take positions in support of or in opposition to candidates. But how do you arrive at positions on legislation? Is your membership consulted about positions on legislation?

Mr. WERTHEIMER. Yes. We poll our membership annually. We have a 60-member elected board of directors, which is elected by the membership at large. All policy decisions, the major policy decisions of the organization are voted upon and under the ultimate control of the board of directors.

Senator CANNON. So that if you poll your membership annually you do not necessarily include a poll on all of the matters?

Mr. WERTHEIMER. Not every detail, Senator; no.

Senator CANNON. As a matter of fact, this issue here, when it arose a short time ago, was that decided by the board of directors, or was that decided by you, or by who?

Mr. WERTHEIMER. That was decided by our staff with information going to the board of directors.

The position we have taken here is simply the position we have taken for some time now; that there should be an independent Federal Election Commission and we have testified on that on numerous occasions in the past and we have also testified on numerous occasions in support of congressional public finance.

Senator CANNON. I am aware of that.

What I was trying to get at was the point here of the precise problem before us and the time frame. I am wondering how you make those decisions and who makes them, which has the priority.

Is it principally the extension of the Federal Election Commission, or should that be tied together with the congressional financing?

Mr. WERTHEIMER. To us the first priority is the Federal Election Commission. That is the first priority.

Senator CANNON. Has that been determined by your board of directors?

Mr. WERTHEIMER. That has been determined by the chairman of our board, the president of our organization, in conjunction with the staff.

Senator CANNON. With the staff? Not with the board of directors?

Mr. WERTHEIMER. Not that specific one.

The board of directors, every member of the board of directors, was notified about this policy.

Senator CANNON. How many staff do you maintain?

Mr. WERTHEIMER. I think we have approximately—I could get you the exact figures—I think we have about 80 or 85 paid staff and then we have a couple of hundred volunteers who come in the Washington area on a weekly basis; and then we have many, many volunteer citi-

zens around the country who are not paid, but volunteer at the local level.

Senator CANNON. Is the organization itself registered as a lobbyist?

Mr. WERTHEIMER. We are registered as a lobbyist and our lobbyists are registered as lobbyists.

Senator CANNON. How many registered lobbyists do you have?

Mr. WERTHEIMER. We have—again I would like to get to the exact figures—I think we probably have about 14 or 15 people registered as lobbyists. Sir, I would have to get you the exact figures on that, Senator.

Senator CANNON. Incidentally, on page 7 of your statement you refer to the money the Commission would need. You said they need approximately $19 million here.

Mr. WERTHEIMER. No.

Senator CANNON. That was your testimony, but your printed statement says $9 million. Which is it?

Mr. WERTHEIMER. It is $9 million. I am sorry, $9 million was the figure they used. I think they have submitted it to this committee.

Senator CANNON. In the event that the House should act first, should vote and include congressional elections, then you would see no problem with us taking that up and making it an issue on the floor here?

Mr. WERTHEIMER. No, Senator.

Senator CANNON. Did you hear my reasoning before?

Mr. WERTHEIMER. I was in the back, but I heard general reasoning.

Senator CANNON. Do you find any problem with any of that?

Mr. WERTHEIMER. I think our view on those would really depend on what the specific provision said; that is, of course, what we would do immediately after the chairman, at whatever point he introduced the bill, we would intend to review the bill. We would be willing to comment at that point.

Senator CANNON. Thank you, Mr. Chairman.

Senator PELL. Thank you.

Thank you, very much.

Mr. WERTHEIMER. Thank you.

Senator PELL. Our next witness is Mr. George Agree, director, Committee for Democratic Process.

STATEMENT OF GEORGE AGREE, DIRECTOR, COMMITTEE FOR DEMOCRATIC PROCESS

Mr. AGREE. Thank you, Mr. Chairman. I have a short statement.

This is an awkward moment for everyone interested in this subject. The action of the Supreme Court on January 30 confronts us with a completely new situation.

On the one hand, the Court radically undermined the entire conceptual framework of the reforms that had been developed over the past several years.

It would seem to me, in listening to some of the testimony here today, that either this point is not understood or is not agreed to; but it looks to me, Mr. Chairman, as though in many respects we are in the situation of crazy cats still running after we have left the cliff. We do not yet know that some of the ground is out from under us.

This suggests to me a need for long and careful deliberation about the future structure of American campaign finance legislation.

On the other hand, by depriving the Federal Election Commission of its power to disburse public subsidies as of February 29, the Court has created a need for swift and effective action.

It seems to me that we must do immediately what needs to be done to continue the certification and disbursement of Federal campaign funds, and that we should do a little more than that as possible until there has been much more time to think.

I do not like the idea of a Presidential Commission. I fear it. Apparently, in 1974, the Congress feared it. The danger of its membership and staff being stacked by a two-term President, especially one with a Senate controlled by his own party, is very real. And a Chief Executive could use the powers this would give him to discipline members of his own party as well as to harass the opposition.

But an independent agency of some kind has long been needed merely to provide effective administration and enforcement of disclosure laws. And one is now also needed for the 1976 elections to go forward.

On balance, I favor reconstitution of the Commission with Presidential appointments. Also on balance, because I think again the question has to be looked at in the long-range perspective somewhere along the line, I think the life of the Commission should be limited to the purposes of this election. And I would feel safer if its powers could also be limited to the minimum necessary for the distribution of subsidies and the implementation of the disclosure provisions.

Specifically, I think it would be useful to deprive such a temporary commission of any powers relating to the remaining expenditure ceilings—those that a candidate must accept as a condition of receiving Federal funds, first, because I think these ceilings are now meaningless because they will be vitiated by the formation of independent, unauthorized committees.

I would interject that requiring such committees to identify their statements would likely have no effect at all on public reception of their messages.

Second, because the enforcement of expenditure ceilings is a swamp from which, once entered, there is no way out. It requires investigation of everything—and beyond. The mere need to define what fell within the limits was the source of most of the Commission's troubles with the Congress, and its dogged pursuit of precise categories in the swirling waters of American politics impaired its credibility elsewhere as well.

Mr. Chairman, since the Court's decision will have effects beyond the immediate problem of the Commission, I ask your indulgence to mention a few items the committee might wish to consider in its future deliberations.

First, we are thrown off balance by the fact that efforts to achieve public financing in our country were promoted as a means of replacing, rather than supplementing, private funding; and of putting a lid on, rather than helping to meet, the rising costs of political communication.

Now, the invalidation of individual, group, and candidate expenditure limits shatters these pretensions. Every precedent in the history of campaign finance regulation supports the expectation that unchecked streams of big money will flow again, albeit somewhat indirectly through the independent committees.

And I expect that the transparency of any evasion that may be involved will be no more barred through its prompt acceptance as political convention than the earlier $3 million limit on Presidential committees prevented the spending of 10 and ultimately 20 times that amount. Whatever the law permits will be done.

Those familiar with foreign experience with public financing and with American literature on the subject will be neither surprised nor dismayed by this new situation. In all democracies other than ours, the principal reason for introduction of political subsidies was to supplement, not curb, the existing supply of private money because of the latter being insufficient to meet the rising costs of legitimate campaigning, and I stress the word "legitimate." This is, and has been, the case in the United States also; and we should be grateful to the Court for compelling us to face up to it.

Hopefully, renewed perception of these realities will incline us to think again of Government funding as a way to erect financial floors under candidates, rather than of lowering ceilings over them.

Next, Mr. Chairman, I want to make a few observations about the possibility of matching grants for Senate and House campaigns. I believe that they would be preferable to flat grants precisely because of the vitiation of even voluntarily accepted expenditure limits.

If independent commissions are going to be able to operate on behalf of candidates, then the flat grants, with no ceilings, do not make much sense.

But they may create a problem which I suspect the Congress will wish to avoid; under the $25,000 limit on aggregate contributions, it could be possible to give each of 100 candidates a $250 contribution and to have them, all of them, matched. This would mean $25,000 in taxpayer subsidies for the electoral choices of a single donor, and it would represent an automatic doubling of the cloud of any lobbyist seeking to assure his ability to get past the receptionists in offices on Capitol Hill.

The problem could be avoided by providing that contributions would be matched only when received from persons residing in the district or State of the candidate. This would not permit interdistrict or interstate flow of contributions—nor should it, but it would confine the power to double one's influence to the candidate's own constituents.

Finally, Mr. Chairman, all public financing systems pose problems of fiscal control. When public funds are given to private persons or organizations for their own use, safeguards are necessary to insure that they confine the use of this money to the purposes for which it was given—that they not line their own pockets or floors with it, and that the manner of its deployment in the political wars is not inimical to the public interest.

The possibility of effective safeguards has a direct relationship to whether there is full or partial public funding of candidates. It would

be difficult in the extreme for any agency to monitor and evaluate every expenditure made in the course of a single campaign, and impossible in a national election involving hundreds of campaigns.

Even to make the effort could have disasterously chilling effects on political behavior. Yet such an effort would be required in a system of full public funding, in which not to make it would open a wide door to misappropriation and abuse—and finally to scandals that would undermine the system itself.

On the other hand, partial public funding makes it possible to segregate subsides from other moneys, and to require that they be used only for easily verifiable kinds of expenses such as metered postage, broadcasting time, billboards, and telephone charges.

At the same time, salaries, personal expenses, petty cash, and other difficult to trace disbursements could be excluded from payment with tax money. In such a system, it would even be feasible not to give candidates the subsidy funds at all, but to have them submit certified bills for approved expenses which the Government then would pay directly, as is now done in Puerto Rico.

At issue is whether the administering agency will be compelled to give detailed scrutiny to every action taken in a campaign, or only to those involving use of taxpayer funds—whether, in effect, it will have an impossible assignment involving serious danger of stifling the political process, or will work toward the attainable objective of underwriting robust competition and enhancing the openness of our democracy.

Thank you, Mr. Chairman.

I would be happy to answer any questions.

Senator PELL. Thank you, Mr. Agree; an old friend of this committee and the chairman. I am very grateful for your thoughts. You certainly are very informed and qualified to speak on this subject.

The legislation in front of us, the bills, which one would you favor; the simple extension?

Mr. AGREE. The simple extension would be one clear limit. I believe Senator Schweiker accepted such an amendment.

Senator PELL. Do you agree that the one offered by Senators Scott and Kennedy would be a little too complicated?

Mr. AGREE. I would suggest that the Senate and the Congress do the least necessary at this time until there has been time to think through all of the implications of the Court's decision.

Senator PELL. Senator Cannon?

Senator CANNON. Thank you, Mr. Chairman.

You raised some certainly very interesting and very serious questions, I am wondering do you have any possible solution to the very big loophole that you pointed out, and that is the independent expenditure?

Mr. AGREE. Senator, I am not a lawyer, but as I have read the Court's decision—and I have read it several times—I do not think that loophole can be closed. My own impression is that we are just going to have to adjust to the fact. It seems to me that what the Court has said, in effect, because it based its opposing of contribution limits on the corruption element, it seems to me what the Court has said, in effect, is that if the Members of Congress feel that politicians may be corrected

by contributions, they may limit what contributions candidates can receive, but they may not limit anything else that other people may do.

What this does, it seems to me, is set up a situation in which other people will do things. I could go out tomorrow and organize a national committee for independent action and I believe raise unlimited sums which could then be spent in Nevada campaigns or Rhode Island campaigns or anywhere, just so they were not coordinated with the candidate. I do not think that this can be limited and I think it may be unwise to try. It might just provoke other litigation.

Now, if I may, I will make one more point on that.

This puts candidates in a very difficult position with respect to the contribution limits. Many candidates over past years have been worried about millionaires coming in and blitzing them, spending a lot of money on media. In the past it has been possible for a candidate to go to his millionaire friends and say, I am in trouble, help me. After this decision, it seems to me that he has to wait for them to perceive that he is in trouble and to decide to help him out. It is not a very good situation.

Senator CANNON. I must say that I agree with you there. I think it poses a very difficult problem.

You, for example, could only contribute to me $1,000 per election, and yet you could go out on your own and spend $100,000 on my behalf if you wanted to do it. That is kind of a distinction without a difference, it seems to me.

Mr. AGREE. Senator, the question to me seems to be are you going to somehow try to find loopholes in the Court's decision and try to plug up this business, despite the rather emphatic statements the Court has made and the overwhelming vote in favor of that part of the decision, or are you going to say, well, okay, big money is in, but let us see to it that there is a lot of other money so that big money would not have such a deleterious effect.

I would much prefer that second approach. It is the approach the politicians have followed in other countries. It is the approach that most American political scientists who have written on the subject suggest.

If you are asking me do I see any way to stop that big money, my answer is, I do not. Maybe there is, but I suspect there is not, and I think it is hardly worth the effort.

Senator CANNON. Of course, under the Court's decision if we went to the public financing aspect, then we could get back to the limitation on expenditures, but it would go only by the candidate itself and still would not apply to the independent person or to the committee.

Mr. AGREE. Senator, I have an opinion on what I am about to put to you, but I would be interested in yours.

Suppose this law had been in effect in 1972, this Court decision, in effect in 1972. President Nixon had accepted the $20 million and the limit.

Would that have barred Governor Connally or others from going out and raising millions in addition for the Democrats for Nixon or some other committee and spending it?

I do not believe it would have.

Senator CANNON. As long as it was not in collusion with the campaign committee.

Mr. AGREE. And it would not have to be.

Senator CANNON. Well, I think it poses a very serious problem, but I do not know whether I go along with you on the idea that we ought to stop and think about it because it seems to me that there is not too much thinking left to be done. The choices are relatively clear: you are either going to have to go down this road as the Supreme Court has outlined or we are going to have to go to the public financing where we can limit the amount that an individual can spend; and if we go that route, then I do favor your suggestion.

It ought to be on a matching basis rather than an outright grant.

Mr. AGREE. Actually, I would prefer the vouchers, but I think it is a little premature to consider it.

Senator CANNON. Thank you, Mr. Chairman.

Senator PELL. Thank you very much, Mr. Agree. You have been very helpful to us.

Mr. AGREE. Thank you.

Senator PELL. Our next witness is Mr. Herbert E. Alexander, director, Citizens' Research Foundation.

STATEMENT OF HERBERT E. ALEXANDER, DIRECTOR, CITIZENS' RESEARCH FOUNDATION

Mr. ALEXANDER. Thank you, Mr. Chairman.

If my full statement could go into the record, I would just skip through here.

Senator PELL. Thank you very much.

The full statement will be inserted into the record as if read.

Mr. ALEXANDER. Thank you.

[The written statement of Mr. Alexander follows:]

STATEMENT OF HERBERT E. ALEXANDER, DIRECTOR, CITIZENS' RESEARCH FOUNDATION

I am happy to respond to the invitation of Senator Pell dated February 11, 1976, to testify. My statement is my own and does not necessarily reflect the views of members of the Board of Trustees of the Citizens' Research Foundation, which as an organization does not take positions on public policy.

In its decision in *Buckley et al.* v. *Valeo et al.* the Supreme Court has done much to relax some of the rigidities that the Federal Election Campaign Act Amendments of 1974 imposed upon the electoral process. The decision preserved the most desirable features of the law—public disclosure of campaigns for Federal office and public funding of Presidential campaigns—while saving the political system from its most questionable features—the limitations on candidates' campaign expenditures and the ceilings on spending by individuals and by groups independent of the candidate. The decision followed closely the recommendations of the American Bar Association, and adhered to the findings expressed in the political science literature over the years, that expenditure limits would have serious consequences for the political system in terms of their impact upon the relationships between all the actors and institutions—candidates, campaign committees, political parties, interest groups, and volunteers—active in elections.

The decision reopens some lingering questions about how far election reform should go, and what its effects are upon the political process. The 1974 law attempted to do too much, affecting every aspect of political campaigns, their organizational and financial structure. The law was so complex that the Federal Election Commission was inundated with requests for advisory opinions, questions asked by numerous Members of Congress among others, who for fear of

violating the law, asked for an interpretation before taking action. This fear threatened to reduce some spontaneity in the political system and in filtering down to state and local party and other committees would have lessened the enthusiasm of citizens to volunteer their services.

In part, the FEC was not at fault; it was implementing a badly-drawn law which left too much unclear and too much open to interpretation. On the other hand, too many FEC advisory opinions were too narrow and too legalistic, without consideration of their impact on the system. In retrospect, the FEC would have done better to defer so many ad hoc AO's which did not cohere to any controlling goals, and to have spent its first months writing the essential regulations that still do not exist after nine months of operation. What both the 1974 Amendments and the FEC lacked was a philosophy about regulation that was both constitutional and designed to keep the process open and flexible rather than rigid and exclusionary. I hope the Supreme Court decision revitalizes our perceptions about what democracy and pluralism are all about. I hope it leads us to understand that floors, not ceilings, are what are needed; that not too much but possibly too little money is spent to achieve a competitive politics in this country; that there is no value more important than citizen participation, including financial participation, in politics; and that citizen participation is often achieved most effectively through group activity—whether groups represent corporations, labor unions, trade or professional associations, or issues—that should be encouraged, not discouraged, from participating in the politics of our democracy.

Because money has always been a scarce resource in politics, parties and campaigns are dependent upon volunteers to provide free services. A harsh price must be paid for regulation in an activity such as politics, because politics so depends upon citizen volunteers. Candidates and parties cannot as readily pay salaries to workers to ensure compliance, as can corporations and labor unions and others regulated by government. Thus, government regulation of politics, while essential, must be calibrated to achieve the fine balance between keeping politics fair and law-abiding, and overburdening or stifling it. This subtlety was never understood by many advocates of reform, and the Court decision should lead to more balanced perspectives on the potentially serious side-effects of over-regulation. The government's role should be to regulate, not to dominate the electoral processes as the FEC came to do by building an administrative law the average citizen could not cope with. The goals in a democracy should be to encourage political dialogue and citizen participation; at times it is unavoidable that this gives certain advantages to wealthy individuals or special interests. Only those with too little faith fear the full play of ideas and of competition. Unfortunately, many of the far-reaching reforms that were enacted in 1974 tried to restrict and limit certain forms of electoral participation rather than to enlarge it. Some of the reforms became part of a politics of exclusion that should not be acceptable to a democratic society. To help overcome the advantages of wealth, the Supreme Court properly saw that limited government funding of politics should be available to assist candidates and political parties to meet the costs necessary in a system of free elections.

The findings that both the structure and enforcement powers of the FEC are unconstitutional gives Congress the opportunity not only to reconstitute the Commission but also to modify remaining sections of the law. Clearly there is continuing need for a government agency with statutory authority to regulate disclosure and public funding, and to initiate enforcement by referring cases to the Justice Department.

I assume that an independent FEC appointed wholly by the President, making rules affecting campaigns for Congress, would not be acceptable to many. Hence I would suggest a return to something like the 1971 FECA permitted, but with a reconstituted FEC, reduced in staff size and authority, as the single unified agency receiving disclosure reports for campaigns for the President, for Senate and House. I would not return to the tripartite arrangement in which the Secretary of the Senate and the Clerk of the House also have some responsibilities. Not a single state among the 49 with disclosure laws requires legislative agents to receive disclosure reports. Neither would I permit Congressional veto of regulations and opinions, nor require Congressional approval of them. Rather, I would write a law with clear Congressional intent and less discretionary power for the FEC.

It is true that the Constitution requires that each House be the judge of its own members. A FEC need not interfere with the right of each House to judge its members; the data submitted to it would be readily available to the appropriate elections committees and to the membership of each House.

The achitects of the 1974 law based their arguments for government funding of political campaigns on two interrelated theories. One was that government funds should be provided within the framework of campaign expenditure limits, so that tax dollars were simply not being added to whatever private funds could be raised, thus enabling candidates to spend unlimited amounts and escalating campaign costs uncontrollably. The second theory was that government funds should be enacted to provide a necessary alternative source of funds to make up for the reduction in funding caused by the imposing of contribution limits. By declaring expenditure limits unconstitutional, the Court knocked away the first prop, sustaining the argument for government funds, but by retaining the contribution limits, the Court added a strong prop to the second theory.

The Supreme Court tempered its findings by holding that candidates who accept government funds still will be bound by limits. The matching grants plan, currently operative in Presidential campaigns, whereby the government matches contributions up to a maximum of $250, fortunately was accepted by the Court decision. This should encourage candidates to continue to seek to broaden their financial base of support by attracting smaller contributors.

Those who do not accept government funds can spend as much as they can raise, perhaps more if they are permitted to go into debt. A Presidential candidate who chooses government funding in the general election next fall will be limited to about $22 million in spending, all of it received from the tax checkoff funds, whereas a candidate going the private route could spend $30 or $40 million or more. This built-in disparity makes the private route more attractive but only for candidates with high confidence in their fund-raising appeal, or for wealthy candidates spending their own funds. The private option would be risky for candidates without a proven track-record in raising big money in small sums. Once nominated in 1972, George McGovern raised about $16 million in small contributions, but at a cost of $3.5 million in mail costs, $1 million in newspaper ads, and more in appeals for funds tagged on at the end of paid broadcasts. A candidate would need to expect even better gross and net returns than McGovern achieved to risk taking the private route—unless he felt he could get advantage from claiming that his campaign was funded by popular support, whereas his opponents were funded from the public trough.

Serious consideration should be given to raising the Presidential election spending limit for the general election period, extending the matching fund formula now in use, so at no extra tax dollars, private citizens will be able to contribute to the Presidential nominees. I deem the right of citizens to give some money to Presidential candidates in the general election period so important that I would change the law to permit it. Moreover, some $30 million were spent in Senator McGovern's 1972 campaign after he was nominated, not to mention more than that spent for President Nixon's campaign. Given the inflation factor since 1972, I think the $22 million permitted is insufficient to mount a national campaign, and the continuance of that limit will invite substantial spending by individuals and groups independent of the candidates. To head that off, I would frame the law to channel most spending within the candidates' control. To achieve that, I would suggest a $40 million limit with a matching formula for contributions of up to $250 each with an upper matching amount of $20 million—money that will be available in the Presidential Election Campaign Fund. The eligibility requirements might be somewhat different than the 20-state formula used in Presidential pre-nomination campaigns, in order to deal fairly with minor parties. This change might preclude litigation during the Presidential election if a serious third-party movement is mounted. The provisions in the law now for minor party Presidential candidates are still unfair—despite the Court decision—and are further litigable if damage can be shown. Such litigation in the midst of a Presidential campaign should be avoided if possible, and this is a desirable way to do so.

If free speech in politics means the right to speak effectively as the Supreme Court said, the decision is further justification for the use of tax dollars for campaign purposes, to help enable candidates and political parties to reach the electorate effectively. This strengthens the argument consistently suggested in

the literature, that floors, not ceilings, should be enacted. Floors mean the provision of government funds to ensure minimal access of the candidate to the electorate. Beyond that level, candidates can spend as much private money as they can raise. This concept also is accepted in mature democracies around the world, from the Scandanavian countries to Israel, although in these countries money is provided to political parties and not to candidates as it is in our candidate-centered culture characterized by weak political parties.

This concept should help to disengage us permanently from the illusory notion that too much money is spent in politics. The United States devotes a miniscule portion of its resources to politics. In 1972, we spent $425 million on our elective and party politics at all levels, Federal, state, and local, which is less than the advertising budgets of our two largest corporate advertisers. The goal of achieving more competition in elections means we may have to spend more, not less, on politics.

The remaining problem in seeking bigger money in smaller sums is the cost of raising it. For this purpose, provision for seed money is necessary. In this connection, the Supreme Court decision left one major inequity. By declaring unconstitutional the limitation on candidates' spending on their own behalf, the decision opened the way for the return of millionaire candidates who at once provide the funding for their own campaigns and raise the ante for their opponents. Candidates without personal wealth will be disadvantaged unless Congress increases the amounts individuals can contribute to their campaigns.

While the Supreme Court sanctioned the current $1,000 limit on contributions, for purposes of equity this should be raised by Congress to $3,000 or $5,000, or eliminated entirely. And the overall limit a person can contribute to Federal candidates in a calendar year, now $25,000 should be raised to at least $100,000. Raising these limits also would help provide seed-money for candidates who are not well known, who represent unpopular viewpoints, who come from a poor constituency, or who need substantial funds to initiate their direct mail drives for funds in smaller amounts.

While the thrust of the 1974 Amendments was in the direction of restricting large contributions and special interests, the Supreme Court's thrust was to reopen channels for significant big money to reenter politics. It is desirable to channel such money into the candidate's campaign rather than for it to be spent independently in ways that may be wasteful and counter-productive.

Mr. ALEXANDER. I am happy to respond to your invitation to testify. My statement is my own and does not necessarily reflect the views of members of the board of trustees of the Citizens' Research Foundation, which as an organization does not take positions on public policy.

In its decision in *Buckley et al.* v. *Valeo*, the Supreme Court has done much to relax some of the rigidities that the Federal Election Act Amendments of 1974 imposed upon the electoral process.

The decision reopens some lingering questions about how far election reform should go, and what its effects are upon the political process.

The 1974 law attempted to do too much, affecting every aspect of political campaigns, their organizational and financial procedures. The law was so complex that the Federal Election Commission was inundated with requests for advisory opinions, questions asked by numerous Members of Congress, among others, who for fear of violating the law, asked for an interpretation before taking action.

This fear threatened to reduce some spontaneity in the political system and in filtering down to State and local party and other committees would have lessened the enthusiasm of citizens to volunteer their services.

In part, the Federal Election Commission was not at fault; it was implementing a badly drawn law which left too much unclear and too much open to interpretation. On the other hand, too many Federal Election Commission advisory opinions were too narrow and to legalistic, without consideration of their impact on the system.

In retrospect, the FEC would have done better to defer so many ad hoc AO's which did not cohere to any controlling goals, and to have spent its first months writing the essential regulations that still do not exist after 9 months of operation.

What both the 1974 amendments and the FEC lack was a philosophy about regulation that was both constitutional and designed to keep the process open and flexible rather than rigid and exclusionary. I hope it leads us to understand that floors, not ceilings, are what are needed; that not too much but possibly too little money is spent to achieve a competitive politics in this country; that there is no value more important than citizen participation, including financial participation, in politics; and that citizen participation is often achieved most effectively through group activity—whether groups represent corporations, labor unions, trade or professional associations, or issues—that should be encouraged, not discouraged, from participating in the politics of our democracy.

Because money has always been a scarce resource in politics, parties and campaigns are dependent upon volunteers to provide free service. A harsh price must be paid for regulation in an activity such as politics, because politics so depends upon citizen volunteers.

Candidates and parties cannot as readily pay salaries to workers to assure compliance, as can corporations and labor unions and others regulated by Government.

Thus, Government regulation of politics, while essential, must be calibrated to achieve the fine balance between keeping politics fair and law abiding, and overburdening or stifling it.

This subtlety was never understood by many advocates of reform, and the Court decsion should lead to more balanced perspectives on the potentially serious side effects of overregulation.

The Government's role should be to regulate, not to dominate the electoral processes as the FEC came to do by building an administrative law the average citizen could not cope with.

The findings that both the structure and enforcement powers of the FEC are unconstitutional gives Congress the opportunity not only to reconstitute the Commission but also to modify remaining sections of the law. Clearly, there is continuing need for a Government agency with statutory authority to regulate disclosure and public funding, and to intiate enforcement by referring cases to the Justice Department.

I am going to skip the whole next page and move on to page 4, the first paragraph.

Serious consideration should be given to raising the Presidential election spending limit for the general election period, extending the matching fund formula now in use, so at no extra tax dollars, private citizens will be able to contribute to the Presidential nominees.

I deem the right of the citizens to give some money to Presidential candidates in the general election period so important that I would change the law to permit it.

Moreover, some $30 million were spent in Senator McGovern's 1972 campaign after he was nominated, not to mention more than that spent for President Nixon's campaign.

Given the inflation factor since 1972, I think the $22 million permitted is insufficient to mount a national campaign, and the continuance of that limit will invite substantial spending by individuals and groups independent of the candidates.

To head that off, I would frame the law to channel most spending within the candidates' control. To achieve that, I would suggest a $40 million limit with a matching formula for contributions of up to $250 each with an upper matching amount of $20 million per candidate.

The eligibility requirements might be somewhat different than the 20-State formula used in Presidential prenomination campaigns, in order to deal fairly with minor parties. This change might preclude litigation during the Presidential election if a serious third-party movement is mounted.

The provisions in the law now for minor party Presidential candidates are still unfair—despite the Court decision—and are further litigatable if damage can be shown. Such litigation in the midst of a Presidential campaign should be avoided if possible, and this is a desirable way to do so.

Now, on page 5.

Hopefully, some of the concepts in the Supreme Court decision should help to disengage us permanently from the illusory notion that too much money is spent in politics. The United States devotes a minuscule portion of its resources to politics. In 1972, we spent $425 million on our elective and party politics at all levels, Federal, State, and local, which is less than the advertising budgets of our two largest corporate advertisers.

Senator PELL. I would like to point out though that comes out to be about $2 a head for every man, woman, and child.

Mr. ALEXANDER. Right. That is right, Senator.

The remaining problem in seeking bigger money in smaller sums is the cost of raising it. For this purpose, provision for seed money is necessary and that was discussed some this morning.

In this connection, the Supreme Court decision left one major inequity.

By declaring unconstitutional the limitation on candidates' spending on their own behalf, the decision opened the funding for their own campaigns and raised the ante for their opponents. Candidates without personal wealth will be disadvantaged unless Congress increases the amounts individuals can contribute to their campaigns.

While the Supreme Court sanctioned the current $1,000 limit on contributions, for purposes of equity this should be raised by Congress to $3,000 or $5,000, or eliminated entirely.

And the overall limit a person can contribute to Federal candidates in a calendar year, now $25,000, should be raised to at least $100,000.

Raising these limits also would help provide seed money for candidates who are less well known, or who represent unpopular viewpoints, who come from a poor constituency, or who need substantial funds to initiate their direct mail drives for funds in smaller sums.

While the thrust of the 1974 amendments was in the direction of restricting large contributions and special interests, the Supreme Court's thrust was to reopen channels for significant big money to re-

enter politics. It is desirable to channel such money into the candidate's campaign rather than for it to be sent independently in ways that may be wasteful and counterproductive.

Thank you.

Senator PELL. Thank you very much.

Senator Cannon, do you have any questions?

Senator CANNON. Thank you.

You certainly point out some very interesting problems here in connection with this.

I note that you have some support among some of the earlier witnesses today with respect to the limits, the contribution limits.

I have listened to you with a great deal of interest. I want to thank you for being here.

Mr. ALEXANDER. Thank you.

Senator PELL. Thank you very much, Mr. Alexander.

Our next witness is Ms. Ruth Clusen, president of the League of Women Voters.

Welcome, Ms. Clusen. I have a tremendous regard for the good work of your membership, and I know our own Rhode Island League of Women Voters are seemingly well informed and I think always are in the right direction.

STATEMENT OF MS. RUTH CLUSEN, PRESIDENT, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES

Ms. CLUSEN. Thank you, Senator.

I appreciate the opportunity to appear today.

As you know, I represent the constituency and I do know what they think because we have asked them about campaign financing from the time in 1973 when we first embarked on a broad study of it. So I assure you that the views I speak to today do represent our 1,350 leagues, with some 140,000 members.

We are limiting our comments today to what we consider the basic issue at hand, which is the state of the Federal Election Commission, although we do have positions on a great many things in regard to campaign funding.

Essentially I am here today to urge you and indeed the entire Congress to act speedily to pass legislation that would reconstitute an independent Federal Election Commission, a Commission appointed by the President with the advice and consent of the Senate.

I would like to say in some respects I share the opinions expressed by Fred Wertheimer of Common Cause, who urged adequate funding. I cannot speak to the exact level, but I do think that operating on the basis of interim funding is not really a viable basis and while you are at reconstituting it, perhaps we can do something about more permanent funding as well.

The campaign finance issue, and particularly this now concerned with the constituency of the Commission seems to us to be filled with rhetoric and emotionalism and we hope that the congressional debate on this will not take on this kind of pitch; that it will focus on the necessities of the situation within the next 11 days; and that the Con-

gress will put aside any emotion or self-interest which they feel about it as a result of any of the activities of the Commission during the time it has been in operation.

We have felt from the very beginning that an independent Commission with broad enforcement powers is keyed to a viable law in this field.

We think the most important contribution we can make right now is to try to steer discussion back to what seems to us to be the real issue involved, which is the vigorous enforcement of the campaign law in an effort to restore public confidence in Government.

In our own study of campaign financing we had overwhelming agreement that an independent body was essential to campaign reform and indeed from the very beginning we saw some deficiencies in the law in regard to the way it set up the Commission.

In fact, we said in the beginning that an independent body, as we saw it, referred to an elections commission which would centralize reporting, oversee campaign receipts and expenditures, and enforce the campaign financing laws and that the Commission must be adequately funded instead with the powers to investigate, to subpena, to initiate court action against violators and to have strong penalties against violators.

Throughout the debate on the passage of the 1974 amendments, we repeatedly stressed the need for this; and I think this is even more apparent in the year that has passed since that time. In fact, because of our strong commitment to this we intervened, along with the Center for the Public Finance of Elections and Common Cause to defend the law in the case of *Buckley* v. *Valeo*.

As you know, the Supreme Court upheld the major provisions, but we think this would be a hollow victory, if indeed it was one, if the law which we defended were not enforced.

I urge you to consider the kind of situation which would exist if Congress does not reconstitute an independent commission.

Without it, there will be no place for the hundreds of candidates and politically active persons to turn for authoritative answers and interpretations of the complex law. Certainly candidates are already confused enough and, I might say that we are ourselves in somewhat of that bind because we are doing a series of Presidential candidates and our baseline are those that qualify for public financing.

We are awaiting our decision right now two that are pending. We think the vast majority of candidates really want to comply. They do not want to obscure or avoid the law, but they will have no one to turn to for guidance if Congress does not act in the next few days.

I heard the testimony of the Commission that they have received around 300 requests, as we understand it, including requests for opinions of counsel. Actually, there are some 500 advisory opinions requested and pending. It seems to us that neither the Justice Department nor the General Accounting Office nor the Clerk of the House and the Secretary of the Senate are really a feasible alternative to an independent commission and that to go that route would put us back where we were in 1972.

The chief problem, of course, with the previous law was enforcement. Its penalties were too low. Its apparatus was inefficient. Its en-

forcement authority was fragmented. It amounted to a slap on the wrist. There has been a lack of uniformity in handling and reporting complaints, a lack of central control.

So essentially what we are saying is, let us not turn back the clock. The most important drawback in the past was the monitoring bodies lacked the power of subpena. They had to look to the Justice Department for full enforcement.

Of the thousands of reported violations transmitted to Justice, action was taken in only a few cases. If campaign reform is to have real meaning, effective enforcement is a must.

We think the need for the mechanism is not confined to the issue of campaign financing. In fact, the current call for lobby registration reform is again a response to the recognition that laws in the books are meaningless without enforcement.

The one thing we seem to have to learn over and over again is the passage of law is not enough; it has no effect without the power of enforcement. In this case, we see an independent commission with full regulatory powers is essential.

We urge the Senate and indeed every Member of Congress to put aside any of the hostilities which have arisen in the past year and to make clear the issue, which is that of an independent commission.

Without an independent commission, the campaign finance laws will be meaningless. We think the people will not be satisfied with less than reconstitution of an independent commission; and we think it might indeed interpret the failure of Congress to act as an attempt to renege on its promises to the public.

The mood of the public in this election year is not easy to guess, but if we had to guess, we would say that the public will not easily forget nor will it forgive either the lack of action on the part of the Congress or reluctance or lip service on this issue as a result of the traumatic times we have all been through.

I would be glad to answer any questions.

Senator PELL. Thank you very much indeed, Ms. Clusen. I appreciate your testimony.

Senator Cannon?

Senator CANNON. You do not take any position on this, on the question of public financing?

Ms. CLUSEN. We have, and, as I said, we have positions throughout this whole field. I think I would have to say honestly that our fear is that it could get so tied up in this that what we think is most essential to accomplish would not happen.

We do support a combination of public and private financing. We do support extension of public financing to candidates for Congress. Certainly we would be glad to see these things happen, but pragmatically speaking, I guess given the passage of legislation in the Congress, we do not think it can take place in 11 days, and this is more important to us.

Senator CANNON. Thank you very much.

Senator PELL. Thank you very much.

Our next witness is Mr. Ira Glasser, president of the New York Civil Liberties Union.

STATEMENT OF IRA GLASSER, DIRECTOR, NEW YORK CIVIL LIBERTIES UNION, ACCOMPANIED BY PROF. RALPH WINTER, YALE LAW SCHOOL

Mr. GLASSER. Thank you.

I am Ira Glasser, director of the New York Civil Liberties Union. With me today is Prof. Ralph Winter of Yale Law School.

As you probably know, the New York Civil Liberties Union was a plaintiff in *Buckley* v. *Valeo*, and Professor Winter was counsel in that case for plaintiff Senator Buckley.

We appear here today jointly on behalf of the American Civil Liberties Union. We would like the opportunity to submit written testimony to you within a couple of days.

We thought now we would simply like to comment informally and briefly on a variety of the issues that face you.

It is our view that taken as a whole the Congress enacted with insufficient scrutiny the first time the Federal Election Campaign Act Amendments of 1974, and its predecessor act of 1971, as well.

We believe that in addressing yourselves to the constitutional questions involved in achieving the ends of the bill, you listened to the wrong advice, and paid insufficient attention to the constitutional limits. As a result we and others started that litigation which ended in the Supreme Court decision last January, and as a result we now all have to function within the first amendment limits that the Court set down.

What is left of the bill can fairly be called a wreckage, I think, and I think it would be a mistake to automatically defend that wreckage as if it were an original bill.

I think it is fair to say that if what is left now of the law were submitted initially as a proposed bill nobody would have supported it. It would be much better, I think, to begin from scratch, to take the court decision as a signal to go back and do it right this time, and to separately address each of the problems which the legislation sought to address the first time, but this time within the limits set by the Court.

Professor Winter will comment first on our view on the Federal Election Commission, and also on limits on contributions, and I will comment afterward on disclosure of public financing and the voluntary funds that are available to corporations and unions.

Mr. WINTER. Thank you.

We favor the reconstituting of the Federal Election Commission with only the power to administer the reporting and disclosure provisions, and the power to supply candidates for Federal funding in Presidential elections.

We would leave enforcement and the rest of the statute to the ordinary law enforcement agencies. We think that a commission with broad law enforcement powers carries with it many dangers, some of a philosophical nature, some more of a pragmatic nature. The existence of the commission really calls for law enforcement, and really calls for the constant monitoring of political activities, much of the same kind that was criticized in the case of the FBI.

Whereas it may have been unauthorized there, nevertheless the danger is the same.

Secondly, we feel that a commission will constantly expand its powers and be constantly rewriting the law without regard to the intent of Congress.

We think to some extent the Commission has publicized intervention in the *Morton* case, which was an instance of its undertaking without extended hearings and interpretation of the law that was hardly clear.

Finally, as a practical matter, I would like to disagree with some of the people who testified earlier as to what a great thing it is to have a commission that hands out advisory opinions.

No candidate can, without risking loss at an election, disobey, or go against an opinion issued by this Commission. Yet there is also no time to have a full hearing on the merits, or a full hearing before courts.

We very often have an ad hoc decision by a commission that does not even have the lifetime status of an article 3 court, and we find that to be very dangerous.

In the case of *Rogers Morton*, for example, the chairman of the Commission apparently just went to the newspapers and declared his view that something illegal had gone on. This itself is politically damaging.

The White House, although they continue to say they thought they were right on the law, felt compelled nevertheless to accede to this exercise of power by the Commission, which, so far as I know, did not follow any notice right to a hearing, or any other due process procedure.

Mr. Glasser can testify to an example in New York where the State election commission did a similar thing, and the opponent candidate immediately began to print leaflets stating that the State election commission stated that someone had violated the law.

I think if the Senators would take into account what happened to them with the Commission really, not subject to judicial review handing down ad hoc decisions in public during a campaign, they might be less anxious to reconstitute such a power.

As to contributions, I would raise only two points, going to the unfairness that has now worked as a result of the Supreme Court decision.

The first is that candidates will have lost control of a large part of their campaign.

Mr. Agree has stated it better than I think I can. It is just as to how money will flow into campaigns, and candidates will see their positions perhaps stated wrongly, perhaps either opponents attacked in ways that would create sympathy for their opponents, and the other things that happen that, in effect, they are unable to control.

That seems to me to be unfortunate, and it seems to me to be unfair to candidates.

The second point is a point about wealthy candidates. I really am amazed. I have been following the passage of the 1974 act, and that act was rarely mentioned without the statement that it will drive the wealthy from politics, and we will no longer have a situation where the wealthy have an advantage of gaining public office.

I am amazed to sit here today and hear advocates of the statute say, gee, the major provisions were upheld, that everything we wanted we got. There have not been that many changes. All we need now is a new Federal Election Commission.

Well, of course, the truth is otherwise. There has been a lot of speculation as to the effect of the statute, but we do not have to speculate very hard as to one effect of this court decision if Congress does not list the contribution limits.

More wealthy people will run for office, and more wealthy people will win office, and there really cannot be just any doubt about that.

Mr. GLASSER. As to the disclosure provisions, I think it is important to read the Court's decision very carefully. We have no quarrel with the Court's criteria, which sets down after a long recitation of the line of cases, beginning with NAACP against Alabama, in protecting the parties who may say harassment.

We think Congress need go no further than trying to paraphrase that in statutory language.

We are happy with the Court's criteria, and think it adequately protects the interest of associations in that respect. We do think that it must be listed according to the criteria the Court sets down.

The Court, after all, said that the only thing that one had to balance on the other side was the possibility of corruption, or the appearance of corruption, the possibility, put colloquially, of buying a candidate.

We submit that the present threshold levels which require candidates and parties to keep records of $10 contributions subject to audit by the Commission, and require automatic disclosure of $100 or more is far too low to be even reasonably expected for any candidate.

The Court agreed with us quite explicitly, but referred it to Congress in setting that limit higher, and we think Congress should accept that deferral, and go ahead and raise the threshold.

We would recommend that the recordkeeping threshold be limited to $100 contributions, and that there be a sliding scale upward for disclosure for office. The exact figure, obviously, is open to debate, but we would suggest something like $250 for Congress, $500 for the Senate, and $1,000 for the Presidency.

We think that it is patently absurd to suggest that contributions smaller than those for those offices could be set to buy a candidate, and, if they cannot buy a candidate, we think that the right of association privacy should win out.

We would also suggest that the burden of keeping those records is substantial, particularly on small, underfinanced campaigns. The burden of just keeping the records so that they will have it if the Federal Election Commission decides to audit, is a tremendous burden, and should not be undertaken when you are dealing with a level under $10.

We would also suggest that parties and candidates which expend a small amount of money in pursuit of an office be entirely exempt from disclosure, no matter what the size contribution is.

We believe that that is important for this reason: If the candidate or party is so small as not to be serious, one might set that level at different amounts, depending on how you decided what was serious and what was not, but it would seem to me that they ought to be exempt from the burden entirely, a burden which is substantial in terms of small parties.

It will be argued that disclosure is important, even for trivial candidacies, in order to prevent stalking horses. My response would be that a stalking horse cannot stalk very far if it is not spending too much money.

I would not presume to suggest what level that ought to be. I do think the Congress ought to do now what it did not do before, and that is pay attention to the level that is really important for the people to know. That is a clear mandate of the court.

Apart from that, we are happy with the disclosure remedy. We think, of course, it is the preferred remedy.

We think limits on contributions and expenditures, and having the public know who was beholden to who is the ultimate sanction.

After all, remember, we have never functioned in this country with a full disclosure provision before. Whatever ills may have existed prior to this act, they did not exist in an atmosphere in which full disclosure of admittedly large contributions to major party candidates was mandated.

The evil that was involved when people set out to cast their ballot was not that large amounts of money was going to candidates, but more that nobody knew about, and not knowing about it, the voters were not able to apply their sanction.

The ultimate sanction on large contributors is the vote, not a regulatory system, not a system of criminal laws, not a system of prohibitions or certifications and monitoring political activity, but the sanction is the vote, and the reason why that sanction never was before was because the voters never knew before.

We think at the very least that a less drastic alternative ought to be tried before you start monkeying around with the first amendment.

As to segregated funds, this act continued to permit, in some ways expand, and the Court decision expands still further, the power of special interest by corporations and unions.

We think if you are interested in equity, if you are interested in putting candidates on a more equal financial footing, if you are interested in opening up elections to the small people, that the small contributors, that the most significant thing you can do is not focus upon the few rich maverick individuals, but rather upon the real exercise of financial power involved in politics in this country, and that is the enormous concentrations of money and wealth that is implicit, namely, in corporations and unions.

This bill allowed them more power than they had ever been allowed before. It created the situation where they could proliferate their commissioners, and where they can raise virtually an unlimited amount of money, spend an unlimited amount of money, and now the act makes it worse by placing an individual limit on contributions, by allowing that to stand while it allows unions and corporations to go their merry way.

I think it is not an exaggeration to say that to a large extent these special interests now have the capacity to capture the dominant influence in both major parties, and insofar as the public financing provisions, the major effect is to fund the two major parties, and taken together you have a kind of political religion in this country.

There are two political links, to be exact, Democrats and Republicans, each with its own special interest, and it is fair to say that most

political funding has to go through each of those special interests, and each of those political links in order to be accepted. Everything else is relegated to the wayside.

We think that the present prohibitions on direct contributions of money by corporations and unions, two candidates ought not to have the present exemptions.

To facilitate voluntary funds is not construed as contribution, and hence is permitted. We think that you ought to construe it as a prohibition, and we think you ought to prohibit it.

We think if you do that, what will happen is that you will eliminate the major source of institutional financial inequity in this country.

As to public financing, we would agree with a good deal of what has been said before about the present scheme, and also the inherent discretion.

Tomorrow Ellen McCormack is going before the Federal Election Commission to get her fund certified. I understand that a rival group is also going to file a complaint saying that she is not bonafide, that she had misrepresented her position, she has misrepresented her candidacy, and she should not be certified, for example, she should not get the funds.

The first amendment does not include that kind of adjudication by a Government agency. We do not want to see a situation where somebody runs for office, and somebody else is opposed to their substantive position, and goes in and makes complaints, and the Government gets involved in adjudicating who is right and who is wrong, and who is misrepresenting, and who gets the money.

We say this even though our position on the question of abortion could not be further removed from Ellen McCormack's.

We would also suggest one small revision which we think is directed by fairness in your current scheme. We think that the entire Federal Election Campaign Act and its amendments, with the possible exception of the discharge provisions, ought not to apply at all to any candidates or parties who are not eligible for public funding.

We say this for one reason, if they are not eligible for public funding, it is because you have made your judgment that their candidacy is sufficiently small as to not be paid attention to.

The probability of success is so low that you do not have to give it public funding.

If its probability of success is so low, then it seems to me, the appearance of a corporation, the quid pro quo, the buying of a candidate, is equally low.

If a candidate or a party cannot be strong enough to qualify for public funding, it cannot be strong enough to qualify for limits on contributions.

So at the very least I think the public financing ought to be amended in that fashion.

I think we will now be prepared to submit to any questions you might have.

I would also like to submit a small booklet that we have prepared, which sets forth more fully our positions on all these matters for the record.

Senator PELL. It will be kept in the subcommittee files.

Then, in essence, with the various legislation and bills, you would support the Kennedy-Scott bill, title 1 of the Kennedy-Scott; is that correct?

Mr. WINTER. We have not seen those bills, Mr. Chairman.

From the description I have heard, I suspect the bill we would be most likely to support, the one that would come the closest, but we do not think goes far enough, is the one introduced by Senator Buckley.

We do not want law enforcement policy in the Commission.

Senator PELL. Thank you.

Mr. GLASSER. I would say that like other speakers it is kind of difficult to deal with the exact provisions of language of a bill that you have not seen or just recently seen. The only bill I have seen at all, the only bill I have touched at all, is the Buckley bill and that not more than 10 minutes ago when someone handed it to me. I think we will be prepared to say more explicitly later, but I think at this point we should set forth the criteria and have you evaluate the rules by our criteria.

Senator PELL. Thank you. Senator Cannon.

Senator CANNON. Is there any question about the constitutionality of Congress giving the enforcement power to the Federal Election Commission?

Mr. WINTER. I think there still is a question of constitutionality left in that there are many decisions of the Supreme Court saying you cannot delegate excessive discretion in the first amendment area to an administrative body. These are all cases with State legislation, but we made the argument in the Supreme Court.

Senator CANNON. I am glad to know that we are in accord on the recordkeeping of the $10 contribution. It seems to me that serves no useful purpose, and certainly until you get to the point that it has to be disclosed, unless you are going to assume that the Commission might want to come back and audit all of your less than $100 contributions, I do not think it serves any useful purpose.

You suggested that we ought to go to a higher limit on the disclosure.

What do you have in mind there?

Mr. GLASSER. Well, I think that the actual numbers could bear some discussion, but I would suggest to begin with that the following criteria be developed:

The Court made it clear, and I think you would agree that if there is a purpose to disclose contributions it is to disclose those contributions where the people contributing might be expected to have more influence than your average $20, $30, $40 contribution. I think that is something that the public has a right to know about before it casts its ballot.

The question is what level would that be before one can reasonably expect to exercise that kind of influence. I think immediately it becomes apparent that that is different in different offices. Whatever the size contribution will get you in the front office to a Congressman's office, it would not get you into the front door of the White House, and I would expect the Senate is somewhere in between.

We would suggest a sliding scale and for purposes of suggestion we would like to begin with about $250 for the House, $500 for the Senate, and $1,000 for the Presidency in terms of automatic disclosure

with recordkeeping being mandated down to $100 so if there is any reason to believe that there is a manipulation going on by busting up large contributions into small contributions, they could still be audited with some kind of recordkeeping mandated at $100 or above and we think the automatic disclosure can be moved up by small amounts.

You pointed out some of the problems in connection with the advisory opinion subject and were critical of them.

Do you not think it is better to have someone giving guidelines in the nature of an advisory opinion or in some form on which a candidate can rely rather than have the candidate in a position that he just has to go ahead and take a chance? Here at least he has a prima facie compliance with the law if he abides by the decision.

Mr. WINTER. Well, he may not.

I forget the exact statutory language, but you are not totally protected against criminal prosecution. The problem is the criminal prosecution is in the Justice Department whereas the advisory opinion is in the Commission.

Senator CANNON. You would admit there would be a strong presumption in his favor if he followed the opinion?

Mr. WINTER. Probably. The problem is there will also be a strong presumption against him.

The point I was raising, and I think it is a very valid point, is that you candidates will never really get a full hearing on those rules. You know, you do not really get to argue it or anything else and you are really stuck with it. You cannot start disobeying that in front of your constituency.

Senator CANNON. I agree. You have no chance to contest it on the rulemaking.

I think it is a very valid point you raise, but I am also concerned about the fact that a candidate needs to have some place he can go and get some kind of guidance.

Mr. GLASSER. Not if you accept all of our proposals. If you would accept all of our proposals, the scheme would be so simplified that that apparatus would not be required.

We, after all, believe and to a large extent the Court has agreed by now, that disclosure was the main remedy. That is a rather simple remedy. We believe in the first amendment area you do take your chances, you do say what you want and spend what you want, and you do not want a Government agency getting involved saying it was lawful or unlawful, certified or not certified, when you have not had a chance to deal with that presumption of legitimacy which the public has a right to read into.

The incident that Professor Winter referred to in New York involved the State election commission there certifying as having violated the law particular leaflet of a candidate. We eventually represented that candidate and got a first amendment decision reversing that, but by then the election was over and the candidate's opponent had printed up his own leaflet and taken out ads in the newspaper saying the State election certified my opponent as a lawbreaker. One was free speech and the other was not.

I think that that kind of thing is implicit when you have the intervention of the Government agency deciding what is permissible speech and what is not, that which is not contemplated by the first amendment.

We think if you go to a simpler scheme that relies primarily on the disclosure, which has never been tried in this country, and let the voters apply the sanction, let the voters give the advisory opinion on election day, I think we at least have the obligation to try that before we rush off into these other schemes whose results we can barely contemplate.

Senator CANNON. Of course, that is what we had in mind in the previous law; trying to go to the full disclosure provision and see if that would not take care of the problem.

Mr. GLASSER. Well, that was a full disclosure provision which was not narrowly enough drafted to avoid the infirmities that the Court pointed out. I think it is possible to draw a provision which does not suffer from the effects of predecessor law, does not spill over to political groups, like the Common Cause, like that, but which does deal with disclosing large contributions to major party candidates. That merely is where the abuse is, after all. Nobody is interested in who contributes $50,000 to Norman Thomas' campaign. That is not what this law is supposed to be directed at. What we are really interested in and what this law is really directed at extensively is to let the people know what big money is behind the major Democratic and Republican candidates and once you draw the lines carefully on that I still submit that is a technique which has never been tried and is at least a drastic alternative that ought to be tried.

Senator CANNON. What is your suggestion for the problem of the independent spender or independent committee?

Mr. WINTER. We think you ought to raise the contribution limits so more money can flow to the candidates and they can control their campaigns.

There is nothing in the Court's decision you can do about it.

You are either going to be faced with an enormous ludicrous situation where you spend your time denying what all these people are saying or defending charges that you have coordinated with them.

I think you ought to raise the contribution limits.

Mr. GLASSER. We, in our position, do not face that problem, but the Court has left us with making that somewhat bizarre distinction that one kind of expenditure is OK and the other is not and it is OK if it is independent, which means you are going to expect conspiracy investigations as to who is saying what to whom and under what circumstances. Given that situation, the Court has said it is all right to maintain the contribution limits, but I think you ought to use your discretion to at least raise them to avoid the anomaly that the Court decision has left us with.

Senator CANNON. Thank you very much.

Senator PELL. Thank you very much indeed, gentlemen.

Mr. GLASSER. Thank you.

Senator PELL. There is going to be a rollcall vote, two of them, which should pretty well wind up the afternoon.

Mr. Brice Clagett, Covington & Burling, is the next witness and then Ms. Cynthia Burke, Secretary, Committee for Democratic Election Laws.

Mr. Clagett, you can come forward first and if the bell starts to ring I will have to ask you to submit the rest of your testimony and I will give the remaining 4 or 5 minute to Ms. Burke.

STATEMENT OF BRICE CLAGETT, MEMBER, LAW FIRM OF COVINGTON & BURLING, WASHINGTON, D.C.

Mr. CLAGETT. Thank you, Mr. Chairman.

My name is Brice Clagett. I am a member of the law firm of Covington & Burling. I was one of the lawyers for the plaintiffs in the case of *Buckley* v. *Valeo*, some of the consequences of which you are considering today. I do not appear here as a representative of those plaintiffs or anyone else, but simply as a citizen who over the past year has had occasion to do a good deal of thinking about the election laws.

I will just hit the high spots and give my statement to the reporter.

The Supreme Court has now clearly recognized that any regulation of campaign expenditures and contributions operates in a critically sensitive area of constitutional concern.

Moreover, the election law is both highly complex and in many respects, perhaps unavoidably, vague.

In these circumstances, the power to interpret the law is largely the power to make new law. A Commission with that kind of power has vast influence over the political process.

My testimony then concerns two adjustments that, in my view, need to be made to the committee's powers if your decision is to reconstitute it to say that from being held unconstitutional all over again.

It is highly inappropriate, and perhaps unconstitutional, for any agency in effect to make law in an area trenching so sharply on so basic a constitutional right as freedom of speech. The fact is that, when either a candidate or an ordinary citizen is told by the Commission that certain political activity would violate the law, he will in the overwhelming majority of cases refrain from engaging in that activity although he is convinced the Commission's interpretation is wrong. He will thus be chilled from exercising what a court might well ultimately hold were his rights under both the Constitution and the statute. He will in effect be subjected to a prior restraint on the exercise of his first amendment rights by action of the Commission.

It may well be that this chilling effect or prior restraint resulting from Commission pronouncements would itself be held to violate the Constitution. In my opinion, it would be. The Court had no occasion to decide that issue in *Buckley* v. *Valeo*, because the Court held the Commission's powers unconstitutional on other grounds.

So if the Commission is reconstituted without any changes to address the problem, I suggest there will still be a heavy constitutional cloud over the Commission and the removal of that cloud will necessarily await further litigation.

Now, Professor Winter a moment ago addressed himself to some extent to the same problem under the name of unconstitutional discretion in the Commission in the first amendment area and he suggested that one solution was not to give the Commission any rulemaking or advisory opinion power. That is one solution, but I see myself very strongly the force of Senator Cannon's observation that some guidance is needed for candidates and others so that citizens can get help in deciding what they can safely do.

So, I would suggest another solution to you. The Commission should not have rulemaking power. It should have the power if it has enforcement power to grant advisory opinions and issue guidelines, but there should be a very explicit provision to the effect that such pronouncements do not have the force of law, are valid only to the extent they conform to the statute, may not be used to create any presumption of violation or criminal intent in an action against a candidate or other citizen who has chosen to disregard them, and they are inadmissible as evidence against the citizen in such an action.

Such a provision is incorporated in Senator Buckley's bill, or that it could well stand being made more detailed and more explicit.

Only by such a solution, I submit, can the Congress prevent the Commission from operating as a czar over the entire political process whose every view has the force of law for most practical purposes. Only thus can citizens be permitted their constitutional right to disagree with the Commission, to act on that disagreement, and to take their chances with the statute as the Congress wrote it and enacted it without any presumption, in fact, or law that they are in violation merely because of what the Commission has said. That kind of presumption, it seems to me, would follow some agency expertise or from the binding effect of regulations or however you characterize it, it is clearly unconstitutional when applied in the first amendment area.

My second point is this.

The 1974 act did impose one very substantial restraint on the Commission: the power of either House of Congress to veto the Commission's regulations. I submit that the legislative veto is an inappropriate and very probable unconstitutional restraint and should be excluded from any new legislation if the Commission is to be given rulemaking power at all.

If the rulemaking function is an Executive function, as the Court very strongly suggested, then the veto is an impermissible intrusion on Executive authority.

I note from the President's statement of February 16 and Mr. Scalia's testimony this morning that the President shares the view that the legislative veto is constitutional. Yet, he proposes that you reenact it, which strikes me as in the extreme. It is the responsibility of the Congress and the President no less than of the Supreme Court to judge proposed legislation against the Constitution and if it deems it unconstitutional it should not enact it.

The Court found it unnecessary to pass on the legislative veto issue as such in the *Buckley* case since it held the Commission's rulemaking power unconstitutional because of the appointment method.

Senator PELL. Excuse me for interrupting, but I want to give Ms. Burke a chance here.

Would you put the rest of your testimony in the record?

Mr. CLAGETT. I could indeed, sir.

Senator PELL. Your statement will be made a part of the record.

[The statement referred to follows:]

STATEMENT BY BRICE M. CLAGETT, MEMBER, LAW FIRM OF COVINGTON & BURLING, WASHINGTON, D. C.

Mr. Chairman, members of the Subcommittee: My name is Brice M. Clagett, and I am a member of the law firm of Covington & Burling, in Washington. I was

one of the lawyers for the plaintiffs in the case of *Buckley* v. *Valeo*, some of the consequences of which you are considering today. I do not appear here as a representative of those plaintiffs or anyone else, but simply as a citizen who over the past year has had occasion to do a good deal of thinking about the election laws.

I am not here to take any position on whether the Federal Election Commission should be re-created on the basis of a constitutionally permissible method of appointment or whether, rather, its powers should be transferred to some other agency or agencies. I wish to make only two limited points with regard to S. 2911:

(1) If the Commission is re-created with its prior enforcement powers, it should not be given rulemaking authority; it should be given power to issue guidelines and advisory opinions, but the status of those pronouncements should be qualified so as to protect the constitutional rights of citizens which the Supreme Court has recognized.

(2) If, contrary to my first point, a new Commission is given rulemaking power, its rules should not be made subject to a legislative veto.

I. The Supreme Court has clearly recognized that any regulation of campaign expenditures and contributions operates in a critically sensitive area of constitutional concern. The Court left no doubt that such regulation inevitably encroaches on free speech and makes inevitable a balancing process between compelling governmental needs and first amendment freedoms. When activity by citizens in this most sensitive area is subjected to regulation, especially with criminal sanctions, the inhibiting effect on political expression is acute.

Moreover, the election law is both highly complex and in many respects, perhaps unavoidably, vague—as was fully recognized in the Senate debate last fall on the Commission's office-account regulations (121 Cong. Rec. S. 17873–89, daily ed., Oct. 8, 1975).

In these circumstances, the power to interpret the law is largely the power to make new law. A commission with that kind of power has vast influence over the political process, not necessarily excluding the power to determine the result of particular elections.

The existing Commission has used these powers with a vengeance. In many respects its pronouncements made new law—sometimes where the statute as enacted by the Congress was silent; sometimes in rather striking disregard of what the statute did say. Attached as an appendix to this statement is a list of just a few of the more conspicuous lawmaking pronouncements the Commission issued in only 4 months of operation.

I don't mean to be too hard on the Commission. Given the exceptional complexity and vagueness of the statute, possibly no interpreting and enforcing agency could have avoided making itself subject to the same criticism.

It is highly inappropriate, and perhaps unconstitutional, for any agency in effect to make law in an area trenching so sharply on so basic a constitutional right as freedom of speech, and on a subject so crucial to our survival as a free democratic country as the electoral process itself. The fact is that, when either a candidate or an ordinary citizen is told by the Commission that certain political activity which he wishes to undertake would violate the law, he will in the overwhelming majority of cases refrain from engaging in that activity although he is convinced the Commission's interpretation is wrong. Even if he is otherwise disposed to litigate the issue, if he is well advised by counsel he will be aware (1) that a court probably will enforce a Commission rule as having the force of law, at least unless it flatly and unquestionably is contrary to the words of the statute, and (2) that a court will give great weight to any Commission pronouncement, because of alleged agency expertise, in deciding on the proper interpretation of the statute. He will thus be chilled from exercising what a court might well ultimately hold were his rights under both the Constitution and the statute. He will in effect be subjected to a prior restraint on the exercise of his first amendment rights.

It may well be that this chilling effect or prior restraint resulting from Commission pronouncements would itself be held to violate the Constitution.[1] The Court had no occasion to decide that issue in *Buckley* v. *Valeo*, although the

[1] See, e.g., *Speiser* v. *Randall*, 357 U.S. 513 (1958), where the Court held that tax-assessment procedures which shift the burden of proof to the taxpayers are not adequate where First Amendment issues are at stake. See also, e.g., *Bantam Books, Inc.*, v. *Sullivan*, 372 U.S. 58 (1963); *Freedman* v. *Maryland*, 380 U.S. 51 (1965); *Southeastern Promotions, Ltd.* v. *Conrad*, 43 L. Ed. 2d 448, 460 (1975); *Saia* v. *New York*, 334 U.S. 558 (1948); *Keyishian* v. *Board of Regents*, 385 U.S. 589, 604 (1967); *Lamont* v. *Postmaster General* 381 U.S. 301 (1965).

plaintiffs raised it, because the Court held the Commission's powers unconstitutional on other grounds. So if the Commission is re-created without any changes to address the problem I have outlined, there will still be a heavy constitutional cloud over the statute and the Commission, and the removal of the cloud will necessarily await still further litigation.

I suggest that the proper solution is that a re-created Commission should not be given rule-making power, except perhaps with respect to the federal-subsidy provisions. If it is given enforcement responsibilities, it should have the power to issue guidelines and advisory opinions—those are necessary so that citizens can get help in deciding what they can safely do—but there should be a provision to the effect that such pronouncements do not have the force of law, are valid only to the extent they conform to the statute, may not be used to create any presumption of violation or criminal intent in an action against a candidate or other citizen who has chosen to disregard them, and are inadmissible as evidence against the citizen in such an action.

The present statute has a provision (section 437f) that protects a citizen who acts in accordance with a Commission advisory opinion. That is a good provision and should be retained. What I suggest is a further provision to protect a citizen who, because he disagrees with a Commission pronouncement, chooses to act in disregard of it and finds himself the object of proceedings. Such a person of course must take his chances that a court will decide independently that his actions violated the statute. But he should not be made worse off, and in effect forced to bow to whatever restrictions the Commission chooses to place upon him, because of the danger that a court will be influenced by the position the Commission has taken.

Only by such a solution, I submit, can the Congress prevent the Commission from operating as it has, perhaps unavoidably, in the past: as a czar over the entire political process whose every view has the force of law for most practical purposes. Only thus can citizens be permitted their constitutional right to disagree with the Commission, to act on that disagreement, and to take their chances with the statute as the Congress wrote it and enacted it.

II. The 1974 Act did impose one very substantial restraint on the Commission: the power of either house of Congress to veto the Commission's regulations. I submit that, while the restraints I have suggested are appropriate if not necessary for constitutionality, the legislative veto is an inappropriate and very probably unconstitutional restraint, and should be excluded from any new legislation if the Commission is to be given rule-making power at all.

The plaintiffs in the *Buckley* case challenged the legislative veto as an unconstitutional infringement of separation-of-powers principles. If Commission rules subject to the veto are regarded as legislative in nature, then the veto results in what is in effect legislation by Congress without the President's having his constitutionally required opportunity to participate in the legislative process. If, on the other hand, the rule-making function is executive—as the Court strongly suggested in its discussion of the method of appointing the commissioners—then the veto is an impermissible intrusion on executive authority. And the Act's provision for a veto by either House acting alone is even more questionable than the more usual device of a concurrent resolution. The Federalist, No. 51 (Madison), Cooke ed. 1961, p. 350.

The Court found it unnecessary to pass on the legislative-veto issue as such, since it held the Commission's rule-making power unconstitutional because of the appointment method. The Court's opinion contains a lengthy footnote (slip opinion page 134, n. 176) which carefully outlined the legislative-veto question and expressly left it open. In that footnote the Court cited two law review articles which argued that the legislative veto is unconstitutional.[2]

There are other strong intimations in the Court's opinion in Buckley that the legislative-veto provision of this statute will be held unconstitutional when the question comes before the Court. The Court recognized that the Commission, viewed as a legislative agency because of the appointment method, could properly exercise any powers which Congress could exercise directly or through one of its committees. But the Court squarely held that rule-making is not such a power. That being the case—it having been held that Congress cannot make campaign rules through the instrument of a legislative agency—I find it hard

[2] Ginnane, "The Control of Federal Administration by Congressional Resolutions and Committees," 66 Harv. L. Rev. 569 (1953); Watson, "Congress Steps Out: A Look at Congressional Control of the Executive," 63 Calif. L. Rev. 983, 1081–82 (1975).

to see how the Court could avoid holding that direct participation by Congress in the rule-making process through the legislative veto is likewise unconstitutional.[3]

The legislative veto is particularly inappropriate where, as here, it creates a sharp conflict of interest. Members of the Congress, of course, are candidates for office, and as such they are intimately affected by the Commission's regulations. If, as has been repeated endlessly, a primary purpose of campaign reform is to avoid even the appearance of impropriety, that end is hardly served by constant and detailed embroilment of the Congress in interpreting and fleshing out the campaign restrictions under which they—and their challengers—operate. Of course implementation of the campaign law contains a host of opportunities for tilt in favor of incumbents, and repeated congressional involvement will continually feed the suspicion that the Act is an incumbent's protection law. Far better to let the rule-making process be carried on, under proper safeguards, by a genuinely independent and impartial agency rather than one under incumbent domination. I should think that the Congress would welcome the opportunity to avoid future public spectacles of the sort that occurred over the rejection of the office-account regulations last fall.

Finally, if the legislative veto is resurrected there will be ample room for an argument that, even if such veto provisions in other contexts may not be unconstitutional, its presence in this highly charged political context makes the Commission an arm of Congress, even absent congressional appointment of the commissioners, and thus constitutionally invalidates the rule-making power. It could also be argued that the resulting incumbent domination violates the constitutional rights of challengers.

I am personally persuaded that the legislative veto in the 1974 Act is unconstitutional and that the Supreme Court will, if necessary, so hold. To resurrect it in a new statute would leave the Commission and its rules under a constitutional cloud which only new litigation could—eventually—resolve.

Thank you.

Attachment.

ATTACHMENT

1. Interim guidelines to govern special New Hampshire election, 40 Fed. Reg. 40668 (Aug. 21, 1975).
2. Eligibility of contributions for matching grants under Subtitle H, FEC Notice 1975–40, 40 Fed. Reg. 41933 (Sept. 9, 1975).
3. Interim guidelines to govern special Tennessee election, 40 Fed. Reg. 43660 (Sept. 16, 1975).
4. Spending limit applicable to a candidate running for two Federal offices simultaneously, FEC Notice 1975–44, 40 Fed. Reg. 42839 (Sept. 16, 1975).
5. Disclosure regulations, 40 Fed. Reg. 44698 (Sept. 29, 1975).
6. Office-account regulations, 121 Cong. Rec. S. 17873–89 (daily ed. Oct. 8, 1975).
7. Rule requiring candidates to file reports with the Commission, House Rep. No. 94–552, 94th Cong., 1st Sess. (Oct. 9, 1975).
8. Attorneys' or accountants' fees as expenditures, AO 1975–27, 40 Fed. Reg. 51351 (Nov. 4, 1975).
9. Delegates to national nominating conventions: rules on contributions and expenditures, AO 1975–12, 40 Fed. Reg. 55596 (Nov. 28, 1975).
10. Contribution to a candidate from members of his immediate family—overruled by the Supreme Court (slip op. 48, n. 59), AO 1975–65, 40 Fed. Reg. 58393 (Dec. 16, 1975).

Mr. CLAGETT. I would like to add two very brief points, extremely brief, that are not in my written testimony.

Senator PELL. Certainly.

[3] The brief submitted by the Justice Department in *Buckley* for the Attorney General as appellee and for the United States as amicus curiae argued that the legislative veto could be justified only if the Commission was a legislative agency, which of course the Court has now held it cannot be (pp. 111–12). The brief correctly described the Watson law-review article, one of those cited by the Court in its opinion, as "the most recent and thorough study [which] concludes that [congressional control] devices are often an unconstitutional intrusion into executive authority" (p. 111, n. 70). Congressional power to veto regulations of executive or independent agencies is a device expressly found constitutionally "unacceptable" and "invalid" by Watson (op. cit. at 1082).

Mr. CLAGETT. This is in response to comments that were made this morning. One was about public financing.

It has been widely assumed, both in testimony here today and elsewhere, that expenditure limits can, in effect, be restored through Federal subsidies. While it is quite true that the Supreme Court did not hold expenditure limits unconstitutional as applied to recipients of Federal subsidies, in my opinion, that issue remains wide open. The Court had no occasion to consider a claim by a candidate eligible for Federal subsidies; but to subject him to the expenditure limits in return for subsidies is to impose an unconstitutional condition on the offering of Federal benefits.

I think on the basis of the Court's precedence a strong case can be made that that is unconstitutional, and I would strongly recommend you lift the expenditure limits for candidates as well as for those whom the Court has listed that are nonaccepted.

Finally, I must also take issue with Senator Kennedy's answer to Senator Cannon's question this morning. Clearly, you could not make subsidies mandatory and attach expenditure limits to them. That would be precisely the imposition of general compulsory expenditure limits, which the court flatly held was unconstitutional.

Senator PELL. Thank you very much.

Senator Cannon.

Senator CANNON. Thank you very much.

Senator PELL. Our next witness is Ms. Cynthia Burke, Secretary, Committee for Democratic Election Laws.

Thank you for being so patient.

STATEMENT OF MS. CYNTHIA BURKE, NATIONAL SECRETARY, COMMITTEE FOR DEMOCRATIC ELECTION LAWS

Ms. BURKE. I will submit the full text of my statement for the record and just highlight a few points here.

The purpose of my testimony is to propose that the Federal Elections Commission, or whatever body is charged with administrating the FECA be empowered to grant exemptions from the requirements to report if evidence can be shown that such disclosure would subject candidates and their supporters to government harassment and economic reprisals.

Now, this proposal that the Committee on Election Law has to make is based on the precedents of the laws in Minnesota, Washington State, and Washington, D.C., all of which are similar to the Federal Election Commission.

It is also based on some language in the Supreme Court opinions on disclosure as it relates to minor parties and on page 3 of my statement, toward the middle, you will see that we point out that the Court describes what sort of evidence of harassment would be required to support a candidate's request for exemption from the requirements to report the identities of campaign contributors.

The Court said: "The evidence offered need show only a reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment or reprisals from either government officials or private parties.

"The proof may include, for example, specific evidence of past or present harassment of members due to their associational ties."

Now, the Committee which I represent is currently organizing support for a suit filed by the Socialist Workers campaign committee.

The suit was filed by the American Civil Liberties Union on behalf of the committee. I believe this committee has demonstrated government interference with the rights of supporters. I think that that case is a good one to demonstrate why such an exemption mechanism is needed for whatever body ends up charged with administering this law.

Now, just last October, a three-judge panel here in Washington, D.C., ordered the Washington, D.C., Board of Elections and Ethics to provide a hearing for the local Socialist Workers campaign committee.

The Court declared that it is within the powers of the Board to rule that the contributor-disclosure provisions of the law are constitutionally inapplicable to the Socialist Workers campaign committee if the evidence produced supports the plaintiffs' claim.

My Committee's proposal would put the Commission in accord with the spirit of the Supreme Court's opinion on this matter, which I urge the Senators to read carefully. It is simply not adequate to direct such parties to the courts for resolution of their concerns because this can be a very lengthy and extremely expensive process. I think that these parties and candidates are entitled to an inexpensive and speedy disposition of their problem and I think the proposal that we make today would be a step, positive step, in the direction of opening up the political system to all points of view.

Thank you.

Senator PELL. Thank you very much, Ms. Burke.

Senator Cannon?

Senator CANNON. No questions.

[The written statement of Ms. Burke follows:]

STATEMENT OF CYNTHIA BURKE, NATIONAL SECRETARY, COMMITTEE FOR DEMOCRATIC ELECTION LAWS

My name is Cynthia Burke and I am the national secretary of the Committee for Democratic Election Laws. The Committee is a non-partisan civil liberties organization which initiates and supports legal challenges to laws which restrict or deny ballot access or voting rights to any individual or political party.

The Committee submitted a friend of the court brief in the challenge to the Federal Election Campaign Act brought by former Senator Eugene McCarthy, Senator James Buckley, and the New York Civil Liberties Union. Our brief demonstrated how the Act, in its entirety, discriminates against third party and independent candidates and their supporters.

The Act's requirement that the identities of campaign contributors be disclosed to the government inhibits and deters supporters of parties and candidates with dissenting points of view from exercising constitutionally protected rights.

We were one of the first organizations to oppose this law as an unconstitutional interference by the government into the electoral arena for the purpose of propping up the Democratic and Republican parties and weakening their opposition from movements outside those two parties.

The Committee for Democratic Elections Laws is currently organizing support for a suit filed by the American Civil Liberties Union in September, 1974, on behalf of the Socialist Workers campaign committees. This suit contends that forced disclosure of the identities of socialist campaign supporters would subject them to harassment and persecution from government agencies like the CIA

and FBI. Documentation of illegal surveillance of members and supporters of the SWP has come from the FBI itself which has been compelled under court order to release over 4,000 pages of formerly secret files in the course of another suit filed in 1973 by the Socialist Workers party seeking to bring an end to this illegal activity.

The Socialist Workers case demonstrates the need for a mechanism whereby this party, and other similarly affected, can gain relief from the contributor-disclosure requirements of the Act. My purpose in coming before you today is to propose that the Federal Election Commission be empowered to grant such exemptions. I will now motivate that proposal.

The recent Supreme Court decision on the McCarthy/Buckley suit was, overall, cotemptuous of the rights of supporters of third party and independent candidates and upheld most of the unconstitutional provisions of the Act. However, the Court's opinion on disclosure as it relates to third parties concurred with some of the observations made by the plaintiffs and friends of the court about the threat posed by forced disclosure of the identities of supporters of third party and independent political movements.

While upholding disclosure in general the Court said:

"It is undoubtedly true that public disclosure of contributions to candidates and political parties will deter some individuals who otherwise might contribute. In some instances, disclosure may even expose contributors to harassment or retaliation. These are not insignificant burdens on individual rights, and they must be weighed carefully against the interests which Congress has sought to promote by this legislation."

The Court went on to say:

"We are not unmindful that the damage done by disclosure to the associational interests of the minor parties and their members and to supporters of independents could be significant. These movements are less likely to have a sound financial base and thus are more vulnerable to falloffs in contributions. In some instances fear of reprisals may deter contributions to the point where the movement cannot survive. The public interest also suffers if that result comes to pass, for there is a consequent reduction in the free circulation of ideas both within and without the political arena."

The Court then described what sort of evidence of harassment would be required to support a request for exemption.

"The evidence offered need show only a reasonable probability that the compelled disclosure of a party's contributor's names will subject them to threats, harassment or reprisals from either government officials or private parties. The proof may include, for example, specific evidence of past or present harassment of members due to their associational ties."

The Socialist Workers Campaign Committee has demonstrated such a pattern of government interference with the rights of supporters. The seemingly never-ending revelations of government persecution of dissident organizations show that other parties and movements have been and will be subjected to the same treatment in the future.

That is why CoDEL proposes that the Federal Election Commission be empowered to conduct hearings and issue exemptions.

There is precedent for this in the laws of Minnesota, Washington state, and Washington, D.C., all of which are administered by commissions similar in function to the Federal Election Commission. In 1974 the Minnesota Ethics Commission exempted the Socialist Workers campaign committee from the requirements of that state's law for precisely the reasons that I have just gone into—incontrovertible evidence of government persecution of this legal American political party.

Just last October a three-judge panel here in Washington, D.C., ordered the Washington, D.C., Board of Elections and Ethics to provide a hearing for the local Socialist Workers campaign committee. The Court declared that it is within the powers of the Board to rule that the contributor-disclosure provisions of the law are constitutionally inapplicable to the Socialist Workers campaign committee if the evidence produced supports the plaintiff's claim.

My Committee's proposal would put the Commission in accord with the spirit of the Supreme Court's opinion on this matter. It is simply not adequate to direct such parties to the courts for resolution of their concerns. Going through the courts can be a lengthy and extremely expensive process. These parties and candidates are entitled to an inexpensive and speedy disposition of their problem.

I urge serious consideration of this proposal. The American electoral process, under the present circumstances, is not accessible to all. The proposal that I have made would be a positive step in the direction of opening up the political system to all points of view.

Thank you.

FACT SHEET ON SOCIALIST WORKERS CHALLENGE TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

(Socialist Workers 1974 National Campaign Committee, et al., versus Hon. W. Pat Jennings, et al.)

1. The suit was filed in September, 1974, by attorneys Joel Gora, staff counsel of the American Civil Liberties Union, and Paul Chevigny of the New York Civil Liberties Union.

2. The suit, filed in federal court, asks that provisions of the Federal Election Campaign Act of 1971 be declared unconstitutional on their face and as applied to the Socialist Workers campaign committees. The ACLU suit maintains that the law violates the First, Fourth and Ninth amendment rights of the plaintiffs and cites government-admitted programs of surveillance and attempted disruption of the Socialist Workers party as the basis for requesting that the campaign committees not be forced to turn over the names of contributors and vendors to the government. The case is now in pre-trial discovery. Common Cause requested and was granted the status of co-defendant with the government.

3. FBI and CIA harassment directed against the Socialist Workers party is documented in the party's suit against the federal government seeking an end to this illegal activity (Socialist Workers Party, et al, versus Attorney General of the United States, et al.) Attorneys for that suit are Leonard Boudin and Herbert Jordan. Support and fundraising for the costs of this case is coordinated by the Political Rights Defense Fund.

4. Eleven local challenges have been filed against the application of state and municipal disclosure laws to the Socialist Workers campaign committees. Many of these are being handled by the American Civil Liberties Union.

5. In September, 1974, the Minnesota Ethics Commission voted to exempt the Minnesota Socialist Workers Campaign Committee from disclosure on the basis of government harassment.

6. In October, 1975, a three judge panel in Washington, D.C., ordered the D.C. Board of Elections and Ethics to provide a hearing wherein the local Socialist Workers campaign committee can present evidence of government harassment pursuant to a request for exemption from the disclosure provisions of the local ordinance. This case (Doe v. Martin) was cited in the Supreme Court ruling on the Buckley/McCarthy challenge to the Federal Election Campaign Act of 1974.

Senator PELL. Thank you very much for being with us and for your patience in sticking through all this. I apologize for moving ahead as we did.

This winds up these hearings.

At this point in the hearing record, I submit written statements or letters of additional interested persons who were not able to appear here today to testify.

[The material referred to follows:]

STATEMENT BY HON. BILL FRENZEL, A U.S. REPRESENTATIVE FROM THE STATE OF MINNESOTA

Mr. Chairman, I regret that I was unable to appear before the Subcommittee this morning. My Ways and Means Committee is marking up the Debt Ceiling Bill, so I could not be present here.

I urge your Subcommittee to promptly pass a bill to reconstitute the Federal Elections Commission. The bill should provide for the normal Presidential appointment and Senate confirmation of the six-person Commission on a staggered term basis, as provided in either the Schweiker bill or the Scott-Kennedy Bill.

My first preference is to pass a reconstitution bill with no frills. I have a great fear that the addition of extra baggage to a reconstitution bill could imperil the passage or signing of that bill especially if the extra baggage is controversial.

Nevertheless, I realize that some amendments will be added. My feelings on the principal proposals to date are as follows:

1. I think the Congress should exercise self-restraint and not add a congressional public financing provision. Not only would it be more appropriate to consider congressional public financing after we had a chance to evaluate the experience of Presidential public financing, but also no feature presents a greater risk in getting a reconstitution bill signed than public financing.

2. I do not think that it is reasonable at this time to accept the Buckley-Steiger proposal to raise contribution limits. I am sympahetic with that concept, but since the current election process is already in midstream, this is no time to change horses. Again, it would be better to review this matter after the election in light of the 1976 experience.

3. The proposals for an independent prosecutor should be reviewed. The present Commission is based on the concept of compliance rather than prosecution. We would hope that prosecution would be limited and that our election laws would be structured to encourage people to take part in the political process rather than to scare them out of it.

4. I would urge that Congress not be given a veto over advisory opinions. The Congress so far has vetoed each set of regulations to come before it. No set of regulations has become effective yet. Candidates must have some basis on which to act. Right now the only basis we have is advisory opinions. Further, I believe the veto of advisory opinions gives Congress too much control over the Commission.

5. There have been suggestions to emphasize further the compliance aspects of the law over the prosecution aspects. In particular a 30 day compliance period has been suggested. I support this idea and hope the Senate will consider it.

6. There are also proposals to ensure disclosure of independent expenditures and disclaimers on independent media expenditures. Since the court decision has apparently opened a large loophole in this area, I think its proposals are worthwhile and hope the Senate will agree to them.

7. Perhaps the most controversial suggestion is one which either negates the advisory opinion 23, the SUNPAC case, or use the roundabout approach to do the same things by requiring that advisory opinions be put into regulation from within a time certain or expire. This controversial proposal carries with it the element of risk about the final enactment of this legislation. I hope Congress can resist the temptation to mess around in this area.

Thank you for the opportunity to present this testimony to your Committee.

STATEMENT BY ROBERT S. STRAUSS, CHAIRMAN, DEMOCRATIC NATIONAL COMMITTEE

Mr. Chairman. I wish to take this opportunity to express my concern as Chairman of the Democratic National Committee, for the interests of my Party, our presidential candidates, and the Federal Election Campaign Act in light of the recent Supreme Court ruling on *Buckley* v. *Valeo*.

First let me say that in my judgment, the Court's opinion was a substantive victory for those of us who have felt so strongly about the need for reform and regulation on campaign financing.

I need not chronicle for you the activity of the Democratic Party in seeking a legislative response to the faults in our political system that became manifest during the Watergate tragedy. We were the propelling force in the enactment of the Federal Election Campaign Act of 1974. We knew then, and we know even better now, that the reform act was not perfect, but that it did substantively address many of the major abuses that have plagued American federal campaigns for many years. I want to make it very clear that I have no intention of retreating from my support, nor our Party's support, of the major tenents of this legisaltive act. We support the Law, and the enforcement and strengthening of its provisions. In light of the Supreme Court decision, I have concerns about the ability of candidates to function on a day-to-day basis.

We have to be fully cognizant of political reality, and determine a course of action that will provide immediate stability and continuity and preserve as much as possible of the original design. This can only be accomplished by a realistic timetable of legislative and executive action.

This is not the time to chronicle the record of the Federal Election Commission—it has both advocates and detractors. Generally, I believe the FEC to have

done an admirable job in very fresh terrain, under tense and difficult circumstances. It is a source of stability and a resource of technical assistance. We must strive to insure that a sense of continuity be maintained for the 1976 election process, and the public's funds carefully disbursed throughout this critical political year.

It is very clear that continuity at this point has indeed been disrupted by the Supreme Court decision. Questions have been raised and remain unanswered. Indeed, our legal staff has prepared a detailed official complaint against the President and the President Ford Committee, documenting substantive and serious violations of the Federal Election Campaign Act with respect to President Ford's 1975 travels. Yet our complaint remains unfiled. We do not know who or what to file it with. No one knows what the state of reform will be on March 1, 1976. This instability and vagueness are dangerous and unconscionable, as well as unfair to candidates of both parties. We must restore structure and order to the process without delay.

I do not seek to make a normative evaluation of the many proposals that are now before you. But I do want to make a realistic presentation of political reality in light of the very short timetable that we are presented with.

I do not wish to prejudge the possible legislative outcome or merit of any of the proposals that have been introduced to amend the Federal Election Campaign Act of 1974. Indeed, I would hope that my comments help to create a climate in which these proposals can be given full and responsible debate and resolution. But we have an immediate problem, and in light of this urgency, I urge you to consider and adopt emergency legislation which will give an appropriate institution the power to issue certifications, advisory opinions and interpretive rulings forthwith. Obviously, I would be positively disposed to legislation providing for public financing of congressional elections, as in S. 2919. However, time is so critical and so short that I urge you to tackle immediate problems before commencing activities in still newer and fresher areas of political reform.

We are all well aware of the broad range of thought, and the intensity of feeling, which exist on the subject of reform of the financing of American politics. A parallel continuum exists with respect to the performance and propriety of the Federal Election Commission. Yet, this is not my most pressing concern. My responsibilities as Chairman of the Democratic National Committee, make me focus on the incalcuable problems faced by my presidential candidates as long as the status of the FEC remains in question. Most of our candidates cannot sustain even a lapse of a few days in the payment of federal matching funds. Many of our compaigns are operating on a day-to-day cash flow. A time lapse in the certification and distribution of federal funds could be so disruptive to the political process that it could have a dangerous impact on the outcome of both the Democratic and Republican presidential nominating systems. This must be avoided.

You on this Committee, and in Congress can avoid such a course of events by prompt remedial action. It is my first preference that you act favorably on S. 2911 so that the current structures and procedures of the Federal Election Commission proceed uninterrupted and unchanged, subject to the appropriate Executive appointment which would bring the Commission into compliance with the Court's ruling, If, however, passage of S. 2911 cannot be accomplished prior to March 1, 1976, I am prepared to ask the Supreme Court for a 30 day extension of the Commission's mandated responsibility. As we in the political processes proceed via the appropriate judicial route, I would hope that Congress too would proceed expeditiously at the very least to enact S. 2918 which would prevent any disruption in the payments of funds to our presidential candidates and political parties.

Obviously, I believe it crucial that you act quickly to avoid continuing disruption. Mr. Chairman, I appreciate the opportunity to present my views on behalf of the National Democratic Party, and commend you for your diligent attention to these problems so very decisive to the 1976 political process. Thank you.

U.S. SENATE,
OFFICE OF THE SECRETARY,
Washington, D.C., February 16, 1976.

HON. CLAIBORNE PELL,
Chairman, Subcommittee on Privileges and Elections, Committee on Rules and Administration, U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: I am taking the liberty of presenting two suggestions for the Subcommittee's consideration in connection with hearings and proposals

modifying the Federal Election Campaign Act of 1971, as amended, in the aftermath of *Buckley* v. *Valeo*. These suggestions grow out of my experiences as an ex officio member of the Commission.

The first suggestion concerns the continued presence of ex officio members on a presidentially appointed Federal Election Commission as is provided in S. 2911 introduced by Senators Schweiker and Cranston and S. 2912 offered by Senators Kennedy and Scott (Pa.). A second suggestion relates to the availability to the Senate of information on alternatives such as that provided in S. 2918, also introduced by Senators Kennedy and Scott (Pa), a bill which proposes, at least, on a temporary basis, to turn over the certification function with regard to presidential funding to the Comptroller-General.

The position of the voting members of the Federal Election Commission on these various proposals is one which will be presented by Commissioners Thompson and Aikens at your hearing on February 18. The suggestions contained in this letter do not reflect on their position but rather relate to matters of peculiar interest to the Senate as I see the situation.

As an ex officio member of the Commission, it has been my intention that the office of the Secretary of the Senate represent the Senate as an institution of government with a vital interest in the successful functioning of the Federal electoral process. My office has endeavored therefore to exercise our best judgment in this connection on various subjects and issues before the Commission which would be reflective of the public interest as well as in accordance with the law. In that perspective, it seems to me that the Senate's ex officio member also serves as a focal point for exchange of information leading to a better understanding of problems of Senate candidates and campaigns as distinct from problems associated with House and presidential candidates and campaigns. Similarly, it is my hope that this office will be able to provide insight into the problems of candidates for the Senate as they relate to the Commission's decisions and rules. It also seems to me valid for the Senate's ex officio to make recommendations to the Senate Rules Committee with a view to adjustments to the law which may be revealed by experience to be desirable.

Other responsibilities prevent me from spending a great deal of time at the Commission. In order, however, to insure a full participation on the part of the Senate, I have, with the concurrence of the Majority and Minority Leaders, designated a Special Deputy of the Secretary of the Senate, (Ms. Harriet Robnett, J.D.) who is assigned exclusively to work in connection with the Commission.

At the inception of the present Commission, I held the view and other members concurred that ex officio members should have all rights and privileges and responsibilities of the other Commissioners, except the right to vote. From time to time, we have experienced some reluctance to observe that understanding on the part of the voting-members of the Commission and its staff.

The need and value of an ex officio member is, of course, a matter primarily for determination by the Senate and the Congress. The Subcommittee may wish to discuss the role or define it differently than I have herein described. I have no wish to intrude on the decision of the Subcommittee in this regard but I do wish to suggest that the role of the ex officio be discussed at your hearing and be considered by the Subcommittee with reference to any proposal it may recommend to the full Committee.

In the event the Subcommittee favorably reports at this time a bill providing for changes in the Commission to comply with the Court's decision and includes therein provision for the continued participation of the Secretary of the Senate and the Clerk of the House of Representatives as ex officio members, I believe that an amendment should be added expressly noting that ex officio members have all rights, privileges and responsibilities of voting members of the Commission except for the right to vote. Additionally, I hope the Subcommittee will consider the need to assure that the ex officio officer, as a matter of right, shall be empowered to participate fully, except for the vote, in meetings of the Commission and that an ex officio member may be represented by a formally designated special deputy acting on his behalf and in his absence. An amendment to accomplish such a result would provide for the addition of the word "voting" in the second sentence of section 437c(c) of Title 2, U.S.C. so that the sentence as amended would read: "A voting member of the Commission may not delegate to any person his vote or any decisionmaking authority or duty vested in the Commission by the provisions of this title."

Turning now to a second suggestion for your consideration. I know you recognize that what remains of the thirty day stay of judgment granted by the Supreme Court as it affects the powers and duties of the Federal Election Commission is brief indeed. The time frame could be actually inadequate to complete Senate and House consideration, action and agreement on any legislation including proposals to reconstitute the Commission. I believe, therefore, that it would be particularly helpful to the deliberations of the Senate to have available for members as much accurate information as possible concerning alternative methods for handling presidential campaign financing duties now carried out by the Commission.

It is with that in mind that I would suggest that Treasury be invited to present oral or written testimony concerning what action, if any, it could take concerning payment of Presidential campaign funds should Congress and the President not agree on legislation during the thirty day stay period. I also believe Treasury's comments should be sought on whether the Treasury itself, if authorized by law to do so, could take over the functions of certification possibly under arrangements utilizing the Federal Election Commission including their staff and procedures.

The above suggestion is of particular pertinence in view of the letter of February 5 to the Majority Leader from the Comptroller General wherein the latter describes the prospect of a possible transfer of the certification function as disruptive and one that his office is inadequately prepared to take.

The determination of legislation affecting the Commission and certification, of course, will lie with the House as well as the Senate. However, whatever decision is reached, I believe would be improved by assuring so far as possible at all stages of the legislative process the availability of accurate information on the scope of alternatives open for Congressional action.

In closing, allow me to express again my hope that the Subcommittee will consider, discuss and determine the merits of continuing the presence of the Secretary of the Senate as an ex officio member on a new Commission under the pending legislative proposals. The inclusion of this letter in the printing record of your hearings would be appreciated.

Sincerely,

FRANCIS R. VALEO,
Secretary of the Senate.

Senator PELL. Thank you all for the interest you have displayed in this very important matter.

The Subcommittee on Privileges and Elections appreciates having the benefit of your views and studies.

The meeting is adjourned.

[Whereupon, at 4:55 p.m., the hearing in the above-entitled matter was adjourned.]

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S. 3065

Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

[Report No. 94–677]

IN THE SENATE OF THE UNITED STATES

MARCH 2, 1976

MR. CANNON, from the Committee on Rules and Administration, reported the following bill; which was read twice and ordered to be placed on the calendar

A BILL

To amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

II

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a) (1) The second sentence of section 309 (a) (1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a) (1)), as redesignated by section 105 hereinafter in this Act referred to as the "Act") is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and six members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a) (1) of the Act (2 U.S.C. 437c(a) (1)), as redesignated by section 105, is amended to read as follows: "No more than three members of the Commission appointed under this paragraph may be affiliated with the same political party.".

(b) Section 309(a) (2) of the Act (2 U.S.C. 437c (a) (2)), as redesignated by section 105, is amended to read as follows:

"(2) (A) Members of the Commission shall serve for terms of six years, except that of the members first appointed—

"(i) two of the members, not affiliated with the

same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979, and

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c) (1) Section 309(a) (3) of the Act (2 U.S.C. 437c(a) (3)), as redesignated by section 105, is amended by adding at the end thereof the following new sentences: "Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity not later than one year after beginning to serve as such a

member.". The amendment made by this paragraph takes effect two years after the date of enactment of this Act.

(2) Section 309(b) of the Act (2 U.S.C. 437c(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive and primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(3) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: ", except that the affirmative vote of four members of the Commission (no less than two of whom are affiliated with the same political party) shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954,

or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates".

(e)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until a majority of the members of

the Commission are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section. Until a majority of the members of the Commission are appointed and qualified under the amendments made by this Act, members serving on such Commission on the date of enactment of this Act may exercise only such powers and functions as are consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75-436, 75-437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

(g)(1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Federal Election

Campaign Act of 1971 as such title existed on January 1, 1976, or under any other provision of law are transferred to the Federal Election Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2) (A) Except as provided in subparagraph (B) of this paragraph, personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remain in full force and effect. All orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1) shall continue in effect to the same extent as if such transfer had not occurred.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission at the time this section takes effect.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within twelve months after the date of enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301 (a) (2) of the Act (2 U.S.C. 431 (a) (2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301 (e) (2) of the Act (2 U.S.C. 431 (e)

(2)) is amended by inserting "written" immediately before "contract".

(c) Section 301(e)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting after "purpose" the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or 96 of the Internal Revenue Code of 1954, but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

(d) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by striking out "or" at the end of clause (F) and at the end of clause (G); and

(2) by inserting immediately after clause (H) the following new clauses:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply

with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304(b); or

"(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provision of this title or of chapter 95 or 96 of the Internal Revenue Code of 1954, but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b);".

(e) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out "and" at the end of paragraph (m);

(2) by striking out the period at the end of para-

graph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(o) 'Act' means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976; and

"(p) 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, and is not at the request or suggestion of, any candidate or any authorized committee or any authorized committee or agent of such candidate.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 302(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(b) Section 302(c)(2) of such Act (2 U.S.C. 432(c)(2)) is amended to read as follows:

"(2) the identification, the occupation (but not

the name of such person's employer, firm, business associates, customers, or clients), and the principal place of business or employment (if any) of every person making a contribution in excess of $100, and the date and the amount of such contribution;".

(c) Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following: "In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions totaling in excess of $5,000, or made expenditures totaling in excess of $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by inserting after "occupation" in paragraph (2) the following: "(but not the name of such person's employer, firm, business associates, customers, or clients)";

(2) by inserting after "business" in paragraph (2) the following: "or employment";

(3) by inserting after "occupations" in paragraph (5) the following: "but not the name of the employers, firms, business associates, customers, or clients)";

(4) by inserting after "business" in paragraph (5) the following: "or employment";

(5) by striking out "and" at the end of paragraph (12);

(6) by redesignating paragraph (13) as paragraph (14); and

(7) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of expenditures in excess of $100 by a political committee other than an authorized committee of a candidate expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9), stated in a manner which indicates whether the expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e) (1) Every person (other than a political committee or candidate) who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a con-

tribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b) (9), stated in a manner indicating whether the contribution or expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any expenditure, including but not limited to those described in subsection (b) (13), of $1,000 or more made after the fifteenth day, but more than forty-eight hours, before any election shall be reported within forty-eight hours of such expenditure.

"(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including but not limited to those reported under subsection (b) (13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely pre-election basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431–41) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

POWERS OF COMMISSION

SEC. 106. (a) Section 310(a) of the Act (2 U.S.C. 437(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b) (1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as redesignated by section 105, is amended to read as follows:

"(6) to initiate, (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section

313 (a) (9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313 (a) (9), the power of the Commission to initiate civil actions under subsection (a) (6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ADVISORY OPINIONS

SEC. 107. (a) The text of section 312 (a) of the Act (2 U.S.C. 437f (a)), as redesignated by section 105, is amended to read as follows: "Upon written request to the Commission by any individual holding Federal office, any candidate for Federal office, the Democratic Caucus and the Republican Conference of each House of the Congress, any political committee, or the national committee of any political party, the Commission shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this

Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.".

(b) Section 312 (b) of the Act (2 U.S.C. 437f (b)), as redesignated by section 105, is amended to read as follows:

"(b) (1) Notwithstanding any other provision of law, any person with respect to whom an advisory opinion is rendered under subsection (a) who acts in good faith in accordance with the provisions and findings of such advisory opinion shall be presumed to be in compliance with the provision of this Act, or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, with respect to which such advisory opinion is rendered.

"(2) (A) Any advisory opinion rendered by the Commission under subsection (a) shall apply only to the person requesting such advisory opinion and to any other person directly involved in the specific transaction or activity with respect to which such advisory opinion is rendered. The provisions of any such advisory opinion shall be made generally applicable by the Commission in accordance with the provisions of subparagraph (B).

"(B) (i) The Commission shall, no later than thirty days after rendering an advisory opinion with respect to a request received under subsection (a) which sets forth a rule of general applicability, prescribe rules or regulations relating to the transaction or activity involved if the Commission

determines that such transaction or activity is not subject to any existing rule or regulation prescribed by the Commission. In any such case in which the Commission receives more than one request for an advisory opinion, the Commission may not render more than one advisory opinion relating to the transaction or activity involved.

"(ii) Any rule or regulation prescribed by the Commission under this subparagraph shall be subject to the provisions of section 315(c).".

(c) Section 315(c)(1) of the Act (2 U.S.C. 438(c)(1)), as redesignated by section 105, is amended by inserting "or under section 312(b)(2)(B)" immediately after "under this section".

(d) The amendments made by subsection (a) shall apply to any advisory opinion rendered by the Federal Election Commission after October 15, 1974.

ENFORCEMENT

SEC. 108. Section 313 of the Act (2 U.S.C. 437g), as redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such com-

plaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) The Commission, upon receiving a complaint under paragraph (1), or if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

"(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate. Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2)

a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5) (A) If the Commission determines that there is reason to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute an absolute bar to any further action by the Commission, including bringing a civil proceeding under paragraph (B) of this section.

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person against whom such action is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under paragraph (B), the court shall grant a permanent or

temporary injunction, restraining order, or other order upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation under section 329(a), or a knowing and willful violation of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to the limitations set forth in subparagraph (A) of this paragraph.

"(6) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (A) $10,000; or (B) an amount equal to 300 percent of the amount of any contribution or expenditure involved in such violation. The Commission shall make available to the public the results of any conciliation attempt including any conciliation agreement entered into by the Commission and any determination by the Commission

that no violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

"(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 300 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5) (A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(8) In any action brought under paragraph (5) or paragraph (7) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(9) (A) Any party aggrieved by an order of the

Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within ninety days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any action under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than sixty days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than sixty days after the ninety-day period specified in subparagraph (A).

"(C) In such proceeding the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with that declaration within thirty days, failing which the complainant may bring in his own name a civil action to remedy the violation complained of.

"(10) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or settling aside, in whole or in part, any such order of the district court shall be final, sub-

ject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5), it may petition the court for an order to adjudicate that person in civil contempt, or, if it believes the violation to be knowing and willful, it may instead petition the court for an order to adjudicate that person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than sixty days after the date the Commission refers any apparent violation, and at the close of every thirty-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.".

DUTIES OF COMMISSION

SEC. 109. (a) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320, and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(b) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)), as redesignated by section 105, is amended—

(1) by striking out "thirty legislative days" in the first sentence and inserting in lieu thereof the following: "thirty calendar days or fifteen legislative days, whichever is later,", and

(2) by inserting immediately after the second sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move

to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 110. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS

SEC. 111. Title III of the Act (2 U.S.C. 431-441) is amended by striking out section 320 (2 U.S.C. 441), as redesignated by section 105 of this Act, and by inserting after section 319 (2 U.S.C. 439c), as redesignated by such section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a) (1) Except as otherwise provided by paragraphs (2) and (3), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000.

"(2) No political committee (other than a principal campaign committee) shall make contributions to (A) any candidate with respect to any election for Federal office which, in the aggregate, exceed $5,000; or (B) to any political committee (other than a political committee authorized by a candidate to receive contributions on his be-

half which contributions are, under paragraph (4), treated as contributions to that candidate) in any calendar year which, in the aggregate, exceed $25,000. Contributions by the national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by the preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term 'political committee' means an organization registered as a political committee under section 303 for a period of not less than six months which has received contributions from more than fifty persons and, except for any State political party organization, has made contributions to five or more candidates for Federal office. For purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by political committees established, financed, maintained, or controlled by any person or persons, including any parent, subsidiary, branch, division, department, affiliate, or local unit of such person, or by any group of persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund-raising efforts; (B) this sentence shall not apply to a political committee established, financed, or maintained by the national committee, or to a

political committee established, financed, or maintained by the State, district, or local committee of a political party; and (C) a political committee of a national organization shall not be precluded from contributing to a candidate or committee merely because of its affiliation with a national multicandidate political committee which has made the maximum contribution it is permitted to make to a candidate or a committee.

"(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

"(4) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B) (i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(5) The limitations imposed by paragraphs (1) and (2) of this subsection (other than the annual limitation on contributions to a political committee under paragraph (2)(B)) shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise

directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of

the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c) (1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) The term 'price index' means the average

over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d) (1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

"(3) The national committee of a political party, or

a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January, 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, eighteen years of age or older.

"(f) No candidate or political committee shall know-

ingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commis-

sioner to, Congress are to be voted for, or in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"(b) (1) For the purposes of this section 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. As used in this section and in section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 791(h)), the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or aanything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party

or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; or the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization.

"(2) It shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction.

"(3) It shall be unlawful for a corporation or a separate segregated fund created by a corporation to solicit contributions from any person other than its stockholders, executive or administrative personnel, and their families or for a labor

organization or a separate segregated fund created by a labor organization to solicit contributions from any person other than its members and their families.

"(4) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations.

"(5) Any corporation that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, that method to a labor organization representing any members working for that corporation.

"(6) For purposes of this section, the term 'executive or administrative personnel' means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking or supervisory responsibilities.

"(7) For purposes of this section, the term 'stockholder' includes any individual who has a legal or vested beneficial interest in stock, including, but not limited to, an employee of a corporation who participates in a stock bonus, stock option, or employee stock ownership plan.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"SEC. 322. (a) It shall be unlawful for any person—

"(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any cor-

poration or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails, and other similar types of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or

"(2) if not authorized by a candidate, his authorized, political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication

is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303 (b) (2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

"(b) As used in this setion, the term 'foreign national' means—

"(1) a foreign principal, as such term is defined by section 1 (b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 (b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for

permanent residence, as defined by section 101 (a) (20) of the Immigration and Nationality Act (8 U.S.C. 1101 (a) (20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTIONS OF CURRENCY

"SEC. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"ACCEPTANCE OF EXCESSIVE HONORARIUMS

"SEC. 327. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

"(1) any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

"(2) honorariums (not prohibited by paragraph

(1) of this section) aggregating more than $24,000 in any calendar year.

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 328. No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) willfully and knowingly to participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

"PENALTY FOR VIOLATIONS

"SEC. 329. (a) Any person, following the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure

involved in such violation, imprisoned for not more than one year, or both.

"(b) It shall be a complete defense in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, for the defendant to show that—

"(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313,

"(2) the conciliation agreement is in effect, and

"(3) the defendant is, with respect to the violation for which the defense is being asserted, in compliance with the conciliation agreement.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 112. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: "There are authorized to be appropriated to the Federal Election Commission $8,000,000 for the fiscal year ending June 30, 1976, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for the fiscal year ending September 30, 1977.".

SAVINGS PROVISION

SEC. 113. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 114. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b)(1) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES FOR PAYMENTS

SEC. 301. Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his cam-

paign for election to the office of President in excess of, in the aggregate, $50,000.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

PAYMENTS TO ELIGIBLE CANDIDATES

SEC. 302. Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

REVIEW OF REGULATIONS

SEC. 303. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at

any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(b) Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed with consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

ELIGIBILITY FOR PAYMENTS

SEC. 304. Section 9033 (b) (1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "**LIMITATION**" and inserting in lieu thereof "**LIMITATIONS**";

(2) by inserting "(a) EXPENDITURE LIMITATIONS.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent,

brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations."

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 306. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(c) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISION OF LEGAL AND ACCOUNTING SERVICES.—For purposes of this section, the payment by any person, including the national committee of a political party, of compensation to any individual for legal or

accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on Presidential nominating convention expenses.".

(c) Section 9034 (b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608 (c) (1) (A) of title 18, United States Code," and inserting in lieu thereof "section 320 (b) (1) (A) of the Federal Election Campaign Act of 1971".

(d) Section 9035 (a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 305 (a), is amended by striking out "section 608 (c) (1) (A) of title 18, United States Code," and inserting in lieu thereof "section 320 (b) (1) (A) of the Federal Election Campaign Act of 1971".

Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

[Report No. 94–677]

A BILL

To amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

By Mr. CANNON

MARCH 2, 1976

Read twice and ordered to be placed on the calendar

REPORT TO ACCOMPANY S. 3065

SENATE COMMITTEE
ON RULES AND
ADMINISTRATION

Calendar No. 647

94TH CONGRESS
2d Session

SENATE

REPORT
No. 94-677

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

REPORT

OF THE

COMMITTEE ON RULES AND ADMINISTRATION

TO ACCOMPANY

S. 3065

together with

MINORITY VIEWS

TO AMEND THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 TO PROVIDE FOR ITS ADMINISTRATION BY A FEDERAL ELECTION COMMISSION APPOINTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE CONSTITUTION, AND FOR OTHER PURPOSES

MARCH 2, 1976.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
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Calendar No. 647

94TH CONGRESS
2d Session

SENATE

REPORT
No. 94-677

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

MARCH 2, 1976.—Ordered to be printed

Mr. CANNON, from the Committee on Rules and Administration, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 3065]

The Committee on Rules and Administration, having considered an original bill to amend the Federal Election Campaign Act of 1971, as amended in 1974, to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and to amend certain other provisions of law relating to the financing and conduct of such campaigns, reports favorably thereon, and recommends that the bill do pass.

PURPOSE OF THE BILL

This recommended legislation is a measure designed to reconstitute the Federal Election Commission as an independent executive branch agency, having six commissioners appointed by the President by and with the advice and consent of the Senate, and to make certain other amendments of law necessary and desirable in light of the decision of the Supreme Court of the United States in *Buckley* v. *Valeo* (Nos. 75-436, 75-437, decided January 30, 1976).

During the 92d Congress (1971–1972) the Federal Election Campaign Act of 1971 (P.L. 92–225) was enacted to provide sweeping and thorough control over and public disclosure of receipts and expenditures in both Federal primary and general elections. The Federal Election Campaign Act Amendments of 1974, enacted during the 93d Congress (P.L. 93–443), amended the 1971 Act extensively. The resulting law provided for overall limitations on campaign expenditures and political contributions, extensive reporting and recordkeeping requirements for candidates and political committees, and the establishment of a Federal Election Commission with extensive powers to administer and enforce the Act. The law also provided for the public financing of Presidential primary and general elections and conventions.

On January 30, 1976, the Supreme Court of the United States, in *Buckley* v. *Valeo*, upheld the contribution limitations, the recordkeeping and disclosure requirements of the Act and the provisions for public financing of Presidential elections and conventions. However, the Court held that certain expenditure limitations under the Act were in violation of the First Amendment and that the exercise of administrative and enforcement powers delegated to the Commission was unconstitutional because of the way in which its members were appointed.

Public hearings were held by the Subcommittee on Privileges and Elections, chaired by Senator Claiborne Pell, on February 18, 1976. Witnesses appeared to testify and submit written statements on the impact of the Supreme Court's decision and on the many bills which had been introduced in response to that decision: S. 2911, Amendment No. 1396 to S. 2911, S. 2912, S. 2918, S. 2953, S. 2980, and S. 2987.

On February 20, 1976, the Subcommittee on Privileges and Elections referred an original bill to the Committee on Rules and Administration, without recommendation, to be used as a working draft by the Committee in its consideration of legislation. The Subcommittee also unanimously adopted a resolution recommending that the Committee on Rules and Administration report legislation to amend the Federal Election Campaign Act of 1971, as amended—

(a) to reconstitute the Federal Election Commission as an independent executive branch agency, having six commissioners to be appointed by the President with the advice and consent of the Senate; and

(b) to make such other changes in the Act as may be necessary and desirable in light of the Supreme Court decision in the case of *Buckley* v. *Valeo*.

The Committee on Rules and Administration held mark-up sessions on February 25 and 26, and March 1, 1976, and on March 4, 1976, ordered an original bill reported to the Senate.

This bill as reported to the Senate provides for a Federal Election Commission appointed in accordance with the requirements of the Constitution. The bill also gives the Commission exclusive and primary jurisdiction for the civil enforcement of the Act and of the public financing of presidential campaigns and transfers many of the criminal code provisions relating to Federal election campaigns from Title 18, U.S.C., to the 1971 Act. Additional civil enforcement powers are given

to the Commission and procedures are established for the investigation of violations of the Act in order to expand the powers of the Commission in this respect and provide greater public disclosure of Commission enforcement activities. The penalty provisions of the law are restructured to provide criminal penalties for substantial violations and civil penalties and disclosure for less substantial violations, as well as protection for persons who enter into and adhere to conciliation agreements with the Commission. The bill also proposes a number of changes in the law relating to campaign contributions and expenditures to reflect the decision of the Supreme Court in *Buckley* v. *Valeo*, and to restrict, within the constitutional limitations set by the Supreme Court, the flow of excessive sums of money into political campaigns. In doing so, the bill reflects in many ways the intent of the Congress in passing the Federal Election Campaign Act Amedments of 1974 (P.L. 93–433).

Section-by-Section Analysis

SHORT TITLE

Section 1 provides that the Act may be cited as the "Federal Election Campaign Act Amendments of 1976."

FEDERAL ELECTION COMMISSION MEMBERSHIP

Section 101 provides that the Commission is to consist of the Secretary of the Senate, the Clerk of the House, both ex officio and without the right to vote, and 6 members appointed by the President by and with the advice and consent of the Senate. Of the members appointed by the President no more than 3 at any time may be affiliated with the same political party.

The bill provides for six-year terms for members with the terms of two members, not affiliated with the same political party, expiring every two years, beginning in 1977, so that members are not reappointed in an election year. Vacancies are filled only for the remainder of the term during which the vacancy occurred. Reappointment is to be made in the same manner as the appointment.

Section 101(c)(1) prohibits Commissioners from engaging in any outside business or professional activity while holding office. This section will not become effective until two years after the date this bill becomes law.

Section 101(c)(2) provides that the Commission has exclusive and primary jurisdiction with respect to the civil enforcement of the Federal Election Campaign Act and of the provisions of the Internal Reserve Code of 1954 relating to the public financing of Presidential elections. This section also recites a reservation of congressional prerogatives reserved to the Congress under the Constitution.

Section 101(c)(3) provides that the Commission may not establish guidelines, initiate civil actions, render advisory opinions, make regulations, conduct investigations, or report apparent violations of law without an affirmative vote of 4 members of the Commission, no less than two of whom are affiliated with the same political party.

Section 101(d) of the bill exempts Commission staff appointments from the provisions of Title 5, United States Code, relating to the com-

petitive service, classification, and General Schedule pay rates. This provision maintains the present exempt status of Commission appointments.

Section 101(e) relates to the appointment of new members. It urges the expeditious appointment of new members, provides that the first appointments to the new Commission are not appointments to fill unexpired terms, provides that the terms of all the present Commissioners end when a majority of the new Commissioners are appointed and qualified, and gives statutory recognition to the limited power of the reconstituted Commission under the decision of the Supreme Court in *Buckley* v. *Valeo* (Nos. 75–436, 75–437, January 30, 1976).

Section 101(f) permits the present Commissioners to be appointed to the new Commission by waiving the prohibition against the appointment of individuals to the Commission presently holding Federal office.

Transfer and continuity provisions

Section 101(g) of the bill facilitates the transition between the Commission as presently constituted and the Commission as reconstituted by this Act by providing for the transfer of personnel, liabilities, contracts, property, and records employed, held, or used primarily in connection with the functions of the Commission as presently constituted. It provides that the transfer of personnel under this section shall be without reduction in classification or compensation for one year after such transfer. Thus, no person's salary or position shall be reduced solely because of the transfer. This provision does not bar a dismissal or reduction in salary by the Commission for reasons other than the transfer. This section also preserves all actions, suits, and other proceedings commenced by or against the Commission or any officer or employee thereof acting in his official capacity. It also preserves all orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Commission before its reconstitution.

DEFINITIONAL CHANGES

Several provisions of Title 18 of the criminal code relating to limitations on contributions, to contributions by foreign principals, to limitations on honoraria, etc., are transferred by the bill to the Federal Election Campaign Act of 1971. The amendments to the definitions contained in Section 102 of the bill thus will apply both to reporting and disclosure, and to the provisions containing these limitations.

Section 102(a) amends the definition of "election" in Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)), nominating conventions and caucuses, by changing "held to nominate a candidate" in present law to "which has authority to nominate a candidate."

Section 102(b) amends the definition of "contribution" in Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) where it says "contribution means a contract, promise, or agreement, expressed or implied, whether or not legally enforceable, to make a contribution" by inserting the word "written" before the word "contract."

Section 102(c) amends the definition of "contribution" to exclude legal and accounting services rendered to or on behalf of the national committee of a political party which don't directly further the candi-

dacy of a particular candidate and for such services rendered to or on behalf of any candidate or political committee for the purpose of complying with the requirements of the Act and chapters 95 and 96 of the Internal Revenue Code of 1954. The amendment requires these payments to be reported and disclosed but permits them to be ignored in determining contribution and expenditure limitations.

Section 102(d) amends the definition of "expenditure" to exclude certain fund-raising costs and payments for legal and accounting services (under the circumstances discussed above). The exclusion of some fund-raising costs for purposes of the limits on expenditures by publicly-financed presidential candidates conforms to present law and was made necessary by the tranfer of the provisions setting forth those limits to the 1971 Act.

Section 102(e) adds the word "Act" to the list of terms defined in the Federal Election Campaign Act of 1971, and defines "independent expenditure" to reflect the definition of that term in the Supreme Court's decision in *Buckley* v. *Valeo*.

ORGANIZATION OF POLITICAL COMMITTEES

Identification of contributors

Subsections (a) and (b) of Section 103 of the bill amend Section 302 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432 (b)) to reduce the accounting and recordkeeping burdens for political committees by requiring that records be kept only on contributions in excess of $100, instead of in excess of $10. The bill also states that a contributor's occupation does not include the name of the employer, firm, business associates, customers, or clients, for record keeping purposes.

Section 103(c) would strike out Section 302(e) of the Act (2 U.S.C. 432(e)) which requires that notice of unauthorized activities by political committees be disclosed on the literature and advertisements circulated by those committees. The subject is covered by Section 111 of the bill which sets forth a new Section 323 of the Federal Election Campaign Act of 1971.

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

Section 104(a) amends the reporting and disclosure provisions of Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) to provide that, in a non-election year, a candidate and his authorized committees must file quarterly reports only for quarters in which more than $5,000 is received or spent. If amounts in excess of $5,000 are not received in any quarter, the candidate and his committees must still file the annual report.

Section 104(b) amends Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) to require that only political committees authorized by a candidate file reports with a candidate's principal campaign committee. This clarifies an anomaly in present law under which all multicandidate committees are obligated to file reports with the principal campaign committees of various candidates.

Section 104(c) of the bill changes present contributor identification requirements by making it clear that the term "occupation" does not mean employer, firm, business associates, customers, or clients, and by

adding a provision requiring disclosure of a contributor's place of employment. It also provides that reports filed with the Commission need not contain the name of a contributor's or lender's employer, firm, business associates, customers, or clients.

Section 104(c) of the bill also adds a new reporting requirement for political committees which are not authorized candidates' committees. Any such committee which spends more than $100 expressly advocating the election or defeat of a clearly identified candidate is required to identify the expenditure as being in support of, or in opposition to a candidate, and requires a certification with respect to whether the expenditure was made in cooperation with the campaign of any candidate. Section 104(d) of the bill imposes a similar reporting requirement on any person, other than a political committee or a candidate, who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate in excess of $100 within a calendar year. This section also requires the Commission to prepare an index setting forth, on a candidate-by-candidate basis, all campaign expenditures relating to a candidate and issue the indices on a timely pre-election basis. Sections 104(c) and 104(d) of the bill require disclosure of those expenditures that expressly advocate a particular election result, a disclosure requirement explicitly held to be constitutional by the Supreme Court in *Buckley* v. *Valeo*.

REPORTS BY CERTAIN PERSONS

Section 105 repeals Section 308 of the Act (2 U.S.C. 438(a)), held unconstitutional by the Court of Appeals for the District of Columbia circuit in *Buckley* v. *Valeo*. That portion of the Court's decision was not appealed to the Supreme Court.

POWERS OF COMMISSION

Section 106 amends Section 310 of the Act (2 U.S.C. 437c(a)) and adds to the Commission's powers of authority to formulate general policy, prescribe forms and regulations, the power to bring civil actions to enforce the provisions of the Internal Revenue Code of 1954 relating to public financing of Presidential elections. This section also provides that, with the exception of actions brought by an individual aggrieved by an action by the Commission, the power of the Commission to initiate civil actions is the exclusive civil remedy for the enforcement of the provisions of the Act.

ADVISORY OPINIONS

Section 107(a) of the bill amends Section 312(a) of the Act (2 U.S.C. 437f(a)) to broaden the class of persons who are authorized to request advisory opinions to include the Democratic caucus and the Republican conference of each House of the Congress.

Section 107(b) of the bill amends Section 312(b) of the Act (2 U.S.C. 437f(b)) to provide the following rules for advisory opinions:

(1) An advisory opinion applies only to the person who requested the opinion and to a person involved in the transaction or activity to which the opinion relates.

(2) An advisory opinion which sets forth a rule or general applicability must be prescribed as a rule or regulation within 30 days after being issued, unless the Commission determines that the transaction or activity to which the advisory opinion relates is already subject to an existing rule or regulation.

(3) The Commission is prohibited from rendering more than one advisory opinion with respect to a particular transaction or activity.

(4) Rules and regulations prescribed under the new provisions from advisory opinions, are subject to the provisions of the law relating to congressional disapproval of proposed rules and regulations.

Under Section 107(d) of the bill the amendment made by subsection (a) (which broadens the class of individuals who may request an advisory opinion) is applicable "to any advisory opinion rendered by the Federal Election Commission after October 15, 1974."

ENFORCEMENT

Section 108 amends the enforcement provisions of Section 313 of the Act (2 U.S.C. 437g).

Existing law

Under existing law the Commission may refer apparent violations to the Attorney General or investigate them itself. Where the Commission determines a violation has occurred it may try to correct the violation by informal methods or bring a civil action to enforce the Act. The Commission is required to refer the violation to the Attorney General if a violation of a provision of title 18, United States Code, is involved. The Commission is authorized to refer non-title 18 violations to the Attorney General if it is unable to correct the violation by informal methods or if it determines that referral is appropriate. Under existing law the Attorney General may bring civil actions to enforce the statute when requested to do so by the Commission. The proposed changes would give the Commission exclusive civil enforcement authority.

Proposed changes of existing law

Under the amendments made by Section 108 of the bill the Commission can investigate a complaint only if the complaint is signed and sworn to by the person filing the complaint and the complaint it notorized. The Commission may not conduct any investigation solely on the basis of an anonymous complaint. The Commission must conduct all investigations expeditiously and afford the person who receives notice of the investigation a reasonable opportunity to show that no action should be taken against such person by the Commission.

If, after investigation, the Commission determines that there is reason to believe a violation of the Act or of the public financing provisions of the Internal Revenue Code of 1954 has been committed, or is about to be committed, it is required to make every endeavor to correct or prevent the violation by informal methods prior to instituting any civil action. However, the Commission would have discretion to take immediate action to invoke the civil relief provisions of this

Section in the event that it determines there is probable cause to believe that a violation has occurred or is about to occur which is of such a magnitude in nature that the interests of the public would compel immediate resort to the courts for judicial relief. If such a situation does not occur the Commission is expected to pursue with diligence, for a reasonable period of time, an attempt to correct or prevent all violations by informal methods, except as otherwise provided in the bill.

If the Commission enters into a conciliation agreement with a person, it is prohibited from bringing a civil action or recommending prosecution to the Justice Department with respect to that violation as long as the conciliation agreement is not violated. If the Commission is unable to correct the violation informally, it is authorized to bring a civil action. The Commission may refer a violation directly to the Attorney General without going through the voluntary compliance procedure if it determines there is probable cause to believe that a knowing and willful violation involving the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more in any calendar year has occurred or that a knowing and willful violation of the public financing provisions of the Internal Revenue Code has occurred.

The Commission is authorized, as part of a conciliation agreement, to require that a person pay a civil penalty of $10,000 or 3 times the amount involved, whichever is greater, when it believes there is clear and convincing proof that a knowing and willful violation has occurred.

The Commission is required to make public the results of any conciliation attempt as well as the provisions of any conciliation agreement.

In any civil action brought by the Commission where the Commission establishes through clear and convincing proof that the person involved in the action committed a knowing and willful violation of law, the Court is authorized to impose a civil penalty of $10,000 or 3 times the amount of the contribution or expenditure involved, whichever is greater. The Commission may institute a civil action if it believes there has been a violation of any provision of a conciliation agreement.

A person aggrieved by the Commission's dismissal of his complaint, or by the Commission's failure to act on the complaint within 90 days after it was filed, may petition the United States District Court for the District of Columbia for relief. The petition must be filed with the court within 60 days after the dismissal of the complaint or within 60 days after the end of the 90-day period during which no action was taken. The court may direct the Commission to proceed on the complaint within 30 days after the court's decision. If the Commission fails to take action within that period, the complainant may bring an action to remedy the violation complained of.

DUTIES OF THE COMMISSION

Section 109(a) of the bill requires the Commission to maintain a separate cumulative index of multicandidate political committee reports and statements to enable the public to determine which political

committees are qualified to make $5,000 contributions to candidates or their authorized committees.

Section 109(b) amends present law to provide for a 15 legislative day or 30 calendar day period, whichever is later, during which a proposed rule or regulation must be disapproved, as set forth in 2 U.S.C. 438(c)(2). With respect to a proposed rule or regulation transmitted to the Senate under 2 U.S.C. 438(c), receipt of such transmittal by the Senate shall have occurred upon entry in the Permanent Journal of the Senate.

ADDITIONAL ENFORCEMENT AUTHORITY

Section 110 would repeal Section 407 of the Act (2 U.S.C. 456) which gives the Commission power to disqualify a person from becoming a candidate in a future election for Federal office for a specified period of time.

Section 111 of the bill transfers a number of sections of Title 18 into the Federal Election Campaign Act of 1971.

CONTRIBUTION AND EXPENDITURE LIMITATIONS

Section 111 of the bill adds a new section 320 to the Federal Election Campaign Act of 1971 relating to limitations on contributions and expenditures. The text of this section is substantially similar to the matters presently contained in section 608 of Title 18 which is transferred to the Act under this section, with some changes in the law to provide additional limitations on certain contributions of political committees.

(1) A person (as defined in the Act) or a political committee which does not qualify for the $5,000 contribution limit, may not contribute more than $1,000 per election to any candidate for Federal office. As under present law, earmarked contributions, and contributions made to a candidate's authorized political committees, are considered to be contributions to that candidate rather than contributions to that committee. This restates present law.

(2) A political committee which has been registered as such for at least 6 months, which has received contributions from more than 50 persons, and which has made contributions to 5 or more candidates for Federal office, may contribute $5,000 per election to a Federal candidate, or an aggregate of $25,000 in a calendar year to a political committee (other than a political committee authorized by a candidate to receive contributions on his behalf which contributions are treated as contributions to that candidate). Under present law a political committee may make a contribution in an unlimited amount to another political committee which is not authorized to receive funds on behalf of a particular candidate or where such funds are not earmarked for a particular candidate.

(3) The section contains a new provision establishing a rule which treats, for purposes of the foregoing limitations, as a single political committee all political committees which are established, financed, maintained, or controlled by a single person or group of persons. This rule, however, does not apply to transfers of funds between political committees raised in joint fundraising efforts,

or to national, state, district, or local committees of political parties. The above rule, which is intended to curtail the vertical proliferation of political committee contributions, would not preclude, however, a political committee of a national organization from contributing to a candidate or committee merely because of its affiliation with a national multicandidate political committee which has made the maximum contribution it is permitted to make to a candidate or a committee.

(4) As in existing law, an individual may not make contributions totaling more than $25,000 during any calendar year.

This section establishes rules for determining when a contribution made to a political committee is considered to be a contribution to a candidate, and when certain expenditures shall be considered to be contributions to a candidate, and subject to the limitations of the Act.

The remaining provisions of this section transfer into the Federal Election Campaign Act of 1971 those provisions of 18 U.S.C. 608 which imposed expenditure limitations on presidential candidates, conditioning their application, in accordance with the Supreme Court's decision in *Buckley* v. *Valeo*, upon the acceptance of public financing.

CONTRIBUTIONS BY CORPORATIONS AND LABOR UNIONS

Section 610 of Title 18 prohibiting contributions by corporations and labor organizations, is taken out of Title 18 and transferred to the Federal Election Campaign Act of 1971 as new section 321 of that Act. The following changes from existing law are noted:

(1) The penalty provisions are removed from the section and replaced by a general penalty provision contained in a new section 329 of the Act. Violations of this section would also be subject to the civil enforcement powers of the Commission under this bill.

(2) Corporations are prohibited from soliciting contributions from persons who are not stockbrokers, executive or administrative personnel, or the families of such persons, and labor organizations are prohibited from soliciting contributions from persons other than members of the organization and their families. The term "executive or administrative personnel" is defined as individuals who are paid by salary rather than on an hourly basis, and who have policy making or supervisory responsibilities. The term "stockholder" is defined to include any individual who has a legal, vested, or beneficial interest in stock, including, but not limited to, employees of a corporation who participate in a stock bonus, stock option, or employee stock ownership plan.

(3) Any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund permitted to corporations shall also be permitted to labor organizations.

(4) A corporation which uses any particular method for soliciting or facilitating the making of voluntary contributions to a separate segregated fund is required to make that method available to a labor organization representing employees of that corporation upon written request.

CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

The prohibitions against contributions by government contractors contained in 18 U.S.C. 611 are transferred to the Act as new Section 322, absent the existing penalty provisions, which are replaced by the penalty and enforcement provisions under new Sections 313 and 329 of the Act.

PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

New Section 323 of the Act is a substantial revision of 18 U.S.C. 612 and requires that any printed or broadcast communication which expressly advocates the election or defeat of a clearly identified candidate and which is disseminated to the public, must contain a clear and conspicuous notice that it is authorized by a candidate or that it is not authorized by any candidate. In the latter case the communication must contain the name of the person who made or financed the communication, including, in the case of a political committee, the name of any affiliated or connected organization. This section would be subject to the penalty and enforcement provisions under new Sections 313 and 329 of the Act.

CONTRIBUTIONS BY FOREIGN NATIONALS

New Section 324 of the Act incorporates the provisions of 18 U.S.C. 613, replacing the criminal penalties presently contained in such section with the penalty and enforcement provision under new Sections 313 and 329 of the Act.

PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

New Section 325 of the Act incorporates the provisions of 18 U.S.C. 614, replacing the criminal penalties presently contained in such section with the penalty and enforcement provisions under new Sections 313 and 329 of the Act.

LIMITATION OF CONTRIBUTIONS OF CURRENCY

New Section 326 of the Act incorporates the provisions of 18 U.S.C. 615, replacing the criminal penalties contained in such section with the penalty and enforcement provisions under new Section 313 and 329 of the Act.

ACCEPTANCE OF EXCESSIVE HONORARIUMS

New Section 327 of the Act incorporates the provisions of 18. U.S.C. 616, increasing the limitation on honorariums from $1,000 to $2,000 for any appearance, speech, or article, and the aggregate calendar year limitation from $15,000 to $24,000. Amounts accepted for the actual travel and subsistence expenses of a recipient of an honorarium, and a member of the recipient's immediate family or an aide are intended to be excluded from the honorarium limitations of this section. The ex-

isting criminal penalties under 18 U.S.C. 616 are replaced by the penalty and enforcement provisions under the new Sections 313 and 329 of the Act.

FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

New Section 328 of the Act incorporates the provisions of 18 U.S.C. 617, replacing the criminal penalties contained in such section with the penalty and enforcement provisions under the new Sections 313 and 329 of the Act.

PENALTY FOR VIOLATIONS

Section 329 of the Act provides that, upon enactment of the bill, a knowing and willful violation of the Federal Election Campaign Act of 1971, as amended, which involves the making, receiving or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more in any calendar year is punishable by a fine not in excess of $25,000 or three times the amount involved, whichever is greater, and imprisonment for not more than 1 year, or both the fine and imprisonment.

New Section 329(b) provides in any criminal action brought for a violation of a provision of the Federal Election Campaign Act of 1971, as amended, or of the public financing provision of the Internal Revenue Code that the defendant may assert as a complete defense the fact that a conciliation agreement has been entered into with the Commission and is still in effect and being complied with.

AUTHORIZATION

Section 112 of the bill provides an authorization of $8,000,000 for the fiscal year ending June 30, 1976, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for the fiscal year ending September 30, 1977.

SAVINGS PROVISION

Section 113 of the bill provides that the repeal by this bill of any section or penalty does not release or extinguish any penalty forfeiture or liability incurred under such penalty or section.

TECHNICAL AND CONFORMING AMENDMENTS

Section 114 of the bill makes a series of four technical amendments (basically cross references) in various provisions of law necessary to reflect changes made by other sections of the bill.

REPEAL OF CERTAIN CRIMINAL CODE PROVISIONS

Section 201 of the bill amends title 18, United States Code, to repeal those provisions contained in the criminal code which are transferred by the bill to the Federal Election Campaign Act of 1971.

ENTITLEMENT OF ELIGIBLE PRESIDENTIAL CANDIDATES FOR PUBLIC FINANCING

Section 301 of the bill amends the public financing provisions of the Internal Revenue Code of 1954 by prohibiting a Presidential candidate who accepts public funds from expending more than $50,000 from his own personal funds or the funds of his immediate family in connection with his campaign.

PAYMENTS TO ELIGIBLE CANDIDATES

Section 302 of the bill would repeal that provision of section 9006 of the Internal Revenue Code of 1954 which provides for the Secretary of the Treasury to transfer excess amounts in the Presidential Election Campaign Fund back to the general fund of the Treasury, thus permitting such funds to accumulate for later use.

REVIEW OF REGULATIONS

Section 303 of the bill amends the public financing provisions of the Internal Revenue Code of 1954 relating to Congressional review of regulations promulgated under such provisions, to provide for a 15-legislative day or 30-calendar day period, whichever is later, during which a proposed rule or regulation can be disapproved, to conform with the same change made by section 109(b) of the bill.

ELIGIBILITY FOR PAYMENTS

Section 304 of the bill makes a clerical change in a provision of the Internal Revenue Code which refers to limitations modified by this Act.

QUALIFIED CAMPAIGN EXPENSE LIMITATION

Section 305 of the bill adds the limitation on the expenditure of personal funds to the General Provision relating to expenditure limitations in the public financing provisions of the Internal Revenue Code.

TECHNICAL AND CONFORMING AMENDMENTS

Section 306 of the bill makes a number of changes correcting cross references of the Internal Revenue Code to provisions of title 18 which, under the bill, are transferred to the Federal Election Campaign Act of 1971. Section 306 of the bill also amends Section 9008(d) of Title 26 of the Internal Revenue Code to provide that the payment of legal and accounting services rendered to or on behalf of a national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on Presidential nominating convention expenses.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill S. 3065 as reported by the Committee on Rules and Administration, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

FEDERAL ELECTION CAMPAIGN ACT OF 1971

NOTE.—Changes in the Federal Election Campaign Act of 1971 are shown as that Act is reflected in chapter 14 of title 2, United States Code, for convenience of reference.

CHAPTER 14—FEDERAL ELECTION CAMPAIGNS

§ 431. Definitions

When used in this chapter—

(a) "election" means—

(1) a general, special, primary, or runoff election;

(2) a convention or caucus of a political party [held to] *which has authority to* nominate a candidate;

(3) a primary election held for the selection of delegates to a national nominating convention of a political party; and

(4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has—

(1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office; or

(2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

(d) "political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

(e) "contribution"—

(1) means a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of—

(A) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing

the results of a primary held for the selection of delegates to a national nominating convention of a political party; or

(B) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States;

(2) means a *written* contract, promise, or agreement, expressed or implied, whether or not legally enforceable, to make a contribution for such purposes;

(3) means funds received by a political committee which are transferred to such committee from another political committee or other source;

(4) means the payment, by any person other than a candidate or a political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose, except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or 96 of the Internal Revenue Code of 1954, but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 434(b); but

(5) does not include—

(A) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

(B) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

(C) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

(D) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate;

(E) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or

in newspapers, magazines, or other similar types of general public political advertising; or

(F) any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization;

to the extent that the cumulative value of activities by any individual on behalf of any candidate under each of clauses (B), (C), and (D) does not exceed $500 with respect to any election;

(f) "expenditures"—

(1) means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of—

(A) influencing the nomination for election, or the election, of any person to Federal office, or to the office of presidential and vice presidential elector; or

(B) influencing the results of a primary election held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President of the United States;

(2) means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure;

(3) means the transfer of funds by a political committee to another political committee; but

(4) does not include—

(A) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(B) nonpartisan activity designed to encourage individuals to register to vote, or to vote;

(C) any communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office;

(D) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities if the cumulative value of such activities by such individual on behalf of any candidate does not exceed $500 with respect to any election;

(E) any unreimbursed payment for travel expenses made by an individual who, on his own behalf, volunteers his personal services to a candidate if the cumulative amount for such individual incurred with respect to such candidate does not exceed $500 with respect to any election;

(F) any communication by any person which is not made for the purpose of influencing the nomination for election, or election, of any person to Federal office; [or]

(G) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or other similar types of general public tion or labor organizations; [or]

(H) any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization;

(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 439d(b), but all such costs shall be reported in accordance with section 434(b); or

(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provision of this title or of chapter 95 or 96 of the Internal Revenue Code of 1954, but amounts paid or incurred for such legal or accounting services shall be reported under section 433(b).

(g) "Commission" means the Federal Election Commission;

(h) "person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons;

(i) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(j) "identification" means—

(1) in the case of an individual, his full name and the full address of his principal place of residence; and

(2) in the case of any other person, the full name and address of such person;

(k) "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day

operation of such political party at the national level, as determined by the Commission;

(l) "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission;

(m) "political party" means an association, committee, or organization which nominates a candidate for election to any Federal office, whose name appears on the election ballot as the candidate of such association, committee, or organization; [and]

(n) "principal campaign committee" means the principal campaign committee designated by a candidate under section 432(f)(1) of this [title.] *title;*

(o) "Act" means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976; and

(p) "independent expenditure" means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, and is not at the request or suggestion of, any candidate or any authorized committee or any authorized committee or agent of such candidate.

§ 432. Organization of political committees

(a) Chairman; treasurer; vacancies; official authorizations. Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(b) Account of contributions; segregated funds. Every person who receives a contribution in excess of [$10] *$100* for a political committee shall, on demand of the treasurer, and in any event within 5 days after receipt of such contribution, render to the treasurer a detailed account thereof, including the amount of the contribution and the identification of the person making such contribution, and the date on which received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) Recordkeeping. It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of—

(1) all contributions made to or for such committee;

[(2) the identification of every person making a contribution in excess of $10, and the date and amount thereof and, if a person's contributions aggregate more than $100, the account shall include occupation, and the principal place of business (if any);]

(2) the identification, the occupation (but not the name of such person's employer, firm, business associates, customers, or clients), and the principal place of business or employment (if any) of every person making a contribution in excess of $100, and the date and the amount of such contribution;

(3) all expenditures made by or on behalf of such committee; and

(4) the identification of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(d) Receipts; preservation. It shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of $100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year exceeds $100. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for periods of time to be determined by the Commission.

[(e) Unauthorized activities; notice. Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.]

[(f)] (*e*) Principal campaign committee; reports, filing. (1) Each individual who is a candidate for Federal office (other than the office of Vice President of the United States) shall designate a political committee to serve as his principal campaign committee. No political committee may be designated as the principal campaign committee of more than one candidate, except that the candidate for the office of President of the United States nominated by a political party may designate the national committee of such political party as his principal campaign committee. Except as provided in the preceding sentence, no political committee which supports more than one candidate may be designated as a principal campaign committee.

(2) Notwithstanding any other provision of this title, each report or statement of contributions received or expenditures made by a political committee (other than a principal campaign committee) which is required to be filed with the Commission under this title shall be filed instead with the principal campaign committee for the candidate on whose behalf such contributions are accepted or such expenditures are made.

(3) It shall be the duty of each principal campaign committee to receive all reports and statements required to be filed with it under paragraph (2) of this subsection and to compile and file such reports and statements, together with its own reports and statements, with the Commission in accordance with the provisions of this title.

* * * * * * *

§ 434. Reports

(a) Receipts and expenditures; completion date, exception.

(1) Except as provided by paragraph 2, each treasurer of a political committee supporting a candidate or candidates for election to Federal office, and each candidate for election to such office, shall file with the

Commission reports of receipts and expenditures on forms to be prescribed or approved by it.

The reports referred to in the preceding sentence shall be filed as follows:

(A) (i) In any calendar year in which an individual is a candidate for Federal office and an election for such Federal office is held in such year, such reports shall be filed not later than the 10th day before the date on which such election is held and shall be complete as of the 15th day before the date of such election; except that any such report filed by registered or certified mail must be postmarked not later than the close of the 12th day before the date of such election;

(ii) such reports shall be filed not later than the 30th day after the date of such election and shall be complete as of the 20th day after the date of such election.

(B) In any other calendar year in which an individual is a candidate for Federal office, such reports shall be filed after December 31 of such calendar year, but not later than January 31 of the following calendar year and shall be complete as of the close of the calendar year with respect to which the report is filed.

(C) Such reports shall be filed not later than the 10th day following the close of any calendar quarter in which the candidate or political committee concerned received contributions in excess of $1,000, or made expenditures in excess of $1,000, and shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph. *In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions totaling in excess of $5,000, or made expenditures totaling in excess of $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.*

(D) When the last day for filing any quarterly report required by subparagraph (C) occurs within 10 days of an election, the filing of such quarterly report shall be waived and superseded by the report required by subparagraph (A) (i).

Any contribution of $1,000 or more received after the 15th day, but more than 48 hours, before any election shall be reported within 48 hours after its receipt.

[(2) Each treasurer of a political committee which is not a principal campaign committee shall file the reports required under this section with the appropriate principal campaign committee.**]**

(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other

than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.

(3) Upon a request made by a presidential candidate or a political committee which operates in more than one State, or upon its own motion, the Commission may waive the reporting dates set forth in paragraph (1) (other than the reporting date set forth in paragraph (1)(B)), and require instead that such candidate or political committee file reports not less frequently than monthly. The Commission may not require a presidential candidate or a political committee operating in more than one State to file more than 12 reports (not counting any report referred to in paragraph (1)(B)) during any calendar year. If the Commission acts on its own motion under this paragraph with respect to a candidate or a political committee, such candidate or committee may obtain judicial review in accordance with the provisions of chapter 7 of title 5, United States Code.

(b) Contents of reports. Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) the full name and mailing address (occupation (*but not the name of such person's employer, firm, business associates, customers, or clients*) and the principal place of business *or employment*, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions;

(3) the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);

(4) the name an address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;

(5) each loan to or from any person within the calendar year in an aggregate amount or value in excess of $100, together with the full names and mailing addresses (occupations (*but not the name of the employers, firms, business associates, customers, or clients*) and the principal places of business *or employment*, if any) of the lender, endorsers, and guarantors, if any, the date and amount of such loans;

(6) the total amount of proceeds from—

(A) the sale of tickets to each dinner, luncheon, rally, and other fundraising events;

(B) mass collections made at such events; and

(C) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(7) each contribution, rebate, refund, or other receipt in excess of $100 not otherwise listed under paragraphs (2) through (6);

(8) the total sum of all receipts by or for such committee or candidate during the reporting period, together with total receipts less transfers between political committees which support the same candidate and which do not support more than one candidate;

(9) the identification of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value in excess of $100, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;

(10) the identification of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of $100 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;

(11) the total sum of expenditures made by such committee or candidate during the calendar year, together with total expenditures less transfers between political committees which support the same candidate and which do not support more than one candidate;

(12) the amount and nature of debts and obligations owed by or to the committee, in such form as the commission may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the Commission may require until such debts and obligations are extinguished, together with a statement as to the circumstances and conditions under which any such debt or obligation is extinguished and the consideration therefore; [and]

(13) in the case of expenditures in excess of $100 by a political committee other than an authorized committee of a candidate expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9), stated in a manner which indicates whether the expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

[(13)] *(14)* such other information as shall be required by the Commission.

(c) Cumulative reports for calendar year; amounts for unchanged items carried forward; statement of inactive status. The reports required to be filed by subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.

(d) Members of Congress, reporting exemption. This section does not require a Member of the Congress to report, as contributions received or as expenditures made, the value of photographic, mailing,

or recording services furnished to him by the Senate Recording Studio, the House Recording Studio, or by an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives and who furnishes such services as his primary duty as an employee of the Senate or House of Representatives, or if such services were paid for by the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, or the National Republican Congressional Committee. This subsection does not apply to such recording services furnished during the calendar year before the year in which the Member's term expires.

[(e) Contributions or expenditures by person other than political committee or candidate. Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission a statement containing the information required by this section. Statements required by this subsection shall be filed on the dates on which reports by political committees are filed but need not be cumulative.]

(e) (1) Every person (other than a political committee or candidate) who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any expenditure, including but not limited to those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than forty-eight hours, before any election shall be reported within forty-eight hours of such expenditure.

(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including but not limited to those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely pre-election basis.

[§ 437a. Reports by certain persons

[Any person (other than an individual) who expends any funds or commits any act directed to the public for the purpose of influencing the outcome of an election, or who publishes or broadcasts to the

public any material referring to a candidate (by name, description, or other reference) advocating the election or defeat of such candidate, setting forth the candidate's position on any public issue, his voting record, or other official acts (in the case of a candidate who holds or has held Federal office), or otherwise designed to influence individuals to cast their votes for or against such candidates or to withhold their votes from such candidates shall file reports with the Commission as if such person were a political committee. The reports filed by such person shall set forth the source of the funds used in carrying out any activity described in the preceding sentence in the same detail as if the funds were contributions within the meaning of section 431(e) of this title, and payments of such funds in the same detail as if they were expenditures within the meaning of section 431(f) of this title. The provisions of this section do not apply to any publication or broadcast of the United States Government or to any news story, commentary, or editorial distributed through the facilities of a broadcasting station or a bona fide newspaper, magazine, or other periodical publication. A news story, commentary, or editorial is not considered to be distributed through a bona fide newspaper, magazine, or other periodical publication if—

[(1) such publication is primarily for distribution to individuals affiliated by membership or stock ownership with the person (other than an individual) distributing it or causing it to be distributed, and not primarily for purchase by the public at newsstands or by paid subscription; or

[(2) the news story, commentary, or editorial is distributed by a person (other than an individual) who devotes a substantial part of his activities to attempting to influence the outcome of elections, or to influence public opinion with respect to matters of national or State policy or concern.]

§ 437c. Federal Election Commission

(a)(1) There is established a commission to be known as the Federal Election Commission. [The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and six members appointed as follows:

[(A) two shall be appointed, with the confirmation of a majority of both Houses of the Congress, by the President pro tempore of the Senate upon the recommendations of the majority leader of the Senate and the minority leader of the Senate;

[(B) two shall be appointed, with the confirmation of a majority of both Houses of the Congress, by the Speaker of the House of Representatives, upon the recommendations of the majority leader of the House and the minority leader of the House; and

[(C) two shall be appointed, with the confirmation of a majority of both Houses of the Congress, by the President of the United States.

[A member appointed under subparagraph (A), (B), or (C) shall not be affiliated with the same political party as the other member appointed under such paragraph.]]

The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and six members appointed by the President of the United States, by and with the advice and consent of the Senate. No more than three members of the Commission appointed under this paragraph may be affiliated with the same political party.

[(2) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

[(A) one of the members appointed under paragraph (1)(A) shall be appointed for a term ending on the April 30 first occurring more than 6 months after the date on which he is appointed;

[(B) one of the members appointed under paragraph (1)(B) shall be appointed for a term ending 1 year after the April 30 on which the term of the member referred to in subparagraph (A) of this paragraph ends;

[(C) one of the members appointed under paragraph (1)(C) shall be appointed for a term ending 2 years thereafter;

[(D) one of the members appointed under paragraph (1)(A) shall be appointed for a term ending 3 years thereafter;

[(E) one of the members appointed under paragraph (1)(B) shall be appointed for a term ending 4 years thereafter; and

[(F) one of the members appointed under paragraph (1)(C) shall be appointed for term ending 5 years thereafter.

[An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds. Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.]

(2)(A) Members of the Commission shall serve for terms of six years, except that of the members first appointed—

(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979, and

(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.

(3) Members shall be chosen on the basis of their maturity, experience, integrity, impartiality, and good judgment and shall be chosen from among individuals who, at the time of their appointment, are not elected or appointed officers or employees in the executive, legislative, or judicial branch of the Government of the United States. *Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity not later than one year after beginning to serve as such a member.*

(4) Members of the Commission (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall receive compensation equivalent to the compensation paid at level IV of the executive schedule (5 U.S.C. § 5315).

(5) The Commission shall elect a chairman and a vice chairman from among its members (other than the Secretary of the Senate and the Clerk of the House of Representatives) for a term of 1 year. No member may serve as chairman more often than once during any term of office to which he is appointed. The chairman and the vice chairman shall not be affiliated with the same political party. The vice chairman shall act as chairman in the absence or disability of the chairman, or in the event of a vacancy in such office.

[(b) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to this Act and sections 608, 610, 611, 613, 614, 615, 616, and 617 of Title 18, United States Code. The Commission has primary jurisdiction with respect to the civil enforcement of such provisions.]

(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive and primary jurisdiction with respect to the civil enforcement of such provisions.

(2) Nothing in this Act shall be construed to limit, restrict or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.

(c) All decisions of the Commission with respect to the exercise of its duties and powers under the provisions of this title shall be made by a majority vote of the members of the Commission, *except that the affirmative vote of four members of the Commission (no less than two of whom are affiliated with the same political party) shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a).* A member of the Commission may not delegate to any person his vote or any decision-making authority or duty vested in the Commission by the provisions of this title.

(d) The Commission shall meet at least once each month and also at the call of any member.

(e) The Commission shall prepare written rules for the conduct of its activities, shall have an official seal which shall be judicially noticed, and shall have its principal office in or near the District of Columbia (but it may meet or exercise any of its powers anywhere in the United States).

(f)(1) The Commission shall have a staff director and a general counsel who shall be appointed by the Commission. The staff director shall be paid at a rate not to exceed the rate of basic pay in effect for level IV of the executive schedule (5 U.S.C. § 5315). The general counsel shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the executive schedule (5 U.S.C. § 5316). With the approval of the Commission, the staff

director may appoint and fix the pay of such additional personnel as he considers desirable *without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.*

(2) With the approval of the Commission, the staff director may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of Title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–15 of the general schedule (5 U.S.C. § 5332).

(3) In carrying out its responsibilities under this Act, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities, of other agencies and departments of the United States Government. The heads of such agencies and departments may make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

§ 437d. Powers of Commission

(a) The Commission has the power—

(1) to require, by special or general orders, any person to submit in writing such reports and anwers to questions as the Commission may prescribe; and such submission shall be made within such a reasonable period of time and under oath or otherwise as the Commission may determine;

(2) to administer oaths or affirmations;

(3) to require by subpena, signed by the chairman or the vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

[(6) to initiate (through civil proceedings for injunctive declaratory, or other appropriate relief), defend, or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act, through its general counsel;]

(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a)(9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this chapter and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;

(7) to render advisory opinions under section 437f of this title;

(8) to *develop such prescribed forms and to* make, amend, and repeal such rules, pursuant to the provisions of chapter 5 of Title

5, United States Code, as are necessary to carry out the provisions of this Act *and chapter 95 and chapter 96 of the Internal Revenue Code of 1954*;

(9) to formulate general policy with respect to the administration of this chapter [and sections 608, 610, 611, 613, 614, 615, 616, and 617 of Title 18, United States Code] *and chapter 95 and chapter 96 of the Internal Revenue Code of 1954*;

[(10) to develop prescribed forms under subsection (a)(1) of this section;]

[(11)] *(10)* to conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations to the appropriate law enforcement authorities.

(b) Any United States district court within the jurisdiction of which any inquiry is carried on, may, upon petition by the Commission, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance therewith. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

(d)(1) Whenever the Commission submits any budget estimate or request to the President of the United States or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

(2) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation, requested by the Congress or by any Member of the Congress, to the President of the United States or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation to any office or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(e) Except as provided in section 437g(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this chapter.

§ 437f. Advisory opinions

[(a) Upon written request to the Commission by any individual holding Federal office, any candidate for Federal office, or any political committee, the Commission shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this act, of chapter 95 or chapter 96 of Title 26 of the U.S. Code, or of section 608, 610, 611, 613, 614, 615, 616, or 617 of Title 18, United States Code.]

(a) Upon written request to the Commission by any individual holding Federal office, any candidate for Federal office, the Democratic Caucus and the Republican Conference of each House of the Congress,

any political committee, or the national committee of any political party, the Commission shall render an advisory opinion, in writing with a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this chapter or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

[(b) Notwithstanding any other provision of law, any person with respect to whom an advisory opinion is rendered under subsection (a) who acts in good faith in accordance with the provisions and findings of such advisory opinion shall be presumed to be in compliance with the provision of this act, of chapter 95 or chapter 96 of Title 26 of the U.S. Code, or of section 608, 610, 611, 613, 614, 615, 616, or 617 of Title 18, United States Code, with respect to which such advisory opinion is rendered.]

(b)(1) Notwithstanding any other provision of law, any person with respect to whom an advisory opinion is rendered under subsection (a) who acts in good faith in accordance with the provisions and findings of such advisory opinion shall be presumed to be in compliance with the provision of this chapter, or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, with respect to which such advisory opinion is rendered.

(2)(A) Any advisory opinion rendered by the Commission under subsection (a) shall apply only to the person requesting such advisory opinion and to any other person directly involved in the specific transaction or activity with respect to which such advisory opinion is rendered. The provisions of any such advisory opinion shall be made generally applicable by the Commission in accordance with the provisions of subparagraph (B).

(B)(i) The Commission shall, no later than thirty days after rendering an advisory opinion with respect to a request received under subsection (a) which sets forth a rule of general applicability, prescribe rules or regulations relating to the transaction or activity involved if the Commission determines that such transaction or activity is not subject to any existing rule or regulation prescribed by the Commission. In any such case in which the Commission receives more than one request for an advisory opinion, the Commission may not render more than one advisory opinion relating to the transaction or activity involved.

(ii) Any rule or regulation prescribed by the Commission under this subparagraph shall be subject to the provisions of section 438(c).

(c) Any request made under subsection (a) shall be made public by the Commission. The Commission shall before rendering an advisory opinion with respect to such request, provide any interested party with an opportunity to transmit written comments to the Commission with respect to such request.

§ 437g. Enforcement

[(a)(1)(A) Any person who believes a violation of this act or of section 608, 610, 611, 613, 614, 615, 616 or 617 of Title 18, United States Code has occurred may file a complaint with the Commission.

[(B) In any case in which the Clerk of the House of Representatives or the Secretary of the Senate (who receive reports

and statements as custodian for the Commission) has reas[illegible] to believe a violation of this act or section 608, 610, 611, 613, 614, 615, 616, or 617, of Title 18, United States Code, has occu[illegible]ed he shall refer such apparent violation to the Commission

[(2) The Commission upon receiving any complaint under p[illegible]a-graph (1)(A), or a referral under paragraph (1)(B), or if it has reason to believe that any person has committed a violation of any such provision, shall notify the person involved of such apparent violation and shall—

[(A) report such apparent violation to the Attorney [illegible]n-eral; or

[(B) make an investigation of such apparent violation.

[(3) Any investigation under paragraph (2)(B) shall be [illegible]n-ducted expeditiously and shall include an investigation of rep[illegible]rts and statements filed by any complainant under this title, if [illegible]ch complainant is a candidate. Any notification or investiga[illegible]on made under paragraph (2) shall not be made public by the C[illegible]n-mission or by any other person without the written consent o[illegible]he person receiving such notification or the person with respec[illegible] to whom such investigation is made.

[(4) The Commission shall, at the request of any person [illegible]ho receives notice of an apparent violation under paragraph [illegible]2), conduct a hearing with respect to such apparent violation.

[(5) If the Commission determines, after investigation, [illegible]at there is reason to believe that any person has engaged, or is a[illegible]ut to engage in any acts or practices which constitute or will co[illegible]sti-tute a violation of this Act, it may endeavor to correct such vi[illegible]a-tion by informal methods of conference, conciliation, and per[illegible]a-sion. If the Commission fails to correct the violation thro[illegible]gh informal methods, it may institute a civil action for relief, inc[illegible]d-ing a permanent or temporary injunction, restraining orde[illegible] or any other appropriate order in the district court of the Un[illegible]ted States for the district in which the person against whom such [illegible]e-tion is brought is found, resides, or transacts business. Upo[illegible] a proper showing that such person has engaged or is about to eng[illegible]ge in such acts or practices, the court shall grant a permanen[illegible] or temporary injunction, restraining order, or other order.

[(6) The Commission shall refer apparent violations to the [illegible]p-propriate law enforcement authorities to the extent that violat[illegible]ns of provisions of chapter 29 of Title 18, United States Code, [illegible]re involved, or if the Commission is unable to correct apparent [illegible]o-lations of this Act under the authority given it by paragraph [illegible]), or if the Commission determines that any such referra[illegible] is appropriate.

[(7) Whenever in the judgment of the Commission, after [illegible]f-fording due notice and an opportunity for a hearing, any pe[illegible]on has engaged or is about to engage in any acts or practices w[illegible]ch constitute or will constitute a violation of any provisions of [illegible]his Act or section 608, 610, 611, 613, 614, 615, 616, or 617 of Title [illegible]8, United States Code, upon request by the Commission the Attor[illegible]ey General on behalf of the United States shall institute a civil ac[illegible]on for relief, including a permanent or temporary injunction, [illegible]e-

straining order, or any other appropriate order in the district court of the United States for the district in which the person is found, resides, or transacts business. Upon a proper showing that such person has engaged or is about to engage in such acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court.

[(8) In any action brought under paragraph (5) or (7) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

[(9) Any party aggrieved by an order granted under paragraph (5) or (7) of this subsection may, at any time within 60 days after the date of entry thereof, file a petition with the United States court of appeals for the circuit in which such order was issued for judicial review of such order.

[(10) The judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28, United States Code.

[(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 437h of this title).

[(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with repect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 30-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.]

(a)(1) Any person who believes a violation of this chapter or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) The Commission, upon receiving a complaint under paragraph (1), or if it has reason to believe that any person has committed a violation of this chapter or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this chapter, if such complainant is a candidate.

Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this chapter.

(5)(A) If the Commission determines that there is reason to believe that any person has committed or is about to commit a violation of this chapter or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute an absolute bar to any further action by the Commission, including bringing a civil proceeding under paragraph (B) of this section.

(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person against whom such action is found, resides, or transacts business.

(C) In any civil action instituted by the Commission under paragraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order upon a proper showing that the person involved has engaged or is about to engage in a violation of this chapter or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation under section 329(a), or a knowing and willful violation of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to the limitations set forth in paragraph (A) of this section.

(6) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this chapter or chapter 95 or 96 of the Internal Revenue Code of 1954 has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (A) $10,000; or (B) an amount equal to 300 percent of the amount of any contribution or expenditure involved in such violation. The Commission shall make available to the public the results of any conciliation attempt including any conciliation agreement entered into by the Commission and any determination by the Commission that no violation of this chapter or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this chapter or of chapter 95 or 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater (A) $10,000; or (B) an amount equal to 300 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if he believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

(8) In any action brought under paragraph (5) or paragraph (7) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

(9)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within ninety days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

(B) The filing of any action under subparagraph (A) shall be made—

(i) in the case of the dismissal of a complaint by the Commission, no later than sixty days after such dismissal; or

(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than sixty days after the ninety-day period specified in subparagraph (A).

(C) In such proceeding the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with that declaration within thirty days, failing which the complainant may bring in his own name a civil action to remedy the violation complained of.

(10) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certfication as provided in section 1254 of title 28, United States Code.

(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 437h).

(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5) it may petition the court for an order to adjudicate that person in civil contempt, except that if it believes the

violation to be knowing and willful it may instead petition the court for an order to adjudicate that person in criminal contempt.

(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than sixty days after the date the Commission refers any apparent violation, and at the close of every thirty-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.

* * * * * * *

§ 438. Administrative and judicial provisions

(a) Duties. It shall be the duty of the Commission—

(1) Forms. To develop and furnish to the person required by the provisions of this Act prescribed forms for the making of the reports and statements required to be filed with it under this chapter;

(2) Manual for uniform bookkeeping and reporting methods. To prepare, publish, and furnish to the person required to file such reports and statements a manual setting forth recommended uniform methods of bookkeeping and reporting;

(3) Filing, coding, and cross-indexing system. To develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter;

(4) Public inspection; copies; sale or use restrictions. To make the reports and statements filed with it available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person: *Provided*, That any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(5) Preservation of reports and statements. To preserve such reports and statements for a period of 10 years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only 5 years from the date of receipt;

(6) Index of reports and statements; publication in Federal Register. To compile and maintain a cumulative index of reports and statements filed with it, which shall be published in the Federal Register at regular intervals and which shall be available for purchase directly or by mail for a reasonable price *and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 439d, and which shall be revised on the same*

basis and at the same time as the other cumulative indices required under this paragraph;

(7) Special reports; publication. To prepare and publish from time to time special reports listing those candidates for whom reports were filed as required by this title and those candidates for whom such reports were not filed as so required;

(8) Audits; investigations. To make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this chapter, and with respect to alleged failures to file any report or statement required under the provisions of this chapter;

(9) Enforcement authorities; reports of violations. To report apparent violations of law to the appropriate law enforcement authorities; and

(10) Rules and regulations. To prescribe rules and regulations to carry out the provisions of this chapter, in accordance with the provisions of subsection (c).

(b) Commission; duties: national clearinghouse for information; studies, scope, publication, copies to general public at cost. It shall be the duty of the Commission to serve as a national clearinghouse for information in respect to the administration of elections. In carrying out its duties under this subsection, the Commission shall enter into contracts for the purpose of conducting independent studies of the administration of elections. Such studies shall include, but shall not be limited to, studies of—

(1) the method of selection of, and the type of duties assigned to, officials and personnel working on boards of elections;

(2) practices relating to the registration of voters; and

(3) voting and counting methods.

Studies made under this subsection shall be published by the Commission and copies thereof shall be made available to the general public upon the payment of the cost thereof.

(c) Review of regulations.

(1) The Commission, before prescribing any rule or regulation under this section *or under section 437f(b)(2)(B)*, shall transmit a statement with respect to such rule or regulation to the Senate or the House of Representatives, as the case may be, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If the appropriate body of the Congress which receives a statement from the Commission under this subsection does not, through appropriate action, disapprove the proposed rule or regulation set forth in such statement no later than [30 legislative days] *thirty calendar days or fifteen legislative days, whichever is later*, after receipt of such statement, then the Commission may prescribe such rule or regulation. In the case of any rule or regulation proposed to deal with reports or statements required to be filed under this title by a candidate for the office of President of the United States, and by political committees supporting such a candidate both the Senate and the House of Representatives shall have the power to disapprove such proposed rule or regula-

tion. *Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.* The Commission may not prescribe any rule or regulation which is disapproved under this paragraph.

(3) If the Commission proposes to prescribe any rule or regulation dealing with reports or statements required to be filed under this title by a candidate for the office of Senator, and by political committees supporting such candidate, it shall transmit such statement to the Senate. If the Commission proposes to prescribe any rule or regulation dealing with reports or statements required to be filed under this title by a candidate for the office of Representative, Delegate, or Resident Commissioner, and by political committees supporting such candidate, it shall transmit such statement to the House of Representatives. If the Commission proposes to prescribe any rule or regulation dealing with reports or statements required to be filed under this title by a candidate for the office of President of the United States, and by political committees supporting such candidate it shall transmit such statement to the House of Representatives and the Senate.

(4) For purposes of this subsection, the term "legislative days" does not include, with respect to statements transmitted to the Senate, any calendar day on which the Senate is not in session, and with respect to statements transmitted to the House of Representatives, any calendar day on which the House of Representatives is not in session, and with respect to statements transmitted to both such bodies, any calendar day on which both Houses of the Congress are not in session.

(d) Rules and regulations; congressional cooperation.

(1) The Commission shall prescribe suitable rules and regulations to carry out the provisions of this title, including such rules and regulations as may be necessary to require that—

(A) reports and statements required to be filed under this title by a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, and by political committees supporting such candidate, shall be received by the Clerk of the House of Representatives as custodian for the Commission;

(B) reports and statements required to be filed under this title by a candidate for the office of Senator, and by political committees supporting such candidate, shall be received by the Secretary of the Senate as custodian for the Commission; and

(C) the Clerk of the House of Representatives and the Secretary of the Senate, as custodians for the Commission, each shall make the reports and statements received by him available for public inspection and copying in accordance

with paragraph (4) of subsection (a), and preserve such reports and statements in accordance with paragraph (5) of subsection (a).

(2) It shall be the duty of the Clerk of the House of Representatives and the Secretary of the Senate to cooperate with the Commission in carrying out its duties under this Act and to furnish such services and facilities as may be required in accordance with this section.

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§ *439c. Authorization of appropriations*

There are authorized to be appropriated to the Commission for the purpose of carrying out its functions under this Act, and under chapters 95 and 96 of Title 26 of the United States Code, not to exceed $5 million for the fiscal year ending June 30, 1975. *There are authorized to be appropriated to the Federal Election Commission $8,000,000 for the fiscal year ending June 30, 1976, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for the fiscal year ending September 30, 1977.*

§ *439d. Limitations on contributions and expenditures*

(a)(1) Except as otherwise provided by paragraphs (2) and (3), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000.

(2) No political committee (other than a principal campaign committee) shall make contributions to (A) any candidate with respect to any election for Federal office which, in the aggregate, exceed $5,000; or (B) to any political committee (other than a political committee authorized by a candidate to receive contributions on his behalf which contributions are, under paragraph (4), treated as contributions to that candidate) in any calendar year which, in the aggregate, exceed $25,000. Contributions by the national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by the preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term "political committee" means an organization registered as a political committee under section 303 for a period of not less than six months which has received contributions from more than fifty persons and, except for any State political party organization, has made contributions to five or more candidates for Federal office. For purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by political committees established, financed, maintained, or controlled by any person or persons, including any parent, subsidy, branch, division, department, affiliate, or local unit of such person, or by any group of persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund-raising efforts; (B) this sentence shall not apply to a political committee established, financed, or maintained by the national committee, or to a political committee established, financed, or maintained by the State, district, or local committee of a political party; and (C) a political committee of a national organiza-

tion shall not be precluded from contributing to a candidate or committee merely because of its affiliation with a national multicandidate political committee which has made the maximum contribution it is permitted to make to a candidate or a committee.

(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

(4) For purposes of this subsection—

(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate.

(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

(5) The limitations imposed by paragraphs (1) and (2) of this subsection (other than the annual limitation on contributions to a political committee under paragraph (2)(B)) shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

(b) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater

of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000; or

(B) $20,000,000 in the case of a campaign for election to such office.

(2) For purposes of this subsection—

(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made or on behalf of the candidate of such party for election to the office of President of the United States; and

(B) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

(c) (1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

(2) For the purposes of paragraph (1)—

(A) The term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(B) the term "base period" means the calendar year 1974.

(d) (1) Notwithstanding any other provision of law with respect to limitations or expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

(ii) $20,000; and

(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term "voting age population" means resident population, eighteen years of age or older.

(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

(g) The Commission shall prescribe rules under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

§ 439e. Contributions or expenditures by national banks, corporations, or labor organizations

(a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section, or for any officer or any director or any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

(b) (1) For the purposes of this section "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of em-

ployment, or conditions of work. As used in this section and in section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 79l(h)), the phrase "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive administrative personnel and their families, or by a labor organization aimed at its members and their families; or the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization.

(2) It shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction.

(3) It shall be unlawful for a corporation or a separate segregated fund created by a corporation to solicit contributions from any person other than its stockbrokers, executive or administrative personnel, and their families or for a labor organization or a separate segregated fund created by a labor organization to solicit contributions from any person other than its members and their families.

(4) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations.

(5) Any corporation that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, that method to a labor organization representing any members working for that corporation.

(6) For purposes of this section, the term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking or supervisory responsibilities.

(7) For purposes of this section, the term "stockholder" includes any individual who has a legal or vested beneficial interest in stock, including, but not limited to, an employee of a corporation who participates in a stock bonus, stock option, or employee stock ownership plan.

§ 439f. Contributions by government contractors

(a) It shall be unlawful for any person—

(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the

United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purposes or use; or

(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 439e prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

(c) For purposes of this section, the term "labor organization" has the meaning given it by section 439e.

§ 439g. Publication or distribution of political statements

"Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails, and other similar types of general public political advertising, such communication—

(1) if authorized by a candidate, his authorized political committees or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communications has been authorized; or

(2) if not authorized by a candidate, his authorized, political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 433(b)(2).

§ 3439h. Contributions by foreign nationals

(a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

(b) As used in this section, the term "foreign national" means—

(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 (b)), except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

§ 439i. Prohibition of contributions in name of another

No person shall make a contribution the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

§ 439j. Limitation on contributions of currency

No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal Office.

§ 439k. Acceptance of excessive honorariums

No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

(1) any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $24,000 in any calendar year.

§ 439l. Fraudulent misrepresentation of campaign authority

No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

(1) fraudulently misrepresent himself or any committee or organization under this control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

(2) willfully and knowingly to participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

§ 439m. Penalty for violations

(a) Any person, following the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this chapter which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both.

(b) It shall be a complete defense in any criminal action brought for the violation of a provision of this chapter, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, for the defendant to show that—

(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 437g.

(2) the conciliation agreement is in effect, and

(3) the defendant is, with respect to the violation for which the defense is being asserted, in compliance with the conciliation agreement.

[§ 441. Penalties for violations

[(a) Any person who violates any of the provisions of this chapter shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

[(b) In case of any conviction under this chapter, where the punishment inflicted does not include imprisonment, such conviction shall be deemed a misdemeanor conviction only.]

CHAPTER 29 OF TITLE 18, UNITED STATES CODE

[§ 608. Limitations on contributions and expenditures

[(a) Personal funds of candidate and family.

[(1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaigns during any calendar year for nomination for election, or for election, to Federal office in excess of, in the aggregate—

[(A) $50,000, in the case of a candidate for the office of President or Vice President of the United States;

[(B) $35,000, in the case of a candidate for the office of Senator or for the office of Representative from a State which is entitled to only one Representative; or

[(C) $25,000, in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner, in any other State.

For purposes of this paragraph, any expenditure made in a year other than the calendar year in which the election is held with respect to which such expenditure was made, is considered to be made during the calendar year in which such election is held.

[(2) For purposes of this subsection, "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

[(3) No candidate or his immediate family may make loans or advances from their personal funds in connection with his campaign for nomination for election, or for election, to Federal office unless such loan or advance is evidenced by a written instrument fully disclosing the terms and conditions of such loan or advance.

[(4) For purposes of this subsection, any such loan or advance shall be included in computing the total amount of such expenditures only to the extent of the balance of such loan or advance outstanding and unpaid.

[(b) Contributions by persons and committees.

[(1) Except as otherwise provided by paragraphs (2) and (3), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000.

[(2) No political committee (other than a principal campaign committee) shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $5,000. Contributions by the national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by the preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term "political committee" means an organization registered as a political committee under section 433, Title 2, United States Code, for a period of not less than 6 months which has received contributions from more than 50 persons and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

[(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

[(4) For purposes of this subsection—

[(A) contributions to a named candidate made to any political committee authorized by such candidate, in writing, to accept contributions on his behalf shall be considered to be contributions made to such candidate; and

[(B) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

[(5) The limitations imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

[(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

[(c) Limitations on expenditures.

[(1) No candidate shall make expenditures in excess of—

[(A) ten million dollars, in the case of a candidate for nomination for election to the office of President of the United

States, except that the aggregate of expenditures under this subparagraph in any one State shall not exceed twice the expenditure limitation applicable in such State to a candidate for nomination for election to the office of Senator, Delegate, or Resident Commissioner, as the case may be;

[(B) twenty million dollars, in the case of a candidate for election to the office of President of the United States;

[(C) in the case of any campaign for nomination for election by a candidate for the office of Senator or by a candidate for the office of Representative from a State which is entitled to only one Representative, the greater of—

[(i) eight cents multiplied by the voting age population of the State (as certified under subsection (g)); or

[(ii) one hundred thousand dollars;

[(D) in the case of any campaign for election by a candidate for the office of Senator or by a candidate for the office of Representative from a State which is entitled to only one Representative, the greater of—

[(i) twelve cents multiplied by the voting age population of the State (as certified under subsection (g)); or

[(ii) one hundred fifty thousand dollars;

[(E) seventy thousand dollars, in the case of any campaign for nomination for election, or for election, by a candidate for the office of Representative in any other State, Delegate from the District of Columbia, or Resident Commissioner; or

[(F) fifteen thousand dollars, in the case of any campaign for nomination for election, or for election, by a candidate for the office of Delegate from Guam or the Virgin Islands.

[(2) For purposes of this subsection—

[(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

[(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by—

[(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

[(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

[(3) The limitations imposed by subparagraphs (C), (D), (E), and (F) of paragraph (1) of this subsection shall apply separately with respect to each election.

[(4) The Commission shall prescribe rules under which any expenditure by a candidate for presidential nomination for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

[(d) Adjustment of limitations based on price index.

[(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the per centum difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (c) and subsection (f) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

[(2) For purposes of paragraph (1)—

[(A) the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

[(B) the term "base period" means the calendar year 1974.

[(e) Expenditures relative to clearly identified candidate.

[(1) No person may make any expenditure (other than an expenditure made by or on behalf of a candidate within the meaning of subsection (c)(2)(B) relative to a clearly identified candidate during a calendar year which, when added to all other expenditures made by such person during the year advocating the election or defeat of such candidate, exceeds $1,000.

[(2) For purposes of paragraph (1)—

[(A) "clearly identified" means—

[(i) the candidate's name appears;

[(ii) a photograph or drawing of the candidate appears; or

[(iii) the identity of the candidate is apparent by unambiguous reference.

[(B) "expenditure" does not include any payment made or incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of this title, would not constitute an expenditure by such corporation or labor organization.

[(f) Exceptions for national and State committees.

[(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

[(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (g)). Any expenditure under this para-

graph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.

[(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

[(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

[(i) two cents multiplied by the voting age population of the State (as certified under subsection (g)); or

[(ii) twenty thousand dollars; and

[(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

[(g) Voting age population estimates. During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term "voting age population" means resident population, 18 years of age or older.

[(h) Knowing violations. No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

[(i) Penalties. Any person who violates any provision of this section shall be fined not more than $25,000 or imprisoned not more than 1 year, or both.]

§ 609. [Repealed]

[§ 610. Contributions or expenditures by national banks, corporations or labor organizations

[It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any

candidate, political committee, or other person to accept or receive any contribution prohibited by this section.

[Every corpration or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than $25,000; and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation r labr organizatin as the case may be, and any person who accepts or receives any contribution, in violation of this section, shall be fined not more than $1,000 or imprisoned not more than 1 year, or both; and if the violation was willful, shall be fined not more than $50,000 or imprisoned not more than 2 years or both.

[For the purposes of this section "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

[As used in this section, the phrase "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families; the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: *Provided*, That it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction.]

[§ 611. Contributions by Government contractors

[Whoever—

[(a) entering into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building to be made in whole or in part from funds appropriated by

the Congress, at any time between the commencement of negotiations for and the later of—

[(1) the completion of performance under; or

[(2) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land or buildings;

directly or indirectly makes any contribution of money or other things of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

[(b) knowingly solicits any such contribution from any such person for any such purpose during any such period;

shall be fined not more than $25,000 or imprisoned not more than 5 years, or both.

[This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election of any person to Federal office, unless the provisions of section 610 of this title prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

[For purposes of this section, the term "labor organization" has the meaning given it by section 610 of this title.]

[§ 612. Publication or distribution of political statements

[Whoever willfully publishes or distributes or causes to be published or distributed, or for the purpose of publishing or distributing the same, knowingly deposits for mailing or delivery or causes to be deposited for mailing or delivery, or, except in cases of employees of the Postal Service in the official discharge of their duties, knowingly transports or causes to be transported in interstate commerce any card, pamphlet, circular, poster, dodger, advertisement, writing, or other statement relating to or concerning any person who has publicly declared his intention to seek the office of President, or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to Congress, in a primary, general, or special election, or convention of a political party, or has caused or permitted his intention to do so to be publicly declared, which does not contain the names of the persons, associations, committees, or corporations responsible for the publication or distribution of the same, and the names of the officers of each such association, committee, or corporation, shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.]

[§ 613. Contributions by foreign nationals

[Whoever, being a foreign national, directly or through any other person, knowingly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or

[Whoever knowingly solicits, accepts, or receives any such contribution from any such foreign national, shall be fined not more than $25,000 or imprisoned not more than 5 years or both.

[As used in this section, the term "foreign national" means—

[(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. § 611(b)), except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

[(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. § 1101(a)(20)).]

[§ 614. Prohibition of contributions in name of another

[(a) No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

[(b) Any person who violates this section shall be fined not more than $25,000 or imprisoned not more than 1 year, or both.]

[§ 615. Limitation on contributions of currency

[(a) No person shall make contributions of currency of the United States or currency of any foreign county to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

[(b) Any person who violates this section shall be fined not more than $25,000 or imprisoned not more than 1 year, or both.]

[§ 616. Acceptance of excessive honorariums

[Whoever, while an elected or appointed officer or employee of any branch of the Federal Government—

[(1) accepts any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

[(2) accepts honorariums (not prohibited by paragraph (1) of this section) aggregating more than $15,000 in any calendar year; shall be fined not less than $1,000 nor more than $5,000.]

[§ 617. Fraudulent misrepresentation of campaign authority

[Whoever, being a candidate for Federal office or an employee or agent of such a candidate—

[(1) fraudulently misrepresents himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

[(2) willfully and knowingly participates in or conspires to participate in any plan, scheme, or design to violate paragraph (1);

[shall, for each such offense, be fined not more than $25,000 or imprisoned not more than 1 year, or both.]

TITLE 26.—INTERNAL REVENUE CODE

CHAPTER 95—PRESIDENTIAL ELECTION CAMPAIGN FUND

§ 9004.

* * * * * * *

(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000.

(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

§ 9006. Payments to eligible candidates

(a) Establishment of campaign fund. There is hereby established on the books of the Treasury of the United States a special fund to be known as the "Presidential Election Campaign Fund". The Secretary shall, from time to time, transfer to the fund an amount not in excess of the sum of the amounts designated (subsequent to the previous presidential election) to the fund by individuals under section 6096. There is appropriated to the fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the amounts so designated during each fiscal year, which shall remain available to the fund without fiscal year limitation.

[(b) Transfer to the general fund. If, after a Presidential election and after all eligible candidates have been paid the amount which they are entitled to receive under this chapter, there are moneys remaining in the fund, the Secretary shall transfer the moneys so remaining to the general fund of the Treasury.]

[(c)] *(b)* Payments from the fund. Upon receipt of a certification from the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary shall pay to such candidates out of the fund the amount certified by the Commission. Amounts paid to any such candidates shall be under the control of such candidates.

[(d)] *(c)* Insufficient amounts in fund. If at the time of a certification by the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary or his delegate determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he shall withhold from such payment such amount as he determines to be necessary to assure that the eligible candidates of each political party will receive their pro rata share of their full entitlement. Amounts withheld by reason of the preceding sentence shall be paid when the Secretary or his delegate determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to

all eligible candidates from whom amounts have been withheld, but, if there are not sufficient moneys in the fund to satisfy the full entitlement of the eligible candidates of all political parties, the amounts so withheld shall be paid in such manner that the eligible candidates of each political party receive their pro rata share of their full entitlement.

§ 9008. Payments for Presidential nominating conventions

(a) Establishment of accounts. The Secretary shall maintain in the fund, in addition to any account which he maintains under section 9006(a), a separate account for the national committee of each major party and minor party. The Secretary shall deposit in each such account an amount equal to the amount which each such committee may receive under subsection (b). Such deposits shall be drawn from amounts designated by individuals under section 6096 and shall be made before any transfer is made to any account for any eligible candidate under section 9006(a).

(b) Entitlement to payments from the fund.

(1) Major parties. Subject to the provisions of this section, the national committee of a major party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts which, in the aggregate, shall not exceed $2 million.

(2) Minor parties. Subject to the provisions of this section, the national committee of a minor party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts which, in the aggregate, shall not exceed an amount which bears the same ratio to the amount the national committee of a major party is entitled to receive under paragraph (1) as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President of the United States of the major parties in the preceding presidential election.

(3) Payments. Upon receipt of certification from the Commission under subsection (g), the Secretary shall make payments from the appropriate account maintained under subsection (a) to the national committee of a major party or minor party which elects to receive its entitlement under this subsection. Such payments shall be available for use by such committee in accordance with the provisions of subsection (c).

(4) Limitations. Payments to the national committee of a major party or minor party under this subsection from the account designated for such committee shall be limited to the amounts in such account at the time of payment.

(5) Adjustment of entitlements. The entitlements established by this subsection shall be adjusted in the same manner as expenditure limitations established by [section 608(c) and section 608(f) of Title 18, United States Code,] *section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971* are adjusted pursuant to the provisions of [section 608(d) of such title.] *section 320(c) of such Act.*

(c) Use of funds. No part of any payment made under subsection (b) shall be used to defray the expenses of any candidate or delegate who is participating in any presidential nominating convention. Such payments shall be used only—

(1) to defray expenses incurred with respect to a presidential nominating convention (including the payment of deposits) by or on behalf of the national committee receiving such payments; or

(2) to repay loans the proceeds of which were used to defray such expenses, or otherwise to restore funds (other than contributions to defray such expenses received by such committee) used to defray such expenses.

* * * * * * *

§ 9009. Reports to Congress; regulations

(a) Reports. The Commission shall, as soon as practicable after each presidential election, submit a full report to the Senate and House of Representatives setting forth—

(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by the candidates of each political party and their authorized committees;

(2) the amounts certified by it under section 9005 for payment to eligible candidates of each political party;

(3) the amount of payments, if any, required from such candidates under section 9007, and the reasons for each payment required;

(4) the expenses incurred by the national committee of a major party or minor party with respect to a presidential nominating convention;

(5) the amounts certified by it under section 9008(g) for payment to each such committee; and

(6) the amount of payments, if any, required from such committees under section 9008(h), and the reasons for each such payment.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) Regulations, etc. The Commission is authorized to prescribe such rules and regulations in accordance with the provisions of subsection (c), to conduct such examinations and audits (in addition to the examination and audits required by section 9007(a)), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this chapter.

(c) Review of regulations.

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove the proposed rule or regulation set forth in such statement no later than [30 legislative days] *30 calendar days or 15 legislative days, whichever is later*, after receipt of such statement, then the Commission may prescribe such rule or regulation. *Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.* The Commission may not prescribe any rule or regulation which is disapproved by either such House under this paragraph.

(3) For purposes of this subsection, the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

CHAPTER 96—PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT

§ 9033. Eligibility for payments

(a) Conditions. To be eligible to receive payments under section 9037, a candidate shall, in writing—

(1) agree to obtain and furnish to the Commission any evidence it may request of qualified campaign expenses;

(2) agree to keep and furnish to the Commission any records, books, and other information it may request; and

(3) agree to an audit and examination by the Commission under section 9038 and to pay any amounts required to be paid under such section.

(b) Expense limitation; declaration of intent; minimum contributions. To be eligible to receive payments under section 9037, a candidate shall certify to the Commission that—

(1) the candidate and his authorized committees will not incur qualified campaign expenses in excess of the [limitation] *limitations* on such expenses under section 9035;

(2) the candidate is seeking nomination by a political party for election to the office of President of the United States;

(3) the candidate has received matching contributions which in the aggregate, exceed $5,000 in contributions from residents of each of a least 20 States; and

(4) the aggregate of contributions certified with respect to any person under paragraph (3) does not exceed $250.

§ 9034. Entitlement of eligible candidates to payments

(a) In general. Every candidate who is eligible to receive payments under section 9033 is entitled to payments under section 9037 in an amount equal to the amount of each contribution received by such

candidate on or after the beginning of the calendar year immediately preceding the calendar year of the presidential election with respect to which such candidate is seeking nomination, or by his authorized committees, disregarding any amount of contributions from any person to the extent that the total of the amounts contributed by such person on or after the beginning of such preceding calendar year exceeds $250. For purposes of this subsection and section 9038(b), the term "contribution" means a gift of money made by a written instrument which identifies the person making the contribution by full name and mailing address, but does not include a subscription, loan, advance, or deposit of money, or anything of value or anything described in subparagraph (B), (C), or (D) of section 9032(4).

(b) Limitations. The total amount of payments to which a candidate is entitled under subsection (a) shall not exceed 50 percent of the expenditure limitation applicable under section [608(c)(1)(A) of Title 18, United States Code.] *320(b)(1)(A) of the Federal Election Campaign Act of 1971.*

§ 9035. Qualified campaign expense [limitation] *limitations*

(a) Expenditure Limitations. No candidate shall knowingly incur qualified campaign expenses in excess of the expenditure limitation applicable under [section 608(c)(1)(A) of Title 18, United States Code.] *section 320(b)(1)(A) of the Federal Election Campaign Act of 1971, and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000.*

(b) Definition of Immediate Family.—For purposes of this section, the term "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.

§ 9039. Reports to Congress; regulations

(a) Reports. The Commission shall, as soon as practicable after each matching payment period, submit a full report to the Senate and House of Representatives setting forth—

(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by the candidates of each political party and their authorized committees;

(2) the amounts certified by it under section 9036 for payment to each eligible candidate; and

(3) the amount of payments, if any, required from candidates under section 9038, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) Regulations, etc. The Commission is authorized to prescribe rules and regulations in accordance with the provisions of subsection (c), to conduct examinations and audits (in addition to the examinations and audits required by section 9038(a)), to conduct investigations, and to require the keeping and submission of any books, records, and information, which it determines to be necessary to carry out its responsibilities under this chapter.

(c) Review of regulations.

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove the proposed rule or regulation set forth in such statement no later than [30 legislative days] *30 calendar days or 15 legislative days, whichever is later*, after receipt of such statement, then the Commission may prescribe such rule or regulation. *Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.* The Commission may not prescribe any rule or regulation which is disapproved by either such House under this paragraph.

(3) For purposes of this subsection, the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

ROLLCALL VOTES IN COMMITTEE

In compliance with sections 133(b) and (d) of the Legislative Reorganization Act of 1946, as amended, the record of rollcall votes in the Committee on Rules and Administration during its consideration of the original bill (subsequently S. 3065) is as follows:

1. Motion by Senator Allen, to amend Senator Clark's motion (which follows), that the Clerk of the House and the Secretary of the Senate shall serve the Commission in an advisory capacity, in addition to performing the duties required of them by law, and that they not be made ex-officio: Rejected: 3 yeas; 3 nays.

YEAS—3	NAYS—3
Mr. Pell	Mr. Cannon
Mr. Allen	Mr. Clark
Mr. Hugh Scott	Mr. Hatfield

2. Motion by Senator Clark that the Commission be composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex-officio and without the right to vote, and six members appointed by the President of the United States, by and with the advice and consent of the Senate. Approved: 4 yeas; 2 nays.

YEAS—4	NAYS—2
Mr. Clark	Mr. Pell
Mr. Hatfield	Mr. Allen
Mr. Hugh Scott	
Mr. Cannon	

3. Motion by Senator Griffin to strike that portion of the draft bill which would amend Section 610, Title 18, U.S. Code, relating to contributions or expenditures by national banks, corporations or labor organizations, thus leaving Section 610 as it exists in present law. Rejected: 4 yeas; 5 nays.

YEAS—4	NAYS—5
Mr. Allen	Mr. Pell *
Mr. Hatfield *	Mr. Robert C. Byrd *
Mr. Hugh Scott	Mr. Williams
Mr. Griffin	Mr. Clark
	Mr. Cannon

*Proxy.

4. Question: Shall the Committee approve the provisions of the draft bill, as revised, by amending Section 610 of Title 18, U.S.C.? Approved: 5 yeas, 4 nays.

YEAS—5	NAYS—4
Mr. Pell*	Mr. Allen
Mr. Robert C. Byrd*	Mr. Hatfield*
Mr. Williams*	Mr. Hugh Scott
Mr. Clark	Mr. Griffin
Mr. Cannon	

* Proxy.

5. Motion by Senator Clark to include in the draft bill the provisions of Title II of the Committee print submitted by Senators Clark and Scott, to provide for public financing of Senate campaigns on a matching basis in primary elections and on a 50 percent grant basis in general elections, as amended by Senator Pell to include House campaigns.

YEAS—3	NAYS—3
Mr. Pell	Mr. Allen
Mr. Clark	Mr. Griffin
Mr. Hugh Scott	Mr. Cannon

6. Motion by Senator Scott to include in the draft bill the provisions of Title II of the Committee print submitted by Senators Clark and Scott, to provide for public financing of Senate campaigns in primary and general elections, as above.

YEAS—3	NAYS—3
Mr. Pell	Mr. Allen
Mr. Clark	Mr. Griffin
Mr. Hugh Scott	Mr. Cannon

7. Motion by Senator Allen to amend Senator Scott's motion offering as a substitute for the draft bill the bill introduced by Senators Clark, Kennedy, and Scott (S. 2912), so that only Title I of said bill would be substituted for the draft bill. Rejected: 3 yeas; 3 nays.

YEAS—3	NAYS—3
Mr. Allen	Mr. Pell
Mr. Hugh Scott	Mr. Clark
Mr. Griffin	Mr. Cannon

8. Motion by Senator Scott to offer as a substitute for the draft bill the bill introduced by Senators Clark, Kennedy, and Scott (S. 2912), Title I of which would reconstitute the Federal Election Commission, and Title II of which would provide for public financing of Senate campaigns on a matching basis in primary elections and on a 100 percent grant basis in general elections as amended by Senator Scott to be on a 50 percent grant basis in general elections. At the request of Senator Griffin, a vote occurred separately with respect to each Title. The rollcall on Title I was as follows:

Rejected: 3 yeas; 5 nays.

YEAS—3	NAYS—5
Mr. Allen	Mr. Pell
Mr. Hugh Scott	Mr. Robert C. Byrd*
Mr. Griffin	Mr. Williams*
	Mr. Clark
	Mr. Cannon

*Proxy.

The rollcall vote on Title II was as follows: Rejected: 1 yea; 7 nays.

YEAS—1	NAYS—7
Mr. Hugh Scott	Mr. Pell
	Mr. Robert C. Byrd*
	Mr. Allen
	Mr. Williams*
	Mr. Clark
	Mr. Griffin
	Mr. Cannon

* Proxy.

9. Motion by Senator Griffin offering as a substitute to the draft bill, S. 2987 introduction by Senator Griffin (the Administration's proposal) which would reconstitute the Federal Election Commission and provide for an expiration at the end of the year of most of the operative provisions of the law. Rejected: 4 yeas; 5 nays.

YEAS—4	NAYS—5
Mr. Allen	Mr. Pell
Mr. Hatfield*	Mr. Robert C. Byrd*
Mr. Hugh Scott	Mr. Williams*
Mr. Griffin	Mr. Clark
	Mr. Cannon

*Proxy.

10. Question: Shall the draft bill before the Committee be approved, as amended? Approved: 5 years, 4 nays.

YEAS—5	NAYS—4
Mr. Pell	Mr. Allen
Mr. Robert C. Byrd*	Mr. Hatfield*
Mr. Williams*	Mr. Hugh Scott
Mr. Clark	Mr. Griffin
Mr. Cannon	

*Proxy.

11. Motion by Senator Scott to amend the language on page 32, lines 14–16 which reads as follows: "but shall not include communications by a corporation to its stockholders and executive officers" to read in place thereof as follows: "But shall not include communications by a corporation to its stockholders, executive officers, and employees who are not members of any labor organization". Rejected: 4 yeas; 5 nays.

YEAS—4	NAYS—5
Mr. Allen	Mr. Pell
Mr. Hatfield*	Mr. Robert C. Byrd
Mr. Hugh Scott	Mr. Williams
Mr. Griffin	Mr. Clark*
	Mr. Cannon

*Proxy.

12. Question: Shall the Committee report as an original bill (subsequently S. 3065), the draft bill, as amended? Approved: 6 yeas; 3 nays.

YEAS—6	NAYS—3
Mr. Pell	Mr. Hatfield
Mr. Robert C. Byrd	Mr. Hugh Scott
Mr. Allen	Mr. Griffin
Mr. Williams	
Mr. Clark*	
Mr. Cannon	

*Proxy.

MINORITY VIEWS OF MR. HATFIELD, MR. HUGH SCOTT, AND MR. GRIFFIN

There is no doubt that Congress is faced with a crisis created by the Supreme Court decision in the case of *Buckley* v. *Valeo*. At first, the Court gave the Congress a period of 30 days in which to correct Constitutional errors found by the Court in the Federal Election Campaign act. Thereafter, the time was extended another 20 days.

The Subcommittee on Privileges and Elections held one-day hearings on five bills to reconstitute the Federal Election Commission; bills that bear almost no resemblance to the measure now being reported. After the hearings were over, the members of the Rules Committee saw, for the first time, a comprehensive revision of the campaign laws in the form of a bill introduced in the House by Representative Hays. Most of the important features of the Hays bill were not mentioned or commented upon in the brief hearings because no one who appeared had any reason to suspect that the Senate would be considering such provisions.

When the full Committee met, a bill which had been introduced by Senator Pell and reported by the Subcommittee on Privileges and Elections was summarily laid aside and ignored. Instead Chairman Cannon produced the Hays bill and insisted that the Committee proceed to mark it up.

As reported, S. 3065 is the Hays bill (H.R. 12015) with a number of modifications adopted by the Rules Committee during the course of its deliberations. The measure reported is a hodge-podge of unrelated proposals to change—and in almost every case, to weaken—the laws which now apply to campaign financing. In light of the often expressed criticism that Congress was too hasty in enacting the Reform Act of 1974, it seems incredible that the Senate should be confronted now with a sweeping, comprehensive measure such as this, which has had so little consideration and scrutiny.

This measure, and the procedures which produced it, speak eloquently for support of President Ford's recommended course of action: to pass a simple bill re-establishing the FEC and holding off on reform measures until next year.

The undersigned members of the Rules Committee voted against reporting this bill. Among the reasons for doing so, are the following:

The proposed bill will weaken the Federal Election Commission as an independent enforcement agency. It prevents the effective use of the advisory opinion as a method of statutory interpretation by requiring those of "general applicability" to be made into a Rule or Regulation within 30 days and thus become subject to Congressional Veto. They also are limited to one advisory opinion for any transaction or activity (see page 18, line 21). The requirement (page 4, line 20) of two Commission members from a particular party to agree

to action, unduly polarizes the Commission and hobbles its activities. The enforcement provisions that take up 8 pages will serve to prevent the flexibility needed to cope with the many varied problems of enforcement of this complex law (pages 19–27). The use of so-called "civil enforcement" is of questionable constitutionality (p. 39, line 17) and the reduction of criminal penalties ignore the recommendations of the Watergate Prosecution Force (Report October 1975, p. 147).

This bill favors incumbent officeholders by allowing them a veto over opinions they dislike, while challengers would have no such power. The law is now even more complex than before and incumbents have staff available to advise them, while challengers (far from Washington) will be unable to avail themselves of expert assistance; some of the challengers are already filed and campaigning and will be disadvantaged to have to stop and reconsider new legal pitfalls.

The bill by limiting transfers between political party committees will have the effect of weakening the two-party system that serves this Nation well. Weak State party organizations could not be shored up beyond the amount of $25,000 (the cost of about one good staff assistant). The Bill provides a loop-hole apparently designed to accommodate the Democrats and their fund raising by "telethon" (page 28, line 2 to 21).

The limitation on employees who may contribute to a separate segregated fund is an obvious attempt toward partisan advantage.

In addition, the Committee's bill fails to address two areas of doubt raised by the Buckley opinion, viz, Legislative officers serving on an Executive Commission, and the Legislative Veto.

It is for these reasons that the minority object to S. 3065. We do believe it is important to reconstitute the Federal Election Commission as suggested by the Supreme Court but the many technical changes should not be legislated at this time. After the 1976 elections are over and experience accumulated in that election, we should make a comprehensive restudy of the Election laws and at that time make any desirable changes that may be dictated by that experience.

MARK O. HATFIELD.
HUGH SCOTT.
ROBERT P. GRIFFIN.

SENATE FLOOR DEBATES ON S. 3065

politics to try to keep the government propped up a little longer. Now the Trade Commission urges tariffs that would give a drastic jolt to the fragile Italian economy. Italians, watching the performance, sometimes murmur that the United States does not seem to know exactly what it is trying to accomplish. They have a point.

The Italian footwear coming into this country is not cheap. But it sells well because the Italian manufacturers have been highly responsive to rapid changes in styles here. The American shoemakers have not kept up, and now they want the U.S. government to protect them from the results of their own inability to stay in style. If the President were misguided enough to accept the Tariff Commission's recommendations, who would get hurt? First of all, the consumers who would suddenly find the imports costing vastly more. Next, the American retailers would suffer, as prices rose and sales dropped. Frank H. Rich, who has been selling shoes to Washingtonians for a good many years, makes that point in a letter on this page today. The tariffs that are supposed to preserve jobs in American factories may cost other Americans their jobs in the stores. Finally, the tariffs would eventually hurt people who make other American products for sale in Italy—since Italy would surely retaliate.

There are certain foreign industries that would doubtless welcome an American swing to protectionism. The specialty steel case illustrates the point. In many parts of the world steelmakers regard a cartel as the normal and orderly way of conducting business. The European Coal and Steel Community was built on the foundations of the prewar German cartels. The Europeans have now imposed quotas on Japanese steel shipped to Europe. The specialty steel makers want a similar arrangement for the United States. People on both sides of the case see it as a precedent for the entire steel industry.

The recent troubles of the steelmakers are the result of the recession, in which worldwide steel consumption fell drastically. It is the custom of the American steel industry, in recessions, to maintain prices and cut production. Most foreign steelmakers do the opposite, cutting prices and maintaining production. As a result, during the trough of the recession, they sharply increased their share of the American market. Some of them got subsidies, in one degree or another, from their home governments to help keep employment up. The remedies to this abuse are enforcement of the present anti-dumping laws and international negotiations on subsidies. A great variety of the goods in international trade is now subsidized—including, of course, many American exports—and there is urgent need for agreement on these subsidies. No country is entitled to a free hand in pumping up its own employment levels at its neighbors' expense. If the industrial nations cannot get the subsidies under control, the drift toward quotas and cartels may become irresistible.

American trade quotas would impose a heavy burden, in the end, upon Americans. Last week, for example, at a press conference that the steelworkers called, the president of the United Steelworkers of America, I. W. Abel, angrily said that Americans "let steel come in so that we can sell soybeans someplace." Exactly. If this country cuts the Japanese sales of stainless steel here, the Japanese will have fewer dollars to buy American foodstuffs. That's fine with Mr. Abel, but the soybean producers will doubtless take a different view.

At the same press conference, someone put a question about prices to Richard P. Simmons, president of the Allegheny Ludlum Steel Corporation: If the President imposes quotas to protect his industry from foreign competition, would Mr. Simmons support wage and price controls to protect the consumers from his industry? Mr. Simmons replied that he opposes wage and price controls. He puts his faith in the free market, he said. But a country under import quotas is not everybody's idea of a free market.

SENATOR HARTKE CONDEMNS ISRAELI BOYCOTT

Mr. HARTKE. Mr. President, I am pleased and proud to join with Senator RIBICOFF and my other distinguished and concerned senatorial colleagues in sponsoring legislation fashioned to curb one of the most insidious and fundamentally obnoxious practices of contemporary commercial life—the racially inspired economic boycott.

Arabs and Israelis have for almost three decades observed a semistate of war, punctuated all too frequently by actual physical combat. The roots of their conflict run deep—deep into their history, deep into their national psychology, and deep into their present values, political and social. That conflict is tragic and it has become practically the centerpiece of contemporary history.

Like a disease, it has infested the international political system, poisoning relations and escalating the probabilities of warfare involving non-Middle East powers. Because of the tactics pursued by some Arab nations, the disease is spreading to the internal value structure of the United States.

Recent shifts in the relative balance of trade and payments between the Arab nations and the West resulted from the OPEC cartel have placed huge financial resources in Arab hands. Tragically, they have used this windfall to foster a new form of racism within the international community by adopting a boycott policy not only toward Israel but toward all Jewish citizens.

For American as well as other foreign companies, the Middle East has become a new frontier for investment and sales. But the bright facade that beckons hides a seamy and, in my view, an immoral reality. The quid pro quo extracted by Arab nations for the privilege of sharing in their new bonanza is the renunciation of fundamental human values in favor of the odious practice of racism.

Were it in my power to do so, I would provide much harsher penalties than those associated with this bill. It is unfortunate that the administration, after much public display of shock and indignation, has done so little to effectively end Arab imposed discrimination against Israel and, indirectly, Jewish citizens of all nations. We are left, therefore, with other remedies.

The bill I am cosponsoring today deprives American corporations of certain tax advantages presently provided for under law if a finding that the corporation participated in an Israeli boycott is made.

I wish to make it clear, however, that my support of this bill in no way implies an acceptance of the legitimacy of either the foreign tax credit or the tax deferral in nonboycott nondiscriminating situations. My colleagues are well aware of my consistent opposition to these tax provisions because of their effect on the domestic economy. My reasons for opposing the foreign tax credit and the deferral are detailed elsewhere, and I shall not abuse this occasion with a restatement of these arguments.

It is incumbent upon the Congress to enact legislation that will exact penalties from those American corporations who are unable to exercise the proper moral self-restraint to avoid supporting policies of blatant racism.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business?

If not, morning business is closed.

FEDERAL ELECTIONS CAMPAIGN ACT AMENDMENTS OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 647, S. 3065, and that it be laid before the Senate and made the pending business.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirement of the Constitution, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, there will be no action taken on the pending business today, but it will be the first order of business tomorrow at the conclusion of morning business and the morning hour.

PROGRAM

Mr. MANSFIELD. Mr. President, there will be no further business today. Our legislation, due to conditions over which the leadership has no control, is brought up to date, and some of the bills we expected to bring up this afternoon will not come up because of a situation which I will explain.

Calendar No. 647, S. 3065, a bill to amend the Federal Election Campaign Act, will be the pending business tomorrow.

For the information of the Senate, later this week it is hoped that the Senate will take up Calendar No. 613, S. 3015, a bill to provide for the continued expansion and improvement of the Nation's airport and airway system, on which there is a time limitation; Calendar No. 644, H.R. 9721, an act to provide for increased participation by the United States in the Inter-American Development Bank, and so forth; Calendar No. 650, S. 2484, a bill to amend Public Law 566, the Watershed Protection and Flood Prevention Act; and Calendar No. 655, S. 641, a bill to regulate commerce and protect consumers from adulterated

food, and so forth, which the leadership anticipated would have been brought up this afternoon, but because of the fact that our distinguished colleague from Maine (Mr. HATHAWAY) is in the hospital because of the flu, that will come, hopefully, somctime later in the week.

Then there will be Calendar No. 659, S. 3052, a bill to amend section 602 of the Agricultural Act of 1954; and Calendar No. 662, H.R. 71, a bill to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I and World War II, and so forth.

Then, there will be Calendar No. 665, S. 3136, a bill to reform the Food Stamp Act of 1964 by improving the provisions relating to eligibility, simplifying administration, and tightening accountability, and for other purposes.

This by no means means that we will dispose of all that legislation this week, but at least it gives us something to look forward to as to what can be contemplated, in the best judgment of the joint leadership as to what legislation will be confronting us.

Then, of course, we hope it will be possible some time to get to Calendar No. 379, S. 287, a bill to provide for the appointment of additional district court judges and for other purposes, provided we can get some sort of a time limitation, and hopefully if we can keep that particular bill clean, so that the matter can be addressed as expeditiously as possible; and then Calendar No. 276, S. 354, a bill to regulate commerce by establishing a nationwide system to restore motor vehicle accident victims and by requiring no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways.

That bill will take a little time, as will the food stamp bill; but beginning tomorrow, our main effort will be concentrated on the bill to amend the Federal Election Campaign Act of 1971.

ADJOURNMENT TO 10:15 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, if there be no further business to come before the Senate at this time, I move that the Senate stand in adjournment until the hour of 10:15 a.m. tomorrow.

The motion was agreed to; and at 12:40 p.m. the Senate adjourned until tomorrow, Tuesday, March 16, 1976, at 10:15 a.m.

NOMINATIONS

Executive nomination received by the Senate March 15, 1976:

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of Title 10, United States Code, Section 3962:

To be lieutenant general

Lt. Gen. Harold Arthur Kissinger, 388-14-3938, Army of the United States (major general, U.S. Army).

SENATE FLOOR DEBATES ON S. 3065 MARCH 16, 1976

hearing in Los Angeles, posed this basic question to witnesses:

Should the bulge be considered an indicator of an impending large earthquake such that prudent people should begin to take precautions?

And time and time again, the witnesses would answer: We don't honestly know.

"There's really not much new to report about the bulge since our first announcement in mid February," said Dr. Robert Wallace of the U.S. Geological Survey (USGS) in Menlo Park. "It is not a prediction, at least not now; it's simply an anomaly that we really don't understand."

The bulge developed during the early 1960s, but went unnoticed until last year, when a team of USGS scientists searched through back records of local elevations above sea level filed by surveyors.

The USGS comparison of the pre-1960 elevations revealed that a crustal blister had built up along a 100-mile stretch of the San Andreas fault between Ft. Tejon on the northwest and the Cajon Pass on the southeast.

The swelling is greatest around Palmdale, measuring some 25 centimeters (a little under 10 inches) there, and least along the western face of the San Gabriel Mountains, where it was 5 centimeters (just under 2 inches) or less. All told, the uplifted area covers more than 4,500 square miles.

Both then and now, scientists warned the public not to jump to any conclusions that a major earthquake was imminent.

There have been instances they said, in which a sudden uplift of land has preceded a large and destructive earthquake and other instances where the land has bulged and no tremors, major or minor, have followed.

Wallace tried to walk a very narrow line between overestimating and underestimating the seismic significance of the uplifted land.

At one point he described the bulge as "only a fire drill, not a fire" but he also agreed that if the crustal deformation is related to a buildup of stress along the San Andreas, then its wide extent could foreshadow a very powerful temblor.

Wallace noted that all available seismological evidence suggests that the bigger an earthquake, the longer the precursory events leading up to it. A giant earthquake of the size that devastated San Francisco in 1906 may take years or even decades to develop, giving off clues of its development all the while.

A larger temblor, registering 8 or more on the Richter scale of intensity, would do quite a bit of damage to Los Angeles and could take a potentially heavy toll of human life, Robert J. Williams, the general manager of the city's Department of Building and Safety, told the hearing.

There are approximately 14,000 unreinforced masonry buildings presently standing within the city limits, he said, and these structures do not meet present seismic safety codes.

Between 75,000 and 100,000 Los Angeles citizens live in these unsafe residential buildings, and Williams characterized them as being, for the most part, "the poor, the elderly, the disabled and the disadvantaged."

Of those 14,000 buildings, Williams said that there are about 300 which might be termed "public assemblies"—private schools, churches, movie theaters, restaurants and the like, which might easily collapse during a moderate earthquake and kill or seriously injure a great many people.

"The San Fernando quake lasted only 11½ seconds," he told reporters later, "and if it had lasted just another 5 seconds or so, a lot of these old unreinforced buildings here in the downtown area would have come down."

The 1971 San Fernando earthquake registered only 6.4 on the Richter scale. A tremor of magnitude 8 on the San Andreas would produce heavy ground shaking for 30 seconds or more, Williams said, and almost certainly would bring down every unsafe structure in the city.

In an attempt to reduce this hazard, Williams said a proposed ordinance is now being considered by his department that would require owners of unsafe structures to strengthen the buildings or demolish them.

"We anticipate a lot of opposition to this ordinance (when it finally comes before the Los Angeles City Council, probably in two or three months," he said, "because it's more economical for an owner to hire a lawyer than an architect."

Charles Manfred the director of the state's Office of Emergency Services, reviewed for the commission the procedures that his office has adopted to handle predictions of impending earthquakes.

Manfred also disclosed that Dr. Vincent E. McKelvey, the director of the U.S. Geological Survey, had requested a meeting with Gov. Brown next week to brief him and other officials on the "Palmdale Bubble" as Manfred termed it.

Whatever their public stance, many of the seismologists and earth scientists privately confess to being a little worried by the huge blister.

They note that the uplifted area is approximately the same region where the last large earthquake struck Southern California; that was in 1857.

Since then, the San Andreas Fault has been locked and accumulating stress as the Pacific Plate, which includes everything west of the San Andreas, tries to slide past the North American Plate, which includes everything east of the fault line.

For all the concern engendered by the huge crustal swelling, the seismologists have also been quick to point out that there are no other signs of change occuring beneath the bubble.

All of the presumed tipoffs to an impending tremor now under study at seismological laboratories around the world—changes in the velocities of sound waves; changes in the electrical resistivity of subterranean rock layers; fluctuations in the content of a certain radioactive gas in underground water tables—appear normal right now.

Only one witness—Ralph H. Turner, chairman of UCLA's sociology department—responded to Steinbrugge's repeated pleas for recommendations.

Turner suggested that businesses and industries within the uplifted area begin now to consider what steps they would take if the bulge should eventually become the basis for a prediction of a large earthquake.

Secondly, Turner urged that federal disaster agencies start now to determine what resources would be called upon if a prediction is issued.

And finaly, he urged that a public education program be initiated immediately that would instruct people on what to do and not to do when an earthquake happens.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business to be transacted at this time? If not, morning business is closed.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business, which has been laid before the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3065) to amend the Federal Elections Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I send to the desk an amendment to the pending bill and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will please state the amendment.

The legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an amendment in the nature of a substitute.

Mr. GRIFFIN's amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) the text of paragraph 1 of section 310 (a) of the Federal Election Campaign Act of 1971 (hereinafter referred to as the "Act") (2 U.S.C. 437c (a)) is amended to read as follows: "There is established a Commission to be known as the Federal Election Commission. The Commission is composed of six members, appointed by the President, by and with the advice and consent of the Senate. No more than three of the members shall be affiliated with the same political party.".

(b) Section 310 (a) (2) of the Act (2 U.S.C. 437c (a) (2)) is amended to read as follows:

"(2) (A) Members of the Commission shall serve for terms of six years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979, and

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c) The provision of section 310(a)(3) of the Act (2 U.S.C. 437c(a)(3)), forbidding appointment to the Federal Election Commission of any person currently elected or appointed as an officer or employee in the executive, legislative, or judicial branch of the Government of the United States, shall

not apply to any person appointed under the amendments made by the first section of this Act solely because such person is a member of the Commission on the date of enactment of this Act.

(d) Section 310(a)(4) of the Act (2 U.S.C. 437c(a)(4)) is amended by striking out "(other than the Secretary of the Senate and the Clerk of the House of Representatives)".

(e) Section 310(a)(5) of the Act (2 U.S.C. 473c(a)(5)) is amended by striking out "(other than the Secretary of the Senate and the Clerk of the House of Representatives)".

(f)(1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Federal Election Campaign Act of 1971 as such title existed on January 1, 1976, or under any other provision of law are transferred to the Federal Election Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2)(A) Except as provided in subparagraph (B) of this paragraph, personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remain in full force and effect. All orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1) shall continue in effect to the same extent as if such transfer had not occurred.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission at the time this section takes effect.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within twelve months after the date of enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

SEC. 2. All actions heretofore taken by the Commission shall remain in effect until modified, superseded, or repealed according to law.

SEC. 3. The provisions of titles III and IV of the Federal Election Campaign Act of 1971 of section 608 of title 18, United States Code, and of chapters 95 and 96 of the Internal Revenue Code of 1954 shall not apply to any election, as defined in section 301 of the Act (2 U.S.C. 431(a)), that occurs after December 31, 1976, except runoff elections relating to elections occurring before such date.

Mr. GRIFFIN. Mr. President, I will say only a few words at this point, and then turn the floor over to the distinguished ranking minority member of the Committee on Rules and Administration, the Senator from Oregon (Mr. HATFIELD).

I have offered a complete substitute for the pending bill. This substitute measure would merely reconstitute the Federal Election Commission along lines to meet the constitutional requirements indicated by the Supreme Court. The substitute includes certain provisions having to do with the transition of personnel, which are purely routine.

The substitute does not include that part of the President's recommendation which would have the present law expire next year. While such a termination date may be a good idea, there is considerable controversy regarding it. Of course, it goes without saying that Congress, at any time, is always able to undertake a complete revision and reform of the act, and that should be done next year whether or not a termination date is included in this legislation.

What I seek to do is give the Senate a clear choice—a choice between this 51-page monstrosity reported by the Rules Committee, 90 percent of which is controversial and which has been adopted without adequate hearings. This substitute gives the Senate an opportunity to do what is the commonsense thing to do—that is, to simply reestablish the Federal Election Commission in a constitutional manner so that it may continue to function in a way that complies with the Supreme Court decision.

I am glad to indicate to the majority leadership and to the floor managers of the bill that, as far as we are concerned, we are ready to vote on this substitute at any time. We are ready to vote on it later this afternoon, if possible, or some time tomorrow.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. ROBERT C. BYRD. How about a vote at 3 o'clock this afternoon on the proposed substitute?

Mr. CANNON. Mr. President, if the Senator will yield, I would be willing to agree to a time limit on the bill itself and all amendments, or anything to try to expedite it.

Mr. GRIFFIN. Mr. President, I would respond by saying that this Senator would be willing to try to work out such an agreement, but I have to say that there are other Senators who are not ready at this point to agree to such an overall time limit.

Mr. BROCK. Mr. President, if the Senator will yield, I think it might depend in some degree on the reaction to this proposed substitute. This is a very simple substitute the Senator from Michigan and I are offering, which does nothing but extend the present law in accommodation with the Supreme Court decision.

Personally, I think we could complete action on the whole bill today. I see very little to add to the bill.

Mr. GRIFFIN. Mr. President, I apologize for not stating, as I should have, that the Senator from Tennessee (Mr. BROCK) is the cosponsor of this amendment.

Mr. ROBERT C. BYRD. Then, Mr. President, I ask unanimous consent that a vote occur on the substitute today at 3 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hearing no objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all the Senators.

PRIVILEGE OF THE FLOOR

Mr. CANNON. Mr. President, I ask unanimous consent that whenever consideration of S. 3065 is before the Senate, the following staff members of the Committee on Rules and Administration be granted the privileges of the floor:

William M. Cochrane, Edwin K. Hall, James F. Schoener, Peggy L. Parrish, Mary G. Daly, Dolores Eaton, Barbara Conroy, Gary Lawson, a GAO employee on detail to the Committee on Rules and Administration, Lloyd Ator, legislative counsel, and Nick Edes, staff of Senator WILLIAMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, S. 3065 is an original bill amending the Federal Election Campaign Act of 1971, as amended in 1974, to provide for the act's administration by a Federal Election Commission having six commissioners appointed by the President by and with the advice and consent of the Senate. This bill also amends certain other provisions of the law relating to the financing and conduct of Federal campaigns which the committee found necessary and desirable in light of the decision of the Supreme Court of the United States in Buckley against Valeo, decided January 30, 1976.

Mr. President, I would like to review briefly the events of the recent past to help cast this proposed legislation in a proper historical perspective.

During the 92d Congress—1971–72—the Federal Election Campaign Act of 1971 (Public Law 92–225) was enacted to provide sweeping and thorough control over and public disclosure of receipts and expenditures in both Federal primary and general elections. The Federal Election Campaign Act amendments of 1974, enacted during the 93d Congress (Public Law 93–443), amended the 1971 act extensively. The resulting law provided for overall limitations on campaign expenditures and political contributions, extensive reporting and recordkeeping requirements for candidates and political committees, and the establishment of a Federal Election Commission with extensive powers to administer and enforce the act. The law also provided for the public financing of Presidential primary and general elections and conventions.

On January 30, 1976, the Supreme Court of the United States, in Buckley against Valeo, upheld the contribution limitations, the recordkeeping and dis-

closure requirements of the act and the provisions for public financing of Presidential elections and conventions. However, the Court held that certain expenditure limitations under the act were in violation of the first amendment and that the exercise of administrative and enforcement powers delegated to the Commission was unconstitutional, because of the way in which its members were appointed.

Public hearings were held by the Subcommittee on Privileges and Elections, chaired by Senator CLAIBORNE PELL, on February 18, 1976. Witnesses appeared to testify and submit written statements on the impact of the Supreme Court's decision and on the many bills which had been introduced in response to that decision.

The Committee on Rules and Administration met on February 25 and 26 and on March 1, 1976, to consider legislation, and on March 1, ordered this original bill, S. 3065, reported. The report of the committee was submitted to the Senate on March 4, 1976.

Mr. President, the Senate is faced with a deadline of March 22, imposed by the Supreme Court, during which the Congress should act in order to assure the continuity of such important powers of the Federal Election Commission as the certification of public matching funds to Presidential candidates.

Mr. President, although the provisions of S. 3065 are summarized at length in the report of the committee, I would like to review certain of the proposed changes at this time.

The bill provides that the Commission is to consist of the Secretary of the Senate, the Clerk of the House, both ex officio and without the right to vote, and six members appointed by the President by and with the advice and consent of the Senate. As so constituted, the constitutional requirements set forth in Buckley against Valeo will have been met, in the opinion of this Senator.

As with the existing Commission, no more than three members may be affiliated with the same political party. The bill furthermore contains some new provisions to help assure that the Commission might function in as nonpartisan a manner as possible. First of all, Commissioners may be appointed to fill expired terms only in an off-election year. Second, the bill provides that the Commission may not establish guidelines, initiate civil actions, render advisory opinions, prescribe rules and regulations, conduct investigations, or report apparent violations except by an affirmative vote of four members of the Commission, no less than two of whom are affiliated with the same political party. This provision will prevent three members of one party and only one of another from constituting a majority, and is intended as a safeguard to keep politics, or the appearance of politics, out of the actions of the Commission.

The bill gives the Commission exclusive and primary jurisdiction for the civil enforcement of the Federal Election Campaign Act of 1971, as amended, and of the public financing of Presidential campaigns. It should be noted that this would also encompass exclusive jurisdiction for the civil enforcement of many of the existing criminal code provisions of title 18 relating to Federal election campaigns, which are transferred by this bill into the Federal Election Campaign Act of 1971.

In addition to exclusive civil enforcement authority, the bill gives the Commission a more varied assortment of enforcement powers and provides for greater public disclosure of Commission enforcement activities. These are set forth in the bill and described at pages 7 and 8 of the committee's report.

It is important to note here, however, that the bill changes present law by providing criminal penalties for more substantial violations and a combination of formal conciliation actions, disclosure, civil enforcement and civil fines for less substantial violations of the law. For example, if a person—as defined under the act—unknowingly failed to report a $200 expenditure which advocated the election or defeat of a clearly identified candidate that person would be required to correct the error in response to the Commission's conciliatory efforts or in response to a court order obtained at the request of the Commission. The Commission would be required to make public the results of any such conciliatory efforts. However, a person who willfully and knowingly fails to report an expenditure in excess of $1,000 which expressly advocated the election or defeat of a clearly identified candidate would be subject to the civil fines and criminal penalties set forth in the bill in addition to the above enforcement actions.

The detailed enforcement procedures which are set forth on pages 19 to 27 of the bill will give the Commission a greater number of alternatives in enforcing the law, and at the same time afford a person who makes a good-faith attempt at compliance with the complex requirements of the act a greater degree of protection than presently available. Finally, and of perhaps greatest importance as an effective deterrent against abuses, the bill requires a greater degree of public disclosure of the Commission's success or failure at obtaining compliance with the campaign financing laws.

Mr. President, S. 3065 also proposes a revision in the Commission's procedures for issuing advisory opinions. The bill clarifies that an advisory opinion shall apply only to the person requesting such an advisory opinion and to any other person directly involved in the specific transaction or activity as to which the advisory opinion is rendered. It further requires the Commission, no later than 30 days after rendering an advisory opinion which sets forth a rule of general applicability, to prescribe rules or regulations relating to the transaction or activity involved, assuming it is not already subject to an existing rule or regulation.

Since its inception the Commission has issued well over 100 advisory opinions, giving each widespread publication in the Federal Register and elsewhere. This widespread dissemination of numerous advisory opinions has, of course, given the public and candidates an opportunity to learn the Commission's interpretation of the campaign finance laws. However, in many instances these opinions have related to transactions or activities of general applicability which would more properly have been the subject of proposed rules or regulations. The proposed legislation is intended to require the Commission to prescribe rules and regulations with respect to transactions or activities which would have general applicability to all candidates or political committees. However, in instances where a request for an advisory opinion is a matter of peculiar interest to a particular candidate or committee covering an individual problem, it would not be necessary for the advisory opinion to be prescribed as a rule or regulation.

Mr. President, S. 3065 also proposes a number of changes in the law relating to campaign contributions and expenditures to reflect the decision of the Supreme Court in Buckley against Valeo, and to restrict within the constitutional limitations set by the Supreme Court the flow of excessive sums of money into political campaigns.

A number of changes merely reflect the Supreme Court's decision upholding the constitutionality of requiring public disclosure of expenditures which expressly advocate a particular election result, and are summarized in the committee report.

Under present law any political committee, whether it is a multicandidate political committee which is qualified to make $5,000 contributions per election to a candidate, or any other political committee as defined in the act is permitted to make a contribution in an unlimited amount to any other political committee so long as the latter is not a candidate's authorized committee or the funds are not earmarked for a particular candidate.

Consequently, in the aftermath of Buckley against Valeo unlimited sums of money can be directed to a few select political committees to then be injected into a campaign without limitation as an independent expenditure in support of or in opposition to an expressly identified candidate.

In order to curb such an unintended abuse of the campaign finance laws the bill proposes that contributions by a political committee to another political committee—where the latter is not a candidate's authorized committee and the funds are not earmarked for a particular candidate—shall be limited to an aggregate sum of $25,000 in any one calendar year.

I note here that the Supreme Court in Buckley against Valeo expressly upheld the constitutionality of limitations on contributions, which included the present $25,000 calendar year aggregate limitation on contributions by individuals, whether the recipient be a number of candidates or a political committee such as the national committee of a political party. In other words, that was an overall limitation of $25,000 to the donor for all purposes for which he might have intended to give. The Court stated at pages 32 to 33 of the slip opinion as follows:

The overall $25,000 ceiling does impose an ultimate restriction upon the number of candidates and committees with which an

individual may associate himself by means of financial support. But this quite modest restraint upon protected political activity serves to prevent evasion of the $1,000 contribution limitation by a person who might otherwise contribute massive amounts of money to a particular candidate through the use of unearmarked contributions to political committees likely to contribute to that candidate, or huge contributions to the candidate's political party. The limited, additional restriction on associational freedom imposed by the overall ceiling is thus no more than a corollary of the basic individual contribution limitation that we have found to be constitutionally valid.

Mr. President, I submit that the proposed $25,000 aggregate calendar year limitation on political committee contributions to other political committees is similarly no more than a corollary of the basic limitation on political committee contributions and is thus constitutionally valid.

S. 3065 also contains a provision intended to curtail the vertical proliferation of political committee contributions. As set forth on page 28 beginning at line 15 of the bill, for purposes of the contribution limitations:

All contributions made by political committees established, financed, maintained, or controlled by any person or persons including any parent, subsidiary, branch, division, department, affiliate, or local unit of such person or by any group of persons shall be considered to have been made by a single political committee.

There are three exceptions to this rule:

First. This antiproliferation rule would not apply to limit transfers between political committees of funds raised through joint fundraising efforts.

Second. This rule shall not apply to a political committee established, financed, or maintained by the national committee or the State, district, or local committee of a political party.

Third. This rule intended to curtail the vertical proliferation of political committee contributions would not preclude a political committee of a national organization from contributing to a candidate or committee merely because of its affiliation with a national multicandidate political committee which has made the maximum contribution it is permitted to make to a candidate or political committee.

I would like to illustrate this third exception by using an example which was referred to us during our committee deliberations. The proposed rule to curtail the vertical proliferation of political committee contributions would not preclude a national union through its political committee, such as for example, the boilermakers, from making a maximum contribution to a candidate through its national political committee in the event that COPE, the political committee of the AFL–CIO, with which the boilermakers are affiliated, has already made its maximum contribution to that candidate. On the other hand, the proposed rule would prevent the various local unions of the boilermakers from making a similar maximum contribution through their local political committees when such a maximum contribution has already been made from the national political committee of the boilermakers.

To use another example, if the national political committee of the National Association of Manufacturers had made its maximum contribution to a candidate, the political committee of a national corporation which is affiliated with NAM would not be precluded from making a maximum contribution to that candidate. However, the subsidiaries, divisions, or departments, et cetera, of that national corporation would be precluded from making a similar maximum contribution through their local political committees when such a maximum contribution has already been made by the national corporation's political committee to a candidate.

Mr. President, the bill retains the existing expenditure limitations on Presidential candidates, conditioning their application upon the acceptance of public financing. The bill also retains the existing expenditure limitations imposed upon the national and State committees of political parties.

Finally, Mr. President, the bill proposes a number of changes in existing section 610 of title 18, United States Code, which prohibits contribution or expenditures by corporations and labor organizations. First of all, the provisions of section 610, like a number of other title 18 provisions related to the financing of campaigns, are transferred to the Federal Election Campaign Act of 1971 as amended, and made subject to the proposed new enforcement and penalty provisions of the bill.

A second change relates to the provisions which permit a corporation to communicate with its stockholders and their families on any subject. This has been expanded to permit corporations to communicate with executive or administrative personnel and their families on any subject as well.

A third change would similarly expand those to whom a corporation can aim nonpartisan registration and get-out-the-vote campaigns to include executive or administrative personnel of a corporation and their families, as well as stockholders and their families.

A fourth change would make it unlawful for a corporation or a segregated fund of a corporation to solicit contributions from any person other than its stockholders, executive, or administrative personnel, and their families, or for a labor organization or a segregated fund created by a labor organization to solicit contributions from any person other than its members and their families.

This fourth change alters existing law as interpreted by the Federal Election Commission in its Sun PAC Advisory Opinion 1975–23, wherein the Commission interpreted section 610 to permit a corporation to solicit all its employees. It is felt that such an interpretation creates extraordinary pressure and undue potential for coercion, which was even acknowledged by the Commission in its advisory opinion, in a situation where management of a corporation is permitted to solicit political contributions from all its employees.

As evidenced by the dissent of Commissioners Harris and Tiernan, there is an extremely strong case to be made that the original intent of section 610 was to deny corporations the right to solicit contributions from anyone except stockholders and their families. Certainly, as the dissent in the Sun PAC opinion also pointed out, there are definite inequities involved when a corporation is permitted to solicit all employees:

On a national scale, the majority ruling grants corporations as a group an unfair advantage over labor unions in the solicitation of political contributions. It is estimated that over 30,900,000 individuals own shares of stock in American corporations. 1975 *World Almanac* 94. But, out of the nation's total workforce of 84,000,000 workers, only 18,000,000 of them (or about 21%) are members of labor unions including AFL–CIO, independent, CNTU and CLC unions, 1975 *World Almanac* 103. Had corporations been restricted to soliciting only their stockholders, they could have solicited almost twice as many individuals as labor unions. Under the majority's ruling, however, corporations now have the potential of soliciting the entire workforce of the nation. Congress certainly did not intend to create such a gross disparity in the solicitation power of corporations and unions, by enacting the segregated fund exception to section 610, as the majority of the Commission now permits in its interpretation of the Statute. *Federal Register*, Vol. 40, No. 233—Wednesday, December 3, 1975, p. 56587.

Mr. President, I ask unanimous consent that the entire advisory opinion 1975–23 and dissent related to the Sun PAC matter I have referred to, be printed in its entirety after the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CANNON. Mr. President, the changes proposed by S. 3065 will create a better balance in the equities between corporations and labor unions and reduce measurably the potential for coercion inherent in the employment relationship by limiting those whom corporations can solicit, other than stockholders and their families, to executive or administrative personnel, who are defined in the bill as "individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking or supervisory responsibilities."

Mr. President, there are a number of other provisions in the bill which I will certainly be willing to discuss as questions may arise. At this point I would like to yield to other members of the Senate who may wish to speak on this proposed legislation.

EXHIBIT 1

FEDERAL ELECTION COMMISSION

[Notice 1975–83]

ADVISORY OPINION

(Establishment of Political Action Committee and Employee Political Giving Program by Corporation.)

The Federal Election Commission announces the publication today of Advisory Opinion 1975–23. The Commission's opinion is in response to questions raised by individuals holding Federal office, candidates for Federal office and political committees, with

respect to whether any specific transaction or activity by such individual, candidate, or po-political committee would constitute a violation of the Federal Election Campaign Act of 1971, as amended, of Chapter 95 or 96 of Title 26 United States Code, or of Sections 608, 610, 611, 613, 614, 615, 616, or 617 of Title 18 United States Code.

The Commission points out that this advisory opinion should be regarded as an interim ruling which is subject to modification by future Commission regulations of general applicability. In the event that a holding in the opinion is altered by the Commission's regulations, the person to whom the opinion is issued will be notified.

ADVISORY OPINION 1975–23

ESTABLISHMENT OF POLITICAL ACTION COMMITTEE AND EMPLOYEE POLITICAL GIVING PROGRAM BY CORPORATION

In this advisory opinion, rendered pursuant to 2 U.S.C. 437f, the Commission responds to a request for an advisory opinion submitted by the Sun Oil Company and published as AOR 1975–23 in the FEDERAL REGISTER on July 29, 1975 (40 FR 31879). Interested persons were invited to submit written comments with respect to this request. A number of such comments were received and considered by the Commission before this opinion was issued.

A. Introduction

Sun Oil proposed to sponsor a bifurcated responsible citizenship program for political activities. One part of this program will involve the expenditure of general corporate treasury funds to establish, administer, and solicit voluntary contributions to a political action committee. This committee (hereinafter SUN PAC) will be maintained as a separate segregated fund and used by Sun Oil for political purposes under the provisions of 18 U.S.C. 610. The other part of this program will involve the expenditure of treasury funds to establish and administer a "trustee" plan. Under the plan (hereinafter SUN EPA) Sun Oil will open separate bank accounts for participating employees in order to channel their contributions to candidates for political office. The activities of SUN EPA will be separate and apart from those of SUN PAC.

The Commission has been asked to evaluate SUN PAC and SUN EPA with respect to the requirements of the Federal Election Campaign Act of 1971, as amended (hereinafter the "FECA" or the "Act") and the proscriptions of 18 U.S.C. § 610. In the following opinion, the Commission will discuss various legal aspects of corporate segregated funds and trustee plans.

B. Applicable Law

Section 610 of Title 18 of the United States Code provides, in pertinent part, as follows:

CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS OR LABOR ORGANIZATIONS

"It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or [officials] to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any * * * political committee * * * to accept or accept or receive any contribution prohibited by this section.

"As used in this section, the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value * * * to any candidate, campaign committee, or political party or organization in connection with any election to any of the offices referred to in this section; but shall not include * * * the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or local organization * * *: *Provided*, That it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction."

The history of section 610, prior to its amendment by section 205 of the Federal Election Campaign Act of 1971, was set forth in *United States* v. *UAW*, 352 U.S. 567 at 570–90 (1957). Moreover, the history of the 1971 amendment, which permits corporations to establish, administer and solicit contributions to separate segregated funds, was discussed in some detail in *Pipefitters Local 562* v. *United States*, 407 U.S. 385 at 409–13, 421–27, 429–32 (1972). See also, *United States* v. *CIO*, 335 U.S. 106 (1948). There is no need, therefore, to trace that history here in any detail. However, some general conclusions can be made in light of legislative history about the application of section 610 to the corporate political activities proposed by Sun Oil.

C. Conclusions

(1) First, it is lawful for Sun Oil to expend general treasury funds to defray expenses incurred in establishing, administering, and soliciting contributions to SUN PAC so long as it is maintained as a separate segregated fund. The language of section 610 and the supporting legislative history of the 1971 Amendment to the statute plainly permits such expenditures. See, *Pipefitters, supra*, at 429–33. SUN PAC must register and file reports just as any other political committee is required to do under the FECA.

(2) Secondly, it is lawful for Sun Oil to make any political contributions and expenditures it sees fit in connection with any Federal election so long as the monies used for such purposes are expended from SUN PAC and the fund consists of voluntary contributions.

In situations where SUN PAC makes contributions or expenditures in connection with Federal and non-Federal elections, it may establish and maintain a separate account for use in Federal elections Thereafter, monies to be expended in non-Federal elections should not be commingled with monies to be expended in Federal elections. SUN PAC should designate the bank in which it maintains any such account for Federal elections as the campaign depository of the fund. 2 U.S.C. 437b. All contributions received or expenditures made in connection with Federal elections should be deposited in or drawn from this account. If SUN PAC so decides to maintain a separate account for use in Federal elections, it may file reports pertaining only to the separate Federal account. However, if SUN PAC fails to segregate the accounts and monies to be used in connection with both Federal and non-Federal elections, then SUN PAC will be required to report all contrbutions and expenditures regardless of whether they are made for non-Federal purposes.

Any political contributions or expenditures made by SUN PAC are subject to the applicable reporting requirements of the FECA and the limitations of 18 U.S.C. 608. Moreover, since individual contributions made to SUN PAC are also contributions within the meaning of 18 U.S.C. § 591(e), such contributions are also subject to the limitations of 18 U.S.C. § 608.

(3) Thirdly, it is lawful for Sun Oil to control and direct the disbursement of contributions and expenditures from SUN PAC. When the issue of the control of segregated funds was presented to the Supreme Court in the *Pipefitters* case, (which involved a section 610 criminal prosecution against a labor union) the Court held that "such a fund must be separate from the sponsoring union only in the sense that there must be a strict segregation of its monies from union dues and assessments." *Id.* at 414. After an exhaustive review of legislative history, the Court concluded that (*Id.* at 415–417):

"Nowhere, however, has Congress required that the political organization [i.e., the fund] be formally or functionally independent of union control or that union officials be * * * precluded from determining how the monies raised will be spent. * * * Senator Taft adamantly maintained that labor organizations were not prohibited from expending those monies [from the fund] in connection with Federal elections. * * * Neither the absence of even a formally separate organization, * * *, nor the method for choosing the candidate to be supported was mentioned as being material. Similarly, the *only* requirements for permissible political organizations were that they be funded through separate contributions [which were voluntary]." (Emphasis added.)

The Court also concluded from the legislative history that (*Id.* at 426):

"[T]he term 'separate' * * * is synonymous with 'segregated.' Nothing in the legislative history indicates that the word is to be understood in any other way. * * * It is difficult to concsive how a valid political fund can be meaningfully 'separate' from the sponsoring union in any way other than 'segregated.'"

Since corporations and labor unions are subject to the same restrictions under section 610, it is clear that under the language of the *Pipefitters* case, Sun Oil can exercise control over the operations and activities of SUN PAC.

There is much concern in the business community about the proper class of persons who may be solicited by a corporation with its treasury money for contributions to a political fund. Sun Oil advised in its request for an opinion that "[t]o achieve its purpose, SUN PAC will solicit and accept contributions from individuals and from other political committees." Sun Oil now advises, through counsel, that its solicitation efforts will not be as broad as the language of its request suggested. The Commission is now advised that Sun Oil "will not solicit contributions from members of the general public who are neither Sun employees nor shareholders" but that "Sun does intend to use corporate funds to solicit contributions to SUN PAC from its employees."

(4) It is the opinion of the Commission that Sun Oil may spend general treasury funds for the solicitation of contributions to SUN PAC from stockholders and employees of the corporation. The Federal Election Campaign Act of 1971 amended section 610 by defining contribution and expenditure and setting forth exemptions to that definition. The first two exceptions permit the use of corporate treasury funds for activities aimed only at stockholders and their families. The third exception places no limitation on the categories of persons who may be solicited for voluntary contributions to a separate segregated fund. However, the legislative history of the 1971 Act clearly states that general treasury money may not be used to solicit the general public. 117 Cong. Rec. 43380–81. The absence of a limitation in the third exception similar to that contained in the first two exceptions, indicates that it was Congress' intent not to limit the use of corporate funds

for solicitation of contributions to separate segregated funds only to stockholders. Furthermore, corporations have traditionally solicited their employees for both political and non-political purposes. Absent any express language in the statute or the legislative history prohibiting such solicitations, it would be illogical to conclude that corporations could solicit only their stockholders and not their employees. Finally, section 610 provides that contributions to a separate segregated fund may not be secured by "job discrimination" or "financial reprisals", actions which an employer may take against an employee.

The Commission recognizes, however, that there is in the best-intentioned plans a potential for coercion which is inherent in the employment relationship and which may be triggered by solicitation of employees by or on behalf of an employer. Section 610 forbids coercion or reprisal of any kind in the solicitation of contributions to separate segregated funds. To minimize the appearance or perception of coercion, the Commission recommends the following guidelines on solicitation of political contributions by employees to such funds. First, no superior should solicit a subordinate. Second, the solicitor should inform the solicited employee of the political purpose of the fund for which the contribution is solicited. Third, the solicitor should inform the employees of the employee's right to refuse to contribute without reprisal of any kind.

(5) An issue related to that of soliciting contributions is that of SUN PAC accepting contributions from any donor willing to make them. It is the opinion of the Commission that SUN PAC generally can accept any contributions from many donors, whether or not it is lawful for Sun Oil to solicit a contribution from that donor. However, section 610 would prohibit SUN PAC from accepting any political contribution which would be an unlawful contribution by the donor under that statute.

Although Sun Oil cannot spend treasury funds to solicit contributions from political committees, SUN PAC could solicit such contributions with expenditures from its fund of voluntary contributions. Accordingly, SUN PAC may accept contributions from political committees which it solicited and contributions which were not so solicited but freely donated by political committees.

(6) Finally, Sun Oil has proposed a detailed organizational plan for SUN PAC. Essentially, SUN PAC will be a voluntary, non-profit, unincorporated, political membership association open to certain employees of Sun Oil and its subsidiaries. Several employees will be appointed by Sun Oil to create SUN PAC. In addition, Sun Oil will appoint the administrative officers of SUN PAC. A contribution committee will manage the overall financial operations of SUN PAC and will designate the donees of contributions. The committee may delegate all of its powers to the Chairman of SUN PAC who is a Sun Oil appointee.

Section 610 does not mandate any formal organizational structure for corporate political committees. However, under 2 U.S.C. 432, SUN PAC, just as any other political committee, would be required to have a chairman and treasurer in order to accept or make any political contributions. Beyond these requirements, there are no other formal organizational requirements applicable to SUN PAC under Federal law.

Sun Oil also proposed to spend general treasury funds to establish a political giving program for its employees called SUN EPA. SUN EPA is what is commonly called a "trustee" plan. This plan was described in some detail in Sun Oil's request for an advisory opinion and briefly in the introductory paragraphs to this opinion. One commentator has described the concept of SUN EPA as follows:

"* * * SUN EPA conceptually serves a purpose not unlike a Christmas Club—*i.e.*, systematic 'saving' toward a set goal (in this case, in order to provide a source of individual contributions at campaign time, rather than a fund for Christmas gifts)."

Sun Oil conceded that SUN EPA would not be a segregated fund under the only applicable exception of section 610, and that it would not be a political committee subject to the registration and reporting requirements of the Act. Sun Oil stressed the fact that it will not exercise any control over the affairs of SUN EPA and that employees who participate in the plan will exercise complete control and discretion over the disbursement of their political contributions.

(7) It is the opinion of the Commission that the expenditure of general treasury funds by Sun Oil for the ordinary and necessary administrative costs of implementing SUN EPA is not prohibited by section 610. The assumption of these costs would not represent any direct or indirect payment by Sun Oil to any candidate, campaign committee, or political party or organization, within the meaning of section 610, so long as Sun Oil will exercise no control over the program nor will attempt to influence employee contributions.

The legislative history of the 1974 Amendments to the Federal Election Campaign Act clearly states that if a person exercises any direction and control over the making of a contribution then that contribution shall count as a contribution with respect to that person. Thus, in order to avoid making a contribution under section 610, Sun Oil and its management may not make any effort, either orally or in writing, to direct contributions by participants in SUN EPA to any candidate, group of candidates, political party or other person. Participants in SUN EPA must exercise independent judgment when making contributions.

The Commission notes that the Justice Department, which has criminal prosecution powers with respect to section 610, would not regard the use of corporate funds to administer such plans as being within the prohibitions of section 610:

"[P]rovided that the corporation in no manner suggests to the contributing employee the identity of certain candidates or committees which should be the beneficiaries of such personal contributions, provided that absolutely no pressure of any kind is applied to induce participation in the program, and provided corporate funds are not indirectly contributed to the ultimate recipients through such means as artificially inflating employees' salaries * * *." (Letter to John G. Murphy, General Counsel, Federal Election Commission, November 3, 1975.)

Sun Oil states that:

"[T]he bank, on a quarterly basis, will inform SUN of the total amounts of contributions under SUN EPA for the quarter to specific candidates, committees, or political parties receiving them, so it may be published for those participating in the plan."

The receipt and publication of any report on the source or recipient of any contribution(s) or donation(s) into or out of any SUN EPA account(s) may constitute the exercise of direction and control over future contributions. The Commission would not object to Sun Oil's receiving reports setting forth the total number of employees in the plan, the total amount of funds in all the accounts and the total amount of contributions made to all candidates and committees.

The Commission further notes that the possibility of exercising direction and control may be inherently present when an employee trustee plan and a political action committee are administered simultaneously by the same corporation. This, of course, will be a factual determination. However, under section 610, a violation need not be willful.

This advisory opinion is issued on an interim basis only, pending the promulgation by the Commission of rules and regulations or policy statements of general applicability.

NOTE: The foregoing opinion was adopted by the Commission by a 4 to 2 vote with Commissioners Harris and Tiernan voting against adoption. The dissenting opinion of Commissioners Harris and Tiernan is published as follows.

Dated: November 24, 1975.

THOMAS B. CURTIS,
Chairman for the Federal Election Commission.

COMMISSIONER HARRIS AND COMMISSIONER TIERNAN, DISSENTING

A. SUN-PAC: Solicitation of contributions

We do not think that the statute permits Sun Oil to use its general funds to solicit donations to its political fund from persons other than Sun Oil's stockholders. This conclusion is based on the language and overall objective of § 610, the legislative history of the Hansen Amendment, and the Supreme Court's opinion in *Pipefitters Local 562* v. *United States*, 407 U.S. 385 (1972). [Also, the effect of the Commission's decision appears to be to give corporations greater leeway than unions as respect solicitation for their political funds—a result surely astounding to both supporters and opponents of the Hansen Amendment.]

1. The language added to Section 610 in 1972 by the Hansen Amendment creates three exceptions to the section's general ban on the expenditure of corporate or union funds in connection with any election to federal office. They are (a) "communications by a corporation to its *stockholders* and their families or by a labor organization to its *members* and their families on any subject;" (b) "nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its *stockholders* and their families, or by a labor organization aimed at its *members* and their families;" and (c) "solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization." The first of these exceptions, i.e., as to communications, is paralleled in the definition of "expenditure" [2 U.S.C. 431 (f) (4) (c) and 18 U.S.C. 591 (f) (4) (c)], which excludes from "expenditure" "any communication by any membership organization or corporation to its *members* or *stockholders* * * *" (Emphasis added).

The first two Hansen Amendment exceptions are restricted in terms to stockholders in the case of a corporation and members in the case of a union, while the third exception has no restriction. Thus, read literally, the third exception would permit a corporation or union to solicit not only stockholders or members, but the general public, that is, anybody and everybody. Such a construction of the third exception would however go far to destroy the general ban of Section 610 on the expenditure of corporate or union funds in connection with a federal election; and it would likewise undercut the provision in the first exception that corporations may communicate with stockholders and union with members and the parallel provision in the statutory definition of "expenditure". This is so because the "solicitation" of contributions to a political fund necessarily includes representations as to what sort of causes and candidates the fund will support, and as to why those solicited should contribute to it. If corporations and unions are free to use their general funds to solicit the public at large, they may legally carry on extensive political campaigns in support of particular candidates or type of candidates as a part of their solicitation efforts.

A more rational construction of the statute is that the first and third Hansen Amendment exceptions are to be read together. Individuals cannot be solicited to make a voluntary contribution except by communicating with them. As § 610 states and as its leg-

islative history makes emphatic, Congress intended to assure that corporate communications on political subjects financed by treasury money would be directed only at stockholders and their families and that such union communications would be to members and their families. It creates an inexplicable exception to that intent to read the permission to solicit contributions as separate from the permission to communicate with stockholders and members rather than reading these two clauses of the same sentence together. And, since there is in fact no dividing line between communication and solicitation, if such an exception were to be made there would soon be little if anything left of the rule. A corporation could then legally take out a full-page advertisement in the *New York Times* soliciting for contributions by stating who those contributions would be used to support and why. Except for the top and bottom line, such an advertisement would be no different than one communicating the corporation's views on those candidates to the general public through the expenditure of treasury money. That, of course, is precisely what § 610 prohibits.

Since a construction which permitted corporations and unions to solicit the general public would go far to undercut § 610, no one has urged it. Sun Oil has, subsequent to its initial presentation, disclaimed any purpose to solicit the general public. However, as far as a simple reading of the statute goes, there is no basis for drawing any distinction between the use of corporate funds to solicit the general public and their use to solicit employees of the corporation.

2. Since the statute is thus ambiguous and not to be read literally, it is of course appropriate to examine the legislative history of the Hansen Amendment. *Pipefitters Local 552 v. United States, supra.* That history confirms that the first and third exceptions are to be read togeteher, and that the Hansen Amendment was intended to sanction the use of corporate or union funds only to communicate with and/or solicit stockholders or members.

In explaining his Amendment to the House, Representative Hansen stated:

Next, the amendment, in further defining the phrase "contribution or expenditure", draws a distinction between activities directed at the general public, which are prohibited, and *communications by a corporation to its stockholders and their families and by a labor organization to its members and their families*, on any subject, which the courts have held is permitted.

The amendment set forth the *limited circumstances* where *such communications* are permitted *in connection with an election.* These include:

(1) non-partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families.

(2) *the establishment, administration and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization.* (Emphasis added). (117 Cong. Rec. 43379)

Representative Hansen reiterated this distinction, between corporate political activity directed at stockholders (and union political activity directed at members) and political activity financed by treasury money directed at the general public, in three separate passages in his explanatory floor statement:

Section 610 strikes a balance between organizational rights and the rights of those who wish to retain their *shareholding interest or membership status* but who disagree with the majority's political views. The balance presently obtaining provides, in my judgment, an optimum solution to the complex problem of accommodating these conflicting interests. This solution is sound in theory as I shall show, has proved workable in practice, and has generated a broad bi-partisan consensus in favor of continuation of the present rules. For this reason my amendment, with one exception, follows the present law.

Thus, Section 610 as it stands, and under my proposal, represents a complete victory for those who believe that corporations and unions have no moral right to utilize their organizations' general funds for active public partisan politicking. It totally subordinates organizational interest to individual interests. (Emphasis added) (117 Cong. Reg. 43380)

* * * * *

Recognizing that group interests must be given some play and that the interest of the minority is weakest when corporations and unions confine their activities to their own *stockholders* and *members, the beneficial owners of these organizations,* the second subdivision of the amendment sets out three precisely defined and limited permissions for corporate and union activity related to the political process.

The courts, as well as other independent students of section 610 and its legislative history, have concluded that the 1947 Congress did not intend to prohibit corporations or unions from communicating freely with their *members* and *stockholders*—see *U.S. v. CIO,* 335 U.S. 106—from conducting nonpartisan regulation and get-out-the-vote campaigns, or from securing voluntary contributions made directly to the support of a labor or management political organization—93 Congressional Record 6440, remarks of Senator Taft." (Emphasis added). (117 Cong. Rec. 43380).

* * * * *

At the present time there is broad agreement as to the essence of *the proper balance in regulating corporate and union political activity required by sound policy and the Constitution.* It consists of a strong prohibition on the use of corporate and union treasury funds to reach the general public in support of, or opposition to, Federal candidates, and a *limited permission to corporations and unions,* allowing them to communicate freely with members and stockholders on any subject, *to attempt to convince members and stockholders* to register and vote, and *to make political contributions, and expenditures financed by voluntary donations which have been kept in a separate segregated fund. This amendment writes that balance into clear and unequivocal statutory language.* (Emphasis added). (117 Con. Rec. 43381).

* * * * *

Representative Hansen further emphasized this distinction by quoting Senator Taft's explanation of section 610 as it was enacted in 1947:

The dividing line established by 610 is between political activity directed at the general public in connection with Federal elections which must be financed out of political donations and activities directed at members or stockholders which may be financed by general funds * *

Finally, there can be no doubt that *union members* or *stockholders* should have the right to set up special political action funds supported by voluntary donations from which political "contributions and expenditures" can lawfully be made. As Senator Taft stated in his floor explanation of section 610:

If [union members or stockholders] are asked to contribute directly * * * *to the support of a labor [or management] political organization, they know what their money is to be used for and presumably approve it.* From such contribution the organization can spend all the money it wants to with respect to such matters. But the prohibition is against labor unions using their *members'* dues for political purposes, which is exactly the same as the prohibition against a corporation using its *stockholders'* money for political purposes, and perhaps in violation of the wishes of many of its stockholders. 93 Cong. Rec. 6440 (Emphasis added). (117 Cong. Rec. 43381).

Earlier in the debate the following colloquy occurred among Rep. Hansen and Reps. Dellenback and Hays:

May I ask as a general question, Mr. Hansen, *is it your intent by the way you have drafted the amendment to propose that corporations and unions be treated absolutely equally?*

Mr. HANSEN of Idaho. That is correct.

Mr. DELLENBACK. And, further, if a situation is proper for a corporation, it is also proper for a union and if it is proper for a union, then it is also proper for a corporation.

I think it is extremely important that what you have *here proposed is an amendment that seeks to bring about equity.* I think it is important that a union be able to communicate with its *members* and do what the law already permits it to do, and likewise I feel it is important that a corporation be able to do that same thing with its *stockholders.*

Mr. HAYS. I join in support of this particular amendment. It seems to me that it does work equity in what has been a very troublesome situation in the past. (Emphasis added). (117 Cong. Rec. 43380).

This statement of Congressional intent, involving as it does the author of the amendment (Rep. Hansen) and the Chairman of the House Committee (Rep. Hays) is enttiled to special weight.

3. In line with this legislative history, the Supreme Court stated in the *Pipefitters* case that the first and third exceptions of the Hansen Amendment are integrally related and similarly limited to stockholders and members:

With the exemption for communications to *stockholders* or union *members* and their families apparently in mind, Hansen stated, for example, 117 Cong. Rec. H11478:

"[E]very organization should be allowed to take the steps necessary for its growth and survival. There is, of course, no need to belabor the point that Government policies profoundly affect both business and labor * * * If an organization, whether it be the NAM, the AMA or the AFL–CIO, believes that certain candidates pose a threat to its well-being or the well-being of its *members* or *stockholders,* it should be able to get its views to those *members* or *stockholders.* As fiduciaries for their *members* and *stockholders* the officers of these institutions have a duty to share their informed insights on all issues affecting their institution with their constituents. Both union *members* and *stockholders* have the right to expect this expert guidance.

This reasoning, of course, applies as well to solicitations for contributions to voluntary political funds." (Emphasis added). (*Pipefitters, supra* at 431 no. 42).

4. The interpretation given § 610 by the majority of the Commission seems to me to be slanted in favor of corporate political fund solicitations, as compared with union. Congress means to hold the balance even.

In introducing his Amendment, Rep. Hansen stated:

The net effect of the amendment, therefore, is to tighten and clarify the provisions of section 610 of title 18 United States Code, and to codify the case law. It spells out more clearly the rules governing election activities *that apply equally* to labor unions and corporations. While prohibiting abuses that involve activities directed at the general public, the amendment recognizes that the constitutional guarantee of free speech protects the right of labor organizations and corporations to communicate with their own *members or stockholders.* (Emphasis added). (117 Cong. Rec. 43379).

The Commission's ruling destroys that balance. Unions are presumably limited to communicating with and soliciting their members, while corporations may solicit not only their stockholders, but all employees, whether union members or not. This is a curious result to flow from the union-supported and corporation opposed Hansen Amendment.

The imbalance resulting from the majority's ruling can readily be discerned by reference to statistical data. The Sun Oil Co.,[1] which had gross earnings in excess of 3.7 billion dollars at the end of 1974, has almost five times as many stockholders as it does employees. As of December 31, 1974, the company had 126,555 stockholders holding 57,301,668 shares of preferred and common stock in the company. At the end of the same period, the company had only 27,707 employees. Under the majority's ruling, Sun Oil is now permitted to solicit partisan political contributions from well over 127,000 individuals including employees who are not also stockholders. On the other hand, the labor union affiliated with Sun Oil is restricted in its solicitation to the small percentage of the 27,000 employee workforce which holds membership in the union. The union presumably cannot even solicit employees who must go through its hiring halls for employment with Sun Oil if those employees are not also union members. On a national scale, the majority ruling grants corporations as a group an unfair advantage over labor unions in the solicitation of political contributions. It is estimated that over 30,900,000 individuals own shares of stock in American corporations. 1975 *World Almanac* 94. But, out of the nation's total workforce of 84,000,000 workers, only 18,000,000 of them (or about 21%) are members of labor unions including AFL–CIO, independent, CNTU, and CLC unions. 1975 *World Almanac* 108. Had corporations been restricted to soliciting only their stockholders, they could have solicited almost twice as many individuals as labor unions. Under the majority's ruling, however, corporations now have the potential of soliciting almost the entire workforce of the nation. Congress certainly did not intend to create such a gross disparity in the solicitation power of corporations and unions, by enacting the segregated fund exception to § 610, as the majority of the Commission now permits in its interpretation of the statute.

5. Finally, the majority ruling is inconsistent with scholarly writings dealing specifically with the solicitation question. These writings demonstrate in clear terms that a reasonable interpretation of § 610 would restrict corporations to soliciting only their stockholders.

For instance, corporations have been advised in the *Business Lawyer*, a regular journal of the American Bar Association's Section of Corporation, Banking and Business Law, to direct solicitations of partisan political money to their stockholders. R. Garrett, "Corporate Contributions for Political Purposes," 14 *Bus. Law.* 365 (1959). Mr. Garrett closely examined § 610 and cases construing the statute including *United States* v. *CIO*, 335 U.S. 106 (1948) and *United States* v. *UAW*, 352 U.S. 567 (1957). On the basis of these and other Federal court decisions and labor union practices, particularly in operating COPE, Mr. Garrett reached the following conclusions:

Since Section 610 in terms *applies equally to labor organizations and to corporations*, certain conclusions relative to corporations under that section may be derived from the labor cases and the known practices of the unions:

* * * * *

(3) Corporations may use corporate facilities for soliciting voluntary contributions from *stockholders* to a fund to be donated or used for political purposes. (Emphasis added). *Garrett, supra*, at 375–76.

Mr. Garrett explained further that:

Corporate management eager to do something, but unwilling to put its neck in the noose for the purpose of making some law at the risk of heroic sacrifice, might well be advised to use the corporate facilities to arouse *stockholders* to voluntary contributions and political awareness. *The New York Stock Exchange has estimated that there are over 8½ million holders of stock in American corporations. They constitute a group who might be aroused to contribute and work for political purposes with possibly great effect*[2] Where corporate soliciting of contributions from stockholders is bipartisan, as, for example, where stockholders are invited to contribute a very small percentage of a dividend to the party which they designate individually, there would seem to be little real danger of prosecution.(Emphasis added). *Id.* at 377.

Another writer, the General counsel of the United States Chamber of Commerce, reached similar conclusions. Speaking in the *American Bar Association Journal*, the General Counsel said, after a thorough and careful analysis of Section 610 and Federal court decisions, that:

As for the Federal Corrupt Practices Act, *the corporation can play safe in its partisan political activity only if it limits its appeals*, whether written or oral, so as to avoid the general public and communicate rather to *its stockholders*. On principle it seems a corporation should be allowed to appeal also to its employees, along with its stockholders, although there is no decision which settles this point. (Emphasis added). W. Barton, "Corporation in Politics: How Far Can They Go Under the Law," 50 *ABA Journal* 228, 231 (1964).

There have been no court decisions which have held that under § 610 corporations are authorized to solicit contributions from employees.

We see no warrant for the construction of § 610 adopted by the majority.

B. The establishment of SUN-EPA

We also dissent from the majority's ruling monies to establish a "trustee" plan contribution program for its employees.

1. As previously noted, the intent of the Hansen Amendment was to set forth in "clear and unequivical statutory language" the *"limited* circumstances" under which corporations could spend treasury money in connection with federal elections. Those "limited circumstances" included the establishment of segregated funds. They did not include any other types of political contributions or expenditures form general corporate funds. The majority ruling, permitting corporations to subsidize "trustee" plans with treasury funds, simply does violence to the plan language of § 610 which authorizes only three types of activities which are supportable with corporate or union treasury money.

2. The meanings of the terms "expenditure" and "in connection with a federal election," as used in § 610, are broad enough to embrace the "trustee" plan proposed by Sun Oil. Certainly, the expenditure of treasury funds for SUN-EPA is intended to be "in connection with a federal election" inasmuch as Sun Oil has admitted that as a result of these expenditures, its employees will have a facility through which they can make contributions to candidates for federal office. The Justice Department made a similar observation in its comments when it said that the general objective of the program is certainly 'political' in that it encourages employees to participate voluntarily in politics through personal contributions."

This conclusion is consistent with judicial interpretations of the terms "expenditure" and "in connection with." As noted by the D.C. Circuit United States Court of Appeals in *Buckley v. Valeo*, 519 F. 2d 821, 852–53 (D.C. Cir. Aug. 29, 1975):

An expenditure may obviously inure to the benefit of a candidate even though the expenditure was not directed by the candidate and the candidate was not in control of the expenditures or of the goods or services purchased.

Similarly, Mr. Justice Rutledge, concurring in *United States v. CIO, supra*, characterized the broad reach of the terms "expenditure" and "in connection with" as used in section 610. (*Id.* at 133):

The crucial words are "expenditure" and "in connection with." Literally they cover any expenditure whatever relating at any date to a pending election, and possibly to prospective elections or elections already held. The broad dictionary meaning of "expenditure" takes added color from its context with "contribution." *The legislative history is clear that it was added by the 1947 amendment expressly to cover situations not previously included within the legislative interpretation of "contribution." The coloration added is therefore not restrictive, it is expansive.* * * * (Emphasis added).

Mr. Justice Frankfurter applied these same principles, regarding the breadth of the term expenditures," in upholding an indictment prosecuted under section 610. See, *United States v. UAW, supra*, at 585.

It matters not that Sun Oil will exercise no control over the operations of SUN-EPA or the activities of employees participating in the program. The law prohibits expenditures in connection with Federal elections—it does not go behind those expenditures to determine whether they will be made with a benevolent or patriotic intent. By facilitating employee contributions, through its subsidization of SUN-EPA, Sun Oil is necessarily using treasury funds in connection with Federal elections.

3. The majority concluded that expenditures of SUN-EPA were not prohibited by § 610 because they would not represent "any direct or indirect payment by Sun Oil *to* any candidate, campaign committee, or political party or organization." (Emphasis added). This conclusion apparently relies on the definition of the terms "contribution" and "expenditure" added to § 610 by the 1971 Amendment. But, that definition says that these terms "shall *include*" certain transactions. Since this is not language of limitation, it is clear that the majority's interpretation of these terms is too narrow. Mr. Justice Rutledge's broad interpretation of these terms in the *CIO* case has still survived the 1971 Amendment and is controlling. Accordingly, the majority should have restricted its focus to the broader concept of an expenditure "in connection with a federal election" which would have made expenditures for SUN-EPA unlawful. The Justice Department recently prosecuted a § 610 case against a labor union official where it expressed its views on the meaning of "contribution" and "expenditure" prior to the 1971 Amendment. In *United States v. Boyle*, 482 F. 2d 755 (D.C. Cir.), *cert. denied* —— U.S. ——, 94 S. Ct. 593 (1973), the Justice Department advised the trial court that:

It is important to note that Section 610 itself *does not speak in terms of contributions to candidates for office but rather in terms of "in connection with any election."* (Emphasis added).

Trial Brief for Department of Justice at 11, *United States v. Boyle*, No. 1741–71 (D. D.C.)

The trial court sustained this view of the

[1] The statistics on the Sun Oil Co. may be found in *Moody's Industrial Manual*, 2351–57 (Vol. 2, 1975).

[2] This was the 1959 estimate. As previously noted, the current estimate of stockholders in American corporations exceeds 30 million.

law in rejecting the defendant's motion to dismiss the indictment on the grounds that Section 610 was unconstitutional or vague. *United States v. Boyle,* 338 F. Supp. 1028, 1031–32 (D. D.C., 1972). This case shows that what makes an expenditure of treasury funds unlawful is simply the fact that it is "in connection with" an election.

4. The majority's narrow interpretation of § 610, to permit expenditures for SUN-EPA, has the effect of overruling by implication practically all of the advisory opinions which have dealt with indirect contributions or expenditures. Three opinions which immediately come to mind are (1) AO 1975–4, 40 Fed. Reg. 29793) (July 15, 1975), in which the Commission held that the guarantee of a loan made to the Democratic National Committee, to the extent that the loan was not repaid, was a contribution even though the loan itself was not; (2) AO 1975–14, 40 Fed. Reg. 34084 (Aug. 13, 1975), in which the Commission held that the donation by a corporation of a computer, to analyze the results of a non-partisan public issue opinion poll issued by a Congressman, was a violation of Section 610; and (3) AO 1975–27, 40 Fed. Reg. 51351 (Nov. 4, 1975), in which the Commission held that expenses incurred by a candidate for legal and accounting fees for the purpose of complying with the election laws were expenditures.

For these reasons, we see no merit in the majority view that expenditures for SUN-EPA are lawful under § 610.

Sun Oil has not asked and the Commission has not ruled whether the two plans are permissible under § 611, assuming that Sun Oil is a government contractor. It should be noted, however, that the language of § 611 is even broader than that of § 610. It provides severe criminal penalties for any government contractor-who "directly or indirectly makes any contribution of money or other thing of value * * * to any person for any political purpose or use." And while § 611 contains a special proviso, added by the 1974 Act, validating a "separate segregated funds" which meets the requirements of § 610, it contains no exception in favor of a trustee plan, such as SUN-EPA.

THOMAS E. HARRIS,
Commissioner for the Federal Election Commission.
ROBERT O. TIERNAN,
Commissioner for the Federal Election Commission.

Mr. CANNON. Mr. President, while the Senate is considering S. 3065, the House of Representatives is considering similar legislation. On Thursday, March 11, the Committee on House Administration reported out H.R. 12406. There are many similarities between S. 3065 and H.R. 12406, and as it is necessary for the two Houses of Congress to come to eventual agreement on the form of this important legislation, I have asked that a copy of H.R. 12406 be made available to each of my colleagues for their information as we consider S. 3065. Although the two bills are virtually identical in structure and contain many provisions which are almost identical in substance as well, there are substantive differences in various sections of the bill which would be helpful for us to be aware of. Accordingly, I ask unanimous consent that a summary of the key differences between S. 3065 and H.R. 12406 be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE KEY DIFFERENCES BETWEEN S. 3065 AND H.R. 12406

Whereas both bills would reconstitute the Federal Election Commission in an identical manner, H.R. 12406 would have the terms of one member of the Commission expire each year, providing that the terms of a member representing one political party shall expire on alternate years. S. 3065, on the other hand, provides that the terms of two members not affiliated with the same party expire every two years so that members are not reappointed in an election year.

H.R. 12406 requires, as does S. 3065, the affirmative vote of four members of the Commission in order to establish guidelines, initiate civil actions, render advisory opinions, make regulations, conduct investigations, or report apparent violations of law. However, S. 3065 contains an additional provision that no less than two of the four members voting in favor of such actions shall be affiliated with the same political party.

H.R. 12406 provides that the terms of all the present Commissioners, expire when all the new Commissioners are appointed and qualified, whereas in S. 3065, at pp. 5 and 6 of the bill, the existing Commissioners' terms would expire when a majority of the new Commissioners are appointed and qualified. The S. 3065 provision is intended to permit the new Commission to begin operations at an earlier date, in the event a delay occurs in the appointment or qualification of one or two Commissioners.

H.R. 12406 has an identical provision to S. 3065 prohibiting Commissioners from engaging in any outside business or professional activity while holding office. However, under Section 101(c)(1) on page 4 of S. 3065 this prohibition would not become effective until two years after the date the bill becomes law.

S. 3065, at Sections 101(d) and 101(g) contains certain transfer and continuity provisions which are not in H.R. 12406. These are summarized on pages 3 and 4 of the Committee's report on S. 3065.

Both bills contain certain changes, many of which are similar, in the definitional sections of the Federal Election Campaign Act of 1971 and are located at pages 8–11 of S. 3065 and 6–10 of H.R. 12406.

Subsections (a) and (b) of Section 103 of S. 3065 contain provisions to reduce the accounting and recordkeeping burdens for political committees by requiring that records be kept only on contributions in excess of $100 instead of in excess of $10. S. 3065 also has a provision which states that a contributor's occupation does not have to include the name of the employer, firm, business associate, customers or clients for recordkeeping or reporting purposes. These are set forth at pages 11, 12, and 13 of S. 3065. H.R. 12406 does not contain any provisions with respect to this subject matter.

Section 104(a) of S. 3065, at page 12 of the bill, provides that in a non-election year, a candidate and his authorized committees must file quarterly reports only for quarters in which more than $5,000 in contributions have been received, or more than $5,000 in expenditures have been made. Section 104(a) of H.R. 12406 has a similar provision but would exempt quarterly reporting in non-election years wherein a candidate and his authorized committees had received contributions or made expenditures in any calendar quarter totalling in excess of $10,000.

Section 106 of H.R. 12406 contains a provision amending 2 USC 437b(a)(1) to provide that the principal campaign committee of a candidate or any other authorized political committee which receives or makes contributions on a candidate's behalf shall maintain one or more checking accounts, at the discretion of any such committee, at a depository designated by the candidate. Existing law merely requires the keeping of "a checking account." S. 3065 does not contain a provision with respect to this subject.

H.R. 12406 revises the advisory opinion provisions of 2 USC 437(f) to provide that all advisory opinions, the transaction or activity with respect to which is not subject to an existing rule or regulation, shall be transmitted to the Congress as a proposed rule or regulation. S. 3065, however, would require only those advisory opinions which set forth a rule of general applicability to be transmitted to the Congress as a proposed rule or regulation.

H.R. 12406, at Section 108(d) has the effect of requiring the Commission to transmit all its outstanding advisory opinions, which are not the subject of an existing rule or regulation, to the Congress for review. Section 107 of S. 3065 (pp. 17–19 of the bill) and Section 108 of H.R. 12406 (pp. 15–17 of the bill) contain the respective provisions which would amend the advisory opinion provisions of existing law.

The enforcement provisions of the two bills provide for similar conciliation and civil enforcement procedures. H.R. 12406, however, does provide for a civil penalty not exceeding the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in a violation where such violation is not a knowing and willful one. E. 3065 does not have such a provision. The House bill also provides a civil penalty, where a violation is knowing and willful, to be the greater of $10,000 or an amount equal to 200 per cent of the amount of any contribution or expenditure involved in such violation, whereas S. 3065 would provide a civil penalty for a knowing and willful violation of the greater of $10,000 or an amount equal to 300 per cent of the amount of any contribution or expenditure involved in the violation.

H.R. 12406 requires the Commission to make every endeavor, for a period of not less than 30 days, to correct or prevent a violation by informal methods of conciliation, except under certain specified circumstances just prior to an election which are set forth on page 20 of that bill. The Senate bill, S. 3065, would not bind the Commission to 30 days of conciliation efforts, so that it would have some discretion to take immediate action to invoke the civil relief provisions of the law in the event that it determined that there was probable cause to believe that a violation had occurred, or was about to occur, of such magnitude and nature that the interests of the public would compel immediate resort to the courts for judicial relief. As stated on page 8 of the Committee report on S. 3065, "If such a situation does not occur, the Commission is expected to pursue with diligence, for a reasonable period of time, an attempt to correct or prevent all violations by informal methods, except as otherwise provided in the bill."

There are two additional provisions in the enforcement portion of H.R. 12406 which are not contained in S. 3065. The first is on page 18 of that bill, and states as follows:

"Notwithstanding any other provision of this Act, the Commission shall not have the authority to inquire into or investigate the utilization or activities of any staff employee of any person holding Federal office without first consulting with such person holding Federal office. An affidavit given by the person holding Federal office that such staff employee is performing his regularly assigned duties shall be a complete bar to any further inquiry or investigation of the matter involved."

The second provision in the enforcement portion of H.R. 12406, not contained in S. 3065, is on page 26 of that bill, and provides

that any member of the Commission, any employee of the Commission or any other person who makes public any notification or investigation under new Section 313(a)(2), without the written consent of the person receiving such notification or the person with respect to whom the investigation is made, shall be fined not more than $2,000. If it is a knowing and willful violation, the fine would be $5,000.

The other differences in the enforcement provisions of the two bills can be found in Section 108, pages 19–27 of S. 3065, and Section 109, pages 18–26 of H.R. 12406.

Section 110(a)(2) of H.R. 12406 requires the Commission to give priority to auditing and field investigating the verification for, and the receipt and use of, any payments received by a candidate under the public financing provisions of the Internal Revenue Code. S. 3065 does not contain such a provision.

Section 110(b) of H.R. 12406 contains a provision which would permit the Congress to disapprove a part of a regulation submitted by the Commission, rather than have to take disapproval action with existing law. S. 3065 does not contain such a provision.

Section 110(c) of H.R. 12406 contains a provision at pp. 27–28 of the bill not in S. 3065, that in any proceeding, including any civil or criminal enforcement proceeding against any person charged with a violation of the Act or the public financing provisions of the Internal Revenue Code, no rule, regulation, guideline, advisory opinion, opinion of counsel, or any other pronouncement by the Commission or by any of its members, officers or employees, (other than any rule or regulation of the Commission which has become effective) shall be used against any person, either as having the force of law, as creating any presumption of violation or criminal intent, or as admissable in evidence against such person or in any manner whatsoever.

S. 3065 would repeal Section 456 of Title 2, United States Code, which gives the Commission power to disqualify candidates in future elections. Section 111 of H.R. 12406 would retain this section and provide 30 days prior to the Commission's being able to exercise its disqualification powers.

Section 112 of H.R. 12406 contains a provision which would repeal existing Section 2 USC 43 requiring copies of all reports to be filed with appropriate state officers, S. 3065 does not contain such a provision.

With respect to the provisions limiting contributions and expenditures, the essential difference between the two bills would be that H.R. 12406 would limit contributions by persons to political committees in any calender year to an aggregate of $1,000. This is not in S. 3065, and, under present law, for example, an individual could make up to a $25,000 contribution in a calendar year to a political committee which is not authorized to receive funds on behalf of a particular candidate or where the funds are not earmarked for a particular candidate—assuming that the individual has not made any other contributions in that year.

S. 3065 has a provision limiting contributions one political committee can make to another political committee, (other than to a political committee authorized to receive funds on behalf of a particular candidate) to an aggregate of $25,000 in a calendar year. Under present law, such contributions are unlimited. H.R. 12406 would limit that amount to $5,000 in a calendar year. Both bills contain similar, though not identical language directed at curtailing the vertical proliferation of contributions by political committees. See pages 29–31 of H.R. 12406 and pages 27–29 of S. 3065 for a comparison of those provisions.

S. 3065 and H.R. 12406 both propose a revision of existing Section 610 of Title 18 related to limitations on contributions and expenditures by corporations and labor organizations. The changes proposed by both bills are similar with the following key exceptions. First, S. 3065 contains language at page 30 of that bill, which would treat public utility holding companies the same as other corporations for purposes of the limitations on contributions and expenditures set forth in the section. Second, H.R. 12406 contains language at page 40 of that bill which provides that an incorporated trade association or a separate segregated fund established by an incorporated trade association would be permitted to solicit contributions from the stockholders and executive officers of the member corporations of such trade association and the families of such stockholders and executive officers. This could be done to the extent that any such solicitation of such stockholders and executive officers and their families had been separately and specifically approved by the member corporation involved, and such member corporation had not approved any such solicitation by more than one such trade association in any calendar year. Third, S. 3065 contains a definition of stockholder not in H.R. 12406.

H.R. 12406 at page 44 of the bill, raises the limitation on contributions of currency from $100, which is in existing law and in S. 3065, to $250. It also sets a specific criminal penalty, not in S. 3065, for any person who knowingly and willfully violates the $250 prohibition.

H.R. 12406 restates existing Section 6[illegible] related to honorariums, whereas S. 3065 would increase the amount of individual honorariums from $1,000 to $2,000, and the aggregate calendar year amount which may be received as an honorarium from $15,000 to $24,000.

H.R. 12406 at page 45 of that bill, contains criminal penalties which would be applicable for any person who knowingly and willfully commits a violation of the Act involving the making, receiving, or reporting of any contribution or expenditure having a value in an aggregate of $5,000 or more during a calendar year, whereas S. 3065 would provide for criminal penalties where such aggregate amount is $1,000 or more. Also, with respect to the imposition of criminal penalties, S. 3065, at page 44 of the bill, provides that a conciliation agreement under certain circumstances would be a complete defense to criminal prosecution. H.R. 12406 does not have such a provision.

Section 115 of H.R. 12406, at page 47 of that bill, contains a provision providing for the termination of the authority of the Commission on March 31, 1977, if either House of the Congress, by appropriate action determines that such determination shall take effect. This provision requires the appropriate committee of each House of the Congress, commencing January 3, 1977, to conduct a review of the elections of candidates for Federal office conducted in 1976, the operation of the public financing provisions of the Internal Revenue Code with respect to such elections, and the activities of the Commission, and for these committees to report to their respective Houses not later than March 1, 1977, with a recommendation as to whether the authority of the Commission shall be terminated on March 31, 1977.

Although there are other less substantive differences between the two bills, as well as some drafting differences, the final major difference is the provision in H.R. 12406 which S. 3065 does not have, providing that an individual who has ceased actively to seek election to the office of President or Vice President, to cease receiving public funds and return those funds received for that candidate which are not used to defray qualified campaign expenses. These provisions relating to both matching funds and direct grant payments are set forth at pages 55–57 of H.R. 12406.

Mr. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. In the unanimous-consent agreement that was offered by the distinguished assistant majority leader, Mr. ROBERT C. BYRD, a short time ago, and which was agreed to, I believe no time agreement was involved. Is that correct?

The PRESIDING OFFICER. There was no provision for time. However, the vote will take place, under the unanimous-consent agreement, at 3 o'clock.

Mr. HATFIELD. How is the time to be controlled?

Mr. ALLEN. There is no control of time. The Senator may make a request as to control of time.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the time be equally allocated between the chairman of the Committee on Rules and Administration and the designated minority Member on this side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr HATFIELD. Mr. President, in order to define that unanimous-consent agreement further, I ask unanimous consent that that time begin following my opening remarks, so as to correlate to the opening remarks period of the Senator from Nevada.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

Mr HATFIELD. Mr. President, I ask unanimous consent that the following staff members of the Committee on Rules and Administration be granted the privilege of the floor during the consideration of and rollcall votes on the Federal Election Commission measure: James Schoener, Andrew Gleason, Larry Smith, Barbara Conroy, and Karleen Millnick.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the Senate's consideration of S. 3065, in the middle of an election year, is most untimely. It is untimely because many candidates for Federal office have already established their respective campaign committees under the guidelines of the 1974 Election Act. While it was the Supreme Court which thrust this uncertainty upon us, the real uncertainty had already been cast in 1974 when the Congress passed the Federal Election Campaign Act Amendments of 1974. The responsibility for the confusion over the law which we have here today must lie directly with the Congress. Let me remind my colleagues that we will also be bearing the responsibility for the changes we make in the election laws this year.

Mr. President, we are debating this bill today because of the past desire of the Congress, and particularly the House of Representatives, to interfere and usurp the duties and functions of the President of the United States by appointing four members to the Federal Election Commission. The Constitution of the United States clearly provides in article II, section 2, that the President "shall nominate and by and with the advice and consent of the Senate, shall appoint am-

bassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law."

Mr. President, I find nothing in the Constitution which gives the Congress the power to nominate and appoint offices of the Federal Government. I find nothing in the Constitution which gives the House of Representatives the authority to provide "advice and consent" on the confirmation of Presidential appointments.

Mr. President, we must not ignore the Constitution in 1976 as we did in 1974. If we do, we will soon find ourselves back in this Chamber debating our national election laws.

I am concerned, Mr. President, that the Congress may once again be careless in the review and consideration of our election laws. I am fearful that we will load this bill up with so many items, resulting in major changes in the current law, that no one will know what types of reforms we have made, if any at all. Unless we are careful, we may be adding to the confusion which now exists, instead of clarifying matters, as we are supposed to do. Unless we are careful, we may find ourselves with another Supreme Court decision mandating more changes in our election laws, just as the Court has seen fit to do in this case.

If Congress is truly interested in reforming our election laws, then let us make sure that such reform is done in an atmosphere of calm, and without the time pressures we currently have. If Congress is really serious about the need to reform our election laws, then let us wait until after the 1976 elections to institute such changes. To make any substantial changes now, other than those suggested by the President and the Supreme Court, would only muddy up the electoral process, instead of clarifying the political waters.

I believe many of us can remember the last time we debated an election bill in 1974. There were so many amendments, so many changes, that no one really knew what we had in the end product. Our distinguished senior Senator from Rhode Island (Mr. PASTORE) summed up the situation in 1974 very well when he said on the Senate floor in October of 1975:

Mr. President, maybe this group would like to hear from someone who is not a candidate.

I quite agree. The law is absurd. We created a monster. It is our own fault. I said in the beginning that all we needed was to set a limit on spending; to have a full disclosure as to where one gets the money and how we spends the money. That would have been a two-page law that everybody would have understood.

We have a law now that even the people who wrote it do not understand.

I remember, I went to that conference and we were there for days and days and days and nobody understood what was in that bill. But at that we were running like scared rats for some reason. I do not know why. We were runing like scared rats. We thought the stronger we make it, the tougher we make it, the more people would believe us. I do not think they believe us any more today than they did before we passed the law.

That is what we have.

I think if we want to resolve this problem, what we ought to do is change the law, simplify the law. Just say how much an individual can spend, have him disclose where he gets the money, and have him itemize every nickel that he spends, Have him do it 60 days before the election so that the people know, and prohibit him from collecting any money after that. If we do that, we have solved this problem. Maybe I simplified it, but after all, simplicity in this body. I dare not say it.

Mr. President, the potential is here for us to do the very same thing we did in 1974. However, the situation could be even more disastrous, because we have so little time to accomplish the task the Supreme Court has said we must do—that being the reconstitution of the Federal Election Commission.

President Ford has suggested a very easy method by which we can accomplish this task. All we have to do is reconstitute the Commission as it is presently structured, calling for the President to nominate the commissioners with the advice and consent of the Senate. Then, after the 1976 elections, the new Congress can take a long hard look at our election laws and make the determination, based upon the experiences of the 1976 elections, which sections of the law need to be changed or reformed. The very law we are about to begin debating, the very law which is about to be substantially changed by some, has yet to be tested in an election. Why waste the Senate's time in rewriting this measure, when we will probably have to rewrite some sections of the amended law as a result of the 1976 elections? Why spend time changing our election laws to mollify certain interest groups, when the same could be done and should be done 10 months later?

Mr. President, if I may, I should like to make a few comments regarding S. 3065, the election law bill, as reported out of the Senate Rules Committee. While I differ with our distinguished chairman as to the contents of this bill, it needs to be made clear that we both share a common purpose—that purpose being the passage of a comprehensive and a fair election law measure. It should be noted that our chairman was extremely fair during the course of the markup sessions and permitted every member of the committee, no matter what his position may have been, to participate and discuss fully all aspects of the measure.

S. 3065, as reported out of the Committee on Rules, does trouble me. It troubles me because I feel it threatens the lifeline of the very Commission it purports to extend or to protect. If S. 3065 is adopted as written, the Congress in effect will be stripping the Federal Election Commission of its independence. How anyone can argue that the Commission will not be hamstrung, when in fact we are requiring it to issue regulations within 30 days of every advisory opinion which sets forth a rule of general applicability, is beyond comprehension.

Mr. President, if I may, I should like to read a portion of the proposed bill to my colleagues. Section 107(B)(1) reads as follows:

The Commission shall, no later than 30 days after rendering an advisory opinion with respect to a request received under subsection (A) which sets forth a rule of general applicability, prescribe rules or regulations relating to the transaction or activity involved if the Commission determines that such transaction or activity is not subject to any existing rule or regulation prescribed by the Commission.

It has taken the Senate over 40 days even to get to the point of considering this legislation in response to the Supreme Court decision of January 30. How can we expect another body to perform, when we fail in discharging our responsibilities in a matter as simple as reconstituting the Federal Election Commission?

Here we sit as Members of Congress, able to reject, totally out of hand, regulations promulgated by the Commission, when our challengers, the nonincumbents, have no way of rejecting undesirable regulations. I have been one of those most critical of the Federal Election Commission and its large bureaucratic staff. I believe some of its regulations have been very unrealistic and lack any basic understanding of the demands placed upon Federal officeholders. But, even though I have felt that the FEC has overstepped its boundaries on occasion, I am not in favor of tying the Commission's hands.

Mr. President, if I may, I would like to read another portion of S. 3065 to my colleagues. Title I, section 101, subsection "C" (c)(1) read as follows:

Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity not later than one year after beginning to serve as such a member.

The question I have to ask of my colleagues is this: "Would we, as Members of Congress, accept or permit such a limitation on our outside activities?" Would we be willing to sell our family farms, our businesses, leave our law offices, or would we choose not to serve in the Congress? I believe for many the answer would be to leave the Senate. Are we asking the members of the Federal Election Commission to adhere to a code of ethics we are unable or unwilling to meet? I would suggest to my colleagues that we give serious thought to either removing this section from the bill or be prepared to vote on an amendment to include Members of Congress in this section.

Mr. President, I could go on as to the other inequities which can be found in this bill. I will not, however, discuss them at this time, because I am confident these inequities will be raised during the course of the debate.

Mr. President, I believe there is another course of action which can be taken by the Congress, and a responsible one at that.

Mr. President, I suggest to my colleagues that we vote in favor of the simple extension of the Federal Election Commission, as outlined in Senator GRIFFIN's bill. To do otherwise this late into the election year is purely irresponsible legislating. As one Senator, I want no part in politicizing the Commission. As one Senator, I want no part in strip-

ping the FEC of its power and its independence. I want no part in giving one interest group an unfair advantage over another interest group. I want no part in an effort to make this measure an incumbent's bill. S. 3065 would accomplish these things. I urge my colleagues to vote against it and vote in favor of the simple reconstitution of the Commission. However, if the Senate should adopt S. 3065 as reported out of the Committee on Rules, I would hope that the President of the United States will see fit to veto the measure. To do otherwise, to subject the Federal Election Commission to such restraints, would be a disservice to the American people.

Mr. President, I suggest the absence of a quarum, and I ask unanimous consent that it be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I ask unanimous consent that Andrew Loewi from my staff be allowed the privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The request for the quorum call will be charged equally against both sides.

Mr. CLARK. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Cannon, I yield myself 1 minute. Mr. President, I ask unanimous consent that during the consideration of S. 3065, the Federal Election Campaign Act Amendments of 1976, Mr. Roy Greenway, and Jan Mueller of Senator CRANSTON'S staff be given the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, with the understanding that at 2 o'clock when the Senate would come back in following a recess, the time between the hour of 2 o'clock and 3 o'clock today be equally divided between Mr. HATFIELD and Mr. CANNON, and that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate at 1 p.m., recessed until 2 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. STAFFORD).

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The PRESIDING OFFICER. It is the understanding of the Chair that the pending amendment is the Griffin amendment to S. 3065. Who yields time?

Mr. GRIFFIN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. GRIFFIN. Mr. President, for all the reasons set forth in the Washington Post editorial of this morning entitled "Changing the Campaign Law," the substitute which I have offered should be adopted by the Senate. There are other reasons in addition to those set forth in the Washington Post editorial. I ask unanimous consent that this editorial and another one that appeared in today's Washington Star be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 16, 1976]

CHANGING THE CAMPAIGN LAW

When we last looked in on the question of amending the campaign laws, Rep. Wayne L. Hays (D-Ohio) and some allies were busy cementing a deal. Under this plan, the Federal Elections Commission would be reconstituted as mandated by the Supreme Court, but the commission's independence would be limited—and Congress would also take the opportunity to write new rules for political action committees, giving business groups less money-raising range and labor groups a little more.

Well, a familiar thing happened on the way to the floor. Members of both the House Administration Committee and the Senate Rules Committee had some further thoughts, primarily on ways to make compliance with the law less of a bother and investigations less of a threat. As a result, the bills now before the Senate and awaiting House debate are bulky, odd-shaped packages that contain some useful provisions, some undesirable ones and some that are downright mischievous.

To start with, many legislators are worried that the FEC and its staff could become too free-wheeling or too strict, so that candidates might face criminal prosecution for minor mistakes, or be hurt by endless investigation of a frivolous or malicious complaint. Thus the pending bills would remove criminal sanctions for minor violations, emphasize conciliation and civil penalties, and require complaints to be signed and sworn. Moreover, any official action—an investigation, rule-making or even the design of a form—would have to be approved by 4 of the 6 commissioners. These changes are generally constructive. However, it is too restrictive to require, as the Senate bill does, that two commissioners from each party must agree to anything.

The bills also invite trouble by cloaking crucial parts of the regulatory process in secrecy. This would be done by imposing criminal penalties on any FEC official who discloses any information about any pending case without the consent of the candidate involved. Meanwhile the candidate would be free to say anything he likes about the case or the FEC. Surely some less heavy-handed and more even-handed way can be found to enforce discipline and inspire some sense of responsibility on the part of FEC officials.

From there, the bills go rapidly downhill. Congressional influence over the commission would be intensified. Public disclosure of campaign finances in candidates' home states would be curtailed. Under the Senate bill, contributors would no longer have to identify their business affiliations, thus making it harder to find out who has given how much to whom. The House measure, meanwhile, would raise the ceiling on *cash* contributions from $100 to $250; that is a blatant invitation to abuse. Finally, the House committee, which is quite shameless where the interests of incumbents are concerned, even adopted an amendment that would block the FEC from looking into the activities of any Congressman's staff—as long as the legislator says that his aides are doing official business.

Such provisions are so cynical that it is hard to believe they may survive. Yet most members of Congress seem preoccupied with other aspects of the bills. The most intricate bickering has been over what political committees, especially business groups, may and may not do. Some Republicans are suggesting, for instance, that President Ford may veto the bill if it bars corporate political action groups from soliciting funds from middle-level nonunion employees as well as stockholders and executives. Such intense interest in the flow of money may be inevitable in an election year. In the current political climate, however, maneuvers that obviously favor any special-interest group could cost a candidate a large amount of general public regard.

It is also untimely, in our view, for the self-styled champions of "campaign reform" to make a major push for public financing of congressional campaigns. Regardless of the appeal of such a plan, consideration of it ought to be deferred until the impact of contribution limits and public funding of presidential campaigns can be evaluated properly next year. For now, those legislators who do want serious, effective regulation of campaigns have quite enough to do in terms of cleaning up the measures that the two committees have devised.

[From the Washington Star, Mar. 16, 1976]

WHAT IS MR. HAYS UP TO?

It's hard to tell whether Rep. Wayne Hays is working for or against legislation to keep the Federal Election Commission in business.

You will recall that Mr. Hays had wanted to kill the commission but was turned around by George Meany of the AFL-CIO and House leaders who wanted the commission kept alive.

Mr. Hays's House Administration Committee has completed work on legislation ostensibly aimed at saving the Election Commission from legal infirmities found by the Supreme Court. But while fixing the flaws, the Administration Committee has added several appendages, at least one of which is highly controversial and might result in a presidential veto.

The Administration Committee has decreed that corporations that have organized political action committees to collect funds for candidates cannot solicit donations from employes; they could solicit only stockholders and management officials. No similar restriction was put on political action committees of labor organizations.

It is a blatant attempt by Mr. Hays & Co. to give labor an upper hand over management in raising political funds and electing candi-

dates. A Republican member of the Administration Committee argued, to no avail, that limiting the right of solicitation to a certain class of individuals may be unconstitutional.

The White House has indicated that President Ford may veto the bill if it contains the restrictive provision when it reaches his desk. Mr. Hays, with his usual swagger, threatened to block requested appropriations for the U.S. Information Service unless Mr. Ford signs the bill—which smacks of political blackmail.

But wait. There may be more to all this than meets the eye. Perhaps the foxy Mr. Hays is trying to pull a fast one on his colleagues who want to keep the Election Commission in business. Could he be deliberately courting a presidential veto, hoping that the Election Commission will die of it?

Mr. GRIFFIN. Mr. President, this clearly is not the appropriate time to pass the bill that has been reported from the Committee on Rules and Administration. Under the circumstances existing at this time it would not be the right thing to do.

The proposal the Senator from Tennessee and I have offered as a substitute would simply, cleanly, and clearly reestablish the Federal Election Commission in a constitutional way and allow it to continue its functions.

The kind of proposal we have offered, and which will be voted on at 3 o'clock, can become law. There is no question but that the President would sign it. Everyone knows there is serious doubt as to whether the President would sign the kind of bill that has been reported from the Committee on Rules and Administration and is before the Senate or the kind of bill that has been reported in the House.

It is imperative that the Federal Election Commission be allowed to continue in existence, and that we meet our responsibilities to continue its life before the deadline set by the Supreme Court.

It is imperative and necessary so that those candidates in the Presidential election, not President Ford, incidentally, but the other candidates, will receive the funds to which they are entitled under the existing law.

It would put the President in a very awkward situation, of course, to place on his desk a monstrosity of this nature and, in effect, require him to veto it.

I can hear the charges now: "Well, he does not want the other candidates to receive Federal funds." I want to reject that kind of charge right now, and label it for what it is, because this Senate does have another choice. It has a responsible choice, and that is to pass a simple bill extending the life of the Federal Election Commission as separate legislation, and then deal later with these other so-called reforms, which are not reforms at all but which, in effect, seriously weaken the powers of the Federal Election Commission. The Senate can let those issues be submitted to the President on their own merits and in a separate bill.

This is no time to be tampering with the rest of the law. This is not the time to change the rules in the middle of the game, and we are in the middle of an election contest. The candidates have announced and are running on the basis of certain rules, and now the Committee on Rules and Administration comes along and wants to make major changes in those rules.

I do not argue that the present rules are perfect or that the present rules do not need changing, but I do say that this is not the time to change them. The time for changing the rules will be next year, after the election and after we have had the experience of this election. Then Congress, in a deliberative way and in an atmosphere free from the pressures of the election, should address itself again to the matter of the election financing laws and how to improve them. Without a doubt, there are many ways in which the existing laws can be improved.

I think one of the most interesting questions of the day is, why do we not hear the voice of John Gardner and Common Cause saying something about the bill that is before us, which cripples and weakens the independence of the Federal Election Commission? Why are we not hearing the voice of John Gardner and Common Cause in support of what the President is trying to do, and which is embodied in the substitute that is at the desk. The substitute extends the life of the Federal Election Commission, with all its authority and powers undiminished, and reestablishes it in a way that will be constitutional under the Supreme Court decision?

Perhaps we will hear from John Gardner and Common Cause and, perhaps, we will know they do support this approach. But so far they have been strangely silent.

I am not surprised, of course, that the heads of the big labor organizations are in favor of this bill. It is pretty clear what this bill seeks to do in terms of giving them even more power than they have now. But I am disappointed in the silence of some others who claim to be, and ought to be, nonpartisan and who claim to be, and ought to be, working for the public interest and not for special interests.

So, Mr. President, I hope at 3 o'clock the Senate will have the wisdom to put this subject in a posture that will, I think, be applauded by the American people.

I believe that most Americans believe that a simple extension of the Federal Election Commission would be the right thing to do at this time. We will see where the votes are, where the lines are drawn, and we will proceed from there.

I yield to the Senator——

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. I yield to the Senator from Tennessee such time as he may require, the distinguished cosponsor of the pending amendment.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BROCK. Mr. President, I thank the Senator from Michigan.

I am privileged to coauthor this amendment with him, and I appreciate his leadership in the matter.

I hope in the next 50 minutes we will keep our eyes focused on the basic issue. The issue is the continuation of an independent election commission to insure that the elections in the United States are conducted without fraud, bias or some governmental impediment to equity to all parties concerned.

We have operated under a different law for these 200 years. In the last 50 years we operated under the Corrupt Practices Act, which has worked to the advantage of the incumbent in a fairly obvious fashion since no person has been indicted under this Act, to the best of my knowledge, where the Clerk of the Senate and the Clerk of the House were hired by the incumbents and then were in charge of enforcing the campaign statutes.

That is a nice cozy arrangement and it meant that incumbents simply did not have to abide by the same rules as everyone else. So when we got into a debate about reform, I think almost everybody in this body, Democrat, Republican, so-called liberals, so-called conservatives—if those words mean anything, and I do not know whether they do or not any more—everybody seemed to agree that the essential ingredient of a reform would be an independent commission to oversee the electoral process in these United States to insure equity for the American people in the process of acquiring representation.

The Supreme Court found our efforts wanting in certain areas and declared certain parts of that reform effort unconstitutional—and I think they probably were right.

They left us with a problem, what do we do now to see that the elections are run in an unbiased fashion.

The challenger and incumbent alike have equal protection under the law so that the American people may have equal protection under the law, and they left us with the responsibility of recreating the independent commission or not.

The bill that has been brought to us by the Rules Committee is a charade. It is not an independent election commission. The bill that is being proposed in the House is a charade. It is not an independent election commission.

Every dot and title of every decision they make would be resubmitted to the Congress so we know whether or not it would help our candidacy, incumbent or not, and the challengers have no rights whatsoever.

The bill is an effort to enlarge the rights of certain vested interests in the population and to diminish the rights of others.

Ultimately, the diminishment would apply to most people in this country.

So the Senator from Michigan and I offer a substitute which says with as much clarity and as much simplicity as we are capable of commanding, "Let's extend the existence of this commission as it was originally intended in an independent status, let's do it simply and straightforwardly, let's do it honestly, let's don't try to con anybody, let's don't build anybody's castle and let's don't try to tear anybody's castle down, let's simply extend the commission so that we can have an independent body to oversee the elections of these United States is a fair and unbiased fashion and nothing else."

It is straightforward. It avoids any complex, new problem. It assumes no

additional constitutional question. As a matter of fact, it allows none because the court has already acted on the other parts of the bill and asked us to act on this section. It does not attempt to judge the merits of the arguments which can be taken up on other areas, such as the rights of labor to solicit nonunion members, the rights of management to solicit union members.

That is not the question before us. The question is not whether we are going to have an election supervisor, but an independent body under no one's control. That is the issue. Are we gong to have a strong, independent election commission, or are we not?

Mr. CANNON. Will the Senator yield for a question?

Mr. BROCK. Yes.

Mr. CANNON. I do not quite follow the Senator when he says the Commission would not be an independent election commission under the act that is proposed. Will he spell out precisely what he is talking about?

It seems to me we made the commission if anything, more independent. We even require with respect to decision, that it takes at least two of the same political party to constitute a majority in making their decision.

I do not know how more independent he can have it.

Mr. BROCK. The Senator knows as well as I do that will tie them up in courts. The Senator also knows, when we say, in effect, they cannot issue an opinion on a specific case and create, in effect, case law without turning it into a regulation in a stated period of time, that that will inhibit the decision process.

The Senator knows full well if they hand down a regulation, which they are then required to do, and that has to come back to Congress for approval, that they are independent to the extent we do not tell them different, that is just not independent as I determine it.

Mr. CANNON. The situation is exactly the same now. If they initiate a proposed regulation, it comes up here to Congress, and Congress can overrule or approve it and let it go by.

That is exactly the same situation in the new proposed bill.

The only thing we did is say that they should only issue the regulations when it was of general applicability, so it applies to everybody. We are really trying to simplify their process.

Mr. BROCK. Oh, no, no. I wish that were so.

Mr. CANNON. Let me suggest to the Senator that he read page 18 of the bill.

Mr. BROCK. It may be what the Senator intended, but it is what our bill does, not what the Senator's bill does. The Senator's bill has got this thing so bollixed up there is not any way in the world they can operate with independence.

How about the advisory opinions, can they do that? Not without a 30-day consideration.

Mr. CANNON. Advisory opinion?

Show me where it says that in the bill, read it to me, please.

Mr. BROCK. All right.

Mr. GRIFFIN. Take a look at page 18.

Mr. BROCK. By the way, will the chairman use some of his time?

Mr. CANNON. Yes.

I will read it to the Senator, I will read it to him on my time:

"(B) (1) The Commission shall, no later than thirty days after rendering an advisory opinion with respect to a request received under subsection (a)

And listen to this:

which sets forth a rule of general applicability, prescribe rules or regulations relating to the transaction or activity involved if the Commission determines that such transaction or activity is not subject to any existing rule or regulation prescribed by the Commission.

Mr. GRIFFIN. The Senator has restricted them if we pass this because they do not have to do that now.

Mr. BROCK. This is a new requirement.

Mr. CANNON. What they have to do now, they can issue an advisory opinion.

Mr. BROCK. That is right.

Mr. CANNON. And we are saying here, if it has general applicability, then they have to send it up within a 30-day period to become a rule.

Mr. BROCK. There is nothing they can rule on that does not have general applicability except divorce proceedings.

Mr. CANNON. I have not heard them rule on any divorce proceedings, but they have surely ruled on a lot of things down there that do not have general applicability.

Mr. BROCK. That is how the courts build up case law, and that is how this Commission will, on which we will make our decision, and the Senator knows full well what he is doing. I do not have to tell him.

Mr. CANNON. Why does the Senator not just say flat out he just does not like this proposal?

Mr. BROCK. I do not like the proposal.

Mr. CANNON. And not try to say that it is because we have tried to restrict or limit the Federal Election Commission.

We have made them as nonpartisan and as nonpolitical as we can possibly do.

Mr. BROCK. The Senator has made them as noncompetent as he could.

They are not going to be independent. Everything they do will come back up to us so we can say, "Well, let's look at it and is it going to help the incumbent or not." And if it does we will approve it. If not, too late.

That has been happening already. The chairman knows this has been happening already, and this makes it worse.

Mr. CANNON. I was not aware of that. Give me an example of what has happened so far, one case to support the Senator's position as to what has happened already.

Mr. BROCK. I will have to get the House votes on rejection of the proposals the Election Commission has already made. The Senator knows as well as I do, they have not accepted those proposals.

Mr. CANNON. Who is "they"?

I thought the Senator was talking about us.

Mr. BROCK. We are Members of the same Congress.

Mr. CANNON. Give me one example in the Senate, please.

Mr. BROCK. We are all part of the same Congress. I say, either body can disapprove. That is an incumbent definition. There are reelection possibilities. The House Members are up this year. A third of the Senate is up this year. When we are required to vote on these decisions every time they come up, if the Senator thinks we can be so far above the battle to make every judgment on the basis of merits, fine. Then we do not need an elections commission.

I think we do. I think that is why we set it up. In the first place, that is what it is all about, and that is all the Griffin-Brock proposal does. It sets it up, puts it out there, lets it be independent, and lets it operate in the interest of the American people.

Mr. CANNON. Let us be honest about it. The Senator says that is all the Griffin-Brock proposal does. That is absolutely absurd. There is even a self-destruct provision in there.

Mr. BROCK. No, sir.

Mr. CANNON. The Senator is saying he does not want this to apply after December of this year, the end of December.

Mr. BROCK. There is no self-destruct as part of my proposal.

Mr. CANNON. Let me read it:

The provisions of titles 3 and 4 of the Federal Election Campaign Act of 1971—

That is the one we are talking about—

of section 608 of title 18, United States Code—

That is what we are talking about—

and of chapters 95 and 96 of the Internal Revenue Code of 1954—

Those are the provisions for the financing of the Presidential election—

shall not apply to any election as defined in section 301 of the Act (2 U.S.C. 431(a)), that occurred after December 31, 1976, except runoff elections relating to elections occurring before such date.

Mr. President, let us be honest about this. The Senator says he wants this great Federal Election Commission that is nonpartisan and nonpolitical, that he wants it to go on forever, and in his own proposal he has a self-destruction provision to destruct the end of this year.

All he is saying, Mr. President, is that he wants this to continue through this Presidential election so that his Presidential candidate can continue to get funds up through the election.

Mr. GRIFFIN. Mr. President, who has the floor?

Mr. CANNON. Mr. President, I reserve the remainder of my time. That was on my time.

The PRESIDING OFFICER. The Senator from Michigan has the floor and has recognized the Senator from Tennessee.

Mr. GRIFFIN. Will the Senator from Tennessee let me have the floor?

Mr. President, the Senator from Nevada is correct in one respect. This substitute was drafted in two versions, one with the expiration provision and one without it. I am sorry that the version

submitted does have the expiration provision in it.

I ask a parliamentary inquiry: Is it in order for me to modify my amendment?

The PRESIDING OFFICER. The Chair is advised it would take unanimous consent to modify the amendment.

Mr. GRIFFIN. I ask unanimous consent that section 3 of the substitute amendment as proposed be amended.

Mr. CANNON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRIFFIN. This is very interesting because, of course, it will only necessitate the Senator from Michigan then offering another substitute after 3 o'clock and we will vote again on another substitute without this provision in it. If the Senator from Nevada wants to take that kind of an attitude, I suppose it is all right and it is his privilege.

Mr. BROCK. Mr. President, if the Senator will yield, what the Senator from Tennessee was trying to do with the Senator from Michigan is to have at least one honest election this year. That is all. The fact that this amendment contains a section that—frankly, I thought we had stricken it, but, if we did not, fine. That does not change the fact that we still deserve an honest election in 1976. That does not change the merit of the argument. That should not change a single vote. Let us do these things one at a time. If we cannot have it for the next 5 years let us at least do it for 1 year. Let us have an independent commission that will oversee these elections in a totally unbiased, nonpartisan fashion to be sure that the American people have representation. For gosh sakes, just one time let us try and see if it will work. We have been 50 years with the other way and it sure has not protected the American people. Let us try it 1 year, just once, and see if we cannot get an independent election commission that will do a decent job.

Mr. GRIFFIN. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Would it be in order at 3 o'clock, under the agreement, that I could move to amend the substitute by striking section 3 thereof?

The PRESIDING OFFICER. The Chair is advised the amendment would be in order at 3 o'clock and not debatable.

Mr. GRIFFIN. Then we could have a vote first on an amendment striking out the expiration provisions contained in section 3, which I am sure the Senator from Nevada will support, and then if that amendment did prevail we would proceed to vote on the remainder. I wonder if the Senator from Nevada might reconsider his objection.

Mr. BROCK. I might object now, Mr. President. I would like to think about it a little bit.

Mr. CANNON. Is the Senator referring now to the provision that the Senator from Tennessee said was not in the amendment of the Senator from Tennessee?

Mr. GRIFFIN. He has indicated he was mistaken. This was drafted in two ways. It was drafted with the expiration provision in one instance and drafted in another version without it. By mistake, the wrong one was submitted in terms of the explanation. We concede that. Now we want to be sure that the measure before the Senate is the one that we have described and the one that we are having our debate about.

Mr. CANNON. I think a number of Senators have already discussed this provision with me and I have told them what it contains, as I understand it. Sometimes Senators arrive in the chamber and vote right at the last minute. I think we ought to really vote on the proposal that is here.

Mr. GRIFFIN. First we will vote, then, on a motion to strike out the provision.

The PRESIDING OFFICER. Who yields time

Mr. MANSFIELD addressed the Chair.

Mr. CANNON. I yield such time as the Senator requires.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, even with the best of intentions and efforts to avoid ambiguities, they creep into legislation and often lead to misunderstanding and difficult administration of laws. To avoid conflicts and confusion, it would be in the interest of the Congress and the future Commission to know the intention of the Senate and ultimately the Congress with regard to the roles of ex officio members, that is, the Secretary of the Senate and the Clerk of the House.

S. 3065, the Federal Election Campaign Act Amendments of 1976, now before the Senate, is a legislative response to the Supreme Court decision in Buckley against Valeo that the Federal Election Commission may not constitutionally exercise all the powers which the Congress conferred in 1974 unless the voting members are appointed by the President and confirmed by the Senate. The Court did not include the Secretary of the Senate and the Clerk in this dictum.

As reported in the form of an original bill by the Senate Rules Committee, S. 3065 remedies this constitutional problem by providing for a Federal Election Commission composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and six members appointed by the President with the advice and consent of the Senate.

As I understand it, during the committee consideration of the bill, two rollcall votes were taken with regard to the presence and participation of the ex officio members. Approval was given to a motion that the composition of the Commission include the Secretary of the Senate and the Clerk of the House of Representatives ex officio and without the right to vote. Rejected on an earlier vote was an amendment which would have provided for the Clerk and the Secretary to serve only in an advisory capacity and that they not be made ex officio members.

These votes indicate, apparently, that it was intended by the committee for the ex officio members to continue their present participation in the Commission. Nevertheless, it seems to me, it would be desirable for the chairman of the committee to comment on the presence of the ex officio members and to discuss the degree of participation expected of them.

It might be noted that the Secretary of the Senate, Frank Valeo, described a view of the Secretary's role in a letter to Senator PELL, part of which follows:

As an ex officio member of the Commission, it has been my intention that the office of the Secretary of the Senate represent the Senate as an institution of government with a vital interest in the successful functioning of the Federal electoral process. My office has endeavored therefore to exercise our best judgment in this connection on various subjects and issues before the Commission which would be reflective of the public interest as well as in accordance with the law. In that perspective, it seems to me that the Senate's ex officio member also serves as a focal point for exchange of information leading to a better understanding of problems of Senate candidates and campaigns as distinct from problems associated with House and presidential candidates and campaigns. Similarly, it is my hope that this office will be able to provide insight into the problems of candidates for the Senate as they relate to the Commission's decisions and rules. It also seems to me valid for the Senate's ex officio to make recommendations to the Senate Rules Committee with a view to adjustments to the law which may be revealed by experience to be desirable.

Other responsibilities prevent me from spending a great deal of time at the Commission. In order, however, to insure a full participation on the part of the Senate, I have, with the concurrence of the Majority and Minority Leaders, designated a Special Deputy of the Secretary of the Senate, (Ms. Harriet Robnett, J. D.) who is assigned exclusively to work in connection with the Commission.

At the inception of the present Commission, I have the view and other members concurred that ex officio members should have all rights and privileges and responsibilities of the other Commissioners, except the right to vote . . .

The need and value of an ex officio member is, of course, a matter primarily for determination by the Senate and the Congress. The Subcommittee may wish to discuss the role or define it differently than I have herein described. I have no wish to intrude on the decision of the Subcommittee in this regard but I do wish to suggest that the role of the ex officio be discussed at your hearings and be considered by the Subcommittee with reference to any proposal it may recommend to the full Committee.

Would the chairman of the committee agree generally with that description of the purpose and participation of the Secretary as an ex officio member?

Mr. CANNON. Mr. President, may I say to the majority leader that I have just received this at the moment.

Mr. MANSFIELD. Yes.

Mr. CANNON. I have had an opportunity to read through it, and I find only one problem area, and that is on page 3 as it was read, where it reads as follows:

At the inception of the present Commission, I have the view and other members concurred that ex officio members should have all rights and privileges and responsibilities of the other Commissioners, except the right to vote.

Mr. MANSFIELD. Yes.

Mr. CANNON. I would not envision myself, that an ex officio member would engage in a discussion with relation to policy matters, or in the decisionmaking

process, and then just simply not vote on it, or attempt to influence other Commission members. So right now I would not necessarily agree that that is correct, that an ex officio member should have all rights and privileges and responsibilities of the other members except the right to vote.

The rest of it I find no problem with, but I think this may go a little far, and might get into a question of whether the Supreme Court decision might really impinge on this area.

Mr. MANSFIELD. Well, what we had in mind was the fact that as an ex officio member, he would not just remain mute, that he could give advice and consent, that he could, in effect, represent the Senate's point of view; that he could have a voice but not a vote.

Mr. CANNON. I think certainly if the Commission calls on him for advice and consent he would be obligated to give them advice and consent, but when we say all the rights and privileges and responsibilities of other commissioners except the right to vote, I would find some problem with that. I think that perhaps is a little broader than an ex officio member is entitled to be.

Mr. MANSFIELD. If he had to wait for the commissioners to call on him, and something came up which affected the rights, duties, and privileges of the Senate, I would think that, as the Secretary of the Senate, representing all the Senate, he would have the right to express an opinion, so that the rights of the Senate could be safeguarded, as I would assume the rights of the House of Representatives would be in the person of the Clerk of the House.

Mr. CANNON. Yes. But I think to debate and discuss policy issues and decisionmaking problems that arise that did not relate, necessarily, directly to the Senate might go beyond what was intended.

Mr. MANSFIELD. It would be as related to the Senate.

Mr. CANNON. That, I think, would be proper.

Mr. MANSFIELD. That would be the intent of the words which the distinguished chairman of the committee has brought to the attention of the Senate, and that would be the matter which I would have in mind, because then we would have a protector down there which would look after our interests, and should be allowed to speak up in our behalf if events would warrant it.

Mr. CANNON. If that were conditioned upon matters related to the Senate, then I would agree.

Mr. MANSFIELD. Oh, yes, it would be with reference to the Senate.

Mr. BROCK. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. Yes, indeed.

Mr. BROCK. Was there any consideration of minority representation in this addendum to the Commission in an ex officio capacity?

Mr. MANSFIELD. It was stated in the law that the clerk of the House and the Secretary of the Senate would be the only two ex officio members, that I could recall, and as long as both those people represent, really, not a party but the Senate and the House of Representatives in their official capacities, I would think both sides would be assured that they would be given full representation.

Mr. BROCK. I think we would under the current leadership of the Senate, may I say, but I am not sure we would in the future. I am certainly sure we would not have been under certain circumstances in the past. I wonder if it would not make more sense to have two representatives of the Senate, one of the majority and one of the minority, just to be sure this protection would be available to all Senators.

Mr. MANSFIELD. I would think that would add to the difficulty, may I say to the distinguished Senator from Tennessee, because when a person becomes the Secretary of the Senate, he represents the Senate. The Sergeant at Arms of the Senate represents the Senate. I would hate to see minority and majority representation, especially in view of the fact that I have such high confidence in the present Secretary of the Senate, who has done a remarkably good job under extremely difficult circumstances.

Mr. BROCK. I have great confidence, may I say to the majority leader, in the present incumbent of that office and his employer, the Senator from Montana. I have no qualms about the equity that would be received under present circumstances. I just wonder, you know, what might happen in the future.

Mr. MANSFIELD. I understand.

Mr. BROCK. I think the law should provide for any and all circumstances. That would be my only point.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. CANNON. I would point out to the Senator from Tennessee that that is precisely the same provision that is in the law now.

Mr. BROCK. That is why the question the Senator from Nevada raised was important, because he was trying to limit all of the areas where this ex officio person could speak.

Mr. CANNON. I was just trying to delineate what my belief was as to the meaning of ex officio in that regard. Part of that, of course, has been eliminated as unconstitutional, but the specific part and the Clerk of the House was not addressed by the Court, according to my recollection.

It reads:

> There is established a commission to be known as the Federal Election Commission composed of the Secretary of the Senate and the Clerk of the House of Representatives ex officio, without the right to vote, and of six members appointed as follows:

And then the appointing provision is the part the Court struck down because Congress retained a part of the power of appointment.

Mr. MANSFIELD. Mr. President, if the Senator will yield, that is where you have your division of the parties on a three by three basis on the Commission.

Mr. BROCK. I understand.

The PRESIDING OFFICER. Who yields time?

Mr. BUCKLEY. Mr. President, will the distinguished Senator from Tennessee yield me time? I understand the Senator from Michigan is not here.

Mr. BROCK. I yield the Senator from New York 4 minutes.

Mr. BUCKLEY. I thank the Senator.

Mr. President, first of all, I ask unanimous consent that Mike Hammond of my staff be accorded the privilege of the floor throughout the course of the deliberations on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROCK. Mr. President, will the Senator yield for a similar request?

Mr. BUCKLEY. I yield.

Mr. BROCK. I ask unanimous consent that Richard Vodra and Robert Perkins of the staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I just wanted, at the outset of this debate, to make a couple of observations.

My friend from Tennessee has stated that the decision of the Supreme Court in the case of Buckley versus Valeo left us with a problem. I believe those are his exact words. Actually, it left us with a whole carload of problems, which I suggest none of the proposals before us even attempt to cope with.

I shall quote from one of the initial paragraphs of Chief Justice Burger's opinion in that case. He said:

> The courts rule does violence to the intent of Congress in this comprehensive scheme of campaign financing.

He then goes on to say:

> What remains after today's holding leaves no more than a shadow of what Congress contemplated. I question whether the residue leaves a workable program.

I tried to offer some suggestions. I introduced legislation that would have dealt with the effects of the Supreme Court's decision as a whole. I do not have any illusions that it will be enacted because the public, at large, and this Congress, in particular, have failed to focus on any aspect other than the fact that the FEC, as currently constituted, was declared to be unconstitutional. But what the decision also did was to give extraordinary advantages to candidates who are either incumbents or independently wealthy or who have the support of well organized, well financed special interest political action groups, such as the AFL-CIO's COPE. These individuals and groups can spend unlimited funds in support of their own candidacies or of candidates they favor whereas nonincumbent candidates who are of modest means or who do not have the support of well financed political action groups are subject, in that fundraising, to the limi-

tations on contributions that survived the Supreme Court's ruling.

I submit that this creates enormous inequities that this body ought to cope with, and I intend later to offer an amendment which will have the effect of raising those limitations so that challengers may have the opportunity to raise the kind of seed money that alone can assure them of a decent start in an uphill fight.

Mr. President, I would like the RECORD to include the statement that I made before the Committee on Rules and Administration, and I ask unanimous consent that that statement be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUCKLEY. What we have here, Mr. President, is an attempt to salvage legislation that was ill-advised to begin with.

It is legislation that the Congress adopted in a state of near panic in the wake of the Watergate scandals. I think it is very relevant that a majority of the members of the Watergate Committee felt that the provisions of the so-called reform legislation adopted in 1974 were so off target that they voted against them.

Mr. President, in the immortal words of the senior Senator from Rhode Island, we ran like rats in the wake of Watergate—is that a correct statement?

Mr. PASTORE. No. The statement was we created a monster and we ran like scared rats.

Mr. BUCKLEY. Scared rats. Thank you.

I totally agree with his estimation of the situation and we ran as scared ——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUCKLEY. May I have 1 more minute?

Mr. BROCK. Mr. President, I yield the Senator 1 more minute.

Mr. BUCKLEY. We ran like scared rats in part as a result of the enormous campaign launched by Common Cause.

Mr. President, for the edification of our colleagues I offer for the RECORD an editorial on John Gardner and Common Cause that appeared in the New Republic in the January 31, 1976 issue. To give you the flavor, I will merely read one sentence:

> From the moment, moreover, when, in upperclass living rooms across the country, he launched Common Cause, there were other indications that presumption would be his badge: demonstrably, he had come to believe in his own credentials as a keeper of public morals, though rather in the eldering way of people who, proclaiming themselves servants of God, insist also that they are "humble."

I ask unanimous consent that that editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MONEY AND SANCTIMONY

We do not recall ever sharing the general mugwump enthusiasm for John Gardner, certainly not since that day long ago when in this side of an hour we read his mediocre book on *Excellence*. From the moment, moreover, when, in upperclass living rooms across the country, he launched Common Cause, there were other indications that presumption would be his badge: demonstrably, he had come to believe in his own credentials as a keeper of public morals, though rather in the eldering way of people who, proclaiming themselves servants of God, insist also that they are "humble." Watergate was made for the likes of Gardner: at least it gave his unfocused enterprise a new lease on life—and a purpose. There is little so frantic, after all, as a democracy in one of its periodic fits of self-righteousness, and Gardner was able to channel the rage for some orderly purgative into legislation, popular initiatives, and—we now learn—detailed codes of campaign behavior to which his custodial army would try to hold aspirants for political office.

Gardner's greatest legislative accomplishment is the monstrously arcane campaign financing law whose constitutionality is now being tested before the Supreme Court. Passed in the shadow of Nixon's worst perfidies, the law has nearly everyone at least a bit apprehensive that the passion for reform may have led Congress to infringe on the first amendment guarantees of free expression. None of this, however, has diminished the political clout of Gardner's mission. A fortnight ago, his organization announced that all but two of the horde now running for President had pledged themselves to abide by rules that are either so vague as to be meaningless, so obvious as to be redundant, or so onerous as to make you wonder why any dignified person would think of complying at all. It is the last category which concerns us.

The contenders promise to make "public a statement of personal financial holdings, including assets and debts, sources of income, honoraria, gifts and other financial transactions over $1000, covering candidate, spouse and dependent children." What right does John Gardner have to information about the earnings of a candidate's teenage child, or a legacy left to a spouse by a rich aunt? Or for that matter even to information about the personal debts of a candidate? How does it help the public understand a campaign or judge a record? And why should the fact that an individual aspires to or holds office imply obligations upon his family to tell all—or anything for that matter—especially to reveal what only yesterday we thought legitimately to be private, even inviolate? A recent ugly instance of this is the assumption that Mrs. Marion Javits had no right to a job of her own choice because her husband is an influential senator.

On the evidence of the past, there is not even the sparsest argument that can be made for a genuine public interest in the information that is being demanded. The corrupt, moreover, will lie; and those who tell the truth will have contributed one more digression from the crucial substance of political debate, which should be how we are to be governed. In our day, however, personal exposure and revelation have displaced serious exposition and analysis as the favored mode of public discourse. The press certainly is more interested in the insignificant but perhaps scabrous aspects of a public person's life than in what the life stands for and has served. This is why "the search and destroy operation" is now standard fare in our best newspapers. Given this temper among the arbiters of the political culture, it is not surprising that most of the candidates supinely yielded to Gardner's snooping. Some of them seemed positively exhilarated to show how little or how much they had. Sensing political hay, Fred Harris and Sargent Shriver breathlessly promised Common Cause almost more than it asked. Of course, several of the candidates seem to concede that they are easily corruptible. In response to an environmental group's inquiry, they answered that they would not take contributions from oil company executives. Do they trust themselves so little?

There is, of course, some continuum between the public and the private life. But when the dividing lines are eroded, we all suffer: the politicians, their families and us. That Lyndon Johnson had the American people eyeing his post-operative scars was his grotesque way of being intimate with the millions. Yet anyone who knows children of politicians must be aware of the price they pay for the glare that illumines nothing important. The breakdown of the private sphere extends to the whole citizenry: if we claim the right to know the tax returns, the medical bulletins, the psychiatric histories of government officials, we should not be stunned when they do not respect our privacy, when they violate it as our reformers claim the right to violate theirs. In the end we will get what we deserve: politicians without private lives or private feelings, men and women, as the Austrian novelist Robert Musil put it, wholly "without qualities."

Common Cause is not alone in the business of scrutinizing the personal lives of the candidates. Jack Anderson has asked them all to submit to him both a current medical report and the last five years of their tax returns. He has not, to our knowledge, imputed wrong to those who refuse, as Common Cause has done with its two recalcitrants. But the editors of the slick New Times have done it for Anderson. "Failure to comply" with his request, they say in their issue of January 9, "may raise more interesting questions than those that surface in the tax returns and health reports themselves." This is prurient vigilantism. Gardner was predictably more delicate with his threats: "The public will want to know whether these two candidates disagree with the standards or cannot live with them politically," particularly the requirement for public disclosure of personal financial holdings. One of the two who has not signed on Gardner's dotted line is Ronald Reagan, though his spokesman assured The New York Times that the candidate "can probably agree with all these points." Eugene McCarthy, the other candidate out of step, has not himself responded either to Anderson or to Common Cause; but he did tell the Gridiron dinner that he had received an inquiry from a religious group that amounted to a request for "transcripts, if not tapes, of my confessions over the last 10 years." This is, we suppose, his way of answering. His campaign manager, however, wrote Gardner directly, not felicitously but expressing a sentiment with which we fully sympathize. "Take your enclosed standards and stuff them in your ear."

EXHIBIT 1

STATEMENT OF HON. JAMES L. BUCKLEY, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator BUCKLEY. Thank you, Mr. Chairman. I welcome the opportunity to discuss my bill, which was introduced yesterday. It is now 2½ weeks since the Supreme Court handed down its decision, and since then a number of bills have been introduced more or less as emergency measures that are in-

tended to deal with only the most obvious of the gaps left by the decision.

None of these measures, I submit, addresses the full range of problems created by the Supreme Court decision, especially in congressional races.

We need to do substantially more than simply reconstitute the Federal Election Commission so that public subsidies may continue to flow to Presidential candidates. The Supreme Court's elimination of limits on individual spending has accentuated the inequities already ingrained in the Federal Election Campaign Act. They, too, must be addressed on an urgent basis.

Finally, there is broad agreement, based on actual experience with the act, that a number of its provisions are unwieldly and unduly burdensome. These can easily be corrected at this time if only we will take the trouble to do so.

Yesterday, Congressman William Steiger of Wisconsin and I introduced in our respective Houses a bill that will restructure the Federal Election Commission along constitutional lines, reallocate its responsibilities in a more efficient manner, adjust some of the major inequities in the law as it has survived the Court's decision, and make certain modifications that we believe will simplify the administration of the Federal Election Campaign Act, as amended. In preparing our bill, we have consulted with our coplaintiffs in *Buckley* v. *Valeo*. Our bill represents a consensus that cuts across partisan and ideological lines. It is the only bill before this committee that attempts to address all the major problems that have been precipitated by the Supreme Court's decision.

Our bill does not seek to change features of the act, such as the public financing of Presidential campaigns, which the plaintiffs in *Buckley* v. *Valeo* found objectionable, but which the Supreme Court left standing. Rather, we seek only to make those corrections in the law that are urgently required as a result of the Supreme Court's decision, while correcting some of the widely noted defects in the law that have become apparent since its enactment.

Specifically, our bill is addressed to the following deficiencies:

1. THE INEQUITIES AMONG CANDIDATES

The Supreme Court's rejection of limitations on expenditures by candidates and independent individuals and groups has dramatically magnified the inequities that exist under the law between different classes of candidates. On the one hand, wealthy candidates or candidates having the support of well-organized, well-financed political action groups, such as the AFL–CIO's Committee on Political Education, can now spend unlimited sums in the promotion of their candidacies. On the other hand, candidates without private means or without the support of such groups are limited to contributions that may not exceed $1,000 from individuals or $5,000 from political action committees. In practice, this has provided enormous handicaps in raising the kind of seed money that is especially important in launching the campaign of a candidate who is relatively unknown.

Our bill will help redress this imbalance by raising the limitations on individual and committee contributions to the following levels: $50,000 in the case of a Presidential candidate, $25,000 in the case of senatorial candidates, and $10,000 in the case of a candidate for the House of Representatives. These limitations are high enough to enable middle- and lower-income candidates to raise the money necessary to launch successful campaigns. Any possibility of abuse will, in our opinion, be checked by the effective enforcement of the disclosure provisions

I would at this time point out that unless we substantially raise the limits on individual contributions, candidates for Congress runnng this year will face the danger of losing substantial control over their own campaigns. The $1,000 and $5,000 contribution limitations will no longer keep individuals on political committees from spending as much as they want on behalf of candidates they want to support. It will merely prevent them from coordinating their expenditures with the candidate's campaign. In other words, each one of us running for office this year could see chaos in their promotion of a singe cause.

2. THE FEDERAL ELECTION COMMISSION

Aside from the fact that the Supreme Court has found the method of appointing the Federal Election Commission to be unconstitutional, the Commission in practice has been found to reflect all the deficiencies that are to be found in too many other agencies that are clothed with very broad rulemaking and enforcement responsibilities. Arbitrary and at times capricious requirements impose excessive legal and bookkeeping costs on candidates without serving any apparent public service. We have also vested in the Commission extraordinarily broad powers over a most sensitive area of nations life.

I suppose there is some sort of poetic justice in having Members of the Congress finally made subject to the kind of bureaucratic harassment and regulatory uncertainties and costs to which the Congress routinely has subjected so many others in American society. Nevertheless, our bill seeks to remedy this situation by allowing the functions currently delegated to the FEC to be reallocated between a reconstituted commission and a new election law section to be established in the Department of Justice. Our bill would vest the enforcement powers for the Federal election laws not with an independent election czar, but with appointive officials within the traditional enforcement arm of the Federal Government. The election law section would be headed by a Director and Deputy Director of different political parties who would be appointed by the President, with the advice and consent of the Senate. They would serve for 4-year terms and could be removed only for cause. We believe, in short, that this mechanism would insulate this section from political direction by an incumbent President.

This arrangement would leave audit, review, and certification responsibilities with the new Federal Election Commission while assigning the functions of enforcement, the issuance of advisory opinions, and the conduct of civil and criminal litigation to the new election law section of the Justice Department. This is the more normal arrangement, and we believe it represents better policy.

3. RECORDKEEPING AND DISCLOSURE

The current disclosure and bookkeeping provisions of the Federal Election Campaign Act impose costs that cannot be justified by any consideration of public policy. I speak of the current requirements that a record be kept of each contributor giving over $10 and that disclosure be made of each contribution in excess of $100.

With respect to the recordkeeping provisions, it is simply irrational to suppose that any candidate for national office will be influenced by a $100 contribution, let alone an $11 contribution. The only possible effect of the current provision is to discourage contributions by individuals reluctant to be identified with minor parties or unpopular causes. It does not in any way affect the problem of corruption in public office. Our bill would substantially lighten the current recordkeeping burden by limiting such records to contributions in excess of $100.

It is just as irrational to assume that candidates for national office could be bribed by the $101 contributions that must now be reported. The amount of money required to have a corruptive influence on a candidate for political office depends on the relative size of the contribution to the overall financial requirements of the campaign. In order to ameliorate the effect of disclosure provisions on public participation in a campaign, our bill would adopt various disclosure thresholds which would be calibrated to the office sought. Specifically, we would establish those thresholds at $1,000 in the case of a candidate for the Presidency, $500 in the case of a candidate for the Senate, and $250 in the case of a candidate for the House of Representatives. And I hope that no one suggests that any of us could be bought for lower sums.

4. MISCELLANEOUS PROVISIONS

The present rules appear unduly restrictive with respect to contributions to and from political parties and committees. There is also a great deal of uncertainty as to what constitutes a contribution to a particular candidate. Our bill incorporates language which will (a) remove some of the arbitrary restrictions that have been placed on the traditional role of parties and committees, thereby broadening the diversity of groups that can have an input on the electoral process, and (b) provide for necessary statutory guidelines for determining what constitutes a contribution. This will serve to remove many of the uncertainties that now exist in the law, and will facilitate the conduct of campaigns as well as the work of the election law section that would be charged under our bill with the enforcement of Federal election laws.

As I stated at the outset, the Supreme Court's decision in *Buckley* v. *Valeo* requires corrective action that is significantly broader in scope than the reconstitution of the Federal Election Commission. Inequities have been magnified which the Congress must address if we are not to establish two classes of candidates facing vastly different problems in financing and launching their political campaigns. Furthermore, the fact that some legislative action is necessary at this time provides us with a unique opportunity to correct the deficiencies that have been widely noted, deficiencies which add materially to the cost and complexity of political campaigns without serving any identifiable public purpose.

The American people have a right to expect that we will utilize this opportunity to effect something more than incremental changes intended to preserve the status quo. They have a right to expect their representatives in Congress to enact real election reform that will remove provisions whose net effect is to protect the wealthy or special-interest candidate from successful challenge, to say nothing of incumbent Members of Congress.

I thank you, Mr. Chairman. There has been distributed a synopsis of the legislation we introduced yesterday. And I would be happy to answer any questions you may have.

The PRESIDING OFFICER. Who yields time?

The Chair states that the Senator from Nevada has 11 minutes remaining and the Senator from Tennessee 4 minutes remaining.

Mr. CANNON. Mr. President, I suggest the absence of a quorum and ask that time be taken out of both sides.

Mr. BROCK. I ask that the Senator not make such a request. We only have 4 minutes remaining.

Mr. CANNON. I withdraw the request.

The PRESIDING OFFICER. The request is withdrawn.

Who yields time?

If nobody yields time, the clock will be charged equally against both sides.

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. PASTORE. Charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROCK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROCK. Mr. President, we are some 11 minutes shy of a vote on the pending amendment, and I shall just summarize very quickly the arguments of the proponents.

It is my very strong feeling that the bill, as presented to us by the Committee on Rules and Administration, as I said earlier, was something more than an extension bill, and yet that is the way it has been presented. It is, in fact, a Christmas tree, designed to advantage certain very important groups of high privilege and great political power in this country. It is designed to disadvantage certain other groups, but more than anything else, because those are not the points of contention, the bill as presented to us is a bill to destroy the independence of the Federal Election Commission, to pervert its basic purpose and to reconstitute the good old days where the Senate and House of Representatives were the judge of their own election process and no one else. The whole reason we got into this fight for reform some several years ago was to set up a commission whose independence was unquestionable from either this body or the other body.

The purpose was to allow the American people an opportunity to conduct an election for representation with assurance that there would not be an incumbent guarante, that the incumbent would have available to him no more and no less than the challenger, so that the people could have an honest opportunity for choice. The effect of the bill before us is to pervert that purpose.

The effect of the amendment that we offer is to restore to the commission its basic, fundamental purpose, and that is its independence in the oversight of the election process of these 50 States. I think that is a terribly important issue, and I hope that we will look upon it not in partisan terms but in terms of our responsibilities to the Republic and the Constitution; because we have no right to advantage ourselves by device, by law, by circumstance.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CANNON. Mr. President, I want to be sure that my colleagues understand what would be covered in this substitute.

The Senator correctly stated that it would simply extend the life of the Commission, but we already have seen many instances in which we believe the Commission had erred in the proposal of regulations that they had sent up here, in the interpretation of existing law, and many other areas.

The initial proposal, the substitute that has been presented here, simply would let the Commission go on until December 31, 1976, at which time there is a self-destruct provision. If all the bad features suggested by the Senator are in this bill which the Rules Committee has reported, I do not know why he would want to self-destruct his proposal as of the end of December 1976, because then we would be back to where we had to write a new bill and come to the floor of the Senate and go all over again.

We have already seen to some degree how this bill works. So the only thing we would be doing by making a straight provision of it in this bill, a straight destruct, until the end of December 1976, would be to say that the Presidential candidates could go on their merry way, qualifying to get the money out of the Federal funds to carry out their campaigns.

We already have found some bad features; and I am going to propose an amendment to the bill reported by the Rules Committee, if the Senator's substitute is defeated, to make sure that we cannot have such a proliferation of candiates for national office running around the country at taxpayers' expense when they have absolutely no chance of being viable candidates.

Mr. BROCK. As long as the Senator understands they are all his. [Laughter.]

Mr. CANNON. After another primary or two, there may be some of both. At least, right now, I would say that perhaps they are mostly on this side.

In any event, I hope the Senater will support me in that.

I objected earlier to the request of the Senator from Michigan to modify his amendment by eliminating the self-destruct provision principle, because I did not know what would occur if the self-destruct provision were taken out. I have had time to review it, and I find that all we would be doing would be to perpetuate the commission into the unforeseen future, and we would be giving them some unlimited authority, giving them a salary and operating expenses, and letting them go on their way.

I believe we need more clarification of the law. We need clarification with respect to the Sun Pac decision, which was very unfair on the part of one side; and we have to keep these things in balance.

When the Senator from Michigan returns to the Chamber, if he renews his motion to eliminate section 3, which is the self-destruct provision, that will be contrary to the recommendations of his leader at the White House; because the President, himself, suggested that we have a self-destruct provision early next year. I attended the meeting at which that suggestion was made. So that we then could look at it again in a calmer atmosphere and try to come up with a new bill. In any event, if the distinguished Senator from Michigan wants to oppose his President and moves to elminate section 3 from the bill, I am inclined to go along with him on that point at present.

I see that the Senator has returned to the Chamber. I will be glad to yield some time to him, if he desires, within the very few minutes I have remaining, inasmuch as the time of the minority has expired.

I recapitulate, for the benefit of the Senator from Michigan: I have just stated that if the Senator from Michigan desires to oppose his leader, the President, who recommended that we have a self-destruct provision, and to look at this bill in a calmer atmosphere early next year, I will not object if he moves to strike section 3, the self-destruct provision, from his substitute.

Mr. GRIFFIN. Mr. President, while I will not accept the characterization of the Senator from Nevada, I am glad that he has changed his position and will cooperate to that extent.

Mr. President, I ask unanimous consent that section 3 of the substitute be stricken.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BROCK. Section 3, on page 4.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. CANNON. I take it that we are all talking about the same one, inasmuch as we had two earlier.

Mr. President, I yield 2 minutes to the Senator from Iowa.

Mr. CLARK. I thank the Senator.

Mr. President, I simply wish to speak during the last minute or two that we have before the vote.

I commend the distinguished floor manager of the bill, Senator CANNON, for the outstanding job he has done in bringing this much-needed attention to the floor of the Senate. I hope we will be able

to pass S. 3065 in the near future, and it certainly appears that we will.

No one can dispute the urgent need for a reconstitution of the Federal Election Commission, so that the administration and enforcement of the law can continue without disruption. But S. 3065 does more than simply reconstitute the Commission, and that is what the pending amendment is all about. It establishes strict new limits on the proliferation of so-called political action committtees which are set up by special interest groups, both business and labor, to funnel money to candidates. Certainly, if we adopt the pending substitute, we will be ignoring that problem.

Mr. President, I should like to have printed at this point in the RECORD some material which was prepared by Common Cause. It dramatically illustrates the massive special interest contribution and proliferation of committees that already has taken place. I ask unanimous consent to have this material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[News release from Common Cause, Washington, D.C., Mar. 10, 1976]

SPECIAL INTEREST GROUPS ACCUMULATE $16.4 MILLION FOR 1976 POLITICAL CAMPAIGNS, UP MORE THAN 40 PERCENT OVER SIMILAR PERIOD IN 1974, COMMON CAUSE STUDY REVEALS

Special interest grousp have accumulated $16.4 million for the 1976 political campaigns, according to a new study released by Common Cause. The $16.4 million political war chest—cash on hand as of January 1976—represents an increase of more than 40 percent over the $11.7 million held by interest groups at a similar early stage of the 1974 elections (February 28, 1974), the study revealed.

"The $16.4 figure doesn't even begin to tell the story," according to Fred Wertheimer, Common Cause Vice President and Director of its Campaign Finance Monitoring Project. "In one of the most significant developments since the passage of the 1974 campaign finance law, 242 new political giving committees have been established by special interest groups during the past year." (See Appendix A for complete list.) "Most of these new interest group committees have just begun their drive to accumulate funds for the 1976 elections. This means that many millions of additional political dollars will be raised by the new committees in the months ahead," Wertheimer said.

According to the study, the 242 new committees now constitute thirty percent of all interest group committees registered under the federal law. The cash the new committees have accumulated at this stage, however, amounts to only six percent of the $16.4 million total funds accumulated by all interest group committees.

The new committees so far have raised only $978,000 with $496,000 accumulated by just one group, a new committee connected with the American Trial Lawyers Association.

The study notes that the huge difference between funds available for all committees and those available for new committees will change dramatically over the course of 1976, as the new committees carry out their initial fundraising drives.

BUSINESS-RELATED COMMITTEES

Almost 75 percent of the 242 new committees have been formed by business-related interests, according to the study. One hundred and seven corporations and 22 banks have established new political committees in the last year, more than doubling the number of corporations and banks with registered committees prior to the 1974 elections. Seventeen oil companies have registered political action committees for the first time, including Atlantic Richfield Co., Cities Service Co., Standard Oil of California, Standard Oil of Ohio, Sun Oil Co. and Texaco. Prior to the 1974 elections, only one oil company Union Oil of California, had registered a political committee.

Eight steel companies have registered funds for the first time, including ARMCO Steel Co., Lykes-Youngstown, National Steel Corp., Republic Steel Corp. and U.S. Steel.

Four major aerospace corporations—Grumman Corp., Lockheed Aircraft Corp., McDonnell Douglas Corp. and United Technologies (formerly United Aircraft) have also registered committees for the first time.

Other major corporations registering new political committees include American Express Co., Bristol-Myers Co., Continental Can Co., Dow Chemical Co., Litton Industries, Montgomery Ward & Co., Pan American Airlines, Pepsico Inc., R.J. Reynolds Industries and Sears, Roebuck & Co.

The remaining 25 percent of the new committees registering were sponsored by labor organizations and miscellaneous groups. Most of the 36 newly registered labor-related political committees represent additional committees formed by labor unions which already had one or more political committees prior to the 1974 elections. The Communication Workers of America, for example, registered 12 additional committees, and the Machinists registered four additional committees.

"Comprehensive public financing for the 1976 Presidential elections assures that the great bulk of all interest group contributions in 1976—new or old, business or labor, medical or dairy—are destined for the Congressional races," Wertheimer said. "These developments present one of the most compelling cases yet made on the need for Congressional public financing."

"They also demonstrate that it is essential for Congress to make clear that an organization cannot set up a number of political committees and thereby render meaningless the $5,000 limit on what an organization's political committee can give to a candidate. The need for this 'antiproliferation' legislation is strikingly demonstrated by just two cases," Wertheimer said. "During the period from October–December 1975, Dow Chemical Co. registered seven new political committees. During the period from August–December 1975 the Communication Workers of America registered 12 new committees. "The bills to reconstitute the Federal Election Commission pending in the House and Senate contain clear 'anti-proliferation' provisions," Wertheimer said.

SPECIAL INTEREST AND LARGE GIVERS IN 1974 CONGRESSIONAL RACES

The Common Cause study also revealed that $35 million in campaign contributions to 1974 Congressional candidates came from large individual givers ($500 or more) and special interest groups. The $35 million total—$22.5 million from individuals who gave $500 or more and $12.5 million from special interest groups—represents over 40 percent of the $83.5 million contributed to 1974 Congressional candidates between September 1, 1973 and December 31, 1974. Candidates in 1974 provided an additional $6.2 million of their own money.

Of the $12.5 million in interest group contributions in 1974, labor organizations accounted for $6.3 million, and business and professional groups accounted for $4.8 million. (See Appendix C.) These figures do not reflect the amount of money spent by labor and other organizations in communicating with their own members and in conducting nonpartisan voter registration and get out the vote drives. Such expenditures are not campaign expenditures within the meaning of the federal law and the total amounts involved in these activities are not known.

The study also revealed that individuals with business or professional occupations accounted for $18.4 million given by individuals to 1974 Congressional candidates in amounts of $500 or more. This included $13.6 million from businessmen, $2.6 million from attorneys and $580,000 from individual doctors. (See Appendix B for breakdown.) The Common Cause figures are based on an analysis of occupation and employer information required to be listed by candidates on campaign finance reports. They represent the first comprehensive analysis ever done of the occupation of individual contributors to Congressional races.

"These findings again strongly demonstrate the need for Congressional public financing," Wertheimer said. "They show a strong reliance by candidates on larger gifts and special interest contributions. Public financing provides candidates with an alternative choice for their elections—an alternative based on less special interest dependence, smaller private contributions, and greater citizen involvement."

Earlier Common Cause studies have demonstrated that in the absence of public financing, incumbents in Congress have consistently outraised and outspent their challengers by an average of two to one, regardless of political party affiliation, Wertheimer said.

According to the latest study the largest individual interest group contributors to 1974 Congressional candidates were the political funds of the American Medical Association, $1,462,972; the AFL–CIO, $1,178,638; the UAW, $843,938; the maritime unions, $733,314; the Machinists, $470,353; and financial institutions, $438,428. (See Appendix C.)

Of the individual businessmen and professionals who gave $18.4 million to 1974 Congressional candidates in amounts of $500 or more, $2.5 million came from individuals in the construction and real estate industry, $2.3 million came from individuals in the financial industry and $1.7 million came from individuals associated with oil, gas, or other natural resource industries. (See Appendix B.)

1976 FUNDS ON HAND

Business and professional interest groups accounted for $8.8 million cash on hand as of January 1976, compared to $6.6 million held by labor organizations. (See Appendix D.) The $8.8 million total includes $3 million held by business groups, $2.7 million by agriculture and dairy groups and $2.5 million held by health groups. In early 1974 dairy groups also had $2.1 million cash on hand but wound up giving only $361,000 to 1974 Congressional candidates. "Dairy groups had a very difficult time during that Watergate period getting candidates to accept their contributions. It is not clear that this pattern will be repeated in 1976," Wertheimer said.

Labor organizations have on hand $1.6 million more than the $5 million they had at a similar stage in 1974. In addition, the AFL-CIO's COPE fund reports a balance of only $173,000 as of January 1976. (In 1974 the AFL-CIO COPE funds contributed $1.2 million to Congressional candidates.)

Health groups have on hand approximately $1 million more than the $1.5 million they had in 1974, with the AMA accounting for $728,000 of the increase.

The leading groups with funds available as of January 1976 were the Associated Milk Producers, Inc., $1,811,702; the American Medical Association, $1,616,978; the maritime unions, $1,347,332; UAW, $988,652; financial institutions, $635,765; and the American Dental Association, $612,792. (See Appendix D.)

1974 DATA TO BE PUBLISHED IN SERIES OF VOLUMES

Common Cause also announced that it would publish within the next month a series of volumes setting forth comprehensive campaign finance data for the 1974 Congressional elections. The volumes will present for each Congressional candidate in the 1974 general election a complete list of interest group contributions, and individual contributions of $500 or more. The volumes will also provide complete listings of the 1974 Congressional contributions made by each significant special interest group.

Common Cause said it will continue to monitor campaign finances in the 1976 elections, with particular focus on the activities of special interest groups. Since its inception in early 1972, the Common Cause Campaign Finance Monitoring Project has been directed by Fred Wertheimer. John J. Conway and Neil Upmeyer serve as Associate Directors of the Monitoring Project specializing in special interest activities, and candidate and individual contributor activities, respectively.

APPENDIX A

SPECIAL INTERESTS REGISTERING POLITICAL ACTION COMMITTEES SINCE JANUARY 1, 1975

(* Denotes groups that previosuly had registered political committees and are registering additional committees.)

BUSINESS (176)

Aerospace (4 committees):
Grumman Corp.
Lockheed Aircraft Corp.
McDonnell Douglas Corp.
United Technologies Corp.
Apparel (1):
Kellwood Co.
Chemicals and Metals (25):
Aluminum Co. of America.
AMAX Inc.
Anaconda Co.
ARMCO Steel Corp.
Dow Chemical Co. (7 committees)
FMC Corp.
Jones & Laughlin Steel Corp.
Kerr-McGee Corp.
Lone Star Steel Co.
Lykes-Youngstown
National Steel Corp.
NL Industries
Owens-Illinois, Inc.
Phelps Dodge Corp.
PPG Industries, Inc.
Republic Steel Corp.
U.S. Steel
W. R. Grace & Co.
Wheeling-Pittsburgh Steel Corp.
Coal, Oil and Gas (20):
Atlantic Richfield Co.
Cities Service Co.
Continental Oil Co.
Enserch Corp.
Halliburton Co.
Houston Oil & Minerals Corp.
Marathon Oil Co.
MAPCO Inc. (Okla.)
Peoples Natural Gas Co.
SEDCO Inc., Dallas
Skelly Oil Co.
Small Producers for Energy Independence
Standard Oil Co. (Calif.) (SOCAL)
Standard Oil Co. (Ohio) (SOHIO)
Sun Oil Co.
Texaco Inc.
Texas Eastern Transmission Corp.
Texas Gas Transmission Corp.
True Oil Co.
Universal Oil Products Co.

Source: Campaign Finance Monitoring Project, copyright by Common cause 1976.

Communications (4):
California Community TV Assn.
*Gen. Tel. & Electronics, Conn.
*Gen. Tel. & Electronics, Ill.
*Gen. Tel. & Electronics, Ind.
Construction (7):
*Assoc. Builders & Contractors, Inc., Mich.
*Assoc. General Contractors, Colo.
Brown & Root
Construction Industry PAC, Tex.
Flour Corp.
Metal Building Industry
Natl. Limestone Institute, Inc.
Electronics (1):
Watkins-Johnson Co., Palo Alto, Calif.

Financial Institutions (33)

Commercial Bank Groups (2):
*Arizona Bankers
*Louisiana Bankers
Commercial Banks (22):
Bank of Everett (WA)
Bank of Hawaii
Commercial Security Bancorp. (UT)
Crocker Bank (CA)
CT & B Bancshares (GA)
Detroit Bank Corp.
Fidelity Bank (PA)
First City Natl. Bank, Houston (TX)
First Intl. Bancshares, Inc. (TX)
First Natl. Bank (AZ)
First Security Corp. (UT)
First Wisconsin Corp.
Marine Natl. Bank (PA)
Merchants Natl. Bank & Tr. Co. (IN)
Natl. Bank of Detroit
Pacific Natl. Bank of Wash.
Pittsburgh Natl. Bank
Security Pacific Corp. (CA)
Union Planters Corp. (TN)
Valley Natl. Bank of Arizona
Waccamaw Bank & Tr. Co. (NC)
*Wells Fargo & Co. (CA)
Savings and Loans (5):
*Savings & Loan League Colorado
*Savings & Loan League Florida
Citizens Savings & Loan Assn., San Fran.
Citizens Savings Assn. (Canton, OH)
City Federal Savings & Loan, N.J.
Credit Unions (2):
Assoc. Credit Bureaus Inc. Texas
Consumer Bankers Assn.
Miscellaneous (2):
Am. Collectors Assn.
Household Finance Corp.

Food and food processing (14)

Beverages (3):
Coors Adolph Co.
Distilled Spirits Institute
Pepsico Inc.
Retail (4):
Handy Andy Inc.
Piggly Wiggly Southern
Natl. Assn. of Retail Grocers
Winn-Dixie Stores Inc.
Others (7):
Cane Sugar Refiners Assn.
Dillingham Corp.
Flowers Industries Inc.
Gerber Products Co.
Natl. Broiler Council
Pillsbury Co.
Quaker Oats Co.
Forest Products (6):
Boise Cascade
Crown Zellerbach Corp.
Intl. Paper Co.
Natl. Lumber & Bldg. Assn.
Potlach Corp.
Union Camp Corp.
Insurance (6):
American Family Corp.
Am. General Insurance Co., Texas
Insurance Pub. Aff. Council, Chicago
Kansas City Life Insurance Co.
*Life Underwriters, Texas
Utica Mutual Insurance Co.
Machinery (3):
Deere & Co.
Martin Tractor Co.
Natl. Machine Builders Tool Assn.
Pharmaceuticals (4):
Bristol-Myers Co.
CIBA-GEIGY Corp.
Natl. Assn. of Pharmacists
Proprietary Assn. The
Railroads (1):
Bessemer & Lake Erie RR
Real Estate (3):
Cabot Corp.
Natl. Realty PAC
*Natl. Assn. of Realtors Wash. State
Transportation (11):
Alaskan Skies Assn. Natl.
Allegheny Airlines
AMERCO
Am. Public Transit Assn.
Budd Co.
Matson Navigation (sub Alex & Baldwin)
Metro Services, Texas
*Natl. Auto Dealers Assn. Natl.
*Natl. Auto Dealers Assn. Texas
Pan American Airlines
Pullman Inc.
Utilities (2):
Columbus & S. Ohio Electric Co.
Florida Power Light Co.
Other (31):
Alton Box Board Co.
Am. Assn. of Nurserymen
Am. Express Co.
Am. Retail Federation
Am. Textile Mfrs. Assn.
Arthur Young
Broyhill Furniture Industries
Container Corp.
Continental Can Co.
Corning Glass Works
Dow Corning Corp.
Eaton Corp.
Evergreen Associates, Everett, Wash.
First Class Mailers Assn.
Franklin Electric Co., Inc.
John W. Graham Co.
L. M. Berry & Co.
Litton Industries, Inc.
Marco Comm. for Effect. Govt. (Balti)
Marcor Inc.
Montgomery Ward & Co.
Producers Cotton Oil Co. (CA)
R.J. Reynolds Industries Inc.
R. R. Donnelly & Sons
Rexnord Inc.
Sears, Roebuck & Co.
Square D Co.
TRW
Wheelabrator-Frye Inc.
Wellman Industries, Johnsville, SC (2)

Agriculture and Dairy (2)

Am. Feed Mfrs. Assn.
United Fruit & Vegetable Assn.

Lawyers (4)

Am. Trial Lawyers Assn.
Doherty, Rumble & Butler (MN) (3)

Health (14)
American Dental Association (9):
*Am. Dental Assn., Idaho
*Am. Dental Assn., Illinois
*Am. Dental Assn., Indiana
*Am. Dental Assn., Kansas
*Am. Dental Assn., Louisiana
*Am. Dental Assn., Maine
*Am. Dental Assn., Minnesota
*Am. Dental Assn., Nebraska
*Am. Dental Assn., Wyoming
Miscellaneous Health (5):
Assn. of Am. Physicians & Surgeons
Group Practice Pol. Comm. (VA)
Group P. Comm. (TX)
New Jersey Health Group
Oregon Health Group

Labor (36)
AFL–CIO (4):
*AFL–CIO, Connecticut (Senate Camp.)
*North Caro, Southern Piedmont
*North Caro, (Nash-Edgecombe-Wilson Cnty.)
*AFL–CIO, Ohio (Franklin Cnty.)
Building and Construction Trades (4):
*Carpenters—California
*Electrical Workers (IBEW)—Iowa
*Electrical Workers (IBEW)—Conn.
*Laborers #860—Ohio
Government (1):
Letter Carriers
Industrial (5):
AFL–CIO Affiliated (4)—
*Machinists #146—Texas
*Machinists—Washington
*Machinists—Wisconsin
*Machinists Dist. 10—Wisconsin
United Auto Workers, Independent (1):
*United Auto Workers, Independent (Grtr. Flint)
Service (5):
*Meatcutters #525 (NC)
*Retail Clerks #428 (CA)
*Retail Clerks #400 (MD)
*Retail Clerks #1393 (PA)
Utility Workers
Transportation (2):
Amalgamated Transit Union
Pan Am Chap Flight Eng. Intl. Assn.
Teamsters, Independent (2):
*Teamsters, Independent (AL)
*Teamsters, Independent (IN)
Miscellaneous Labor (14):
*Communications Workers (12)
*Hospital & Health Care, Natl.
*Hospital & Health Care Dist. 1199C (PA)

Miscellaneous (8)
National Education Association (3):
Natl. Educ. Assn. (MI) (Saginaw)
Natl. Educ. Assn. (NC)
Natl. Educ. Assn. (OK)
Other (3):
Gun Owners of Am.
Natl. Women's Pol. Caucus
Natl. Right to Work Comm.

Ideological (4)
Conservative Coalition of Iow
Natl. Conservative PAC
Comm. for a New Majority/Freedom of Choice, Inc.
Fund for a Repres. Congress, Inc.

APPENDIX B

INDIVIDUAL CONTRIBUTIONS OF $500 OR MORE TO 1974 CONGRESSIONAL CANDIDATES BROKEN DOWN BY OCCUPATION OF CONTRIBUTOR

Occupation	House	Senate	Total
Agriculture	$424,857	$291,988	$716,845
Oil, gas, and other natural resources	688,697	993,923	1,682,620
Construction/real estate	1,270,461	1,197,190	2,467,651
Transportation	131,126	226,909	358,035
Manufacturing	808,345	831,550	1,639,895
Banking	331,177	379,941	711,118
Investments	429,953	583,530	1,013,483
Insurance	225,077	339,756	564,833
Financial industry	986,207	1,303,227	2,289,434
General business	2,145,636	2,312,493	4,458,129
Business total	6,455,329	7,157,280	13,612,609
Doctors	$350,110	$228,685	$578,795
Attorneys	1,123,019	1,528,809	2,651,828
Other professionals	793,369	774,606	1,567,975
Professional	2,266,498	2,532,100	4,798,598
Business/professional total	8,721,827	9,689,380	18,411,207
Housewife	485,982	779,352	1,265,334
Retired	411,183	584,813	995,996
Others	1,262,508	542,566	1,805,074
Miscellaneous total	2,159,673	1,906,731	4,066,404
Grand total	10,881,500	11,596,111	22,477,611

Source: Campaign finance monitoring project by Common Cause 1976.

APPENDIX C

SPECIAL INTEREST GROUP POLITICAL COMMITTEES

Total contributions to 1974 congressional candidates

Business/Professional:	
Business	$2,506,946
Agriculture and Dairy	361,040
Health	1,936,487
Total	4,804,473
Labor	6,315,488
Miscellaneous	682,215
Ideological	723,410
Total interest group committees	12,525,586

Individual interest groups largest contributors to 1974 congressional candidates

1. American Medical Assns	$1,462,972
2. AFL–CIO COPEs	1,178,638
3. UAW	843,938
4. Maritime Unions	738,314
5. Machinists	470,353
6. Financial Institutions	438,428
7. National Education Assns	398,991
8. Steelworkers	361,225
9. Retail Clerks	291,065
10. BIPAC (National Assn. of Mfrs.)	272,000
11. National Assn. of Realtors	260,870

Source: Campaign Finance Monitoring Project, © by Common Cause 1976.

APPENDIX D

Special interest group political committees

[Cash on hand, December 31, 1975]

Business/Professional:	
Business	$3,055,494
Agriculture & Dairy	2,692,794
Health	2,542,933
Lawyers	514,638
Total	8,805,859
Labor	6,600,237
Miscellaneous	678,263
Ideological	332,734
Total interest group committees	16,417,093

Individual interest groups with most funds available, December 31, 1975

1. Associated Milk Producers, Inc	$1,811,702
2. American Medical Assn	1,616,978
3. Maritime Unions	1,347,332
4. UAW	988,652
5. Financial Institutions	635,765
6. American Dental Assn	612,792
7. Trial Lawyers	496,578
8. National Education Assn	487,465
9. Steelworkers	465,791
10. Transportation Union (UTU)	411,705
11. Natl. Assn. of Realtors	375,870

Source: Campaign Finance Monitoring Project, copyright by Common Cause 1976.

CAMPAIGN FUND OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE

BUSINESS

Affiliation or interest	*Committee name*	Closing cash
Aerospace:		
*Grumman Corp.	Grumman PAC	$0
Hughes Aircraft Corp.	Hughes Act Citizenship Fund	38,591
*Lockheed Aircraft Corp.	Lockheed GGovt Prog	0
LTV Aerospace Corp/Vought Corp.	LTV Aero Corp Act Citizenship Comm	21,128
*McDonnell Douglas Corp.	McDonnell Douglas GGovt Fund	0
*United Technologies Corp.	United Technologies Corp PAC	0
	Subtotal	59,719
Apparel:		
American Apparel Mfrs Assn.	American Apparel Mfrs PAC	459
American Footwear Industries Assn.	Footwear Industry PAC	674
*Kellwood Co.	Kellwood Co Empl PAC (KELLPAC)	0
Menswear Retailers of America.	Menswear Pub Aff Comm	11,641
	Subtotal	12,774
Businessmen's groups:		
N A of Manufacturers	Business-Industry PAC (BIPAC)	192,170
D. C. Businessmen	DC Comm of Businessmen to assist Cong Cands	1,854
Georgia Businessmen	The Loose Group	5,934
Mississippi Businessmen	Delta Fund	1,902
	Subtotal	201,360
Chemicals and metals:		
*AMAX Inc.	AMAX Concerned Citizens Fund	0
*Aluminum Co of America	ALCOA Emp Pol Fund	0
*Anaconda Co.	Anaconda Concerned Citizens Fund	6,302
* ARMCO Steel Corp.	ARMPAC	0
*Dow Chemical Co.	Dow Eastern Emp PAC (OH)	1,415
*Dow Chemical Co.	Dowell Emp PAC (DEPAC) (TX)	55
*Dow Chemical Co.	Emp PAC Cent Reg Dow (EMPAC) (TX)	6,546
*Dow Chemical Co.	Emp PAC of Govt Affairs, SE Region of Dow (LA)	760
*Dow Chemical Co.	Health & Consumer Prod Emp PAC (IN)	608
*Dow Chemical Co.	Midwest Area PAC (MI)	571
	Western Dow Emp Comm for Free Enterprise (CA)	2,125
* FMC Corp.	FMC GGovt Program	0
Kennecott Copper Corp.	Kennecott Execs Citizenship Assn	14,723
* Lykes-Youngstown.	Lykes-Youngstown PAC	0
NA of Chemical Distributors.	Chemical Distributors PAC	0
Olin Corp.	Olin Exec Vol NP Pol Fund	28,937
* Phelps Dodge Corp.	Phelps Dodge Emp for GGovt	0
* U.S. Steel.	USS Emp GGovt Fund	0
W. R. Grace & Co.	Grace GGovt Comm	0
	Subtotal	62,042
Coal, oil and gas:		
* N/A	Small Producers for Energy Independence PAC	0
* Atlantic Richfield Co.	Atlantic Richfield Civic Act Fund	0
bituminous coal industry.	Comm on Amer Leadership (COAL)	5,001
Consolidated Natural Gas Co. (PA).	CONPAC, Pittsburgh	7,937
Consolidated Natural Gas Co. (NY & NJ) (9–30).	Consolidated Vol NP Pol Fund	258
Consolidated Natural Gas Co. (WV).	Consolidated Exec Vol NP Pol Fund	4,527
East Ohio Gas Co. (sub. of Consol Nat Gas).	East Ohio Gas Emp Vol GGovt Assn	5,185
* Enserch Corp.	Enserch Emp Pol Support Assn	0
* Halliburton Co.	Halliburton PAC (HALPAC)	0
Indiana Gas Co.	Meridian Pub Aff Comm	9,041
* MAPCO Inc. (Oklahoma).	MAPCO PAC	0
Natl Council of Coal Lessors (8–31).	Coal Landowners Comm (VA)	1,843
Natural Gas Retailers.	Gas Employees PAC	3,780
Pacific Lighting Corp—natural gas.	Pacific Lighting Pol Assistance Comm	44,367
* SEDCO Inc, Dallas.	SEDCO PAC	1,500
* Skelly Oil Co.	Skelly Oil Co PAC	0
* Standard Oil Co (CA) (SOCAL).	Chevron Comm for Pol Particip	14,735
* Standard Oil Co (OH) (SOHIO).	Sohioans Civic Contrib Fund	0
* Sun Oil Co.	SUNPAC	170
*Texaco Inc.	Texaco Emp Pol involvement	0
*Texas Eastern Transmission Corp.	Texas Eastern PAC	0
*Texas Gas Transmission Corp.	Vol NP Pol Fund (Owensboro, Ky)	2,900
Union Oil Co of California.	Political Awarenness Fund	34,217
*Universal Oil Products Co.	UOP Emp Pol Act Fund	4,504
	Subtotal	139,965

Asterisk (*) denotes committee registering after January 1, 1975.

CAMPAIGN FUNDS OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES—Continued

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE—Continued

BUSINESS—continued

Affiliation or interest	*Committee name*	Closing cash
Communications:		
*California Community TV Assn.	California Cable TV PAC	1,869
Gen Tel & Electronics:		
California.	General Tel Emp (California) GGovt Club	64,566
*Conn.	GTE Stamford Emp GGovt Club	765
*Illinois.	General Tel Co of Illinois Emp GGovt Club	0
*Indiana.	General Tel Emp GGovt Club (Indiana)	3,141
Hawaii Telephone Co (sub of GTE).	Hawaiian Tel Emp GGovt Club	14,386
Meredith Corp (IA)—publishing.	Meredith Corp Emp for Better Govt	16,265
N A of Broadcasters.	Television & Radio PAC (TARPAC)	7,416
Natl Cable TV Assn.	Natl Cable TV PAC	10,084
Natl Telephone Coop Assn.	Telephone Ed Comm Org (TECO)	2,917
Recording Industry of America.	Recording Arts PAC	2,842
US Independent Telephone Assn.	Communications PAC (COMPAC)	6,662
	Subtotal	130,913
Construction:		
Architects & Consulting Engineers.	Pol Comm for Design Professionals	1,685
Assoc Builders & Contractors Inc.	Merit Shop Action Comm	9,463
*Assoc Builders & Contractors Inc, Mich.	ABC Free Enterprise PAC	0
Assoc General Contractors:		
National.	Committee for Action (WA)	90,681
Iowa.	Construction Action Comm	7,681
Michigan.	Construction Industry Mgmt PAC	2,919
St. Louis (3–10).	Construction Industry PEC	418
Missouri.	AGC of St Louis Pol Comm	2,400
Ohio (6–30).	Ohio Contractors PAC	72
Pennsylvania.	Assn for Pol Ed in Construction	264
Texas (6–30).	Big 50 PAC	5,796
Vermont.	Vermont Construction Ind PAC	1,483
Black & Veatch.	Black & Veatch GGovt Fund	8,590
*Brown & Root.	Brownbuilders PAC	0
Construction Equipment Industry.	Construction Equipment PAC	11,232
*N/A.	Construction Industry PAC (CIPAC) (TX)	3,801
Detroit Piping Industry.	Detroit Piping Ind PAC (PIPAC)	1,446
General Portland Cement.	Citizens for Representative Govt	0
N A of Home Builders.	Builders Pol Campaign Comm (BPPC)	3,982
*Natl Limestone Institute Inc.	NLI Testimonial Dinner Comm	430
*Metal Building Industry.	Metal Building Industry PAC	
SM & AC Contractors Assn.	Sheet Metal & Air Cond Contr Pol Comm	19,124
	Subtotal	171,477
Electronics:		
General Electric Co, Conn.	Non-Partisan Pol Support Comm, Conn	28,968
General Electric Co, Mass.	Non-Partisan Pol Comm of Mass	792
*Watkins-Johnson Co, Palo Alto CA.	Watkins-Johnson PAC	0
	Subtotal	29,760
Financial Institutions—A. Commercial Banks		
1. Political Action Committees:		
Am banking interests.	Banking Profession PAC (BANKPAC)	85,271
*Arizona bankers.	Arizona Bankers PAC	0
California bankers.	CALBANK-FED PAC	0
Florida bankers.	Florida Bankers PAC	5,159
Indiana bankers (1/10/76).	Indiana Bankers PAC	20,988
Kansas bankers.	Kansas Bankers PAC	6,117
*Louisiana bankers.	Louisiana Bankers PAC	2,785
Minnesota bankers.	Minnesota Bankers PAC	13,631
Pennsylvania bankers.	Pennsylvania Bankers Pub Aff Acom	17,100
Texas bankers.	BALLOT—Bankers Leg Lg of Texas	14,441
Washington bankers.	Washington Bankers PAC	146
	Subtotal	165,638
2. Commercial banks:		
Am Fletcher Corp (IN).	Hoosier Govt Comm (Indianapolis)	23,778
Associates Management Corp (IN) (6-30).	Associates Employees PAC	0
*Bank of Everett (WA).	Bank of Everett Vol PAC (BEVPAC)	0
*Bank of Hawaii.	Special Pol Ed Comm (Honolulu)	0
Chemical Bank (NY).	Fund for GGovt (New York)	0
*Crocker Bank (CA).	Crocker Indiv Vol Fund in Cit (CIVIC)	0
*CT & B Bancshares (GA).	Comm for Quality Govt-F (Columbus)	398
*Fidelity Bank (PA).	1200 Committee (Philadelphia)	612
First Bank System Inc (MN).	First Bk Syst Minn GGovt Comm	1,808
First Bank System Inc (ND).	First Bk Syst ND GGovt Comm	68

CAMPAIGN FUNDS OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES—Continued

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE—Continued

BUSINESS—continued

Affiliation or interest	*Committee name*	Closing cash
First Bank Systems Inc (SD).	First Bk Syst SD GGovt Prog	0
*First City National Bank, Houston (TX).	Natl GGovt Fund (Houston)	225
*First Intl Bancshares, Inc (TX).	First Intl Bancshares Good Govt Fund	0
*First Natl Bank, Arizona.	FNBA GGovt Comm	0
First Natl Bank of Atlanta.	Fund for BetterGovt (Atlanta)	69
First Natl Bank of Topeka (KS) (9–30).	Citizens for GGovt (Topeka)	250
First Natl City Corp (NY).	Citicorp Emp Vol Pol Fund	1,518
*First Security Corp (UT).	First Security Corp PAC	0
First Tenn National Corp.	Good Fed Govt Comm (Memphis)	722
First Union Natl Bank (NC).	Commonwealth Associates "F" Fund	23,497
*First Wisconsin Corp.	First Wisconsin Civic Aff Comm	0
Indiana Natl Bank.	INOPAC	2,526
Long Island Trust Co.	Litco GGovt Club	6,430
Manufacturers Hanover Corp.	Assn for Responsible Govt (NY)	3,524
Mellon Natl Corp (PA).	514 Committee (Pittsburgh)	5,743
*Merchants Natl Bank & Tr Co (IN).	Merchants Comm for Camp Contrib	382
*Pacific Natl Bank of Wash.	Pacific BANKPAC (Seattle)	0
Seattle First Natl Bank.	First Associates Natl	5,760
*Security Pacific Corp (CA).	Security Pacific Act Cit Today Comm	5,588
Trust Co of Georgia.	Good Govt Group (Atlanta)	21,115
*Union Planters Corp, Memphis (TN).	Union Planters Comm Govt Aff	502
*Valley Natl Bank of Arizona.	VNB Good Govt Comm (Phoenix)	3,110
*Waccamaw Bank & Tr Co (NC).	Public Aff Fund (Whiteville)	4,031
Wells Fargo & Co (CA).	Good Govt Comm (San Francisco)	17,198
*Wells Fargo & Co (CA).	Employees for GGovt (F) (San Francisco)	0
	Subtotal	128,854
Financial Institutions—B. Savings & Loans		
1. Political Action Committees:		
Savings & Loan League National.	Savings Assn PEC	92,424
Savings & Loan League—		
California.	Century Club Pasadena	12,401
*Colorado.	Savings Assn PEC CO	0
*Florida.	Savings & Loan PAC FL	1,101
Michigan.	Savings Assn Pub Aff Comm MI	9,983
New Jersey.	SAPEC NJ	4,731
New York.	Savings Assn PAC NY	14,230
Ohio.	Savings & Loan PAC OHIO (SALPAC–O)	25,762
Pennsylvania (6–30).	Public Affairs Comm of Savings Assns	39,648
	Subtotal	200,280
2. Savings institutions:		
*Citizens Savings & Loan Assn.	Citizens Savings PAC, San FRan	8,025
*City Federal Savings & Loan, New Jersey.	City FedPAC (Elizabeth)	0
Financial Federation Inc. (6–30).	FF Good Govt Fund (Los Angeles)	1,357
Savings Bankers.	Savings Bankers NP PAC	9,176
National League League of Insured Savings Assn.	Natl League PAC	1,027
	Subtotal	19,585
C. Credit unions:		
*Assoc. Credit Bureaus Inc. Texas.	Consumer Reporting & Collection Executives PAC	0
*Consumer Bankers Assn.	Consumer Bankers Assn PAC (CONPAC)	2,474
Credit Union Council.	Credit Union Legisl Act Council	9,064
Credit Union League Indiana.	Indiana Credit Union League Inc	1,812
Credit Union League Michigan.	M-C-U Legisl Act Fund	1,052
	Subtotal	14,402
D. Miscellaneous:		
*Household Finance Corp.	House PAC	0
Mortgage Bankers.	Mortgage Bankers PAC (MORPAC)	27,506
Savings Bankers.	Savings Bankers NP PAC	9,176
	Subtotal	36,682
E. Securities;		
Merrill Lynch.	Effective Govt Assn	70
Mitchell Hutchins.	Miachell Hutchins Vol Pol Fund	13,066
Paine Webber.	Paine Webber Fund for Better Govt	3,859
Securities Industry.	Securities Industry Camp Comm	50,974
Smith Barney.	SB Better Govt Comm	2,355
	Subtotal	70,324

CAMPAIGN FUNDS OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES—Continued

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE—Continued

BUSINESS—continued

Affiliation or interest	*Committee name*	Closing cash
Food and food processing		
A. Beverages:		
Coca Cola Co.	Non-partisan Comm for Good Govt (GA)	30,043
*Coors Adolph Co.	Coors Emp PAC	0
*Distilled Spirits Institute.	Distilled Spirits Public Affairs Council	320
*Pepsico, Inc.	Pepsico PAC	0
	Subtotal	30,363
B. Retail:		
*N A of Retail Grocers.	Retail Grocers PAC	0
*Handy Andy Inc.	Handy Andy PAC	0
*Piggly Wiggly Southern.	PWS Good Govt Comm (Vidalia)	0
*Winn-Dixie Stores, Inc.	Southeastern GGovt Comm	0
	Subtotal	0
C. Other:		
Am Bakers Assn.	BREAD PAC	28,573
Am Frozen Food Institute.	Freezers PAC	1,257
Canning Industry.	Canners Pub Aff Comm	3,478
DelMonte Corp.	DelMonte Vol NP GGovt Comm	2,746
*Dillingham Corp.	Dillingham Emp Cit Act Program	12,150
*Cane Sugar Refiners Assn.	Cane Sugar Refiners PAC	1,701
*Flowers Industries, Inc.	Flowers PAC, Thomasville GA	0
Food Industry, D.C.	Food Industry GGovt Comm	6,372
Food Processing Industry (9–10).	Food Processor Pub Aff Comm	1,335
*Gerber Products Co.	Gerber PAC	0
Krause Milling Co.	East Wisconsin Club	17,168
Meat Industry (6–30).	Meat Industry PAC	515
Natl Confectioners Assn.	Govt Improvement Group	4,427
*Pillsbury Co.	Active citizenship program	0
*Quaker Oats Co.	Public Interest Comm	0
	Subtotal	79,725
Forest products:		
*Boise Cascade.	Boise Cascade Emp. GGovt Fund	0
*Crown Zellerbach Corp.	Crown Emp. Pol. Fund	8,944
Forest Products (6–30).	Rosario Fund	415
Forest Products Industry.	Forest Products Pol. Comm	18,492
Fort Vancouver Plywood Co. (1–30–76).	Fort Vancouver Plywood Co. Emp. PAC	62
Georgia Pacific Corp.	G–P Emp. Fund	35,014
*Intl. Paper Co.	Vol. Contributors for Better Govt	0
Kirby Lumber Co.	Pine Tree Pol. Comm	3,576
Mountain Fir Lumber Co.	Mountain Fir Pol. Comm	1,106
*Natl. Lumber and Bldg. Assn.	Lumber Dealers PAC (LUMPAC)	0
Weyerhaeuser Co. Interests.	Hanson Fund	32,316
Weyerhaeuser Co.	Tacoma Fund	4,663
*Union Camp Corp.	Union Camp PAC	27,446
	Subtotal	132,028
Hotel, motel and restaurants:		
Am. Hotel and Motel Assn.	American Hotel Motel PAC (AHMPAC)	17,047
Convenient Industries of Am.	Food Operators Pol. Act. Cr. (FoPAT)	997
Natl. Restaurant Assn.	Restaurateurs PAC	39,291
	Subtotal	57,335
Insurance:		
*Am. General Insurance Co., Texas.	American General PAC	8,767
CNA Financial Corp. (9–30).	CNA Civic Responsibility Comm	23
Independent insurance agents.	American Insur. Mens PAC (AIMPAC)	6,632
Independent insurance agents, GA (6–30).	Independent Insurance Agents PAC	5,898
*Kansas City Life Insurance Co.	Kansas City Life Emp. PAC	0
Kemper Insurance Co., Illinois.	Kemper Camp Fund	2,642
Life Underwriters—National.	Life Underwriters PAC (LUPAC)	122,248
*Life Underwriters—Texas.	Life Underwriters PAC Texas	40,851
Metropolitan Life Insurance Co., N.Y.	Metropolitan Emp. Pol. Participation Fund	30
Mortgage Insurance Companies of America (3–15).	Mortgage Insurance PAC	559
N. A. of Insurance Agents.	Natl. Agents PAC (NAPAC)	10,786
*N/A.	Insurance Pub. Aff. Council, Chicago	3,110
*Utica Mutual Insurance Co.	Insurance Executives PAC	121
	Subtotal	201,672

CAMPAIGN FUNDS OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES—Continued

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE—Continued

BUSINESS—continued

Affiliation or interest	Committee name	Closing cash
Machinery:		
*Deere & Co.	Illinois Fund	8,042
Machinery Dealers Natl. Assn. (6-30).	Machinery Dealers PAC	925
*Martin Tractor Co.	Kansas Econ. Educ. Pol. Club	0
Tool Die Industry.	Tooling & Machining Ind. PAC	371
	Subtotal	9,338
Pharmaceuticals:		
Johnson & Johnson.	Johnson & Johnson GGovt. Fund	71
Martion Laboratories Inc.	Mid-America Comm. for Sound Govt	7,025
N. A. of Chain Drug Stores.	Chain Drug Stores PAC	2,348
*N. A. of Pharmacists.	Natl. Assn. of Pharmacists PAC	1,374
Pharmaceutical Mfrs. Assn.	Pharmaceutical Mfrs. Assn. Better Govt. Comm	1,848
*Proprietary Assn., The	Proprietary Industry PAC	1,585
Smith, Kline & French.	SKF Vol. NP Pol. Fund	1,902
	Subtotal	16,153
Railroads:		
Atchison, Topeka & Santa Fe.	Civic Trust 80 Santa Fe Emp. for GGovt	18,207
Burlington Northern Inc.	Burl. North Off. Vol. GGovt. Fund	31,101
Chicago & Northwestern RR Co.	Northwestern Off. Trust Acct	180,252
Chicago, Milwaukee, St. Paul & Pacific RR.	Milwaukee Off. Trust Acct	1,334
Gen. Am. Transp. Corp.—RR cars	Riverside Civic Assn	875
Illinois Central Gulf RR Co. (sub of I. C. Industries).	ICG Good Govt. Fund	8,200
I. C. Industries.	Industries Civic Trust	3,532
Louisville & Nashville RR.	Non-Partisan Vol. Pol. Fund	615
St. Louis-San Francisco RR.	Frisco Emp. Comm. for GGovt	8,070
Seaboard Coastline RR.	Special Projects Group	15,728
Southern Pacific Co.	Southern Pac. Mgmt. Officers GG Fund	11,107
Southern Railway System.	Southern Ry. GGovt. Fund	16,305
Southern Railway System.	Southern Ry. Tax Elig. GG Fund	1,700
Union Pacific Corp.	Fund for Effective Govt	2,817
	Subtotal	299,843
Real estate:		
Am Land Title Assn.	Title Industry PAC	27,230
Natl Apartment Assn (4-8).	Apartment PAC	813
N A Realtors:	Realtors PAC (RPAC)	316,014
National.		
Minnesota.	Minn Real Estate PEC	33,790
Nebraska (6-30).	Nebraska Real Estate PAC	9,942
North Carolina.	North Carolina Real Estate PEC	2,084
Oregon.	Oregon Real Estate PEC	11,448
Virginia (9-30).	Virginia Real Estate PEC (VAREPEC)	0
*Washington.	Real Estate PEC of Washington	2,592
*Natl Realty Comm, DC.	Natl Realty PAC	0
	Subtotal	403,913
Transportation:		
*Alaskan Skies Assn, Natl.	Alaskan Skies Assn Natl	1,377
*Allegheny Airlines.	Allegheny PAC	3,475
Am Export Lines Inc.	American Export Lines PAC	200
*Am Public Transit Assn.	APTA-PAC	1,674
*Budd Co.	Budd Citizenship Comm	0
Freight Forwarders Institute, DC.	Part IV Frgt Forwarders PAC	13,925
Genl Aviation Manufacturers Assn.	Gen Aviation Pub Aff Comm	374
*Metro Services, Texas.	Concerned Citizens PAC	386
*Matson Navigation (sub of Alex & Baldwin).	Matson Emp Fed Govt Prog	1,252
N A of Motor Bus Owners.	Bus Ind Pub Aff Comm (BUSPAC)	667
N A of Schl Bus Contr Operators.	Non-Partisan Transportation Action Comm	738
Natl Automobile Dealers Assn.	Comm of Auto Retailers (CAR)	3,511
*National Auto Dealers Assn, Natl.	Automobile & Truck Dirs Elect Act Comm	141,857
*Natl Auto Dealers Assn, Texas.	Automobile Dealers PAC, Texas	0
Natl Auto Dealers Assn, Wisc.	Campaign Fund for Dealers PAC (Racine)	0
*Pan American Airlines.	Pan Am PAC	0
*Pullman Inc.	Pullman Emp Govt Fund	899
Texas Good Roads Assn.	Texans for Better Transportation	290
Trucking Industry.	Truck Operators Non-Partisan Operators	40,089
Am Imported Auto Dealers Assn.	AIADA PAC	8,451
	Subtotal	219,165

CAMPAIGN FUNDS OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES—Continued

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE—Continued

BUSINESS—continued

Affiliation or interest	*Committee name*	Closing cash
Utilities:		
*Columbus & S. Ohio Electric Co.	Hickory Street Fund	4,255
*Florida Power & Light Co.	Constructive Congress Comm	0
Pacific Gas & Electric Co (CA).	Good Govt Fund, San Francisco	13,921
Southern CA Edison Co.	Federal Citizenship Responsibility Group	11,154
	Subtotal	29,330
Other:		
*Am Assn of Nurserymen.	Nursery Industry PAC	1,418
Am Book Publishers Assn.	American Book Publishers PAC	5,678
Am Cotton Shippers Assn.	Comm Org for the Handling of Cotton (COTCO)	3,719
*Am Express Co.	American Expr Off Program for Responsible Govt	1,949
Am Importers Assn (11–29).	American Intl Trade Pol Aff (AIRPAC)	1,255
Am Society of Executives.	Effective Govt Group	364
*Am Retail Assn.	Retail PAC	0
*Am Textile Mfrs Assn.	American Textile Indust Comm for GGovt	32,739
Boating Information Council.	Boating Info Council PAC	886
*Broyhill Furntiure Industries.	Broyhill PAC (Lenoir, NC)	2,836
*Continental Can Co.	Continental Can Civic Assn	0
*Corning Glass Works.	Corning Glass Works Emp PAC	0
Cotton Warehouse Assn of Am (TN).	Comm of One Hundred	97
N/A.	Comm for Advancement of Cotton	6,821
*Evergreen Associates, Everett WA.	Evergreen Associates PAC	0
Gould Inc.	Responsible Govt Fund	39,452
*John W. Graham Co (1–10–76).	John Graham PAC	65
*N/A.	Marco Comm for Effect Govt (Baltim)	1,716
*Marcor Inc.	Marcor Inc PAC	0
Mobile Homes Mfrs Assn.	Mobile Home Act Program	265
*Montgomery Ward & Co.	Montgomery Ward Pol PAC	0
Natl Home Furnishings Assn.	Home Furnishings Pol Comm	903
Norgren CA Co.	Littleton Comm for Pol Ed	3,955
*Producers Cotton Oil Co (CA).	Producers GGovt Program	670
*RJ Reynolds Industries Inc.	RJRI GGovt Fund Comm	0
Texas Instruments Co.	Constructive Citizenship Prog	10,742
Tobacco Industry.	Tobacco Peoples Pol Aff Comm	17,377
*TRW.	TRW Good Govt Fund	0
*Wheelabrator-Frye Inc.	Comm for a Sensible Govt	0
*Wellman Industries, Johnsonville, SC.	Wellman Ind GGovt Fund	0
*Wellman Industries, Johnsonville, SC.	Wellman Ind Tax Equity GGovt Fund	0
	Subtotal	132,894
	Total, All business	3,055,494

AGRICULTURE AND DAIRY

Dairy:		
Assoc Milk Producers Inc.	Comm for Thor Agri Pol Ed (C-TAPE)	1,811,702
Dairymen Inc:	SPACE—Trust for Spec Agri Comm Ed	310,113
Georgia.	Georgia Comm for Pol Act	9,978
Kentucky (1–31–76).	Kentucky Comm for Pol Act	9,300
Louisiana.	Louisiana Comm for Pol Act	6,810
Mississippi.	Mississippi Comm for Pol Act	7,728
Tennessee.	Tennessee Comm for Pol Act	3,250
Virginia.	Virginia Comm for Pol Act	13,300
Land O'Lakes Inc.—Dairy.	M-PACT—Midwest Pol Act Coop Trust	1,941
Mid-America Dairymen Inc.	ADEPT—Agri & Dairy Ed Pol Trust	330,437
Northwest Dairymen's Assn. (6–30).	North Pacific Dairymen's Coop Trust	1,714
	Subtotal	2,506,773
Other agriculture:		
Alexander & Baldwin, Hawaii.	A & B Emp Vol Pol Comm for Fed Cands	2,813
Am Natl Cattlemen's Assn.	Cattlemen's Act Legal Fund (CALF)	47,642
Am Rice Growers Coop Assn.	Rice Producers PAC	5,680
California-Arizona Citrus League.	Calif-Ariz Citrus League Fund	575
California Canning Peach Assn.	Growers for Effective Govt	691
California Agriculture.	Comm on Agri Pol (Calif)	29,568
California Rice Fund.	Calif Rice Fund	44,021
Farmers Educ & Coop Union of Am.	Rural Americans for Voter Reg & Act	3,243
Florida Agriculture	Florida Agri Educ Comm	2,387
National Council of Farmer Coops	PACE—Pol Act for Coop Effectiveness	6,604
National Council of Farmer Coops.	Pol Act for Coop Effectiveness KS	581
Rice & Soybean Growers.	Rice & Soybeans PAC	42,216
*United Fruit & Vegetable Assn.	United PAC (UNIPAC)	0
	Subtotal	186,021
	Total Agriculture and Dairy	2,692,794

CAMPAIGN FUNDS OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES—Continued

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE—Continued

HEALTH

Affiliation or interest	*Committee name*	Closing cash
American Dental Association:		
National.	American Dental PAC	$218,740
Arizona.	Arizona Dental PAC	943
Arkansas (9–30).	Arkansas Dental PAC	725
California.	California Dental PAC	116,822
D.C.	DC Dentists for Effect Govt	234
Florida.	Florida Dental PAC	91,611
*Idaho (9–30).	Idaho Dental PAC	1,230
Illinois.	Legis Int Com of Illinois Dentists	N/A
*Indiana.	Indiana Dental PAC	4,808
Iowa.	Iowa Dental PAC	4,860
*Kansas.	Kansas Dental PAC	0
Kentucky (9–30).	Kentucky Dental PAC	2,978
*Louisiana.	Louisiana Dental PAC	0
*Maine (6–30).	Maine Dental PAC	835
*Minnesota.	Minnesota Dental Hlth Pub Aff Com	0
*Nebraska.	Nebraska Dental PAC	3,573
Nevada (7–10).	Nevada Dental PAC	4,726
New Hampshire.	New Hampshire Dental PAC	1,984
New York.	Empire Dental PAC	24,388
North Carolina.	North Carolina Dental PAC	19,831
Ohio.	Ohio Dental PAC	26,349
Oklahoma (7–9).	Oklahoma Dental PAC	15,107
Pennsylvania.	Pennsylvania Dental PAC	21,033
Tennessee.	Tennessee Dental PAC	9,990
Utah.	Utah Dental PAC	4,712
Washington.	Washington Dental PAC	36,531
*Wyoming.	Wyoming Dental PAC	782
	Subtotal	612,792
American Medical Association:		
National.	American Medical PAC (AMPAC)	712,812
D. C. Exec (9–30).	Physicians Comm for GGovt	0
Alabama (9–30).	Alabama Medical PAC	17,590
Alaska (9–30).	Alaska Medical PAC	2,648
Arizona.	Arizona Medical PAC	10,696
Arkansas.	Arkansas PAC	3,521
California.	California Medical PAC (CALPAC)	87,398
California.	Comm for Govt Improvement	149
California.	L.A. County Physicians Comm	29,960
Colorado.	Colorado Medical PAC (COMPAC)	2,205
Connecticut (3–10).	Conn Medical PAC (COMPAC)	3,340
D.C.	District of Columbia PAC (DOCPAC)	4,428
Florida.	Florida Medical PAC (FLAMPAC)	50,488
Georgia.	Georgia Medical PAC	51,990
Hawaii.	Hawaii Medical PAC	2,194
Idaho.	Idaho Medical PAC	3,577
Illinois.	Illinois Medical PAC	52,500
Indiana.	Indiana Medical PAC	41,967
Iowa.	Iowa Medical PAC	14,885
Kansas.	Kansas Medical PAC (KANPAC)	7,388
Kentucky.	Kentucky Ed Med PAC (KENPAC)	2,376
Louisiana (8–31).	Louisiana Medical PAC (LAMPAC)	12,257
Maine (6–30).	Maine Medical PAC	517
Maryland.	Maryland Medical PAC	38,120
Massachusetts (6–30).	Bay State Physicians PAC (BAYPAC)	725
Michigan.	Michigan Doctors PAC	11,439
Minnesota.	Minnesota Medical PAC	26,354
Mississippi.	Mississippi PAC	2,457
Missouri.	Missouri Medical PAC	16,382
Montana.	Montana PAC (MONTPAC)	2,397
Nebraska.	Nebraska Medical PAC	9,154
Nevada.	Nevada Medical PAC (NEMPAC)	4,560
New Jersey (2–28).	New Jersey Medical PAC (JEMPAC)	4,624
New Mexico.	New Mexico Medical PAC	4,448
New York (2–28).	Empire Medical PAC	74
North Carolina.	North Carolina Medical Pol & Act Comm	12,312
North Dakota.	North Dakota Comm on Med Pol Act (COMPAC)	1,505
Ohio (9–30).	Ohio Medical PAC	57,296
Oklahoma.	Oklahoma Medical PAC	12,005
Oregon.	Oregon Medical PAC	14,143
Pennsylvania.	Pennsylvania Medical PAC	55,385
Rhode Island.	Rhode Island Medical PAC (RIMPAC)	1,657
South Carolina.	South Carolina PAC (SOCPAC)	4,937

CAMPAIGN FUNDS OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES—Continued

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE—Continued

HEALTH—continued

Affiliation or interest	*Committee name*	Closing cash
South Dakota.	South Dakota PAC (SODAPAC)	1,307
Tennessee.	Independent Medicine's PAC	19,840
Texas.	Texas Medical PAC (TEXPAC)	159,715
Utah.	Utah Medical PAC (UMPAC)	5,510
Vermont.	Vermont Education & Medical PAC	1,254
Virginia.	Virginia Medical PAC (VAMPAC)	9,975
Washington.	AMPAC—State of Washington	7,193
Wisconsin.	Wisconsin Physicians PAC	12,997
Wyoming.	Wyoming PAC	4,327
	Subtotal	1,616,978
American Nursing Home Association:		
*California.	ANHEPAC—Am Nursing Home Ed & PAC	25,067
Texas.	CAHEPAC—CA Assn of Nurs Homes Ed & PAC	783
Virginia 6-30.	Nursing Home Admin PAC of Texas	22,115
Colorado.	Virginia Nursing Home Assn PAC	5,074
	CANHEPAC—Colorado Assn Nurs Home Ed & PAC	533
	Subtotal	53,572
Miscellaneous:		
Am Academy of Family Physicians.	Family Physicians PAC	1,995
Am Nurses Assn.	N-CAP, Nurses Coalition for Act in Politics	18,109
Am Optometric Assn.	American Optometric Assn PAC	36,261
Am Physical Therapy Assn.	American Phys Therapy Cong Act Comm	985
Am Podiatry Assn.	Podiatry PAC	52,222
Am Society of Oral Surgeons	Oral Surgery PAC	75,097
Am Society of Oral Surgeons.	Our United Republic PAC	0
Federation of American Hospitals.	FEDPAC—Arkansas	42,114
*N/A (6-30).	Group Practice Pol Comm (VA)	7,120
*N/A.	Group P Comm (TX)	615
Illinois Dentists.	DIAL—Dentistry Interesting in Action on Legislation	17,638
Minnesota Health Group (6-30).	Natl Comm for Full Health Care	46
*New Jersey Health Group.	New Jersey Health Care PAC	878
*Oregon Health Group.	Chiropractic PAC Oregon	5,674
Opticians Assn of Am.	Opticians Comm for Pol Ed	837
	Subtotal	259,591
	Total	2,542,933

LABOR

AFL-CIO:		
National.	AFL-CIO COPE PEC	51,431
Arkansas.	Arkansas COPE	625
California.	L A County COPE (CO PCC	9,797
California.	Volunteers for VLPC, L A County	2,254
California (2-28).	COPE Santa Clara County	7,945
Colorado.	COPE Colorado	675
Connecticut.	AFL-CIO Conn COPE	0
*Connecticut (3-10).	Conn State AFL-CIO Pen Camp Comm	0
Kentucky.	Kentucky State AFL-CIO COPE	1,834
Michigan.	Michigan State AFL-CIO COPE Vol Fund	32,085
Missouri (1-10-76).	Missouri State Labor Council COPE	3,771
North Carolina.	North Carolina State COPE AFL-CIO	0
Ohio (2-28).	Ohio AFL-CIO COPE	61
Ohio (6-30).	Cleveland AFL-CIO COPE	1,060
Ohio.	Toledo Area AFL-CIO Council	12,749
*Ohio (7-10).	Franklin County PAC Vol Fund	22
Oklahoma.	Oklahoma State AFL-CIO Free Pol Camp Fd	1,170
Oregon.	Oregon COPE AFL-CIO	6,903
Texas.	Texas COPE	25,507
Utah.	Utah State AFL-CIO	0
Washington.	Washington State COPE	1,762
West Virginia.	West Virginia AFL-CIO COPE	2,537
Wisconsin.	Wisconsin State AFL-CIO COPE	10,333
Wisconsin (6-30).	Appleton Fed of Lab AFL-CIO	1,056
	Subtotal	173,577

CAMPAIGN FUNDS OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES—Continued

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE—Continued

LABOR—continued

Affiliation or interest	*Committee name*	Closing cash
Building and construction trades:		
Boilermakers.	Legislative Education Action Progm (LEAP)	16,110
Bricklayers.	Bricklayers Action Comm	2,754
Building & Construction Trade.	PEF of the Bldg & Constr Tr	76,220
Carpenters.	Carpenters Legisl Improvement Comm	79,248
Carpenters—California.	Carpenters Comm on Pol Act	1,696
*Carpenters—California (9–10).	State Cncl of Carpenters PAF	5,743
Carpenters—Ohio.	Ohio St Council of Carpenters	12,687
Electrical Workers (IBEW).	IBEW–COPE (Electrical Workers)	23,997
*Electrical Workers (IBEW)—Iowa (1–31).	IBEW COPE Local 1362	3,068
*Electrical Workers (IBEW)—Conn (6–30).	Local #35 Pol Comm Ntl	0
Ironworkers.	Iron Workers Pol Act Lg	7,458
Laborers	Laborers Pol League	193,726
*Laborers—Ohio.	Local Union 860 Laborers Pol Lg	0
Operating Engineers.	Engineers Pol Ed Comm	14,876
Operating Engineers—Calif.	Supporters of Eng Loc 3 Fed Endorsed Candidates	2,220
Operating Engineers—N.J.	O E Local 825 Pol Act & Ed Comm	11,361
Operating Engineers—Wash.	Local 302 Vol Pol Fund, Seattle	46,404
Painters.	Pol Act Together Pol Comm	3,097
Plumbers & Pipe Fitters.	U A Political Education Comm	9,347
	Subtotal	510,012
Government:		
Firefighters.	Fire Fighters COPE	6,688
Firefighters—Virginia (7–10).	Fairfax City Firefighters PAC	63
Firefighters—New York.	Schenectady Firefighters PAC	0
Government Employees (AFGE).	Comm on Fed Emp Pol Ed	5,427
Government Employees (NAGE) (9–30).	Govt Emp Pol Research Institute	1,543
*Letter Carriers.	Comm on Letter Carriers Pol Ed	26,230
Postal Workers.	Pol Fund Comm on Am Postal Wkr	40,214
State-County Municipal Employees.	PEOPLE—Public Employees Organized	8,660
State-County Municipal Employees.	People Qualified Contrib Comm	3,422
State-County Municipal Employees.	Social Serv Emp Un 371 (NY)	277
Teachers (AFT)—National.	American Fed of Teachers	64,566
Teachers (AFT)—Minn.	Minnesota Fed of Teachers COPE	8,798
Teachers (AFT)—New York (UFT).	UFT COPE (NY)	32,251
New York State United Teachers.	VOTE COPE (Voice of Teacher Ed)	177,325
	Subtotal	375,464
Industrial		
A. AFL–CIO Affiliated:		
Chemical Workers (ICWU).	Labors Investment in Voter Ed	8,766
Clothing Workers:		
National.	Amalgamated Pol Ed Comm (APEC)	45,000
Illinois.	Chicago & Midwest PEC (CAMPEC)	6,075
Maryland.	Baltimore Rgn Jt Bd PEC	5,089
Massachusetts (7–10).	Boston Jt Bd Amalg PEC	1,480
Minnesota.	Minnesota Jt Bd PEC	2,725
New York.	New York Jt Bd Pol Act Fund	27,600
New York (3–10).	Rochester Jt Bd PEC	6,850
Clothing Workers—New York.	Amalg Serv and Allied Ind Jt Bd PEC	3,152
Clothing Workers—Pennsylvania.	Clothing Wkrs Pol Comm for Eastern PA	5,253
Clothing Workers—Pennsylvania (9–30).	Amalgamated Pol & Ed Comm of Phila	1,946
Electrical Workers (IUE).	IUE COPE	5,944
Garment Workers, Ladies.	ILGWU Camp Comm	229,717
Glass Bottle Blowers Assn.	GBBA Pol Ed League	7,250
Industrial Unions Dept.	IUD Voluntary Funds	39,832
Machinists:	MNPL:	
National (1–31–76).	Match NP Pol League	309,107
California.	District 727 Chap., Burbank	68
Colorado.	Colorado	46
Iowa.	of Iowa Cncl of Mach	5,236
Michigan.	of Michigan (Machinists)	0
Michigan.	District Lodge 117 Reading	
Minnesota.	of Minnesota	3,928
Minnesota.	Bean Feed Comm St. Paul	4,118
Minnesota.	Twin City Area St. Paul	7,471
Missouri.	Dist 9, Bridgeton	4,333
Missouri.	Dist 71, Kansas City	492
Ohio.	Ohio State Council	1,637
Oregon.	of Oregon	514
Pennsylvania (6–30).	Penn State IAM	1,911
Texas	Texas State Council	942

CAMPAIGN FUNDS OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES—Continued

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE—Continued

LABOR—continued

Affiliation or interest	Committee name	Closing cash
Texas (9-30).	Local Lodge 15, [illegible]iston	4,960
*Texas.	Texas Airline Di[illegible]t 146	827
Washington.	Dist 751 Seattle	2,312
*Washington.	Washington Stat[illegible]	918
*Wisconsin.	of Wisconsin	970
*Wisconsin.	Dist 10 Milwaul[illegible]	13,973
Oil Chemical & Atomic Workers.	OCAW Pol & Legisl[illegible]ague	20,111
Pulp & Papermill Workers.	United Paper Work[illegible] Intl Union	17,118
Rubber Workers.	COPE of UTD Rub[illegible] Wkrs	48,844
Rubber Workers—Colorado.	United Rub Wkrs L[illegible]l 154 PEC Denver	815
Rubber Workers—Kansas (9-30).	COPE Vol Contr Fu[illegible] UTD Rubber #307	0
Sheet Metal Workers.	Pol Act League—S[illegible] Metal	88,610
Steelworkers (1-1-76).	United Steelworker[illegible] Am PAF	465,382
Steelworkers—Pennsylvania.	United Steel Wkrs o[illegible]m Dist 7 Ptsbg	409
Textile Workers (TWU).	TWUA Pol Fund	25,382
	Subtotal	1,427,113
Industrial		
B. United Auto Workers, Independent:		
United Auto Workers, independent.	Comm for Good Gv[illegible] Detroit)	294,278
United Auto Workers, independent.	UAW-V-CAP	633,904
United Auto Workers, independent (2-28).	365 CAP Council Fu[illegible] (Brooklyn)	5,709
*United Auto Workers, independent (12-31).	Greater Flint Comm[illegible]ct Cncl Vol Fund	4,761
	Subtotal	938,652
Maritime related:		
Longshoremen.	Broolyn Longshmn [illegible] Act & Ed Comm	81,308
Longshoremen (Masters Mates).	Masters, Mates & Pi[illegible]t Pensioners Action Fund	491,293
Marine Engineers.	MEBA Pol Act Fund	273,113
Marine Engineers.	District 2 MEBA—[illegible]) Pol Act Fund	149,461
Marine Engineers.	MEBA Retirees Gro[illegible] Fund	76,784
Marine Engineers (Air Traffic Controllers).	PATCO PAC	9,151
Maritime (NMU).	NMU Pol & Leg Orga[illegible]n On Watch (PLOW)	50,213
Seafarers.	Seafarers Political [illegible]ivity Donation	69,353
Seafarers (Marine Cooks).	Marine Cooks & Ste[illegible]ds Pol Def Fund	61,390
Seafarers (Marine Firemen).	Marine Firemen's U[illegible]n Pol Act Fund	7,359
Seafarers (Sailors-Pacific).	Sailors Pol Fund	77,907
	Subtotal	1,347,332
Service:		
Motel & Restaurant Empl.	H & RE & BIU COP[illegible]	87,344
Meatcutters.	AMCOPE	68,889
*Meatcutters, North Carolina.	Local 525 Vol Pol A[illegible] Fund, Asheville	0
Retail Clerks—National.	Active Ballot Club	278,210
Retail Clerks—California (11-3).	Active Ballot Club [illegible]8 San Francisco	880
Retail Clerks*—California.	Active Ballot Club [illegible]28 San Jose	208
Retail Clerks—Maryland.	Active Ballot Club [illegible]2 Baltimore	2,227
Retail Clerks—New Jersey.	Active Ballot Club [illegible]262 Clifton	16,373
Retail Clerks—New York.	Active Ballot Club [illegible]00 Queens Vil	6,196
Retail Clerks—New York (2-28).	Active Ballot Coun[illegible] #6 Queens Vil	2,659
Retail Clerks—Ohio.	Active Ballot Club [illegible]) Cleveland	4,016
Retail Clerks—Pennsylvania.	Active Ballot Club [illegible]93 Reading	0
Retail Wholesale (7-10).	Local #2 Pol Act F[illegible]d (NYC)	1,447
Retail Wholesale (9-30).	District 65 Pol Act F[illegible]d (New York)	2,524
Retail Wholesale.	Dist. 1199 Pol Act F[illegible]d (NYC)	14,728
Service Employees.	SEIU-COPE PCC	48,086
Plant Guard Workers, Ind.	PAC UPGWA	1,810
*Utility Workers.	Utility Workers of [illegible] Pol Contrib Comm	0
	Subtotal	535,597
Transportation—A. Railway:		
Brhood of Railway Carmen.	Railway Carmen Po[illegible]ague	16,104
Brhood of Railway Carmen NY (3-10).	Bhood of RWY Car[illegible]a Lodge 886 PAC	4,290
Firemen & Oilers.	Intl Bhood Firem & [illegible]ers Pol League	2,306
Railway Clerks Illinois.	Illinois State Legisl[illegible]n (ERAC) Pol Ed Fund	1,505
Maintenance of Way Employees.	Maintenance of Wa[illegible] Pol League	26,192
Railway Clerks.	Railway Clerks Pol [illegible]ague	152
Railway Labor Exec Assn.	Railway Labor Exe[illegible]sn Pol League	25,300
Railroad Signalmen.	Signalmen's Pol L[illegible]ue	3,258
	Subtotal	79,107

CAMPAIGN FUNDS OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES—Continued

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE—Continued

LABOR—continued

Affiliation or interest	*Committee name*	Closing cash
B. Other transportation:		
*Amalgamated Transit Union.	ATU COPE Pol Contribs Comm	8,406
Transport Workers (TWU).	Transport Workers Union PCC	99,869
Transportation Union (UTU).	Transportation Pol Ed League	411,705
*Pan American Chap Flight Eng Intl Assn.	Pan Am Flight Engineers PAC	0
	Subtotal	519,980
C. Teamsters, Independent:		
Teamsters, Independent:		
National.	DRIVE Dem Rep Ind Voter Education	9,950
*Alabama.	DRIVE Jt Council 85 Birmingham	3,727
Alaska.	DRIVE Alaska ALIVE Vol Comm	28,769
Arkansas (8-31).	DRIVE Little Rock	10,050
California.	DRIVE #42 Los Angeles	31,798
Connecticut.	DRIVE #559 Newington	2,709
Georgia.	DRIVE Atlanta	2,357
Teamsters, Independent:		
Illinois.	DRIVE Joint Council 65 Springfield	6,886
*Indiana.	Local Union 364 Voter Ed Pol Fund	5,222
Iowa.	DRIVE Sports Award	76
Do.	DRIVE #238 Cedar Rapids	476
Kentucky.	DRIVE Joint Council 94 Louisville	2,745
Louisiana.	DRIVE #568 Shreveport	590
Maine.	DRIVE #340 South Portland	2,861
Maryland.	DRIVE #557 Baltimore	13,616
Massachusetts.	DRIVE Joint Council 10 Boston	19,684
Do.	DRIVE Local Union #25 Boston	5,421
Michigan.	DRIVE Political Fund Detroit	315
Minnesota.	DRIVE Minnesota	18,562
Missouri.	DRIVE Joint Council 13 St Louis	6,642
New Jersey (9-30).	DRIVE New Jersey	459
North Carolina.	DRIVE Carolina Chapt 1 Greensboro	582
Ohio.	DRIVE Ohio	53,459
Oklahoma (3-10).	DRIVE #886 Oklahoma City	1,622
Pennsylvania.	DRIVE Local 115 Philadelphia	12,733
Texas.	DRIVE Texas	636
Do.	DRIVE Local 745 Dallas	49,995
Do (9-30).	DRIVE #968 Houston	504
Do (3-10).	DRIVE #941 El Paso	1,169
Do (9-30).	DRIVE #47 Fort Worth	5,833
Virginia.	DRIVE #592 Richmond	5,833
	Subtotal	299,811
	MISCELLANEOUS	
Miscellaneous:		
Clothing workers, longshoremen, operating engineers, seafarers.	Labor Comm for Pol Act in NY State	2,580
Am Radio Assn (6-30).	American Radio Assn COPE PCC	613
Communication Workers.	CWA-COPE PCC	178,910
*Communication Workers.	CWA Dist #1 PAC, NYC	5,494
*Communication Workers.	CWA Dist #2 PAC, DC	10,034
*Communication Workers.	CWA Dist #3 PAC, Georgia	994
*Communication Workers.	CWA Dist #4 PAC, Ohio	7,552
*Communication Workers.	CWA Dist #5 PAC, Illinois	10,951
*Communication Workers.	CWA Dist #6 PAC, Missouri	22,995
*Communication Workers.	CWA Dist #7 PAC, Nebraska	2,638
Miscellaneous:		
*Communication Workers.	CWA Dist #8 PAC Colorado	252
*Communication Workers.	CWA Dist #9 PAC, CA—SanFran	1,330
*Communication Workers.	CWA Dist #10 PAC, Alabama	559
*Communication Workers.	CWA Dist #11 PAC, CA—LosAng	1,379
*Communication Workers.	CWA Dist #12 PAC, Texas	34,049
Farmworkers (6/30).	Farmworkers Pol Ed Fund	15,276
Furniture Workers.	UFWA COPE	1,294
Graphic Arts Union.	Graph Arts Intl Union COPE	13,300
Molders.	Intl Molders & Allied Wkrs Un COPE	5,326
Office & Prof Employees.	Voice of the Electrorate "VOTE"	3,396
Office & Prof Employees, New York.	OPEIU Local 153 VOTE Comm	7,184
Mine Workers.	Coal Miners Pol Act Contribs Comm	17,486
	Subtotal	337,059
	Total labor	6,600,237

CAMPAIGN FUNDS OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES—Continued

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE—Continued

MISCELLANEOUS—continued

Affiliation or interest	*Committee name*	Closing cash
Environment and conservation:		
League of Conservation Voters.	League of Conservation Voters Camp Fund	$4,317
League of Conservation Voters.	League of Conservation Voters	1,641
League of Conservation Voters CA.	California League of Conservation Voters	0
League of Conservation Voters GA (1-31).	Georgia League of Conservation Voters	256
League of Conservation Voters OR (1-31).	Oregon League of Conservation Voters	0
	Subtotal	6,214
Rural electrification:		
Natl. Rural Electric Coop Assn.:	Act Comm. for Rural Electrification (ACRE)	54,830
Colorado (9-30).	Colorado Advocates for Rural Electr. (CARE)	1,828
Indiana.	Indiana Friends of Rural Electr	4,960
Iowa.	Iowa ACRE	1,454
Kansas.	Kansas ACRE	1,795
Kentucky.	Speak Up for Rural Elect. (SURE)	3,647
Mississippi.	Mississippi ACRE	800
Missouri (3-10).	Missouri ACRE	1,457
North Carolina.	Rural Electric Action Program (REAP)	5,805
Ohio (6-30).	Ohio ACRE	1,756
South Carolina.	Electric Coop Help Org. (ECHO)	0
Wisconsin.	Wisconsin ACRE	23
Iowa Assn. of Electric Cooperatives.	Low Cost Energy Comm	6,065
	Subtotal	84,420
Miscellaneous:		
	Concerned Seniors for Better Govt	0
	Congressional Victory Comm	2,594
	*Gun Owners of America (CA)	17,389
(6-30).	Independence Club Pol Comm	0
Natl Women's Political Caucus.	Louisiana Education Group	0
(3-10)	Natl Womens Pol Caucus Camp Sup Comm	7,797
	Saginaw City Public Affairs Council (MI)	2,900
	Senate-House Assn for Resp Elections (SHARE)	0
	Right to Bear & Keep Arms Pol Vict Fd	25,909
	Sportsman PAC (NY)	170
(6-30).	Taxpayers Action Fund	166
	Women For	20,350
	Women's Campaign Fund (DC)	20,453
	Independence '76 (VA)	150
Natl Right to Work Comm.	Employee Rights Camp Comm (VA)	0
	Fund for a Representative Congress Inc	0
	Comm for a New Majority Freedom of Choice Inc	877
	Special Comm for Pol Action (NY)	1,409
Neighborhood School Assn, Claymont.	Public Congress of Delaware	0
	Subtotal	100,164
	Total miscellaneous	190,798

CONGRESSIONAL LEVEL PARTY COMMITTEES

Republican Party Committees:		Democratic Party Committees:	
National Republican Congressional Committee	$348,825	Democratic Congressional Campaign Committee (6-30)	94,412
Republican Congressional Boosters Club	375,178	Democratic Congressional Dinner Committee	30,036
National Republican Senatorial Committee	182,968	Democratic Senatorial Campaign Committee (9-30)	11,112
Republican Candidates Conference (2-28)	51,010	Democratic National Congressional Committee (6-30)	110,252
Republican Campaign Committee (transf 252,926 to RNC)	0	Democratic Congressional Finance Committee	9,040

IDEOLOGICAL

Conservative Groups:		
Am Conservative Union.	American Conservative Union	3,021
Am for Constitutional Action.	Americans for Constitutional Action	11,391
	Comm for Responsible Youth Politics	3,784
	Comm for Survival of a Free Congress	95,326
	Comm of Nine	661
	Conservative Campaign Comm	2,833
	Conservative Victory Fund	2,669
Am Conservative Union.	*National Conservative PAC	56,154
(6-30).	United Congressional Appeal	9,363
	Young America's Campaign Comm	18,920
Conservative Coalition of Iowa.	Friends of Freedom Rally Fin Comm	187
	Subtotal	204,309

CAMPAIGN FUNDS OF SPECIAL INTEREST AND POLITICAL PARTY COMMITTEES—Continued

CASH ON HAND AS OF DECEMBER 31, 1975, SUMMARY BY COMMITTEE—Continued

IDEOLOGICAL—continued

Affiliation or interest	*Committee name*	
Liberal Groups: (6–30).	Congressional Action Fund	1,768
	Council for a Livable World	48,401
(10–6).	Natl Comm for an Effective Congress (NCEC)	77,087
Ripon Society.	One Percent Fund	314
	1974 Campaign Fund	855
	Subtotal	128,425
	Total Ideological	332,734

LAWYERS

*American Trial Lawyers Assn.	Attorneys Congressional Camp Trust	$496,578
*Doherty, Rumble & Butler (Attys).	DR & B Political Fund A (Minn)	1,500
*Doherty, Rumble & Butler (Attys).	Dr & B Political Fund B (Minn)	2,285
*Doherty, Rumble & Butler (Attys).	DR & B Political Fund C (Minn)	571
Lawyers & Clients (Orange Cnty).	Lawyers & Clients for Govt OrangeCnty	296
Patton, Boggs & Brand (Attys, DC).	Comm for Election of Cong Candidates	13,408
	Total Lawyers	514,638

Mr. CLARK. Mr. President, I yield back the remainder of my time.

Mr. CANNON. Mr. President, I wish to make absolutely clear to my colleagues that the provision requested by the White House has been stricken. The substitute, as it is now proposed, simply would reconstitute the Federal Election Commission. It would provide for the appointment of two members every other year. It would not continue the Secretary of the Senate and the Clerk of the House as ex officio members.

It would do nothing about the actions or interpretations of the commission which many Members of Congress believe the commission has erroneously interpreted so far. It would simply provide for the matching funds to be received by Presidential candidates and disbursed by the Commission to the candidates who are in the race. It would permit the Federal Election Commission to go ahead with what limited powers were retained to it under the Supreme Court decision.

I suggest to my colleagues that what we need here is a revision of law to conform completely to the Supreme Court decision and to try to make a campaign reform bill work. We have been working at this for a long time. I believe we have the opportunity now to make a success of it.

I hope my colleagues will defeat the substitute amendment of the Senator from Michigan.

Mr. CHURCH. Mr. President, because a campaign committee which I have authorized has obtained matching funds under the Federal Election Campaign Act, I believe that casting my vote on legislation to amend the act after that fact could be seen as a conflict of interest. Therefore, I am refraining from voting for or against any amendments to the pending bill, or the bill itself.

I would add, Mr. President, that I do believe, on the merits, that the act should be amended to meet the objections raised by the Supreme Court, and that I find great merit in many of the amendments that are proposed. But in order to avoid the appearance of any possible conflict of interest, I shall vote "present" on the amendments offered, as well as on final passage.

Mr. BROCK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The hour of 3 o'clock having arrived, the question is on agreeing to the amendment of the Senator from Michigan in the nature of a substitute, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CHURCH (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Florida (Mr. CHILES), the Senator from Indiana (Mr. HARTKE), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 46, nays 47, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—46

Allen	Ford	Packwood
Baker	Garn	Pearson
Bartlett	Goldwater	Roth
Beall	Griffin	Schweiker
Bellmon	Hansen	Scott, Hugh
Brock	Hatfield	Scott, William L.
Buckley	Helms	Stafford
Byrd, Harry F., Jr.	Hruska	Stennis
Case	Javits	Stevens
Curtis	Johnston	Stone
Dole	Laxalt	Taft
Domenici	Long	Talmadge
Eastland	McClellan	Thurmond
Fannin	McClure	Tower
Fong	Morgan	Weicker
	Nunn	

NAYS—47

Abourezk	Hart, Gary	Mondale
Bayh	Haskell	Montoya
Bentsen	Hathaway	Moss
Biden	Hollings	Muskie
Brooke	Huddleston	Nelson
Bumpers	Humphrey	Pastore
Burdick	Inouye	Pell
Byrd, Robert C.	Jackson	Proxmire
Cannon	Kennedy	Randolph
Clark	Leahy	Ribicoff
Cranston	Magnuson	Sparkman
Culver	Mansfield	Stevenson
Durkin	Mathias	Symington
Eagleton	McGee	Tunney
Glenn	McIntyre	Williams
Gravel	Metcalf	

ANSWERED "PRESENT"—1

Church

NOT VOTING—6

Chiles	Hartke	Percy
Hart, Philip A.	McGovern	Young

So Mr. GRIFFIN's amendment in the nature of a substitute, as modified, was rejected.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BROCK. Mr. President, I ask for the yeas and nays.

Mr. CANNON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. CANNON. Did the Senator vote with the prevailing side?

Mr. MATHIAS. Yes; I did.

The PRESIDING OFFICER. What is the point of order?

Mr. CANNON. The inquiry was did the Senator vote with the prevailing side.

The PRESIDING OFFICER. The Senator who moved to reconsider voted "nay," and that is the prevailing side, so the question is on agreeing to the motion to reconsider. The yeas and nays have been called for. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRIFFIN. Mr. President, during this vote, may we have the well cleared.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRIFFIN. I renew my request that the well be cleared.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. The well will be cleared and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CHURCH (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), and the Senator from South Dakota (Mr. MCGOVERN), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY), would vote "nay."

Mr. CANNON. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. CURTIS). Regular order is called for.

May we have order? Senators will please take their seats.

The result was announced—yeas 49, nays 45, as follows:

[Rollcall Vote No. 71 Leg.]

YEAS—49

Abourezk	Gravel	Mondale
Bayh	Hart, Gary	Montoya
Bentsen	Haskell	Moss
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Huddleston	Pastore
Burdick	Humphrey	Pell
Byrd, Robert C.	Inouye	Proxmire
Cannon	Jackson	Randolph
Chiles	Johnston	Ribicoff
Clark	Kennedy	Sparkman
Cranston	Leahy	Stevenson
Culver	Magnuson	Symington
Durkin	Mansfield	Tunney
Eagleton	McGee	Williams
Eastland	McIntyre	
Glenn	Metcalf	

NAYS—45

Allen	Garn	Pearson
Baker	Goldwater	Roth
Bartlett	Griffin	Schweiker
Beall	Hansen	Scott, Hugh
Bellmon	Hatfield	Scott,
Brock	Helms	William L.
Buckley	Hruska	Stafford
Byrd,	Javits	Stennis
Harry F., Jr.	Laxalt	Stevens
Case	Long	Stone
Curtis	Mathias	Taft
Dole	McClellan	Talmadge
Domenici	McClure	Thurmond
Fannin	Morgan	Tower
Fong	Nunn	Weicker
Ford	Packwood	

ANSWERED "PRESENT"—1

Church

NOT VOTING—5

Hart, Philip A.	McGovern	Young
Hartke	Percy	

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have Pam Weller of Senator STONE's staff and Carey Parker of Senator KENNEDY's staff given the privilege of the floor during further consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1436

Mr. MONDALE. Mr. President, I call up my amendment No. 1436, and ask unanimous consent that its reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE IV—COMMISSION TO STUDY PRESIDENTIAL NOMINATING PROCESS

DECLARATION OF POLICY

SEC. 401. It is hereby declared to be the policy of the United States to improve the system of nominating candidates for election to the office of the President of the United States by studying such system in a broad manner never before attempted in the two-hundred-year history of this Nation.

ESTABLISHMENT OF COMMISSION

SEC. 402. (a) There is established the Bicentennial Commission on Presidential Nominations (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members to be appointed as follows:

(1) six members shall be appointed by the President pro tempore of the Senate, of whom at least two shall be Members of the Senate and at least two shall be elected or appointed State officials;

(2) six members shall be appointed by the Speaker of the House of Representatives, of whom at least two shall be Members of the House and at least two shall be elected or appointed State officials;

(3) six members shall be appointed by the President; and

(4) two members shall be the chairmen of the two national political parties and shall serve as ex officio members.

(c) At no time shall more than three members appointed under paragraph (1), (2), or (3) of subsection (b) be individuals who are of the same political affiliation.

(d) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made, subject to the same limitations with respect to party affiliations as the original appointment.

(e) Twelve members shall constitute a quorum, but a lesser number may conduct hearings. The Chairman of the Commission shall be selected by the members from among the members, other than ex officio members.

FUNCTIONS OF THE COMMISSION

SEC. 403. (a) The Commission shall make a full and complete investigation with respect to the Presidential nominating process. Such investigation shall include but not be limited to a consideration of—

(1) the manner in which States conduct primaries for the expression of a preference for the nomination of candidates for election to the office of President of the United Staes and caucuses for the selection of delegates to the national nominating conventions of political parties;

(2) State laws and the rules of national political parties which govern the participation of voters and candidates in such primaries and caucuses;

(3) the financing of campaigns for the nomination of candidates for election to the office of the President of the United States;

(4) the relationship between candidates for election to the office of the President of the United States and the news media, including how candidates achieve public recognition and whether such candidates should be guaranteed access to the television media;

(5) the interrelationship of the elements described in paragraphs (1) through (4) of this section;

(6) alternative nominating systems, including but not limited to a national or regional primary system for the expression of a preference for the nomination of candidates for election to the office of President of the United States and variations on the present nominating system; and

(7) the manner in which candidates are nominated for election to the office of Vice President of the United States.

(b) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than one year after the enactment of this resolution, a final report of its study and investigation based upon a full consideration of alternatives to our current Presidential nominating system, including an analysis of the strengths and weaknesses of all such alternatives studied, together with its recommendations as to the best system to establish for the 1980 Presidential elections. The Commission shall cease to exist sixty days after its final report is submitted.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 404. (a) The Commission may, in carrying out the provisions of this joint resolution, sit and act at such times and places, hold such hearings, take such testimony, request the attendance of such witnesses, administer oaths, have such printing and binding done, and commission studies by any Federal agency or executive department, as the Commission deems advisable.

(b) Per diem and mileage allowances for witnesses requested to appear under the authority conferred by this section shall be paid from funds appropriated to the Commission.

(c) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification in General Schedule pay rates, but at such rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSATION OF MEMBERS

SEC. 405. (a) Members of the Commission who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(b) Members of the Commission not otherwise employed by the Federal Government shall receive per diem at the maximum daily rate for GS–18 of the General Schedule when they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

TIMELINESS OF APPOINTMENTS

SEC. 406. It is the sense of the Congress that the appointments of individual to serve as members of the Commission be completed

within ninety days after the enactment of this resolution.

AUTHORIZATION OF APPROPRIATIONS

SEC. 407. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this resolution.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the parliamentary inquiry.

Mr. BUMPERS. Is there a time limitation on the Mondale amendment?

Mr. MONDALE. There is none.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Montana (Mr. METCALF) be recognized for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUANCE OF CIVIL GOVERNMENT FOR THE TRUST TERRITORY OF THE PACIFIC ISLANDS

Mr. METCALF. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 12122.

The PRESIDING OFFICER (Mr. CURTIS) laid before the Senate the amendments in the House of Representatives to the bill (H.R. 12122) to amend section 2 of the act of June 30, 1954, providing for the continuance of civil government for the Trust Territory of the Pacific Islands, and for other purposes.

(The amendments of the House are printed in the RECORD of March 11, 1976, beginning at page H1875.)

Mr. METCALF. Mr. President, I have a brief statement on H.R. 12122.

Mr. President, H.R. 12122 was amended by the Senate, which amendment the House has agreed to with further amendments. The House amendments would accomplish two objectives contained in the original version of H.R. 12122. The House amendments would reauthorize the appropriation of $8 million for the construction of facilities for a 4-year college to serve the Micronesian community, but provides that no appropriation may be made until the President has conducted a study to determine the educational need and the most suitable educational concept for such a college and has transmitted that study to the Senate and House Interior Committees, which will have 90 calendar days to review the study recommendations. The second amendment would reinsert the original section 2 of H.R. 12122, which the Senate deleted in its original amendment. Section 2 provides for the extension to Guam of those laws of the United States made applicable to the Northern Mariana Islands by the provisions of section 502(a)(1) of House Joint Resolution 549, which approved the Marianas Commonwealth Covenant. The objective of section 2 is to equalize the treatment of Guam and the Northern Mariana Islands. I understand that the distinguished Senator from Arizona, Mr. FANNIN, has an amendment to offer to section 2 on behalf of the Finance Committee. I recommend that the Senate concur in the House amendments, as amended, by adoption of the amendment proposed by Senator FANNIN, on behalf of the Finance Committee.

Mr. FANNIN. Mr. President, I concur in the statement of the Senator from Montana. Will the Senator from Minnesota yield for me to offer the amendment?

Mr. MONDALE. I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I move that the Senate concur in the House amendments with an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In section 2, after "except for", insert "Section 228 of Title II and Title XVI of the Social Security Act as it applies to the several States and"

Mr. FANNIN. Mr. President, I am offering an amendment which will eliminate from the bill H.R. 12122 a House provision extending certain Social Security Act programs to the territory of Guam. This amendment is being offered on behalf of the Committee on Finance which thoroughly discussed this matter in its meeting of March 9, 1976 and voted to request that these Social Security Act programs not be extended under H.R. 12122. While it is true that the two programs in question—supplemental security income and special social security benefits for the uninsured—would be extended to the new Northern Marianas Commonwealth under the covenant establishing that territory, the Finance Committee believes that these programs were not intended to be applicable beyond the 50 States and the District of Columbia. There are in fact separate programs of assistance for the aged, blind, and disabled which now apply to the jurisdictions of Guam, Puerto Rico, and the Virgin Islands and which are designed to permit locally developed assistance plans tailored to the particular economic and other circumstances of each area.

On March 11, therefore, Senator LONG as chairman of the Committee on Finance introduced legislation which would provide for the establishment in the Northern Marianas Commonwealth of the Social Security Act assistance programs applicable to other territories. At the time that bill was introduced, the Senate had voted to strike from H.R. 12122 the provision extending the supplemental security income program and the special benefits program from H.R. 12122. Subsequently, the House has again added to H.R. 12122 the provision opposed by the Finance Committee and the amendment I am offering would again strike it from the bill.

I ask for the immediate consideration of the motion.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arizona.

Mr. METCALF. I concur in the motion.

The motion was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Montana yield?

Mr. METCALF. I do not have the floor.

Mr. MONDALE. I have the floor. I have an amendment pending. I will be glad to yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Does the Senator have an amendment to the legislation being presented by the Senator from Montana?

Mr. MONDALE. No, I have an amendment to the pending bill.

Mr. HARRY F. BYRD, JR. Before we proceed to that, may I ask the Senator a question?

Mr. MONDALE. I yield.

Mr. HARRY F. BYRD, JR. This is a conference report, I take it, that the Senator from Montana is handling?

Mr. METCALF. No, it is not. The bill that we passed, H.R. 12122, went to the House of Representatives. We received it back with an amendment. We now have moved, or I am going to move in a moment, to concur in the House amendment, with amendments.

Mr. HARRY F. BYRD, JR. May I say to the Senator from Montana that the Senator from Colorado (Mr. GARY HART) has been very much interested in this subject, and he is not here at the moment. I am wondering whether the Senator from Montana would agree to lay this matter aside temporarily until the amendment could be examined and Senator HART could be notified.

Mr. METCALF. I would be delighted to lay it aside, but I am informed that this amendment as passed by the House of Representatives has the concurrence of Senator GARY HART.

We tried to touch all the bases. We tried to meet with Senator FANNIN, Senator MCCLURE, and many other Senators who were concerned with this legislation on this specific amendment. The bill has passed both the House and the Senate. The amendment came over from the House, and we feel that we can concur in the House amendment and the bill as amended by the House.

Mr. FANNIN. Mr. President, if the Senator from Minnesota will yield, maybe I can clarify it for the distinguished Senator from Virginia.

Mr. MONDALE. I yield.

Mr. FANNIN. This amendment is one being offered on behalf of the Finance Committee so we will not be giving privileges to Guam that were in the bill for the Northern Marianas. The first bill that came over to the Senate from the House gave it to all territories. The second one that came back over gave it to Guam. This was taken up in the committee, and it was agreed that this should not be done, and that this provision would be deleted from it.

So this limits the amount Guam would be entitled to, in accordance with the bill from the House of Representatives.

Mr. HARRY F. BYRD, JR. That is what the Fannin amendment did?

Mr. FANNIN. That is what the Fannin amendment did, yes.

Mr. HARRY F. BYRD, JR. The only other question I have is this: When the bill was before the Senate, it was amended in four particular places, as I recall. I am taking it from memory. Would one of the Senators indicate to me how the House proposal reads, now that it has

been amended by the Fannin amendment?

Mr. METCALF. Mr. President, the various Senate amendments were agreed to by the House, except for the two now before the Senate, that we are calling up before the Senate. One of them is an amendment proposed by the Senator from Arizona with which I think all of us are in agreement. The other amendment is the one we agreed to for $8 million for a college, and they modified that by saying, "Let us wait until the President determines where the needs for a college are, and refer the matter back to the respective Interior Committees of the two Houses."

We concurred in that amendment.

Mr. HARRY F. BYRD, JR. I thank the Senator. That clears up the points in which I was interested.

Mr. METCALF. Mr. President, I move that the Senate concur in the amendments of the House of Representatives, with amendments.

The motion was agreed to.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

Mr. MONDALE. Mr. President, I am going to speak briefly to my amendment, but first I yield to the Senator from Connecticut.

PRIVILEGE OF THE FLOOR

Mr. WEICKER. I thank the distinguished Senator from Minnesota.

Mr. President, I ask unanimous consent that Michael Scully and Robert Dotchin of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Will the Senator yield for a unanimous consent request?

Mr. MONDALE. I yield.

Mr. HASKELL. Mr. President, I ask unanimous consent that John Cevett, of my staff, be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that Mickey Barnett of Senator DOMENICI's staff and Alan Holmer and Debbie Robertson of my staff be accorded the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, on behalf of the Senator from Ohio (Mr. GLENN) I ask unanimous consent that the privilege of the floor be accorded to Mr. Walker Nolan of his staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, the amendment just called up is cosponsored by many Senators, including the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. STEVENSON), and the Senator from Tennessee (Mr. BAKER), as well as 19 other cosponsors.

This amendment would set up a commission to study the Presidential nomination process in this country.

There is a crying need for this study. It is one of the few failures of the Founding Fathers that in the development of our Constitution 200 years ago, they failed to perceive what would be necessary for a rational system to nominate candidates for our highest office, the President of the United States.

They believed that this country would not have political parties. They believed instead that, through the electoral system, distinguished citizens would gather together each 4 years and elect the best qualified person to be President of the United States. Because they did not accurately perceive how the system would evolve, it never worked out in the way they intended. Political parties—what they called factions—immediately arose. Now there is not a single system of nominating a President, but literally 55 different systems, each with a welter of differing rules, often conflicting. The spectacle of the present system is now obvious to all, and the system has arrived at the point where it is utterly ludicrous. It undermines the physical capacity of the candidates, it destroys the ability for rational debate, and it is a system which now cries out for reform.

Never once in the 200 years of American history has the Presidential nomination system been subjected to a comprehensive study. That is what this proposed commission would do.

It would be a bipartisan commission with 18 members, to be equally appointed by the President pro tempore of the Senate, after advice from the majority and minority leaders, the Speaker of the House of Representatives, and the President, with the chairmen of the two national political parties serving ex officio. This commission would be asked to look into all aspects of the nominating process, including the manner in which States conduct Presidential primaries, caucuses and conventions to select delegates to the national nominating conventions. It would look into State laws and rules of national political parties, which govern the participation of voters and candidates in such primaries and caucuses. It would look into Presidential campaign financing, and the relationship between the candidate for President and the media. It would look into alternative nominating systems, including a study of national and regional primary systems. Finally, it would look into the manner in which candidates are nominated for Vice President.

Mr. President, the nominating process desperately needs a comprehensive review of these areas and the relationship of each area to the others, in a way which seeks to resolve the problems consistent with clearly defined and broadly agreed upon goals.

The present system of nominating Presidential candidates is close to anarchy. There are 55 separate and different systems. This year 30 States will hold separate primaries, each without any relation to the others, and they will account for approximately three-fourths of the delegates to attend the national conventions. Thus, we virtually have a de facto national primary, albeit in a fragmented form, without ever having adopted it as a matter of national policy. The attempts at reform thus far have included proposals for a national primary, regional primaries, and a variation of the present system, but there has never been a national consensus on any of them. There is a consensus, however, among the cosponsors of this resolution and throughout the country that the system is badly in need of review.

There is always considerable interest in reforming the process during a Presidential election year, but it quickly fades after the election. Even though we believe this interest is higher now than ever before, we fear the same thing could happen again. The Commission we advocate would report back with its findings in early 1977, giving Congress the unique and compelling opportunity to act well in advance of the 1980 elections.

Whatever alternative system may be recommended by this Commission and adopted by Congress, we believe we can do much better than the present system. We also believe there is no more fitting effort we could undertake in this Bicentennial year than to try to improve one of the most fundamental elements of our democracy.

Mr. President, I yield.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I join with the Senator from Minnesota in cosponsoring this resolution and amendment of this bill.

Four years ago I introduced a bill, with several other Senators, to establish regional primaries. The bill had more editorial and academic support I think than any other bill that I have ever introduced. It had almost no opposition, except from those who preferred a national primary. And while a national primary is not my preference, it is an alternative to consider. The bill had one hearing, fell on deaf ears in the Senate and made no progress in the House of Representatives.

I have reintroduced it in each Congress since I first introduced it, and Congress has not acted.

As the Senator from Minnesota has said, if there is ever any time to pass a bill like this, one would think it would be at a time of heat and passion when we are in the midst of primaries, and I have frankly found that that is when there seems to be the most interest. About the time we get to the first of May, maybe the first of June, at the latest, the candidates who remain are tired. They have flown from New Hampshire to Florida to Illinois to California, in 1 day on occasion, making campaign speeches every place they go, being expected to sound rational. I think that kind of a schedule is training for the Olympics, but not training to be President. About that time there becomes a great hue and cry that we should do something to reform the primaries, but this is not the time to do it. Let us wait; it is too late now. Let us wait until this primary season is over

and then in the cool and calm of 1973, was the last cry—now it is the cool and calm of 1977—let us look at this with dispassionate objectivity and pass a rational reform.

But then what inevitably happens is that as the ardor for this reform cools, as the primaries are over, and as the Presidential election is decided in November, this is put on a back shelf, nobody thinks about it, nobody is disturbed, and there is not much thought about it until the following primary season when again this issue bubbles to the top, is moved to the front burner about November of the year preceding the Presidential election year, and there is again great academic comment and editorial endorsement, but then it is too late to do anything for that Presidential year.

I, therefore, have joined the Senator from Minnesota in endorsing this idea of a commission which will report early, and I think that is a critical part of the amendment, in the hopes that this commission will come up with something that is preferable to the present hodgepodge Barnum and Bailey traveling sideshow we have that we call our Presidential primary system, and that we can find a rational way of selecting the nominees for our major and I might add minor parties, so that in 1980 we will not have to go through instead of 30 or 31 primaries, 35, 40, or 45 primaries throughout this Nation.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. STEVENSON. Mr. President, I yield to the Senator from North Carolina for a unanimous-consent request.

Mr. MORGAN. Mr. President, I ask unanimous consent that my legislative aide, Henry Poole, and the legislative aide of Senator NUNN, Gordon Griffin, be allowed floor privileges during the discussion and debate of the Federal election matter pending before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I yield to the Senator from Virginia for the same purpose.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Phillip Reberger of my staff be granted privileges of the floor during consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, a Presidential candidacy today triggers a thousand skirmishes, a welter of detail, a morass of regulation and dervish-like activity all largely beyond the control and comprehension of the exhausted candidate. Today's contender is pressured to compete in 30 State elections and hundreds of district elections and caucuses. He is forced to spend money in order to raise money in order to qualify for Federal election subsidies.

Then the strength of the Presidential candidates is measured by their bankrolls and the applause levels at joint appearances. The substance disappears from the hallowed American political system. Television offers episodes and spectacles; serious comment by serious figures on complex issues is ignored or misunderstood.

The press, exhausted and bewildered, is spread too thin by the profusion of candidates, and the public is hard put to fathom the significance of the episodes and spectacles that now pass for Presidential politics.

Mr. President, this process has demonstrated that it can eliminate men well qualified to occupy the Presidency and I count as one the senior Senator from Minnesota, (Mr. MONDALE) with whom I am privileged to cosponsor this amendment. This process has also demonstrated that it can eliminate, and it has, thoughtful men ill-suited for a process which subsists upon sensation. I cite former Governor Sanford. It has not demonstrated that it will produce only the wisest and strongest in America to occupy the Presidency. It could become a process which only the unfittest can survive.

This system, Mr. President, is not an exercise in American democracy. It is a taxpayer supported mockery of the system we profess to celebrate in 1976. If there is no better way than this, then the experiment begun 200 years ago could fail. There is a better way. We simply do not know what it is.

The commission proposed by this amendment would recommend better ways to select the American President. A myriad of possibilities exist. If created now, its recommendations would be available in time for action before the Presidential elections of 1980. If we wait, as the distinguished Senator from Minnesota and the distinguished Senator from Oregon mentioned, it could be too late.

Indeed, I would add to what they say that it could be awkward for a President produced by this process to support changes in it.

So, for all these reasons and those expressed by my colleagues, Mr. President, I urge the Members to approve this amendment.

The PRESIDING OFFICER (Mr. GARN). Who yields time?

Mr. BAKER. Mr. President, I am pleased to support this amendment, and I congratulate the distinguished principal sponsors of the amendment for their foresight and wisdom in proposing it at this time.

I have long been a supporter of any reasonable effort to try to rationalize the Presidential nominee selection system. I have watched at close range for almost 10 years, as a Member of the Senate—and for somewhat longer as an interested observer of the general political process—and I believe that the adequacies of the present primary system and convention mechanism are fairly summarized by a remark that was made to me recently by one of our Democratic colleagues who was a candidate, who returned from the field of battle to say, "Howard, we simply can't continue having an election every Tuesday."

Mr. President, that is truly so. I think we are grinding up good men and women in the machinery of political combat at an unconscionable rate. We are placing burdens and demands on our leaders and potential leaders of the country that are beyond that which should be required of them, and which require no particular evidence of their future competence to serve in the positions to which they aspire.

Mr. President, I do not know the final answer; that is why I am glad that this proposal is for a commission. I have supported the early first utterances, I believe, of the distinguished junior Senator from Oregon, that we should try to figure out something, perhaps a regional primary system. But that has problems. For example, do you draw the lines for the regions north and south or do you cut a slice east and west and try to gather together States that are similar or States that are dissimilar? Good arguments could be made in both cases. Do you have a single national primary? In that case, do you have a runoff? Who pays the cost? What is the qualifying requirement? Perhaps you even call on Congress to participate in the selection of party nominees. That might very well strengthen the party responsibility and even the attractiveness of congressional service to party members. Perhaps you rejuvenate the electoral college. Perhaps that is the better way to choose the Vice President, in the case of a vacancy.

There are 100 variations on these and other things that suggest themselves in the debate that has been going on for a long time, at least the last decade, when I first began to hear the suggestions that we had to find a better way to select our respective nominees for President and Vice President for the two major political parties.

It is sometimes said, in an unkindly way, that Congress does nothing so well as trying to regulate politics and setting its own salaries. That really is not so. I do not think Congress is very good at either of these things, and I believe that is additional reason for constituting the commission to study and report to us on how we should proceed on this matter.

It is an extraordinarily important problem, Mr. President.

As some of my colleagues have heard me say from time to time, the importance and the relevance of the two-party system in the American scheme of things is often underrated or even overlooked. The two-party system is an instrumentality that came late to the Republic. It did not come to full flower, I believe, until well into the 19th century. It is not mentioned in the Constitution. It is not even memorialized in the statute law of the United States. The two-party system is unique in that it has served as the sensing mechanism by which the people of the country express the range of their desires and their dissent to the structures and the engines of Government. In that way, it becomes effectively the equivalent of a fourth department of Government, ranking in importance with the executive, the legislative, and the judiciary.

If that is true, and I believe it is true; if partisan politics is that important; if

two-party politics is that unique and special in the American scheme of things; if it is essential, as I believe, to the sensing out and determining of the future policies of America, drawing on the collective genius of the people of this country—then it is also important that we modernize and update the method by which we select our nominees for President and Vice President.

I am not reluctant to say that I do not have the answers. I am in a position, however, to say that this is a step in the right direction.

I believe that a commission can do a good service for the country in this respect, and I look forward to their recommendations. I hope every much that the amendment will be adopted. I commend the Senator from Minnesota, the Senator from Oregon, the Senator from Illinois, and the Senator from Maryland for their cosponsorship.

Mr. MATHIAS. Mr. President, I ask the distinguished Senator from Minnesota, the chief sponsor of this amendment, if he is willing to accept an addition providing for study to the extent to which laws in the Federal Election Campaign Act, as amended, promote or retard independent candidacies for election to the office of President.

Mr. MONDALE. Mr. President, I discussed this matter with the distinguished Senator from Maryland. I believe the modification makes good sense. It adds another subject for the Commission to study which surely is deserving of study. Therefore, I modify my amendment to add that section——

Mr. MATHIAS. It would be section 8, appearing on page 4.

Mr. MONDALE. I so modify my amendment.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

On page 4 add the following subsection (8) after line 14:

"(8) the extent to which State laws and the Federal Election Campaign Act, as amended, promote or retard independent candidacies for election to the office of President."

Mr. MONDALE. I also modify the amendment to add the following language on page 2, line 8, following the word "Senate":

On recommendation of the majority and minority leaders,

So that it would read:

Six members shall be appointed by the the President pro tempore of the Senate on the recommendation of the majority and minority leaders.

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. MONDALE. I so modify my amendment.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

(1) six members shall be appointed by the President pro tempore of the Senate on recommendation of the majority and minority leaders, of whom at least two shall be Members of the Senate and at least two shall be elected or appointed State officials;

Mr. CANNON. Mr. President, I find much merit to the amendment proposed by Senator MONDALE, for himself and others.

I believe that this type of study is long overdue. I have a question as to the size of the commission. A 20-member commission, with 12 members necessary to constitute a quorum, would indicate that it might be some kind of problem to get the commission together properly to study this matter. That would be my only question about it.

I also wondered to myself about the advisability of including it in this bill. I am sort of reluctant to see additional items go into the bill that might possibly give the President some reason to veto it; although I certainly hope he would not have any reason to veto this.

Mr. MONDALE. May I say that the President, at a recent session with reporters—I do not have his precise language—expressed interest in the establishment of a commission of this kind. So I believe it is probable that the President would not have an objection to this. We have tried to establish a way that gives him a strong appointive role in the selection of some of its members.

In terms of the timing of this amendment, what I am afraid of is this: We now have 30 primaries, each on different days, established, as the chairman of the committee well knows, with no sense of relationship at all. I think that, on June 8, there will be Presidential primaries in California, Ohio, and New Jersey on the same day. In the previous week, I think there are three other Presidential primaries. A candidate would need a supersonic jet and maybe Skylab to fly over all of them, let alone campaign in them and be understood by the voters in those States.

The system is beyond human proportions. It is no longer rational. No one knows that better than the distinguished chairman of the committee, who has spent much of his career in the Senate trying to make election laws work for the people of this country. This Commission is established in a way that I hope will help the committee prepare such reform measures as are needed before the next Presidential election in 1980. What I am afraid of is that if we do not act now, when practically everybody who has looked at the nomination system is crying out for reform, including the candidates, we shall do as we have done for the previous 200 years. Just come up to the next election, when it is too late for reform and go through the same crazy-quilt system that we see today.

I think this is a modest proposal. It has received very wide-ranging support from editorialists around the country. I know of no opposition to it. The President commented favorably about the need for such a commission a few weeks ago.

While I greatly sympathize with the chairman's desire not to load this bill down, I do not think this adds much, if any, weight to the burden that the bill carries. As a matter of fact, it may make it more attractive.

One point on the number of members: It was our desire here to make certain that the Commission was representative of the Senate, of the House, of State elected officials, of the two political parties, and of the general public, as seen by the Presidential appointments. I think the Commission will have no trouble getting a quorum because, based on the reaction we have had around the Nation, there is a tremendous amount of interest in getting down to the study of this matter.

Mr. CANNON. Mr. President, I would be willing to accept the amendment of the distinguished Senator. I think it is a good amendment, as I have said. I only had a question as to whether or not it should be in this bill, and the second question is the size of the Commission, which seems to be a bit unwieldy. But if the Senator tells me that is a proper size, I am willing to accept the amendment.

Mr. MONDALE. We do not need a rollcall.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARRY F. BYRD, JR. and Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. I send an amendment to the desk that does not have a number, but I want to call it up. I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 37, line 6, after "subject" insert the following: ", except that expenditures for any such communications which expressly advocate the election or defeat of a clearly identified candidate must be reported to the Commission in accordance with section 304(e)".

On page 37, line 10, after "families" insert the following: ", except that expenditures for any such nonpartisan registration and get-out-the-vote campaigns must be reported to the Commission under section 304(e)".

Mr. PACKWOOD. Mr. President, this amendment is designed to carry further the efforts at disclosure that have started in this Congress in the last few years. This is aimed both at business and at the unions. Under the present law, and under this bill, corporations are free to use corporate money to appeal to their shareholders or to their corporate officers and administrative personnel, and unions are free to use union money to communicate with their members—union dues; we are not talking about COPE dues here, or the voluntary contributions. We are talking about union money, dues. All this amendment does—and let us be frank about it—is require that corporations and unions, when they are using corporate money or union dues, file under section 304(e), which is the disclosure section of the present law, the expenditures when they use that money to—I read specifically the language—"expressly advocate the election or defeat of a clearly identified candidate" or—in the second part of the amendment—if they use the expenditures for

"any such nonpartisan registration and get-out-the-vote campaigns."

Mr. President, the reason I am asking for this amendment is that we are all aware that corporate money and union money is used to solicit shareholders, to solicit administrative personnel in corporations, or union members in unions, to vote for or against particular candidates and, Mr. President, it is not reported; it is not identified. It is very easy for one candidate to say, "Oh, if I only had the money that my opponent had to spend," when that candidate making the charge may very well have been the recipient of hundreds of thousands of dollars worth of direct communications from corporations or from unions advocating defeat of the opponent of the person who made the statement.

I am not suggesting that this practice is good or bad. I am not suggesting the practice should be stopped or continued. All this amendment does is ask for disclosure.

Specifically, when a union mails out to its 200,000 or 300,000 or 400,000 members a 5- or 10-page brochure advocating the election or defeat of certain candidates, that should be disclosed. It does not even count against what used to be the candidate's limitation. That has even been stricken down. You can spend as much as you want. It just has to be disclosed. I think it is in keeping with the whole intent of this bill that we ask for public disclosure of those funds, whether they be corporate funds or whether they be union funds.

Again, I want to emphasize that I am not talking about the voluntary contributions that go to COPE from union members; I am not talking about the voluntary contributions that come from shareholders to a business political action fund. I am talking about the corporate money, I am talking about the union dues that are used to communicate with shareholders, administrative personnel, or, in the union case, with members.

Mr. GRIFFIN. Will the gentleman yield to me?

Mr. PACKWOOD. Yes, I yield.

Mr. GRIFFIN. I commend him for offering this amendment and I associate myself with it. I think many people will be surprised to learn that it is now legal for unions to use union money for political purposes and not disclose it and for corporations to do likewise. I think the assumption is that that cannot be done.

Mr. PACKWOOD. I think many people just think they cannot use union money, or they cannot use corporate money for politics, and they do not realize that what we on the inside are talking about is using it to influence third parties or nonmembers or nonshareholders. Even under this amendment, that can be done in a limited way.

But I think the Senator is right. Many people are totally unaware that a corporation which has 3,000 or 4,000 shareholders or unions with 4,000 members can use union dues to advocate the defeat or election of a candidate or use corporate money to advocate election or defeat of a candidate.

Mr. GRIFFIN. Now, of course, under the Supreme Court decision, in an unlimited way.

Mr. PACKWOOD. Absolutely unlimited, and both unlimited as to what the corporation or union wants to spend, and because there are no spending limits because of what the court has said, have as much as they want, and it is only fair if we are talking about an election is money buying the election. It is not just money that the candidate has, it is money that is spent on behalf of the candidate by a corporation, on behalf of a candidate by a union and, I think, at a minimum the people in this country, the voters of this country, are entitled to know how much money from whatever source is spent on behalf of or against a candidate.

Mr. President, I will yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. CANNON. Mr. President, I feel that that precise requirement may be covered in the present proposal that we have reported from the committee.

The Senator has proposed a change on page 37, both of the changes.

If the Senator will go back to page 14 of the bill, and "person" is defined:

> Every person who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100.

So I would just say to the Senator, I believe it is required in the law at the present time.

It was the intent to have it so required, and there is nothing that I find on page 37 that is contrary to that interpretation.

Now, (b)(1) was simply a definition, defining who a labor organization means, who is meant by a labor organization, and then goes on to refer to the exclusion of the communications by a corporation to its stockholders and its executive or administrative personnel and their families or by a labor organization which goes to members or families on any subject. So that it does not do away with any reporting requirements.

Mr. PACKWOOD. I might ask the distinguished chairman, that is the present law the Senator was reading from, is it not? That is the present law the Senator was reading from on pages 14 and 15 of the bill, is it not?

Mr. CANNON. Yes. Page 14 of the bill, S. 3065, section 304(e) of the act which is amended. I would have to check the present law and tell the Senator precisely.

Mr. PACKWOOD. Would the chairman do this: so long as the chairman and I are attempting to achieve the same end, would the chairman be willing to accept the same language, so long as the chairman says it is in the present law, if it is in the present law, and that no corporate committee or no union committee that was spending its own funds, dues and corporate money filed such a report in the last election?

Mr. CANNON. I would just note that the second part of the Senator's amendment—the first part is required, there appears to be no question about that, it is required now. The second part is not required where it says except that expenditures for any such nonpartisan registration and get-out-the-vote campaigns must be reported to the Commission under section 304(e). A nonpartisan drive, election drive, registration drive, has never been required to be reported and is not in the bill now.

Mr. PACKWOOD. Is the chairman aware of any reports that were filed in the last election, by either a corporate or a union committee spending funds for the purposes of advocating the defeat or election of a candidate that were filed in the 1974 elections?

Mr. CANNON. I do not have any information as to whether any were filed or not filed. I have never checked that particular thing, and I am not really aware of any election drives on the part of either to defeat a specifically identified candidate. There may have been. I just say I am not aware of any at the moment.

Mr. PACKWOOD. I will not in that case take any issue. I can get—I do not have them here, I have them in my office in Portland—many, many examples, more likely union than business—of union solicitations of members to vote for or against a candidate. They were numerous in the New Hampshire election in the last runoff campaign where unions were soliciting their members to vote for a particular candidate, and yet there would be no filing of this as money spent on behalf of a candidate when the filings are in.

Mr. CANNON. I just cannot say, I do not know whether any filings—I have not checked that so I cannot say. But I would say that under the law and under the bill we have reported to the Senate, if a person does make such on expenditure he would be required to file a report, but he would not be required to file in accordance with the second provision of the Senator's amendment where it is a nonpartisan registration drive on the part of either one.

Mr. PACKWOOD. I am advised, Mr. President, that under section 431(f)(4)(C) that unions and businesses are exempt from reporting under present laws in their solicitations of members while advocating the election or defeat of a candidate or money used in nonpartisan voter registration drives.

Mr. CANNON. Would the Senator give me the section reference again?

Mr. PACKWOOD. 431(f)(4)(C).

Mr. CANNON. I do not believe the Senator is correct. This is what it does not include. One, it does not include nonpartisan activity designed to encourage individuals to register to vote or to vote, and I already said that was not included.

> (C) Any communication by any membership organization or corporation to its members or stockholders if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election or election of any person to Federal office.

Mr. PACKWOOD. They are exempt.

Mr. CANNON. They are exempt then, but if they are trying to elect or defeat someone for Federal office they are not exempt.

Mr. PACKWOOD. Will the Senator read that again. It says if they are organized for the principal purpose of not electing, is that not correct?

Mr. GRIFFIN. The Senator from Nevada is a better lawyer than that.

Mr. CANNON. If such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election or election of any person to Federal office.

Mr. GRIFFIN. A corporation is organized to make a profit, and a labor organization, a labor union, is organized to represent its members in collective bargaining and, therefore, they are exempt.

Mr. PACKWOOD. They are exempt from the reporting law.

Mr. GRIFFIN. So the amendment of the Senator from Oregon is needed and, as I understand it, this same amendment was offered by Representative WIGGINS over in the House of Representatives.

Mr. PACKWOOD. That is correct.

Mr. GRIFFIN. For the same purpose, and it was defeated over there on a close vote.

Mr. PACKWOOD. I think the chairman would have no objection to the amendment if what we are trying to do is simply do what the chairman says exists, although I think a reading of that law indicates they do not have to file and, indeed, they do not, and the chairman would be willing to accept the provisions of the amendment or at least the first part of it relating to the advocating defeat or election of candidates, specifically candidates.

Mr. CANNON. Mr. President, I would want to take a look at this. I think it is already covered.

I would say this to the Senator: If a corporation or a labor organization solicits the persons they are entitled to solicit for the defeat or election of a particular candidate, those funds should be reported as an independent expenditure. That is my intention.

Mr. PACKWOOD. Would the Senator say that again, they should be reported as a what?

Mr. CANNON. As an independent expenditure. In other words, the Supreme Court held there are no limitations on independent expenditures that can be made either for or against certain candidates.

Mr. PACKWOOD. Right.

Mr. CANNON. And we have required the reporting of those independent expenditures. I would say that my intent is—and I believe it is in the bill here that we have presented to the Senate—that those people should be required to report if they advocate the election or defeat of a known candidate.

Mr. PACKWOOD. Can I get the chairman's agreement on this, because I want to talk in addition about the voter registration?

Let us talk about advocacy of election or defeat for a moment.

Will the chairman agree to accept this amendment—and I will be willing to put it aside for a moment—if we find that present law does not require a corporation or a union using corporate funds or union dues—again, not talking about voluntary contributions—to communicate with their stockholders or administrative personnel, if the present law does not require them to report that as independent expenditures, that the chairman would accept an amendment that would make that correction?

Mr. CANNON. I would like to give some further study to it and then respond to the Senator. I want to be absolutely sure of what I am saying, as long as the Senator wants to talk on the other issue.

Mr. PACKWOOD. All right, I will talk on that a bit because I would like to vote eventually on that.

When talking about nonpartisan voter registration drives, especially as they are put on by corporations or by unions, they are nonpartisan only in the sense that they will register everybody in whatever party they want to register in.

They become very partisan in the sense of where one conducts the registration drive. Anybody who has been in the business of politics for 3 months soon learns there are certain areas that are heavily supportive of one's candidates and some heavily opposed.

In voter registration, one does the best he can to register them in the area that will support one, and ignore or give a very low priority to the area where voters will register and likely oppose one.

More often by unions than by business voter registration drives are conducted in areas that are likely to register overwhelmingly Democrat.

There are some exceptions with other organizations and I compliment such organizations as the League of Women Voters, quite often the various junior chambers of commerce around the country, who do conduct what I consider genuine nonpartisan voter registration drives.

But, by and large, unions or to a lesser extent, corporations, simply do not conduct them as openly, or too much toward the partisan voter to support their causes.

I think if that is the case, if money is going to be spent to register voters, that we know 70, 80, 90 percent are going to support the candidate of one's choice, that that is, indeed, an expenditure toward the election of that candidate or that party and that money should be revealed.

I am not asking it be stopped. I am not commenting on whether or not the practice is right or wrong. But I am suggesting that the public is entitled to know what money was spent, and where and when, to register certain voters. I do not think it is asking too much that the bill be amended in that respect.

Mr. President, I wonder if the chairman of the committee might yield for a question?

Mr. CANNON. Certainly.

Mr. PACKWOOD. I am reading now the present law under the definition of expenditure, and this is 431(f)(4)(C):

> Expenditure does not include (B) nonpartisan activity designed to encourage individuals to register to vote, or to vote;——

That is the second part of the amendment:

> (C) any communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office.

We have simply by the present law eliminated the definition of expenditure as including money spent by a union or corporation from its own funds to influence the outcome in an election. That explains why they have not reported, I think, under present law, even though we say any person, it does not mean who the person is. If we eliminate by definition expenditure of a corporation or use for this purpose, I think the amendment I offered would be enough, if we are going to achieve the purpose the chairman and I agree want to be achieved and requiring this to be reported as an expenditure.

Mr. CANNON. Mr. President, I do not agree with the Senator. I take it that is probably not the first time.

I am unalterably opposed to the second part because I think anything we do to discourage nonpartisan registration drives in this country today we are discouraging full participation in the voting process. We have done everything we could to try to encourage the nonpartisan election drives. We have the League of Women Voters who go out and work on a nonpartisan election drive. We have the labor people who go out. We have the corporation people who go out and urge their members to vote. If we are going to put a reporting requirement simply to spell out how much they spend in urging people to vote in nonpartisan election drives, I think we are subverting the intent of the act and I would oppose the intent of the act and I would be opposed to it. If the Senator wants to divide this, he might feel better about dividing it and having a vote on the issues spearately.

Mr. PACKWOOD. The chairman says subverting the intent of the act. Is not the intent disclosure? I am not saying they cannot do it.

Mr. CANNON. The intent is disclosure of the amount spent to elect a particular candidate or the amount spent to independently defeat a candidate. But to discourage people to register and vote is not the intent of this act.

Mr. PACKWOOD. Apart from this second part, does the chairman agree that at the moment corporations and unions do not have to report expenditures for or against a candidate so long as they limit it to communications with their members, shareholders or executive personnel?

Mr. CANNON. Yes; I believe that is right, under the present law. I am not sure that that is right under the bill that we have presented here.

Mr. PACKWOOD. Can the chairman tell me where in the bill this is rectified?

Mr. CANNON. Where we define person on page 14 and say:

Every person (other than a political committee or candidate) who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calender year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

Mr. PACKWOOD. What happens when we get to section 431 and the expenditures for or against the candidate are simply not counted as an expenditure?

Mr. CANNON. But this is a different section and requires reporting under these conditions.

Mr. PACKWOOD. Where in this bill do we have a contradictory definition of expenditure from that in section 431, which is the controlling section on what must be reported? I might add to the chairman that on page 9 and page 10 of the bill the committee, starting with line 23 on page 9, has expanded the definition of expenditure and added a section 431 (c), added more exclusions to it. That is the definition section of the bill. But they have not changed this exclusion of expenditures for or against a political candidate made by a union with union funds or a corporation with corporate funds.

Mr. CANNON. Page 9 was a separate exclusionary item completely relating to the definition of whether or not legal and accounting services had to be counted as a contribution and had to be reported as a contribution. That was a change in the definition, that is true. It added a specific exemption to say:

This paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or 96 of the Internal Revenue Code. . . .

Mr. PACKWOOD. But all the committee has done there is to slightly broaden the exemptions. I am not arguing with that. I am not arguing whether they are right or wrong. They have not changed the present exemption in 431(c). Then on pages 36 and 37 of the bill, again in defining the phrase "contribution or expenditure," "shall not include communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families or any subject."

Mr. CANNON. That is simply a definition of the phrase "contribution or expenditure."

Mr. PACKWOOD. That is my point.

Mr. CANNON. It says that a contribution or expenditure:

Shall not include communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; or the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization.

Mr. PACKWOOD. I think we are saying the same thing. It does not include for an expenditure any communication by a union to its members or any corporation to its shareholders or personnel. That is not an expenditure within the definition of this law, is that right, on any subject?

Mr. CANNON. That is not a contribution or expenditure within the definitions of the act on any subject within those parameters.

Mr. PACKWOOD. So that a corporation can spend corporate money to communicate with its shareholders and say, "Vote against Packwood," "Vote for Packwood," to its shareholders and it is not a definition of being an expenditure within the present law?

Mr. CANNON. I am sure a corporation would not do that.

Mr. PACKWOOD. But they can. There is no prohibition. Is that right?

Mr. CANNON. I think the Senator has raised a question there that opens up another part of the law. That is related to contributions. It might constitute an unlawful contribution on the part of a corporation, in violation of the criminal provisions of the code, if it in fact advocated the election or the defeat of a specific candidate under those conditions.

Mr. GRIFFIN. Mr. President, will the Senator from Oregon yield to me on that point?

Mr. PACKWOOD. Yes, I yield.

Mr. GRIFFIN. If we look in our yellow books here, on page 49, where section 610 appears, which gives the provision that would be applicable, notice, at the bottom of page 49:

As used in this section, the phrase "contribution or expenditure" shall include—

So and so and so. Then, going over to page 50—

Mr. CANNON. The same language.

Mr. GRIFFIN. On page 50:

but shall not include communications by a corporation to its stockholders and their families or by a labor organization to its members and their families on any subject.

Mr. PACKWOOD. I think that is clear. It is not a criminal violation, and it is not civil violation.

Mr. GRIFFIN. And you do not have to report it.

Mr. PACKWOOD. It is unfortunately not a reportable expenditure. I almost wish I could stop it. I wish corporations could not give or unions could not give in this fashion, but at least, if it is going to be done, let us report it. Let us tell the public where the money came from and where the money went, and let it be reported.

I think the chairman was in agreement, because initially the chairman said it was in the law; but I think we are coming to the conclusion that it is not in the law; it is exempt from the criminal statutes, and I ask the chairman if he is willing to accept the amendment.

Mr. CANNON. Well, the Senator has it tied in with the nonpartisan registration and get-out-the-vote campaigns, in any event, and there is no way I would be willing to accept that.

Mr. PACKWOOD. If those two were not tied together, would the chairman accept it?

Mr. CANNON. I am not sure that I would, so we had just as well leave them there.

Mr. PACKWOOD. Mr. President, I wish to amend my own amendment by striking out the latter part of it, which relates to nonpartisan registration and get-out-the-vote campaigns, which reads as follows:

On page 37, line 10, after "families" insert the following ", except that expenditures for any such nonpartisan registration and get-out-the-vote campaigns must be reported to the Commission under section 304(e)".

The PRESIDING OFFICER. The amendment is so modified.

Mr. PACKWOOD's amendment, as modified, is as follows:

On page 37, line 6, after "subject" insert the following: ", except that expenditures for any such communications which expressly advocate the election or defeat of a clearly identified candidate must be reported to the Commission in accordance with section 304 (e)".

Mr. PACKWOOD. Now we are talking only about corporation expenditures and union expenditures from corporate funds and union funds to elect or defeat a specific candidate. They are not now required to be reported under the law, and literally millions of dollars can be spent to support or defeat a candidate and the public will never be aware of it. Now we are talking about disclosure, just disclosure, and I do not see how the chairman or other Members of this body can oppose the amendment.

Mr. CANNON. Mr. President, I think the problem there is, what is a communication with its members? Certainly we have a provision in the law which makes it a criminal offense for a corporation to contribute to campaigns. I would think a communication advocating the election or defeat of a candidate could come within that provision.

Mr. PACKWOOD. Where do you draw that from, either the present criminal law or this bill, when it says a communication on any subject is not an expenditure?

Mr. CANNON. I just simply suggest that we have a vote on the Senator's amendment. I am not prepared to accept it.

Mr. PACKWOOD. Well, before we——

Mr. CANNON. I think that the law is such that a corporattion cannot legally make contributions to a candidate. We have gone through that exercise.

Mr. PACKWOOD. No, wait—do we—wait a minute. Can they give a name to their shareholders under present law?

Mr. CANNON. If a corporation makes a communication to its shareholders expressly advocating the election or defeat of a particular individual, I would say that would be a contribution that is in violation of the law.

Mr. PACKWOOD. And the same if a union uses union funds to make a contribution?

Mr. CANNON. If they use union funds. If we are talking about separate designated funds, that is a different proposition.

Mr. PACKWOOD. I am not talking about COPE funds. But I want to make sure that if the amendment fails, it is the position of the chairman that it is illegal under present law for a corporation to use corporate funds to mail or communicate to a shareholder or its executive or administrative personnel, and it is illegal under the present law for a union to communicate or mail to its members, in any event, anything advocating the election or defeat of a particular candidate. That is illegal?

Mr. CANNON. That is my understanding. That is the position that I would take, yes.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. ROBERT C. BYRD. I ask unimous consent that a vote occur on this amendment tomorrow at the hour of 11:45 a.m.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, reserving the right to object, what is the program for tomorrow morning? I might want to make some concluding remarks on this amendment, and I do not want to get shut off.

Mr. ROBERT C. BYRD. Could we perhaps agree to 10 minutes to a side?

Mr. PACKWOOD. If we could have 10 minutes to a side before the vote, that would be satisfactory.

Mr. ROBERT C. BYRD. All right. Mr. President, I ask unanimous consent that at the hour of 11:25 a.m. tomorrow, there be a time limitation of 20 minutes on the amendment, to be equally divided between the Senator from Oregon (Mr. PACKWOOD) and the manager of the bill (Mr. CANNON), and that the vote occur on the amendment at 11:45 a.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GOLDWATER ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, after the two leaders or their designees have been recognized under the standing order, the Senator from Arizona (Mr. GOLDWATER) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MANSFIELD, AND DESIGNATING A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the orders which have already been entered for the recognition of Mr. CLARK and Mr. GOLDWATER tomorrow, the Senator from Montana (Mr. MANSFIELD) be recognized for not to exceed 15 minutes, and that there then be a period for the transaction of routine morning business of not to exceed 10 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I believe that would take us right up to the hour of 11:25 a.m.

I ask unanimous consent that the period for the transaction of routine morning business tomorrow not extend beyond the hour of 11:25 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Is there anything further for tonight?

ADJUSTMENT IN THE AMOUNT OF INTEREST PAID ON CERTAIN FUNDS

Mr. CANNON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2619.

The PRESIDING OFFICER (Mr. GARN) laid before the Senate the amendment of the House of Representatives to the bill (S. 2619) to provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States by the Library of Congress Trust Fund Board, to strike out all after the enacting clause, and insert:

That section 2 of the Act of March 3, 1921, chapter 423, as renumbered by the Act of April 13, 1936, chapter 213 (2 U.S.C. 158), is amended by striking out "the rate of 4 per centum per annum," and inserting in place thereof "a rate which is the higher of the rate of 4 per centum per annum or a rate which is 0.25 percentage points less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such investments, adjusted to the nearest one-eighth of 1 per centum".

Mr. CANNON. Mr. President, I move that the Senate agree to the amendment of the House to the bill (S. 2619) with an amendment, as follows:

On page 1, line 10, of the House engrossed amendment, beginning with "marketable" strike out all through line 13 and insert the following: "long-term marketable obligations of the United States, adjusted to the nearest one-eighth of 1 per centum,'.".

This proposed amendment would remove the "average maturity" language from the House-reported measure and add language to assure the Library of Congress permanent loan fund (2 U.S.C. 158) of an interest rate equivalent to the rate on Treasury long-term marketable obligations. The Senate-passed companion measure, S. 2619, would have accomplished this, but would have required investment of the fund—a procedure which would be more cumbersome for the Library and which could limit the interest return to the fund should long-term rates rise.

Mr. President, this amendment has been recommended by the Department of the Treasury and has the approval of the Librarian of Congress.

Further, I have been advised that the Honorable LUCIEN N. NEDZI, Chairman of the Subcommittee on the Library and Memorials of the House Administration Committee, is aware of this proposed amendment and prepared to urge its adoption by the House of Representatives, thus hopefully obviating the necessity for a conference on S. 2619.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 1, line 10, of the House engrossed amendment, beginning with "marketable" strike out all through line 13 and insert the following: "long-term marketable obligations of the United States, adjusted to the nearest one-eighth of 1 per centum,'.".

The PRESIDING OFFICER. The question is on concurring in the House amendment with an amendment.

The motion was agreed to.

ADJUSTMENT IN THE AMOUNT OF INTEREST PAID ON CERTAIN FUNDS

Mr. CANNON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2620.

The PRESIDING OFFICER (Mr. GARN) laid before the Senate the amendment of the House of Representatives to the bill (S. 2620) to provide for adjusting the amount of interest paid on funds deposited with the Treasury of the United States pursuant to the act of August 20, 1912 (37 Stat. 319), to strike out all after the enacting clause, and insert:

That section 3 of the Act of August 20, 1912, chapter 309 (37 Stat. 319, 320), is amended to read as follows: "That in compliance with said conditions the principal of the sum so received and paid into the Treasury of the United States shall be credited on the books of the Treasury Department as a perpetual trust fund; and the sum of two thousand dollars, being equiva-

SENATE FLOOR DEBATES ON S. 3065 MARCH 17, 1976

tained the world economy for more than 30 years. The spirit of innovation and progress in our societies has no match anywhere, certainly none in societies laying claim to being "revolutionary." Rarely in history have alliances survived—let alone flourished—as ours have in vastly changing global and geopolitical conditions. The ideals of the industrial democracies give purpose to our efforts to improve relations with the East, to the dialogue with the third world and to many other spheres of common endeavor.

Our ties with the great industrial democracies are therefore not alliances of convenience but a union of principle in defense of values and a way of life.

CONCERN ABOUT RED ROLE

It is in this context that we must be concerned about the possibility of Communist parties coming to power—or sharing in power—in governments in NATO countries. Ultimately, the decision must, of course, be made by the voters of the countries concerned. But no one should expect that this question is not of concern to this Government. Whether some of the Communist parties in Western Europe are in fact independent of Moscow cannot be determined when their electoral self-interest so overwhelmingly coincides with their claims. Their internal procedures—their Leninist principles and dogmas—remain the antithesis of democratic parties. And were they to gain power they would do so after having advocated for decades programs and values detrimental to our traditional ties. By that record, they would inevitably give low priority to security and Western defense efforts, which are essential not only to Europe's freedom but to maintaining the world balance of power. They would be tempted to orient their economies to a much greater extent toward the East. We would have to expect that Western European governments in which Communists play a dominant role would, at best, steer their countries' policies toward the positions of the nonaligned. The political solidarity and collective defense of the West, and thus NATO, would be inevitably weakened, if not undermined. And in this country, the commitment of the American people to maintain the balance of power in Europe, justified though it might be on pragmatic, geopolitical grounds, would lack the moral base on which it has stood for 30 years.

We consider the unity of the great industrial democracies crucial to all we do in the world. For this reason we have sought to expand our cooperation to areas beyond our mutual defense—in improved political consultation; in coordinating our approaches to negotiations with the East; in reinforcing our respective economic policies; in developing a common energy policy; and in fashioning common approaches for the increasingly important dialogue with the developing nations. We have made remarkable progress in all these areas. We are determined to continue. Our foreign policy has no higher priority.

The challenges before us are monumental. But it is not every generation that is given the opportunity to shape a new international order. If the opportunity is missed, we shall live in a world of chaos and danger. If it is realized we will have entered an era of peace and progress and justice.

A NEED FOR UNITY

But we can realize our hopes only as a united people. Our challenge—and its solution—lies in ourselves. Our greatest foreign policy problem is our divisions at home. Our greatest foreign policy need is national cohesion and a return to the awareness that in foreign policy we are all engaged in a common national endeavor.

The world watches with amazement—our adversaries with glee and our friends with growing dismay—how America seems bent on eroding its influence and destroying its achievements in world affairs through an orgy of recrimination.

They see our policies in Africa, the eastern Mediterranean, in Latin America, in East-West relations—undermined by arbitrary congressional actions that may take decades to undo.

They see our intelligence system gravely damaged by unremitting, undiscriminating attack.

They see a country virtually incapable of behaving with the discretion that is indispensable for diplomacy.

They see revelations of malfeasance abroad on the part of American firms wreak grave damage on the political structures of friendly nations. Whatever wrongs were committed—reprehensible as they are—should be dealt with in a manner consistent with our own judicial procedures—and with the dignity of allied nations.

CHARGES ARE DANGEROUS

They see some critics suddenly pretending that the Soviets are 10 feet tall and that America, despite all the evidence to the contrary, is becoming a second-rate nation. They know these erroneous and reckless allegations to be dangerous, because they may, if continued, persuade allies and adversaries of our weakness, tempting the one to accommodation and the other to adventurism.

They see this Administration—which has been condemned by one set of critics for its vigorous reaction to expansionism in Southeast Asia, in the Middle East, in Africa—simultaneously charged by another group of opponents with permitting unilateral Soviet gains.

The American people see all this, too, and wonder when it will end. They know that we cannot escape either our responsibilities or the geopolitical realities of the world around us. For a great nation that does not manage events will soon be overwhelmed by them.

If one group of critics undermines arms control negotiations and cuts off the prospect of more constructive ties with the Soviet Union; while another group cuts away at our defense budgets and intelligence services and thwarts American resistance to Soviet adventurism, both combined will, whether they have intended it or not, end by wrecking the nation's ability to conduct a strong, creative, moderate and prudent foreign policy. The result will be paralysis, no matter who wins in November. And if America cannot act, others will, and we and all the free peoples of the world will pay the price.

UNPRECEDENTED CHALLENGES

So our problem is at once more complex and simpler than in times past. The challenges are unprecedented but the remedies are in our own hands. This Administration has confidence in the strength, resilience and vigor of America. If we summon the American spirit and restore our unity, we will have a decisive and positive impact on a world which, more than ever, affects our lives and cries out for our leadership.

Thise who have faith in America will tell the American people the truth:

That we are strong and at peace.

That there are no easy or final answers to our problems.

That we must conduct a long-term and responsible foreign policy, without escape and without respite.

That what is attainable at one moment will inevitably fall short of the ideal.

That the reach of our power and our purpose has its limits.

That nevertheless we have the strength and determination to defend our interests and the conviction to uphold our values.

And finally that we have the opportunity to leave our children a more cooperative, more just and more peaceful world than we found.

In the bicentennial year, we celebrate ideals which began to take shape around the shores of Massachusetts Bay some 350 years ago. We have accomplished great things as a united people. There is much yet to do. This country's work in the world is not a burden but a triumph—and the measure of greatness yet to come.

Americans have always made history rather than let history chart our course. We the present generation of Americans, will do no less. So let this year mark the end of our divisions. Let us usher in an era of national reconciliation and rededication by all Americans to their common destiny. Let us have a clear vision of what is before us—glory and danger alike—and go forward together to meet it.

KISSINGER ADDING TO FORD ALLURE

(By Louis Harris)

The attack by Ronald Reagan on President Ford's foreign policy is likely to backfire badly. The heart of the Reagan argument is that Secretary of State Henry Kissinger has been far too yielding in relations with the Russians and that the President is allowing the U.S. to drop to second place in military capability.

Since most Americans attribute the basic formulation of the Ford foreign policy to the secretary of State, the commanding fact politically is that Kissinger receives an impressive 58 to 37 per cent positive job rating from the public in the latest Harris Survey among a cross section of 1,512 adults. Even among conservatives, Kissinger is praised by a 58 to 38 per cent margin.

These figures suggest that Washington Sen. Henry Jackson [D.] who is also criticizing the secretary, may be making the same mistake as Reagan. Although Jackson might temporarily benefit by picking up the support of Kissinger critics in the primaries, he would find out quickly as the Democratic nominee that he had made a strategic blunder.

The continuing popularity of Kissinger is one of the real phenomena in current public opinion but the reason is not hard to find. For all the criticism in Congress, in the media, and in politics, a massive 68 to 28 per cent give Kissinger positive marks on "working for peace in the world."

This seems to be an article of faith among the American people, who do not see any other figure on the national scene in whom they have as much confidence in handling foreign policy.

On the basic issues of foreign policy, Kissinger receives the following positive ratings:

Relations with Russia: He is given a positive rating by a margin of 56 to 37 per cent.

Relations with China: Kissinger receives positive marks of 55 to 36 per cent.

Peace in the Middle East: Kissinger's standing is 56 to 37 per cent postive.

Relations with Western allies: He is given a positive rating of 50 to 39 per cent.

The 68 to 28 per cent rating on "working for peace" can be traced to the comparable majority who thinks Kissinger is the most effective negotiator this country has in world affairs and that the U.S. should try to work out agreements for peace rather than to back to confrontations.

Despite this highly positive public view of Kissinger, he is criticized in specific areas:

By 59 to 32 per cent, a majority takes him to task for his relations with Congress.

By 47 to 40 per cent, he received negative marks on his efforts to negotiate an arms-control agreement with the Soviet Union. This is a turnaround from last September, when a 49 to 38 per cent plurality gave him a positive job rating on SALT negotiations.

By 53 to 27 per cent, a majority criticizes

Kissinger for the way he handled United States involvement in the civil war in Angola.

By 56 to 27 per cent, a majority also gives him negative marks on the way he has cooperated with the congressional investigations of the CIA.

One of the assumptions of Reagan and Jackson in attacking President Ford and Kissinger is that there is widespread resentment, particularly among conservatives, over the failure of the United States to send more effective military aid to the forces opposing the Russian-backed faction in Angola.

Yet, this latest survey indicates that a 56 to 34 per cent majority of all adults and a 51 to 41 per cent majority of conservatives opposed that kind of U.S. aid.

In contrast, a 58 to 31 per cent majority supported the action by Congress in banning American aid to anti-Russian forces in Angola. An 86 to 6 per cent majority wanted the U.S. to try to negotiate a fair settlement that would bring the fighting to a halt. By the same token, however, 72 per cent were critical of the Soviets and Cubans for their action in Angola.

The Harris Survey asked a national cross-section of adults:

"How would you rate the job Secretary of State Henry Kissinger is doing—excellent, pretty good, only fair or poor?

[In percent]

	Positive	Negative	Not sure
February, 1976	58	37	5
November, 1975	60	33	7
September	63	31	6
May	56	37	7
March	68	26	6
December, 1974	75	19	6
July	79	15	6
May	85	10	5

The Harris Survey also asked:

"How would you rate the job Secretary of State Kissinger has done on [the following]—excellent, pretty good, only fair or poor?"

	Positive	Negative	Not sure
Working for peace in the world	68	28	4
Handling relations with Russia	56	37	7
Working to achieve lasting peace in the Middle East	56	37	7
Handling relations with China	55	36	9
Handling relations with our Western allies	50	39	11
Negotiating arms control agreements with the Russians	40	47	13
Handling relations with Congress	32	59	9
Handling civil war in Angola	27	53	20
Cooperating with the investigations of the CIA	27	56	17

Although obviously controversial, Kissinger maintains solidly positive marks, on the basics of foreign policy. As such, he is proving to be a valuable asset to President Ford, especially when opposition such as Reagan and Jackson try to get votes by attacking the administration's foreign policy.

A ST. PATRICK'S DAY BIRTHDAY FOR SENATOR PASTORE

Mr. DOMENICI. Mr. President, today is an auspicious occasion, both to the Irish and to the Italians.

For today is not only St. Patrick's Day, a day of some conspicuous celebration among our Irish citizens, but today is the 69th birthday of my esteemed colleague and friend from Rhode Island, Senator JOHN PASTORE.

It is very appropriate that Senator PASTORE's birthday falls on St. Patrick's Day, Mr. President, for I have it on very reliable historical information that in truth St. Patrick, who drove the snakes from the Emerald Isle, was really an Italian.

Of course, no one is ever positive in matters of history. However, I recall what a writer once said, "that Ireland is a country in which the probable never happens and the impossible always does." Thus, this predilection for the improbable further persuades me that, in truth, St. Patrick was really an Italian, however improbable that may seem to my Irish friends.

I cannot prove that Senator PASTORE's ancestor, nor mine from the environs of Lucca, in northern Italy, were related to this famous St. Patrick. But, no doubt this Patricio came from a fine family and, like Senator PASTORE, dedicated himself to doing good deeds. He saw the snake-infested isle to the north and went there on a mission of mercy.

That he succeeded we all know. I also wish to note, Mr. President, that Senator PASTORE has succeeded. His wit, ability, and tenacity have been valuable assets in this body. He has fought for what he believed to be right and necessary and he has never failed to make his points cogently and forthrightly. I am most pleased for him that he has seen another season come as he nears the proverbial three score and ten.

My only regret is that because he has decided that this will be his last term, I will be left as the only Italian American in the U.S. Senate. I alone will have to bear the burden each St. Patrick's Day of setting the historical record straight. In the memory of Senator PASTORE I will do my best, if my Irish colleagues do not gang up on me in my aloneness.

CORRECTION OF THE RECORD

Mr. McINTYRE. Mr. President, I ask unanimous consent for the correction of the RECORD of yesterday, March 16, in the following particulars:

First. On page S3432, column 2, correct the paragraph under the subheading (B) (1) Qualified Solar Energy Equipment Expenditures, to read as follows:

"(1) QUALIFIED SOLAR ENERGY EQUIPMENT EXPENDITURES.—The term 'qualified solar energy expenditures' means any amount paid by an individual for any installation which occurs after March 17, 1976, and before January 1, 1981, of solar energy equipment, in any dwelling unit which at the time of such installation is owned by the individual and used by him as his principal residence (within the meaning of section 1034).

Second. On page S3432, column 3, correct the paragraph under the subheading (c) Effective Date, to read as follows:

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after March 17, 1976, in taxable years ending after such date.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the time that is running now not be charged against either party.

The PRESIDING OFFICER. There is a quorum call in progress.

Mr. PACKWOOD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The PRESIDING OFFICER. Under the previous order, the hour of 11:25 a.m. having arrived, the Senate will resume the consideration of the unfinished business, S. 3065, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

AMENDMENT NO. 1445

The PRESIDING OFFICER. The pending question is on agreeing to the amendment (No. 1445) of the Senator from Oregon (Mr. PACKWOOD).

Mr. CANNON. Mr. President, I yield myself 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 20 minutes begin running now, and that the vote on this amendment occur at 10 minutes until 12.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, in light of my colloquy with Senator PACKWOOD yesterday, I have reviewed the legislative history of the existing section 610 exemptions to the overall prohibitions against contributions and expenditures by corporations and labor unions.

The explanation in the CONGRESSIONAL RECORD by the sponsor of the statutory language in question, Representative Orville Hansen, and the Supreme Court's decision in *Pipefitters* v. *United States*, 407 U.S. 385 have convinced me that section 610 is intended to permit corporations and unions to advise their stockholders and members of the organization's support of or opposition to a candidate. I quote from a portion of Representative Hansen's remarks from 17 CONGRESSIONAL RECORD H11478:

Every organization should be allowed to take the steps necessary for its growth and survival. There is, of course, no need to belabor the point that Government policies profoundly affect both business and labor . . . If an organization, whether it be the NAM, the AMA or the AFL–CIO, believes that certain candidates pose a threat to its well-being or the well-being of its members

or stockholders, it should be able to get its views to those members or stockholders. As fiduciaries for their members and stockholders, the officers of these institutions have a duty to share their informed insights on all issues affecting their institution with their constituents. Both union members and stockholders have the right to expect this expert guidance

Since such communications are of a privileged nature, because of first amendment considerations, the present law completely excepts them from the disclosure and limitation requirements of the act. These exceptions apply to every type of membership organization under section 431(f)(4)(c) of title 2 of the United States Code and section 591(f)(4) of title 18.

The Packwood amendment would alter this first amendment exception from the act. An analogous attempt to require disclosure in similar circumstances was made in a House amendment contained in the 1974 act—section 437 of title 2 of the United States Code. That provision was declared unconstitutional by the U.S. Court of Appeals for the District of Columbia Circuit in Buckley against Valeo. The decision on this point is so persuasive that no appeal was taken. I submit that the amendment proposed by Senator PACKWOOD would also infringe on constitutionally protected rights and should not be adopted.

The Buckley against Valeo case is the case that went on to the Supreme Court on other issues, and the Supreme Court held unconstitutional some of the other provisions, but this particular provision did not go beyond the circuit court of appeals.

So I wanted to make that explanation in light of my colloquy yesterday with Senator PACKWOOD when I told him what my view was of the requirements of the law.

Mr. President, I reserve the remainder of my time.

Mr. BROCK. Mr. President, will the Senator yield me 2 minutes?

Mr. PACKWOOD. Yes, I yield the Senator 2 minutes.

Mr. BROCK. Mr. President, it is patently ridiculous to say that this disclosure amendment is unconstitutional. That represents something or other. I cannot quite describe it. I am so awed by the exercise of logic or illogic involved in this particular presentation. The Packwood amendment is by no definition unconstitutional. As a matter of fact, the Packwood amendment affects section 301 of the bill, and any disclosure requirement that the Senator referred to would be under section 321. We do not even try to change that.

All we are saying, in the Packwood amendment, is, if a corporation is going to use corporate money to support a candidate, doggone it, it ought to tell us about it. We have a right to know. The American people have a right to know. By what conceivable logic can we say that that is something that can be hidden from the American people?

Mr. FORD. Mr. President, will the Senator yield for a question at this time?

Mr. BROCK. Not on my time. I do not have the time.

Mr. FORD. I do not have any time either. I wish to ask the Senator a question.

Mr. BROCK. Mr. President, if the Senator from Nevada will yield, I shall be delighted to respond.

Mr. FORD. I shall ask the question quickly.

Mr. CANNON. I yield 1 minute to the Senator from Kentucky.

Mr. FORD. Let me ask the Senator from Tennessee this question as to his interpretation now of the disclosure. If there is a threat to the voting record of one of us in the Chamber, is that part of the expenditure for the disclosure?

Mr. BROCK. No.

Mr. FORD. The Senator was talking about the Farm Bureau would be required to disclose. Are we able to require disclosure under this amendment?

Mr. BROCK. I commend to the Senator the amendment. If the Senator will take the time to read it, he will find out that it applies to corporations and labor unions; it does not apply to voting record.

Mr. FORD. The Farm Bureau is incorporated, and they have no stockholders.

Mr. BROCK. Is the Senator going to allow me to answer the question? The Senator asked the question. I am delighted to answer it.

The amendment is very precise in saying that it must identify and support specifically a clearly identified candidate.

Mr. FORD. Would it indirectly be supporting a candidate if it revealed the voting record?

Mr. BROCK. If they are using it in a favorable light, supporting him——

Mr. FORD. If it were in an unfavorable light?

Mr. BROCK. Why should they not disclose it? What are we trying to hide? What is anyone afraid of if we have disclosure?

Mr. FORD. That is so if the Senator is referring to business corporations, but he forgets about those rural area people who are incorporated. The Farm Bureau is incorporated.

Mr. BROCK. Every Farm Bureau man who I know is proud of his convictions and have nothing to hide. As far as I am concerned he would not be apologetic in what he might say.

Mr. FORD. The Senator is imposing another hazard on them.

I yield back the remainder of my time.

Mr. BROCK. No, I am not. I am saying we should not have a cop-out?

The PRESIDING OFFICER. The 1 minute that has been yielded by the Senator from Nevada has expired.

Who yields time?

Mr. BROCK. Mr. President, I still have part of my 2 minutes remaining, do I not?

The PRESIDING OFFICER. The Senator has a minute remaining.

Mr. BROCK. Let me continue then by saying, as I started out, that there is no possible way one can say to me that there is justification for hiding contributions in this country any more. Have we not learned? Where have we been? What is the lesson of our experience of the last 4 years, that we are not going to let the American people know what is going on?

If there is one single element in the whole reform movement, it is disclosure, disclosure, disclosure. There is nothing else that counts. If the American people know what is going on, they are intelligent enough to make a rational judgment. But we must not hide from them what is being done on behalf of a candidate, and that is solely within the law today, unless we pass this amendment, and every Member of this body knows it. There is no constitutional question here. It is a matter of honesty in disclosure.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CANNON. Mr. President, I yield myself 1 additional minute simply to point out that the Senator has completely misstated the case. He referred again to contributions. A corporation or labor union cannot make a contribution from either corporation funds or labor union dues, and it is not a disclosure of a contribution. The contribution is required to be fully disclosed, fully reported in connection with a committee that is organized pursuant to the law to make a contribution to candidates or to political parties.

Now that is covered completely, separate and apart, from this precise first amendment provision which relates to the right of a corporation or a union to communicate with its stockholders.

Mr. President, I yield 1 minute to the Senator from California.

Mr. CRANSTON. Mr. President, the Packwood amendment applies to any membership organization, in effect. It represents, in my view, a dangerous Federal intrusion into the internal affairs not only of corporations and labor unions but of all membership organizations which may communicate political endorsements or opinions to their members—organizations like Common Cause, which don't endorse candidates; organizations like the Americans for Democratic Action and Americans for Constitutional Action, which on the other hand do endorse candidates, the Environmental Defense Fund, and the Sierra Club.

I see no reason why the costs of such internal communications are any business of the Federal Government, and I approach this from a conservative point

of view about whether Government has a right to intrude to that degree into the affairs of private organizations.

The fact that an endorsement has been made is certainly no secret. There is nothing about disclosure involved here.

Mr. President, may I have yielded to me one additional minute?

Mr. CANNON. Mr. President, I yield one additional minute to the Senator from California.

Mr. CRANSTON. Certainly the public has no difficulty in finding out whom labor unions support, whom corporations support, or whom other organizations support. But to subject the internal communciations of a membership organization with its members to disclosure requirements—to open their internal operations to audit by Federal authorities seeking to find discrepancies—clearly infringes on our basic rights of free speech and free expression. Volunteer citizens organizations formed for the purpose of lobbying the Government should be subjected to the absolute minimum of Government regulation.

I urge our colleagues to defeat the Packwood amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CLARK. Mr. President, will the Senator yield a minute or two to me?

Mr. CANNON. I yield 2 minutes to the Senator from Iowa.

Mr. CLARK. Mr. President, I want to raise the question that Senators FORD and CRANSTON raised, and I would like to have an answer. Are all organizations included in the Packwood amendment, or is it simply labor organizations and corporations? Are such organizations as the Farm Bureau, if they are not incorporated, or the Sierra Club, or Common Cause covered? Is that the interpretation of the amendment of the Senator?

Mr. PACKWOOD. No.

I was talking with Fred Wertheimer, who is with Common Cause, last night on the telephone. He suggested perhaps this amendment ought to be changed to include the right to have the National Rifle Association —

Mr. CLARK. Does it?

Mr. PACKWOOD. Wait a minute.

Fred Wertheimer was in my office this morning. He said:

No, I changed my mind. I don't think we ought to do it this time. We ought to continue to limit it at the moment to corporations and unions.

This amendment amends section 610. It does not apply to any other organization but unions and corporations.

Mr. CLARK. I am not interested so much in the telephone conversation as in whether that is all that is covered. Does the Senator mean to say that the League of Conservation Voters, under this amendment, may actually send out communications and say that Senator PACKWOOD ought to be defeated, or ought to be supported, and not fall under the requirements of this amendment?

Mr. PACKWOOD. They can do that now.

Mr. CLARK. I understand that. But the Senator is going to say that corporations and labor unions may not do that, but any other membership organization in the country may do it?

Mr. PACKWOOD. No, we are not saying they cannot do it. This amendment does not stop it.

Mr. GRIFFIN. If the Senator will vote for this amendment, there could be another amendment later to expand on the principle.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. GRIFFIN. Mr. President, will the Senator yield me a minute or two?

Mr. PACKWOOD. I yield.

Mr. GRIFFIN. Mr. President, I should like to go back to the question that was raised yesterday. I wish to address a question to the distinguished chairman of the committee.

Can we agree now that under existing law corporations can use corporate funds and unions can use union funds, including funds obtained from union dues, to communicate with their stockholders or members, as the case may be, for the purpose of advocating the election or defeat of particular candidates; that this can be done legally, without limitation, and that they do not have to report it? Let us get an answer to that.

Mr. CANNON. Yes. The Senator is correct.

I answered that yesterday, that I did not think they could do it.

I have since reviewed the Pipefitters' case and the Supreme Court decision, the language in the U.S. Supreme Court reports, and I am convinced that a corporation and a union are allowed to communicate freely with members and stockholders on any subject, to attempt to convince members and stockholders to register and vote, and make political contributions and expenditures, financed by voluntary donations which have been kept in a separate, segregated fund, and that they can express an opinion, under the first amendment, as to whether a candidate should be defeated or rejected.

Mr. GRIFFIN. Mr. President, now that we have that point clear —

Mr. CANNON. To their members only.

Mr. GRIFFIN. It seems to me that the remainder of the provisions of the law requiring disclosure as to campaign expenditures are somewhat meaningless, if a labor organization can spend without limit, and without reporting, to support or defeat a candidate.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. PACKWOOD. I should like to ask the chairman of the committee this question.

Yesterday, when Senator CANNON and I were debating, he said:

I would say this to the Senator: If a corporation or a labor organization solicits the persons they are entitled to solicit for the defeat or election of a particular candidate, those funds should be reported as an independent expenditure. That is my intention.

Mr. PACKWOOD. Would the Senator say that again, they should be reported as a what?

Mr. CANNON. As an independent expenditure.

Then he said:

those people should be required to report if they advocate the election or defeat of a known candidate . . .

The intent is disclosure of the amount spent to elect a particular candidate or the amount spent to independently defeat a candidate.

Is that still the chairman's position?

Mr. CANNON. I said yesterday that that was my position. It was then. It is not now, since I have had the opportunity to review the Supreme Court decision. I am bound by the Supreme Court, the same as the Senator is, and I do not believe that such a limitation could be imposed. That was my feeling at the time. It would be my feeling now. But I cannot support that position in light of the Court's decision in the pipefitters' case and in light of the history that is stated on this matter in the U.S. Supreme Court reports.

Mr. PACKWOOD. Senator CANNON has admitted being wrong yesterday and he is wrong today. Let me read from the case we are talking about:

There has been discussion that the proposed amendment is unconstiutional since it is similar to the so-called "Common Cause" disclosure requirement, Section 437(a) of the 1974 Amendment, which was held unconstitutional by the District of Columbia Court of Appeals and was not appealed to the Supreme Court. The instant amendment is clearly distinguishable. Section 437(a) required the disclosure of not only the amount expended by any person other than an individual but also required the disclosure of the persons who contributed monies to the group or committee which made the expenditures for the purpose of influencing the outcome of a Federal election. The Court of Appeals found that this disclosure requirement failed to conform to the necessary standards of certainty which must be followed in order to abridge an individual or group's association rights and therefore, disclosed that it was unconstitutionally vague. The proposed Amendment violates none of the Constitutional requirements.

We are not requiring in this amendment that a single contribution to that organization be disclosed, or any other expenditures, just the expenditures they make for politics.

If Johnny Jones, of Dufur, Oreg., is a candidate for office, he has to report it, under the rules. The AFL–CIO or General Motors, today, who spend a million dollars of union dues or corporate treasury money, do not have to report it.

What has happened between yesterday and today is that pressure has been brought on the Senate. The unions want to spend millions of dollars and not report a single dollar of it to the American public, so that we cannot identify where the money came from.

We are not talking about constitutionality. We are talking about power, raw power, and everybody in this Chamber knows it.

Mr. CANNON. Mr. President, I yield myself 10 seconds.

We are not talking about contributions. A union or a corporation cannot make contributions now. It is illegal.

I yield 1 minute to the Senator from Iowa.

Mr. CLARK. Mr. President, Senator PACKWOOD made the point on the floor of the Senate yesterday that only corporations and labor unions are permitted to communicate with their stockholders or members without disclosure. Such is not the case. As I tried to indicate before, this is not a loophole for corporations or labor unions. No organization may be required to disclose that activity, as explained very clearly in the act itself—431(f)(4)(C).

Of course, the amendment applies only to corporations and labor unions, and that is why the distinguished Senator from Michigan is quite right in saying that this amendment deals only with them. Indeed, what we find here is that if this amendment is agreed to, any organization, any membership organization, may advocate the defeat or success of a candidate without restriction, without a reporting requirement, except for labor unions and corporations.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. CANNON. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute to the Senator from Nevada, and 3 minutes to the Senator from Oregon.

Mr. CANNON. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If neither side yields time, time runs equally.

Mr. PACKWOOD. Mr. President, in the 2 minutes I have remaining, let us put the clear points before the Senate once more.

This amendment applies to corporations and unions, and they must disclose where they spend their money. I would be happy to entertain an amendment by the Senator from Iowa or anybody else to have them disclose where they spend their money politically. The whole subject of this issue is disclosure. If this loophole is allowed to remain, if General Motors can spend a half million dollars of their corporate treasury money to advocate the defeat or election of a candidate, or if the AFL-CIO can do the same, while Johnny Jones, in Dufur, Oreg., has to report the expenditure of $100 that he spends independently, we have created the biggest single loophole that exists in the law.

It will be a loophole big enough to drive every candidate through; and he can run his campaign on what appears to be $10,000 while millions are spent on his behalf which are never reported. If there is any fairness or equity, then everything that is spent on behalf of a candidate, whether it comes through the candidate's committee or is spent on his behalf by any other committee, should be reported, so that the voters can look at it before the election.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. PACKWOOD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Oregon. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CHURCH (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Utah (Mr. Moss) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Washington (Mr. JACKSON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The result was announced—yeas 50, nays 41, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—50

Allen	Garn	Randolph
Baker	Goldwater	Ribicoff
Bartlett	Griffin	Roth
Beall	Hansen	Scott, Hugh
Bellmon	Hart, Gary	Scott, William L.
Bentsen	Hatfield	Sparkman
Biden	Helms	Stennis
Brock	Hruska	Stevens
Bumpers	Kennedy	Stevenson
Byrd, Harry F., Jr.	Laxalt	Stone
Chiles	Leahy	Taft
Curtis	McClellan	Talmadge
Dole	McClure	Thurmond
Domenici	Morgan	Tower
Eastland	Nunn	Weicker
Fannin	Packwood	
Fong	Pearson	
	Percy	

NAYS—41

Abourezk	Gravel	McGee
Bayh	Hart, Philip A.	McIntyre
Brooke	Haskell	Metcalf
Burdick	Hathaway	Mondale
Byrd, Robert C.	Hollings	Montoya
Cannon	Huddleston	Muskie
Case	Humphrey	Nelson
Clark	Inouye	Pell
Cranston	Javits	Proxmire
Culver	Johnston	Schweiker
Durkin	Long	Symington
Eagleton	Magnuson	Tunney
Ford	Mansfield	Williams
Glenn	Mathias	

ANSWERED "PRESENT"—1

Church

NOT VOTING—8

Buckley	McGovern	Stafford
Hartke	Moss	Young
Jackson	Pastore	

So Mr. PACKWOOD's amendment was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1446

The PRESIDING OFFICER (Mr. LEAHY). Under the previous order, the Senate will now resume consideration of the amendment of the Senator from Alabama (Mr. ALLEN) No. 1446.

The Senate will be in order and the clerk will report.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment No. 1446: On page 27, between lines 5 and 6, insert the following new section:

USE OF REGULATIONS, ADVISORY OPINIONS, AND SO FORTH IN CIVIL AND CRIMINAL ENFORCEMENT

SEC. 109A. Section 315 of the Act (2 U.S.C. 438), as redesignated by section 105 of this Act, is amended by adding at the end thereof the following new subsection:

"(e) In any proceeding, including any civil or criminal enforcement proceeding against any person charged with violating any provision of this title or of title 18, no rule, regulation, guideline, advisory opinion, opinion of counsel, or any other pronouncement by the Commission or any member, officer, or employee thereof shall be used against any person, either as having the force of law, as creating any presumption of violation or of criminal intent, or as admissible in evidence against such person, or in any other manner whatsoever.".

Mr. JAVITS. Mr. President, will the Senator from Alabama yield to me for a minute?

Mr. ALLEN. Yes.

The PRESIDING OFFICER (Mr. LEAHY). May we have order in the Senate so that the Senator from New York can be heard?

Order in the Senate and in the galleries.

The Senator from New York.

Mr. JAVITS. Mr. President, I ask unanimous consent that Charles War-

ren of my staff be granted privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I thank my colleague.

Mr. BAYH. If the Senator from Alabama will yield, I ask unanimous consent that Barbara Dixon of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, with deep gratitude to the distinguished Senator from Alabama, I ask unanimous consent to add the name of Herb Jolovitz of the distinguished junior Senator from Vermont's office, as well.

The PRESIDING OFFICER. The Chair thanks the Senator.

Without objection, it is so ordered.

The Senator from Alabama.

Mr. ALLEN. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate is not in order. The Senator from Alabama has a right to be heard. I ask that the Senate be in order. Senators having conversations, the Chair respectfully requests that they conduct them in the cloak rooms or off the floor. The galleries will also be in order.

The Senator from Alabama.

Mr. ALLEN. Mr. President, my attention was drawn to the need for this amendment by a letter from Honorable Brice M. Clagett of the firm of Covington & Burling here in Washington. He wrote Mrs. MARJORIE S. HOLT, sending me a copy. She is a member of the House and on the House Administration Committee where this bill, or a similar bill, was pending.

The PRESIDING OFFICER. The Senate is not in order. The Chair is having difficulty hearing the Senator from Alabama.

Mr. ALLEN. Mr. President, I have been requested to yield to the distinguished majority leader in order that the Senate may go over to the House Chamber for a joint meeting.

I ask unanimous consent that I may yield to the distinguished majority leader and that I have the floor on the return of the Senate to the Senate Chamber.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRIME MINISTER OF THE REPUBLIC OF IRELAND

Mr. MANSFIELD. Mr. President, on that basis, I move that the Senate stand in recess subject to the order granted to the distinguished assistant majority leader on yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, the Senate at 12:14 p.m. took a recess, subject to the call of the Chair, and the Senate, preceded by the Assistant Secretary of the Senate, Darrell St. Claire, the Sergeant at Arms, F. Nordy Hoffmann, and the President Pro Tempore, JAMES O. EASTLAND, proceeded to the Hall of the House of Representatives to hear an address by the Prime Minister of the Republic of Ireland.

(The address delivered by the Prime Minister of the Republic of Ireland to the joint meeting of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

At 1:26 p.m., the Senate, having returned to its Chamber, reassembled, and was called to order by the Presiding Officer (Mr. GLENN).

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

Mr. MANSFIELD. Mr. President, will the Senator from Alabama who has the floor yield to me for a few minutes?

Mr. ALLEN. Yes, I am happy to yield to the Senator.

Mr. MANSFIELD. Just to clear up a situation which developed yesterday.

Mr. President, may I say I discussed this with the distinguished Republican whip who has been the acting manager of this bill and he gave it his approval.

Now I would like to call it to the attention of the distinguished manager of the bill and the distinguished Senator from Alabama, Mr. ALLEN, a member of the committee, and the distinguished Senator from West Virginia, Mr. BYRD, who is also a member of the committee.

Mr. President, if I may, I should like to address one further question to the distinguished chairman of the Rules Committee pursuant to our colloquy on yesterday. I would like to restate my present understanding of the chairman's interpretation regarding the role of the Senate's ex officio member of the Federal Election Commission, that is, the Secretary of the Senate.

Would the Senator agree that the ex officio member for the Senate serves on the Commission, irrespective of his party affiliation, in connection with Senate campaign matters which come within the purview of the Commission and that the law permits the Secretary to advise with, discuss, question and, except for the right to vote, participate fully in the proceedings of the Commission in this respect?

Mr. CANNON. Mr. President, I say to the distinguished majority leader that if the bill that we have proposed here is passed in its present form, my answer would be "Yes" to his inquiry.

Mr. MANSFIELD. And what about the bill which is already on the books? This question was not raised by the Supreme Court, as the Senator recalls.

Mr. CANNON. Yes, the question was not raised before the Supreme Court. The Court did not rule on that precise point and I say that the answer would be the same because under the original bill which we passed earlier and which the Supreme Court ruled on, the Secretary of the Senate was an ex officio member of the commission, without the right to vote.

Mr. MANSFIELD. I appreciate that.

May I ask the opinion of the acting minority manager of the bill in response to the question I have raised?

Mr. GRIFFIN. In response to the distinguished majority leader's inquiry, I believe he has stated the committee's intent, as I understand it.

I think it ought to be acknowledged, however, that some question has been raised about the constitutionality of inclusion of the Secretary of the Senate and the Clerk of the House as participating but nonvoting members of the Commission. The Supreme Court did not rule directly on that point.

I think it is the view of the committee that, to the extent of constitutionality, it is expected that the Secretary of the Senate and the Clerk of the House of Representatives would be participating but nonvoting members of the Commission.

Does that answer the Senator's question?

Mr. MANSFIELD. Yes. I take it that the acting Republican leader, in effect, says what the manager of the bill has said. That is, that this is what the Senate intended, no question has been raised concerning its constitutionality, and it is applicable under the law as it is now in effect.

Mr. GRIFFIN. In my view, that is correct in terms of the intent of the Senate.

Mr. MANSFIELD. Yes.

I wish to ask the distinguished Senator from Alabama to render an opinion on this matter.

Mr. ALLEN. I think that was the intent of the committee in drafting the bill, that the Secretary of the Senate should serve as an ex officio, nonvoting member of the Commission, but would have full right to advise with the Commission and to participate in any discussion or in any matter coming before the Commission; to give his advice, arising from his expertise in this area, but not to have the right to cast a vote.

Mr. MANSFIELD. I appreciate the statement of the distinguished Senator from Alabama, the statement of the distinguished manager of the bill, the Senator from Nevada (Mr. CANNON), and the distinguished Senator from Michigan, the acting manager of the bill now under consideration.

I thank the Senator from Alabama for allowing me to intercede.

Mr. MANSFIELD subsequently said:

I have had a colloquy with various members of the Committee on Rules and Administration relative to the position of the ex officio member of the Senate. Since that time, I have contacted Senators HATFIELD, SCOTT, BYRD, WILLIAMS, PELL, and CLARK. I want the record to show that they all answered in the affirmative and approved of the position taken by the manager of the bill, the Senator from Nevada (Mr. CANNON), the acting Republican leader at that time and the minority manager of the bill (Mr. GRIFFIN), and the distinguished Senator from Alabama (Mr. ALLEN) all of whom spoke at that time.

Mr. ALLEN. Mr. President, in view of the fact that many of the Senators following the joint session went to lunch, I would like to have the opportunity to discuss this amendment before somewhat more Members than present in the Chamber at this time. I would at this time suggest the absence of a quorum until a larger number of Senators are present in the Chamber.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 1:34 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FANNIN).

The PRESIDING OFFICER. What is the will of the Senate?

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment. All in favor signify by saying "Aye."

Mr. ROBERT C. BYRD addressed the Chair.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask the clerk to state the amendment again.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 27, between lines 5 and 6, insert the following new section:

USE OF REGULATIONS, ADVISORY OPINIONS, AND SO FORTH IN CIVIL AND CRIMINAL ENFORCEMENT

SEC. 109A. Section 315 of the Act (2 U.S.C. 438), as redesignated by section 105 of this Act, is amended by adding at the end thereof the following new subsection:

"(e) In any proceeding, including any civil or criminal enforcement proceeding against any person charged with violating any provision of this title or of title 18, no rule, regulation, guideline, advisory opinion, opinion of counsel, or any other pronouncement by the Commission or any member, officer, or employee thereof shall be used against any person, either as having the force of law, as creating any presumption of violation or of criminal intent, or as admissible in evidence against such person, or in any other manner whatsoever.".

Mr. ALLEN. Mr. President, my attention was called to the need for this amendment by the Hon. Bryce M. Clagett, who was the chief attorney for the firm of Covington and Burling in the Supreme Court case of Buckley against Valeo. He called my attention to the fact that, without this amendment, the Election Commission's power to make rules and regulations creates a prior restraint on political expression. Citizens who disagree with the Commission about the meaning of the law would generally not dare to act on that disagreement, since the very fact that the Commission has spoken will prejudice their position in enforcement litigation. The Supreme Court, of course, has recognized that first amendment rights are involved in political spending. With a statute as complex and vague as the campaign spending law, I think it is unconstitutional for an agency such as the Commission to have vast discretionary power over political expression. The Supreme Court found it unnecessary to decide that question, since it invalidated the Commission's powers on other grounds, but if the Commission is reconstituted without solving this problem, months and perhaps years of further uncertainty and litigation will be necessary. Mr. Clagett suggests that the solution is quite simple. He suggests the amendment which I have introduced.

Here, Mr. President, we have a case of prior restraint under the existing law and under the law as provided by the bill. We have a case of prior restraint on the exercise of first amendment rights because, if the Commission says that its interpretation of the law is thus and so, that would put a chilling effect—a chilling, negative effect—on any person acting contrary to the Commission's statement of its view of the law. This amendment would provide that in any civil or criminal action arising under the Federal Election bill, the controlling factor would be the law, what the statute says; not what the Commission says the law is, but what is the law.

If a person wishes to go contrary to the Commission's statement of its concept of the law, if he wishes to take his chances that his view of the law is correct, then he would have a right to act contrary to what the Commission says the laws is. Then, in a proceeding against him, the Commission's rule or regulation or interpretation would not have the force of law in the proceedings against him.

What would have the force of law, then? The statute itself. Without this amendment, we are going to leave this important constitutional question still up in the air.

Why was it not decided, then, in the Buckley against Valeo case? Well, the appellate courts do not decide any question that they do not have to decide. They decided that the Commission was improperly set up and that it did not have any power in this area at all, so it was not necessary for it to decide the further constitutional question as to whether the Commission could make rules and regulations having the effect of law.

It was not necessary to decide that question, because they threw the Commission out, to all intents and purposes, other than carrying out ministerial acts that it could have carried on had it been appointed by Congress alone and without having any executive powers at all.

If we leave in here the power of the Commission to create prior restraint on expressions of first amendment rights—and the court has said that in an area of spending, this is an expression of free speech guaranteed by the first amendment—if we allow the Commission to be able to put the chilling effect on free expression under the first amendment, we shall have to go through this same process in years to come.

Mr. CRANSTON. Will the Senator yield for a question?

Mr. ALLEN. Yes, I shall be glad to yield.

Mr. CRANSTON. I ask the Senator if there is any existing Federal agency whose rules and regulations do not have the force and effect of law.

Mr. ALLEN. I believe the Senator misses the point, because this has to do with first amendment rights. Possibly other commissions or agencies might be able to promulgate rules that might have the force and effect of law, but that is merely the exercise of rights not guaranteed by the first amendment.

Mr. CRANSTON. I recognize the distinctions the Senator is seeking to make, but is the answer "no" to my question?

Mr. ALLEN. I did not understand the question.

Mr. CRANSTON. Is there any other agency that can pass regulations that do not have the force and effect of law?

Mr. ALLEN. I am not sure of that. I am sure there are other agencies that do not have the right to pass regulations that have the force and effect of law, but I would not feel that all agencies have that right. On the contrary, I think that most agencies do not have that right. Here we have involved first amendment rights.

I know the Senator is interested in protecting first amendment rights.

Mr. CRANSTON. I certainly am.

Mr. ALLEN. The Senator from Alabama is not going to violate the law if he can help it. He is not going to violate any regulations of the Commission. But if regulations of the Commission should be violated by someone and proceedings are brought against him, it is not proper, in the judgment of the Senator from Alabama, and it would be unconstitutional to have the regulations and rules of the Commission set up as having the force of law where they go beyond the statute. To require any thing other than regulations consonant with the law would be an invasion of first amendment rights, in the view of the Senator from Alabama.

Mr. CRANSTON. The Senator used phrase "where they go beyond the statute." Of course, if they went beyond the statute, they would not have the force and effect of law. We are talking

about regulations that carry out the intent of the statute.

Mr. ALLEN. The Senator from Alabama is talking about a different situation. Here we have the power of restraint. Where we have a Commission that is empowered to set up rules and regulations, then they are going to exercise a prior restraint on someone who who interprets the statute differently. He would be afraid or hesitant to exercise rights which the statute gives him in the face of regulations by the Commission that, while they may go beyond the statute, would still have some force and effect under the present law in the proceedings against him. What this amendment would do is keep those rules and regulations from having the force and effect of law and we would rely on the statute itself.

Mr. CRANSTON. Does not the bill provide that Congress would review any opinions, rules, regulations issued by the Commission before they would have the effect of law?

Mr. ALLEN. Yes; and, I think, I might say, Mr. Clagett, in his testimony before the Subcommittee on Privileges and Elections, points out that Congress, having the right to veto the regulations of the Commission, does not save it from unconstitutionality because to do so would give Congress and the Commission the power to enact laws without the Executive having the right to participate in that lawmaking process, in other words, having the right of veto.

If you follow the reasoning of the Senator from California, the Commission could come up with any farfetched regulations and then if Congress fails to veto that, or one House of Congress, then the Senator from California would have that binding law without the Chief Executive having his constitutionally guaranteed right to review that legislation and veto the legislation if he saw fit.

So I think if the Senator is relying on the right of one House of Congress to veto regulations he is overlooking the requirement of the Constitution that the legislation by Congress has got to be presented to the President for his signature or his veto.

Mr. CRANSTON. Of course, the question is not whether it is legislation. It deals with regulations, rules, opinions that must be in keeping with the intent of legislation or obviously they would be overturned in the courts. Of course, there is always the opportunity to go to court if the executive branch or anyone else feels there should be a legal challenge.

Mr. ALLEN. Well, why not rely on the statute? Why must you interpose a bunch of regulations? Why must you rely on what the Commission says that the law is rather than relying on the statute itself? That is the purpose of it.

Mr. CRANSTON. The answer, I suppose, is that in a great many cases a law is passed which requires regulations to spell out exactly how you comply with that law.

Mr. ALLEN. Still, should not the law itself rather than what the Commission says the law is be the criterion?

Mr. CRANSTON. It would be.

Mr. ALLEN. The point though that the Senator from California does not appreciate, I believe, is the fact that if the Commission spreads a bunch of regulations on its books and they are not overturned by Congress then the average citizen would hesitate to follow his interpretation, his concept, of what the law is in the face of the chilling effect of the regulations adopted by the Commission. By allowing the Commission to do that it constitutes a prior restraint on freedom of expression by a person wishing to avail himself of his first amendment rights.

Mr. CRANSTON. It seems to me that we are following here the normal practice with any law. There would be a chilling effect on the citizen if there were no regulations giving guidance as to what the law meant when it was not entirely clear.

Mr. ALLEN. Well, the citizen has got a right, if he wishes, to act according to his interpretation of the statute. He has got a right or should have the right to so act, and that is all this amendment would give him. It would be the right to be subject to the statute and for the regulations not to have the binding force and effect of law.

Now, the constitutional question has been spelled out. If the Senate in its wisdom wants to turn the amendment down, and then face this issue on down the road, well, that is certainly all right with me. I have no pride of authorship in the amendment because I did not author it, but I do agree with Mr. Clagett's interpretation of the Constitution.

Let me read further from his testimony before the subcommittee:

> The Supreme Court has clearly recognized that any regulation of campaign expenditures and contributions operates in a critically sensitive area of constitutional concern. The Court left no doubt that such regulation inevitably encroaches on free speech and makes inevitable a balancing process between compelling governmental needs and first amendment freedoms. When activity by citizens in this most sensitive area is subjected to regulation, especially with criminal sanctions, the inhibiting effect on political expression is acute.
>
> Moreover, the election law is both highly complex and in many respects perhaps unavoidably vague—as was fully recognized in the Senate debate last fall on the Commission's office-account regulations.
>
> In the circumstances the power to interpret the law is largely the power to make new law. A commission with that kind of power has vast influence over the political process, not necessarily excluding the power to determine the results of particular elections.
>
> The existing Commission has used these powers with a vengeance. In many respects its pronouncements made new law—sometimes where the statute as enacted by the Congress was silent; sometimes in rather striking disregard of what the statute did say.

And he attaches as an appendix to his statement before the committee a list of just a few of the more conspicuous lawmaking pronouncements of the Commission issued in only 4 months of operation.

He states he does not mean to be too hard on the Commission. Given the exceptional complexity and vagueness of the statute, possibly no interpreting and enforcing agency could have avoided making itself subject to the same degree of criticism—

> It is highly inappropriate, and perhaps unconstitutional, for any agency in effect to make law in an area trenching so sharply on so basic a constitutional right as freedom of speech, and on a subject so crucial to our survival as a free democratic country as the electoral process itself. The fact is that, when either a candidate or an ordinary citizen is told by the Commission that certain political activity which he wishes to undertake would violate the law, he will in the overwhelming majority of cases refrain from engaging in that activity although he is convinced the Commission's interpretation is wrong. Even if he is otherwise disposed to litigate the issue, if he is well advised by counsel he will be aware (1) that a court probably will enforce a Commission rule as having the force of law, at least unless it flatly and unquestionably is contrary to the words of the statute, and (2) that a court will give great weight to any Commission pronouncement, because of alleged agency expertise, in deciding on the proper interpretation of the statute. He will thus be chilled from exercising what a court might well ultimately hold were his rights under both the Constitution and the statute. He will in effect be subjected to a prior restraint on the exercise of his first amendment rights.
>
> It may well be that this chilling effect or prior restraint resulting from Commission pronouncements would itself be held to violate the Constitution.[1] The Court had no occasion to decide that issue in *Buckley* v. *Valeo*, although, the plaintiffs raised it, because the Court held the Commission's powers unconstitutional on other grounds.

So if the Commission is recreated without any changes to address the problem that Mr. Clagett outlines, there will be still a heavy constitutional cloud over the statute and the Commission, and the removal of the cloud will necessarily await still further litigation.

He suggests that the proper solution is that a recreated Commission should not be given rulemaking power except, perhaps, with respect to the Federal subsidy provisions. If it is given enforcement responsibilities it should have the power to issue guidelines and advisory opinions, if those are necessary, so that citizens can get help in deciding what they can safely do.

This amendment would not undo or would not abrogate the force of advisory opinions in protecting those who seek the advisory opinion from the Commission.

The point is that if he would go against the advisory opinion, relying on his interpretation of the law, then that advisory opinion would not have the force and effect of law.

Now, there should be a provision to the effect that such pronouncements do not

[1] See, *e.g.*, Speiser v. Randall, 357 U.S. 513 (1958), where the Court held that tax-assessment procedures which shift the burden of proof to the taxpayers are not adequate where First Amendment issues are at stake. See also, *e.g.*, Bantam Books, Inc., v. Sullivan, 372 U.S. 58 (1963); Freedman v. Maryland, 380 U.S. 51 (1965); Southeastern Promotions, Ltd., v. Conrad, 43 L. Ed. 2d 448, 460 (1975); Saia v. New York, 334 U.S. 558 (1948); Keyishian v. Board of Regents 385 U.S. 589, 604 (1967); Lamont v. Postmaster General, 381 U.S. 301 (1965).

have the force of law and are valid only to the extent that they conform to the statutes, and that they may not be used to create any presumption of violation or criminal intent in an action against a candidate or other citizen who has chosen to disregard them, and are inadmissible in evidence against a citizen in such enactment.

Mr. President, I ask unanimous consent to have printed in the RECORD certain correspondence on this issue, together with Mr. Clagett's testimony before the Senate Subcommittee on Privileges and Elections.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COVINGTON & BURLING,
Washington, D.C., March 11, 1976.

Hon. JAMES B. ALLEN,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR ALLEN: The enclosed letter to Congresswoman Holt is self-explanatory. She called me on Tuesday to say that she had proposed the suggested amendment and that the House Administration Committee adopted it.

If you agree with the amendment, you might wish to propose its addition to the Senate bill.

Yours sincerely,

BRICE M. CLAGETT.

COVINGTON & BURLING,
Washington, D.C., March 1, 1976.

Hon. MARJORIE S. HOLT, M.C.,
Longworth House Office Building,
Washington, D.C.

DEAR CONGRESSWOMAN HOLT: In addition to being a constituent of yours, I was the senior lawyer for Senator Buckley, et al. in the Supreme Court case of *Buckley* v. *Valeo*, concerning the constitutionality of the election laws. I am writing to suggest an amendment to the bill which the Committee on Administration is now considering which would reconstitute the Federal Election Commission in a constitutional manner.

The problem is described at pp. 2–5 of my testimony (copy enclosed) of last month before the Senate Rules Committee. I also enclose the text of an amendment which would solve the problem.

Briefly, the problem is that without such an amendment the Commission's power to make rules, etc., creates a prior restraint on political expression. Citizens who disagree with the Commission about the meaning of the law will generally not dare to act on that disagreement, since the very fact that the Commission has spoken will prejudice their position in enforcement litigation. The Supreme Court has of course recognized that First Amendment rights are involved in political spending. With a statute as complex and vague as the campaign spending law, I think it is unconstitutional for an agency such as the Commission to have vast discretionary power over political expression. The Supreme Court found it unnecessary to decide that question since it invalidated the Commission's powers on other grounds. If the Commission is reconstituted without solving this problem, months—perhaps years—of further uncertainty and litigation will be necessary.

The solution is quite simple. I should think the enclosed amendment might well commend itself to you, Chairman Hays and the rest of the Committee.

I should be glad to discuss this matter with you or a member of your staff if you should wish.

Yours sincerely,

BRICE M. CLAGETT.

Enclosures.

TESTIMONY

"(e) In any proceeding, including any civil or criminal enforcement proceeding against any person charged with violating any provision of this title or of Title 18, no rule, regulation, guideline, advisory opinion, opinion of counsel or any other pronouncement by the Commission or any member, officer or employee thereof shall be used against any person, either as having the force of law, as creating any presumption of violation or of criminal intent, or as admissible in evidence against such person, or in any other manner whatsoever."

STATEMENT BY BRICE M. CLAGETT BEFORE THE SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS OF THE SENATE RULES COMMITTEE, REGARDING S. 2911, 2912, AND 2918, FEBRUARY 18, 1976

Mr. Chairman, members of the Subcommittee: My name is Brice M. Clagett, and I as a member of the law firm of Covington & Burling, in Washington. I was one of the lawyers for the plaintiffs in the case of *Buckley* v. *Valeo*, some of the consequences of which you are considering today. I do not appear here as a representative of those plaintiffs or anyone else, but simply as a citizen who over the past year has had occasion to do a good deal of thinking about the election laws.

I am not here to take any position on whether the Federal Election Commission should be re-created on the basis of a constitutionally permissible method of appointment or whether, rather, its powers should be transferred to some other agency or agencies. I wish to make only two limited points with regard to S. 2911:

(1) If the Commission is re-created with its prior enforcement powers, it should not be given rule-making authority; it should be given power to issue guidelines and advisory opinions, but the status of those pronouncements should be qualified so as to protect the constitutional rights of citizens which the Supreme Court has recognized.

(2) If, contrary to my first point, a new Commission is given rule-making power, its rules should not be made subject to a legislative veto.

I.

The Supreme Court has clearly recognized that any regulation of campaign expenditures and contributions operates in a critically sensitive area of constitutional concern. The Court left no doubt that such regulation inevitably encroaches on free speech and makes inevitable a balancing process between compelling governmental needs and First Amendment freedoms. When activity by citizens in this most sensitive area is subjected to regulation, especially with criminal sanctions, the inhibiting effect on political expression is acute.

Moreover, the election law is both highly complex and in many respects, perhaps unavoidably, vague—as was fully recognized in the Senate debate last fall on the Commission's office-account regulations (121 Cong. Rec. S. 17873–89, daily ed., Oct. 8, 1975).

In these circumstances, the power to interpret the law is largely the power to make new law. A commission with that kind of power has vast influence over the political process, not necessarily excluding the power to determine the result of particular elections.

The existing Commission has used these powers with a vengeance. In many respects its pronouncements made new law—sometimes where the statute as enacted by the Congress was silent; sometimes in rather striking disregard of what the statute did say. Attached as an appendix to this statement is a list of just a few of the more conspicuous law-making pronouncements the Commission issued in only four months of operation.

I don't mean to be too hard on the Commission. Given the exceptional complexity and vagueness of the statute, possibly no interpreting and enforcing agency could have avoided making itself subject to the same criticism.

It is highly inappropriate, and perhaps unconstitutional, for any agency in effect to make law in an area trenching so sharply on so basic a constitutional right as freedom of speech, and on a subject so crucial to our survival as a free domestic country as the electoral process itself. The fact is that, when either a candidate or an ordinary citizen is told by the Commission that certain political activity which he wishes to undertake would violate the law, he will in the overwhelming majority of cases refrain from engaging in that activity although he is convinced the Commission's interpretation is wrong. Even if he is otherwise disposed to litigate the issue, if he is well advised by counsel he will be aware (1) that a court probably will enforce a Commission rule as having the force of law, at least unless it flatly and unquestionably is contrary to the words of the statute, and (2) that a court will give great weight to any Commission pronouncement, because of alleged agency expertise, in deciding on the proper interpretation of the statute. He will thus be chilled from exercising what a court might well ultimately hold were his rights under both the Constitution and the statute. He will in effect be subjected to a prior restraint on the exercise of his First Amendment rights.

It may well be that this chilling effect or prior restraint resulting from Commission pronouncements would itself be held to violate the Constitution.[1] The Court had no occasion to decide that issue in *Buckley* v. *Valeo*, although the plaintiffs raised it, because the Court held the Commission's powers unconstitutional on other grounds. So if the Commission is recreated without any changes to address the problem I have outlined, there will still be a heavy constitutional cloud over the statute and the Commission, and the removal of the cloud will necessarily await still further litigation.

I suggest that the proper solution is that a re-created Commission should not be given rule-making powers, except perhaps with respect to the federal-subsidy provisions. If it is given enforcement responsibilities, it should have the power to issue guidelines and advisory opinions—those are necessary so that citizens can get help in deciding what they can safely do—but there should be a provision to the effect that such pronouncements do not have the force of law, are valid only to the extent they conform to the statute, may not be used to create any presumption of violation or criminal intent in an action against a candidate or other citizen who has chosen to disregard them, and are inadmissible as evidence against the citizen in such an action.

The present statute has a provision (section 437f) that protects a citizen who acts in accordance with a Commission advisory opinion. That is a good provision and should be retained. What I suggest is a further provision to protect a citizen who, because he disagrees with a Commission pronouncement, chooses to act in disregard of it and finds himself the object of proceedings. Such a person of course must take his chances that a court will decide independently that his actions violated the statute. But he should not be made worse off, and in effect forced to bow to whatever restrictions the Commission chooses to place upon him, because of the danger that a court will be influenced by the position the Commission has taken.

Only by such a solution, I submit, can the Congress prevent the Commission from operating as it has, perhaps unavoidably, in the past: as a czar over the entire political process whose every view has the force of law for most practical purposes. Only thus

can citizens be permitted their constitutional right to disagree with the Commission, to act on that disagreement, and to take their chances with the statute as the Congress wrote it and enacted it.

The 1974 Act did impose one very substantial restraint on the Commission: the power of either house of Congress to veto the Commission's regulations. I submit that, while the restraints I have suggested are appropriate if not necessary for constitutionality, the legislative veto is an inappropriate and very probably unconstitutional restraint, and should be excluded from any new legislation if the Commission is to be given rulemaking power at all.

The plaintiffs in the *Buckley* case challenged the legislative veto as an unconstitutional infringement of separation-of-powers principles. If Commission rules subject to the veto are regarded as legislative in nature, then the veto results in what is in effect legislation by Congress without the President's having his constitutionality required opportunity to participate in the legislative process. If, on the other hand, the rulemaking function is executive—as the Court strongly suggested in its discussion of the method of appointing the commissioners—then the veto is an impermissible intrusion on executive authority. And the Act's provision for a veto by either House acting alone is even more questionable than the more usual device of a concurrent resolution. The Federalist, No. 51 (Madison), Cooke ed. 1961, p. 350.

The Court found it unnecessary to pass on the legislative-veto issue as such, since it held the Commission's rule-making power unconstitutional because of the appointment method. The Court's opinion contains a lengthy footnote (slip opinion page 134, n. 176) which carefully outlined the legislative-veto question and expressly left it open. In that footnote the Court cited two law review articles which argued that the legislative veto is unconstitutional.[2]

There are other strong intimations in the Court's opinion in *Buckley* that the legislative-veto provision of this statute will be held unconstitutional when tthe question comes before the Court. The Court recognized that the Commission, viewed as a legislative agency because of the appointment method, could properly exercise any powers which Congress could exercise directly or through one of its committees. But the Court squarely held that rule-making is not such a power. That being the case—it having been held that Congress cannot make campaign rules through the instrument of a legislative agency—I find it hard to see how the Court could avoid holding that direct participation by Congress in the rule-making process through the legislative veto is likewise unconstitutional.[3]

[2] Ginnane, "The Control of Federal Administration by Congressional Resolutions and Committees," 66 Harv. L. Rev. 569 (1953); Watson, "Congress Steps Out: A Look at Congressional Control of the Executive," 63 Calif. L. Rev. 983, 1081–82 (1975).

[3] The brief submitted by the Justice Department in *Buckley* for the Attorney General as appellee and for the United States as amicus curiae argued that the legislative veto could be justified only if the Commission was a legislative agency, which of course the Court has now held it cannot be (pp. 111–12). The brief correctly described the Watson law-review article, one of those cited by the Court in its opinion, as "the most recent and thorough study [which] concludes that [congressional control] devices are often an unconstitutional intrusion into executive authority" (p. 111, n. 70). Congressional power to veto regulations of executive or independent agencies is a device expressly found constitutionally "unacceptable" and "invalid" by Watson (*op. cit.* at 1082).

The legislative veto is particularly inappropriate where, as here, it carries a sharp conflict of interest. Members of the Congress, of course, are candidates for office, and as such they are intimately affected by the Commission's regulations. If, as has been repeated endlessly, a primary purpose of campaign reform is to avoid even the appearance of impropriety, that end is hardly served by constant and detailed embroilment of the Congress in interpreting and fleshing out the campaign restrictions under which they—and their challengers—operate. Of course implementation of the campaign law contains a host of opportunities for tilt in favor of incumbents, and repeated congressional involvement will continually feed the suspicion that the Act is an incumbent protection law. Far better to let the rulemaking process be carried on, under proper safeguards, by a genuinely independent and impartial agency rather than one under incumbent domination. I should think that the Congress would welcome the opportunity to avoid future public spectacles of the sort that occurred over the rejection of the office-account regulations last fall.

Finally, if the legislative veto is resurrected there will be ample room for an argument that, even if such veto provisions in other contexts may not be unconstitutional, its presence in this highly charged political context makes the Commission an arm of the Congress, even absent congressional appointment of the commissioners, and thus constitutionally invalidates the rule-making power. It could also be argued that the resulting incumbent domination violates the constitutional rights of challengers.

I am personally persuaded that the legislative veto in the 1974 Act is unconstitutional and that the Supreme Court will, if necessary, so hold. To resurrect it in a new statute would leave the Commission and its rules under a constitutional cloud which only new litigation could—eventually—resolve.

Thank you.

Attachment.

ATTACHMENT

1. Interim guidelines to govern special New Hampshire election, 40 Fed. Reg. 40668 (Aug. 21, 1975).

2. Eligibility of contributions for matching grants under Subtitle H, FEC Notice 1975–40, 40 Fed. Reg. 41933 (Sept. 9, 1975).

3. Interim guidelines to govern special Tennessee election, 40 Fed. Reg. 43660 (Sept. 16, 1975).

4. Spending limit applicable to a candidate running for two Federal offices simultaneously, FEC Notice 1975–44, 40 Fed Reg. 42834 (Sept. 16, 1975).

5. Disclosure regulations, 40 Fed. Reg. 44698 (Sept. 29, 1975).

6. Office-account regulations, 121 Cong. Rec. S. 17873–89 (daily ed. Oct. 8, 1975).

7. Rule requiring candidates to file reports with the Commission, House Rep. No. 94–58, 94th Cong., 1st Sess. (Oct. 9, 1975).

8. Attorneys' or accountants' fees as expenditures, AO 1975–27, 40 Fed. Reg. 51357 (Nov. 4, 1975).

9. Delegates to national nominating conventions: rules on contributions and expenditures, AO 1975–12, 40 Fed. Reg. 55537 (Nov. 28, 1975).

10. Contribution to a candidate from members of his immediate family—overruled by the Supreme Court (slip op. 48, n. 59), AO 1975–65, 40 Fed. Reg 58393 (Dec. 1975).

Mr. ALLEN. I yield the floor.

Mr. CANNON. Mr. President, I would like to discuss the questions which have been raised regarding the constitutionality of the congressional disapproval provisions of the Federal Election Campaign Act of 1971.

These congressional disapproval provisions are substantially similar to many other congressional veto provisions which have been enacted in recent years. I understand the Senator's argument because he contends that we do not invoke first amendment rights—that was as I understood it.

Despite the frequent use of congressional veto provisions, its constitutionality has never been directly tested in court.

The case of Buckley against Valeo presented perhaps the first opportunity for a Federal court to pass upon the constitutionality of such provisions. In Buckley, the constitutionality of the rulemaking provision contained in 2 U.S.C. 438(c), of which the congressional veto provision constituted a large part, was squarely before the Supreme Court by certified question from the court of appeals. The constitutionality of the two other congressional veto provisions contained in sections 9009 and 9039 of title 26 had not been challenged. Despite this opportunity, the Supreme Court in Buckley expressly declined to decide whether the congressional veto device contained in 2 U.S.C. 438(c) was unconstitutional. The Court stated in its per curiam opinion that "because of our holding that the manner of appointment of the members of the Commission precludes them from exercising the rulemaking powers in question, we have no occasion to address this separate challenge here." Buckley against Valeo, slip opinion at page 134, footnote 176.

Justice White, concurring in this part of the Court's holding, agreed that since the manner in which the Commission's members were appointed was unconstitutional, the rules and regulations issued by the Commission were invalid without regard to the congressional disapproval mechanism set out under section 438(c). Justice White, in strongly worded dicta, indicated, however, that if the members of the Commission had been constitutionally appointed, the congressional disapproval provisions of section 438(c) of title 2 would not violate the Constitution. Justice White stated:

> I am also of the view that the otherwise valid regulatory power of a properly created independent agency is not rendered constitutionally infirm, as violative of the President's veto power, by a statutory provision subjecting agency regulations to disapproval by either House of Congress. For a bill to become law, it must have passed both Houses and be signed by the President or passed over his veto. Also, every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary . . . is likewise subject to the veto power. Under Section 438(c) the FEC's regulations are subject to disapproval; but for a regulation to become effective, neither House need approve it, pass it, or take any action at all with respect to it. The regulation becomes effective by nonaction. This no more invades the President's powers than does a regulation not required to be laid before Congress. Congressional influence over the substantive content of agency regulation may be enhanced, but I would not view the power of either House to disapprove as equivalent to legislation or to an order, resolution, or vote requiring the concurrence of both Houses.[30]

[30] Surely the challengers to the provision for congressional disapproval do not mean to suggest that the FEC's regulations must

In terms of the substantive content of regulations and the degree of Congressional influence over agency lawmaking, I do not suggest that there is no difference between the situation where regulations are subject to disapproval by Congress and the situation where the agency need not run the congressional gantlet. But the President's veto power, which gives him an important role in the legislative process, was obviously not considered an inherently executive function. Nor was its principal aim to provide another check against poor legislation. The major purpose of the veto power appears to have been to shore up the Executive Branch and to provide it with some bargaining and survival power against what the Framers feared would be the overweening power of legislators. As Hamilton said, the veto power was to provide a defense against the legislative departments' intrusion on the rights and powers of other departments; without such power, "the legislative and executive powers might speedily come to be blended in the same hands."

I would be much more concerned if Congress purported to usurp the functions of law enforcement, to control the outcome of particular adjudications, or to pre-empt the President's appointment power; but in the light of history and modern reality, the provision for congressional disapproval of agency regulations does not appear to transgress the constitutional design, at least where the President has agreed to legislation establishing the disapproval procedure or the legislation has been passed over his veto. It would be considerably different if Congress itself purported to adopt and propound regulations by the action of both Houses. But here no action of either House is required for the agency rule to go int effect and the veto power of the President does not appear to be implicated.

Justice White's concurring opinion is the strongest judicial declaration to date affirming the constitutionality of the congressional veto device.

Mr. President, I submit to my colleagues that Justice White's position is a persuasive one and I think it certainly should guide us somewhat in our discussions here.

With respect to Senator ALLEN'S remarks about the chilling effect of prior restraint, I have no doubt but what this would create a chilling effect or a prior restraint on actions of an individual, and I think it was really intended that way.

I think what we were trying to get here were some guidelines upon which a candidate could rely without having to go to court and find out the nature of a declaratory judgment, or other type of relief, what the situation was intended to be.

So we did provide that advisory opinions could be issued by the FEC and that they could adopt regulations and if the Congress did not disapprove them, then they would have the effect of law.

This is similar to the situation at IRS. IRS adopts regulations all of the time, as do many other agencies of government, and they do have the force and effect of law, once they go through the prescribed process.

So I submit that what we are doing here is saying that the Commission has the right to do these things, and if a person then wants to be subjected to the chilling effect, that is his decision, or he can contest the matter in law, if he so desires. True, it would place a burden on him, as the Senator points out, but I submit that the regulations themselves ought to have the force and effect of law.

I must say, I do not feel as strongly about the advisory opinion situation, but the regulations themselves ought to have the force and effect of law because that is what we have said the legal effect is, once we do not override them, when they present them to the Congress.

Now, once a rule or regulation has come to Congress, and been prescribed by the Commission, then it should, in my judgment, have the force and effect of law.

Of course, it could be challenged later in a court proceeding on the ground it had exceeded the language intended in the statute. That is one of the things about it that the Senator does not like.

It appears to me that the amendment proposed by the distinguished Senator from Alabama would provide that such a rule and regulation would not have the force of law and is, thus, contrary to Congress intent in enacting the Federal Election Campaign Act.

We went further in this bill, S. 3065, than in the initial act we passed because we have said here that we wanted to restrict, perhaps, the Commission's actions somewhat. We said that every advisory opinion of general applicability then had to be proposed to the Congress in the nature of a regulation so that Congress could act on it, or fail to act on it, as it saw fit. But we did not require this, of course, with respect to the advisory opinion peculiar to a problem of a particular individual, a particular candidate, or a committee, or someone else. Only where they are of general applicability, did we provide the requirement that they have to come up here.

So I find some trouble with the Senator's amendment as it is proposed here.

I may say that I would find less trouble with it if he were to eliminate the regulation part of it, although I am not sure that I would support him even then.

I would like to suggest that the requirement of S. 3065, that advisory opinions of general applicability be promulgated as rules and regulations by the Commission, will certainly serve to limit what has heretofore been an extremely large number of Commission interpretations of the act which do not have the force and effect of law.

I do not believe that those advisory interpretations have the force or effect of the law.

As a result of this provision which is in section 107(b) of S. 3065 on pages 18 and 19 of the bill, the large majority of the Commission's future public interpretations of the Federal Election Campaign Act will be in the form of rules and regulations subject to congressional review and having the force and effect of law when they are finally prescribed.

For the above reasons, I would have to oppose this particular amendment.

Mr. ALLEN. I thank the distinguished chairman.

The Court did find it unnecessary to pass on the legislative veto issue, as such, since, as I have said, it held the Commission's rulemaking power unconstitutional because of the appointment method.

The Senator has cited the opinion of Mr. Justice Byron White, and it is a very fine opinion. I do not agree with everything that he said, and I do not necessarily draw the conclusion from it that the distinguished chairman has drawn.

The Court's opinion, not the concurring opinion but the Court's opinion, contains a lengthy footnote which carefully outlined the legislative veto question and expressly left it open. In that footnote, the Court cited two law review articles which argued that the legislative veto is unconstitutional.

I feel as much comfort can be drawn from that fact in the court's opinion citing two law review articles that held that the veto power was unconstitutional. I would draw as much comfort from that circumstance as the distinguished Senator has drawn from Mr. Justice White's concurring opinion.

Why did they put those law review articles in the footnote? Why did they refer to them if they did not expressly concur in the reasoning of those law review articles?

The other strong intimation in the Court's opinion in the Buckley case is that the legislative veto provision of this statute will be held unconstitutional when the question comes before the Court. The Court recognized that the Commission performed as a legislative agency because of the appointment method. That was the full gist of the case, that this is a legislative agency performing executive duty. That is the reason the Commission was thrown out. If it had just been called on to carry out legislative functions, it would not have been stricken down. But since it had to carry out executive functions, then the method of setting it up, four named by the Congress and two by the President, did make that unconstitutional.

So recognizing the Commission as a legislative agency, that the Commission could properly exercise any powers which Congress could exercise directly or through one of its committees, the Court squarely held that rulemaking is not such a power. The making of rules is not a congressional power that this Commission could exercise.

That being the case, it held that Congress cannot make campaign rules through the instrument of a legislative agency.

I find it hard to see how the Court could avoid holding that direct participation by the Congress in a rulemaking process through the legislative veto is likewise unconstitutional.

Let us analyze that again. The Commission, being a congressional agency, could not make rules. So if the Congress could not make rules, then the Commission making rules and having them approved and not stricken down by the

become effective despite the disapproval of one House or the other. Disapproval nullifies the suggested regulation and prevents the occurrence of any change in the law. The regulation is void. Nothing remains on which the veto power could operate. It is as though a bill passed in one House and failed in another.

Congress would also be something that they could not do.

Since, under the Supreme Court ruling, the Congress cannot make rules as to how campaigns shall be conducted, the Commission cannot do that through the instrument of a legislative agency.

If the Commission should come up with a rule that went beyond the statute as seen by everyone, and then Congress refuses to veto that rule, the chairman would have that rule have the force and effect of law. That is where I disagree. It should not have the force and effect of law.

In a proceeding against some person, not necessarily a candidate but against some person, who has disagreed with the Commission and felt that the law made some other provision, that person should have the right to act as his reasoning and his understanding dictated with regard to what the law is, and he should not be met with a regulation having the force and effect of law.

What the amendment would do would be to make the law control, make the statute enacted by Congress be the criterion or the guideline, and not have to face a ruling or a regulation of the Commission.

Every act of Congress has to be submitted to the President for his approval or disapproval by veto. But in the broad area of the campaign law if it is permitted, as would be permitted without this amendment, for the commission to go beyond the statute and then have Congress, in effect, endorse that action by not itself vetoing that provision or that regulation, we would have the Congress and this agency having the right to make law because it is not provided that it would be submitted to the President for his approval or disapproval.

Under this amendment, under any proceeding, civil or criminal, against a person for violating the provisions of a law, what would control would be the law itself, not some interpretation placed on the law by a nonjudicial body. All it would provide is that the law will control, not the Commission's interpretation of the law.

If that is not the rule, if these regulations are given the force and effect of law, what would they charge a man with? Would they charge him with violating the law, or violating a rule or regulation of the Commission? And is that violating the law, or is it violating a rule or regulation of the Commission? What are you going to charge the man with?

What ought to be charged is that he violated the law. Now, on the first amendment right of free expression, free speech, if the Commission has promulgated rules and regulations either stating how they interpret the law or making new law, John Q. Citizen would certainly feel that the cards were stacked against him if he, not agreeing with that interpretation but relying on the express wording of the statute, proceeds according to his interpretation of the statute and then, when he is haled into court, he is confronted not with the law itself, not with the statute, but he is confronted, as having the force and effect of law, with some rule or regulation that the Commission has dreamed up that may go beyond the law.

So all this amendment would do, Mr. President, is have the law, the statute, control a person's actions, and not have government by commission and commission rule and regulation.

There is an important constitutional question involved which could be solved by adopting this amendment. And I am not relying merely on my judgment, because I have not made a sufficient study, but the leading attorney in the case of the plaintiffs who carried this case to the Supreme Court, the case of Buckley against Valeo, has suggested this amendment, and I have submitted for the record his testimony before the subcommittee of the Committee on Rules and Administration on Privileges and Elections.

I believe by adopting the amendment we can preclude the possibility of another constitutional crisis requiring Congress to act again in this area. But it will certainly go to the Supreme Court, and if we are allowing the Commission to make law to exercise prior restraint on a citizen's first amendment rights of freedom of expression and freedom of speech, then we will just have to face it.

We were assured that all of these limitations that the election law provided did not violate constitutional provisions, but here we are, working on this problem. I suggest that the way to prevent that at this particular point would be to adopt this amendment.

The PRESIDING OFFICER (Mr. LAXALT). The Senator from Iowa is recognized.

Mr. CLARK. Mr. President, the Senator from Alabama certainly makes an interesting point in terms of first amendment principles that may be considered to be involved. But I think the effect of the amendment, if it were to be adopted, would be to so weaken the commission that it would not have the enforcement powers that certainly a majority of the Members of Congress intended for it when the legislation was originally passed. Or, to put it more bluntly, if we adopt this amendment we will be saying that the Commission's rules and regulations, and their advisory opinions, have no standing in law, that they can be violated by anyone without fear of penalty. That is the way I interpret the amendment.

Rules and regulations are written by the Federal Election Commission to provide a practical explanation of campaign law. We have to have rules and regulations to implement the law. Furthermore, these rules and regulations, along with the advisory opinions that are of general applicability, must be submitted to Congress, where they can be vetoed by either House. That is a requirement of the law. There are, therefore, very adequate checks on the content of those rules and regulations, to make sure that this body and the House of Representatives agree that they are consistent with the law as we intended.

However, the Allen amendment would render those rules and regulations essentially meaningless. This would represent an unprecedented restriction on the rulemaking authority of the executive branch, and would open, I think, many serious problems. Such a restriction would be entirely new in government as far as I know. No such restriction exists on any other independent agency, whether it may or may not have some effect on first amendment principles.

Specifically with respect to advisory opinions, I think the Senate knows well that there is a provision in S. 3065 which states that if a person is in compliance with an advisory opinion rendered by the Commission on his or her request, that person is presumed to be innocent of any violation of the act.

Mr. ALLEN. This would not disturb that situation.

Mr. CLARK. Well, I know it would not disturb the provision, but are we now to say also that a person is to be presumed innocent if he is in violation of such an advisory opinion? Clearly that would be the effect of the Senator's amendment.

If you ask for an advisory opinion and get one—let us suppose that any one of us, as a candidate, goes to the Commission, and we say we want an advisory opinion on this, and we receive one, and then violate it; we say, "We have an advisory opinion, but we are not going to live by that." That has no standing in law as evidence of wrongdoing, if this amendment is adopted.

Let me try to summarize very briefly what I am saying. First of all, it is a basic rule of law that a rule issued by any agency acting consistent with statutory law has the force of law. If we undermine that principle of law, and say that rules and regulations have no standing, that they do not have the force of law, then certainly we could not continue to operate this Government.

Second, that rule is especially applicable here, because a rule issued by the Commission would become effective only if Congress does not veto it. Thus the possibility of rules that are not consistent with congressional intent is not even present. If a rule is not consistent with congressional intent, then we have the power to veto it; so clearly it is the congressional intent to allow that regulation to stand if we do not act.

Third, I believe the pending amendment would permit a person to violate with impunity an advisory opinion that that person sought. That is why I think the advisory opinion is also an essential part of the matter.

So, Mr. President, we ought to reject this amendment, and I say again, if we do adopt this amendment, we will be saying that the Election Commission rules and regulations and advisory opinions have no standing in law, cannot even be introduced in evidence, and that they can be violated with impunity and without fear of penalty. That would simply undermine the whole concept of enforcement under the Election Commission that we have created.

Mr. ALLEN. Mr. President, the distinguished Senator from Iowa has said that the effect of the amendment would be to undermine the Commission's rules and

regulations and that they could be violated with impunity.

I think the distinguished Senator has overstepped the real meaning of the amendment. Certainly, it would not allow anyone to violate the rules and regulations of the Commission with impunity as long as they violated the law itself.

He spoke of the right to get an advisory opinion and then go against that opinion if the person so desired. There is nothing strang about that, because a person might request an advisory opinion, being sure in his own mind of what the statute provides, and then, if the advisory opinion should be such that it was not in line with his thinking, he would have a right to go according to his interpretation of the law. If he were right in his interpretation of the law, then he could not be successfully prosecuted. But if the Commission were right in its interpretation of the law, then he could be successfully prosecuted.

But the mere fact that the Commission has said, "Now we interpret this law to mean thus and so," under the present law and under the bill, that ruling or that regulation would have the force and effect of law in a proceeding against the person. But under the amendment, the ruling or regulation of the Commission would not have the force and effect of law. The law itself would be all that would have the force and effect of law.

So if the law is violated, one would not need the Commission to say that the law has been violated. The court would reach that decision and make that interpretation, without having to lean on the interpretation of a nonjudicial body, a body under the complete control or under a great control of Congress and under complete control of Congress as to any regulations or rules that it might adopt.

The present statute does have this provision allowing a person to obtain an advisory opinion, and it protects that citizen through acts in accordance with the Commission's advisory opinion. This amendment does not have any effect on that. A person would be protected in following the advisory opinion.

This is a good provision and should be retained. What I am suggesting is a further provision to protect a citizen who disagrees with a Commission pronouncement. Surely any citizen has a right to disagree with the Commission. I am suggesting a further provision to protect a citizen who, because he disagrees with the Commission pronouncement, chooses to act in disregard of it and finds himself the object of proceedings. Such a person, of course, must take his chances that a court will decide independently that his actions violated the statute. So if he is wrong in his interpretation, he is going to be convicted.

But he should not be made worse off and, in effect, forced to bow to whatever restrictions the Commission chooses to place upon him because of the danger that a court will be influenced by the position the Commission has taken.

So, as long as the people agree with the Commission's interpretation, these rules and regulations will have considerable effect, and they will have an adverse effect, too, by resulting in or causing an inhibition against the exercise of first amendment rights of freedom of expression, or freedom of speech, in many areas of activity.

Only by such a solution can Congress prevent the Commission from operating as it has, perhaps unavoidably in the past, and that is as a czar over the entire political process whose every view has the force of law for most practical purposes.

Only thus can citizens be permitted their constitutional right to disagree with the Commission, to act on that disagreement, and to take their chances with the statute as Congress wrote it and enacted it.

The 1974 act did impose one very substantial restraint on the Commission; that is, the power of either House of Congress to veto the Commission's regulations. While the restraints I have suggested are appropriate, it is not necessary for constitutionality. The legislative veto is an inappropriate and very probably unconstitutional restraint and should be excluded from any new legislation, if the Commission is to be given rulemaking power at all.

Mr. President, I call for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. Moss), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that, if present and voting, the Senate from Rhode Island (Mr. PASTORE) and the Senator from Washington (Mr. JACKSON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The result was announced—yeas 23, nays 65, as follows:

[Rollcall Vote No. 73 Leg.]

YEAS—23

Allen	Hansen	Scott, William L.
Bellmon	Hatfield	Sparkman
Byrd, Harry F., Jr.	Helms	Stennis
Curtis	Hruska	Talmadge
Eastland	Huddleston	Thurmond
Fannin	Laxalt	Tower
Garn	Long	
Goldwater	McClellan	
	McClure	

NAYS—65

Abourezk	Ford	Muskie
Baker	Glenn	Nelson
Bartlett	Gravel	Nunn
Bayh	Griffin	Packwood
Beall	Hart, Gary	Pearson
Bentsen	Hart, Philip A.	Pell
Biden	Haskell	Percy
Brock	Hathaway	Proxmire
Brooke	Humphrey	Randolph
Bumpers	Inouye	Ribicoff
Burdick	Javits	Roth
Byrd, Robert C.	Johnston	Schweiker
Cannon	Kennedy	Scott, Hugh
Case	Leahy	Stevens
Chiles	Magnuson	Stevenson
Clark	Mansfield	Stone
Cranston	McGee	Symington
Culver	McIntyre	Taft
Dole	Metcalf	Tunney
Domenici	Mondale	Weicker
Eagleton	Montoya	Williams
Fong	Morgan	

NOT VOTING—12

Buckley	Hollings	Moss
Church	Jackson	Pastore
Durkin	Mathias	Stafford
Hartke	McGovern	Young

So Mr. ALLEN's amendment was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GRIFFIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, if the Senator will yield, I ask unanimous consent that Richard Arnold, one of my staff, be given the privileges of the floor during the debate on this legislation.

The PRESIDING OFFICER (Mr. TOWER). Without objection, it is so ordered.

AMENDMENT NO. 1437, AS MODIFIED

Mr. WEICKER. Mr. President, I call up my amendment No. 1437, as modified.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an amendment No. 1437, as modified.

The amendment, as modified, is as follows:

On page 51, after line 16, insert the following:

TERMINATION OF PUBLIC FINANCING

SEC. 307. (a) Subtitle H of the Internal Revenue Code of 1954 (relating to financing of Presidential election campaigns) is repealed.

(b) (1) Part VIII of subchapter A of chapter 61 of such Code (relating to designation

of income tax payments to Presidential election campaign fund) is repealed.

(2) The table of parts for such subchapter is amended by striking out the item relating to part VIII.

(c)(1) The repeal made by subsection (a) takes effect on January 1, 1979, except that such repeal shall not affect the authority of the Federal Election Commission or of the Secretary of the Treasury to require repayments from candidates under section 9007 (b) of the Internal Revenue Code of 1954 (relating to repayments).

(2) The repeal and amendment made by subsection (b) apply to taxable years beginning after December 31, 1978.

(d) The repeal and amendments made by subsections (a) and (b) shall take effect unless, before January 1, 1979, the Congress by law determines that the repeals and amendments made by this section shall not take effect.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, this amendment would repeal those sections of the law which created the tax checkoff system and the public financing of Presidential campaigns. It would not—and I underline "not"—affect the Presidential campaign of 1976. The amendment calls for the repeal of the tax checkoff system after taxable years 1978, and the termination of public financing effective January 1, 1979 unless the 95th Congress reexamines and reenacts the public financing concept.

The PRESIDING OFFICER. Will the Senator suspend.

Let us have order in the Chamber, please, the Senator is entitled to be heard.

Mr. WEICKER. I yield to the distinguished Senator from Wisconsin.

Mr. NELSON. Mr. President, I ask unanimous consent that Ira Shapiro of my staff be granted privilege of the floor during the debate and votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, several of my colleagues have suggested a new approach in determining whether individual Federal programs are effectively spending the taxpayers' dollars.

Through a zero-base review procedure—what is also known as zero budget—each program on a regular basis, would require a new authorization by the Congress. Their budget would be zero and the Congress would have to justify each dollar expended for a particular project.

In essence, the modified amendment I offer today would require the Congress to go through a similar procedure with respect to public financing for political campaigns.

My amendment would terminate public financing of Presidential campaigns as of January 1, 1979, unless Congress acts prior to that date to extend this program.

Thus, after witnessing the implementation of this act in 1976, the 95th Congress would be forced to evaluate public financing of Presidential campaigns. After hearing a wide spectrum of viewpoints and reviewing the facts, Congress would determine whether public financing was a wise expenditure of public funds; indeed, whether or not it is a wise policy; whether it met the campaign reform objectives, and whether it is in the public interest to continue this program.

Such a scrutiny is healthy. Too many programs are placed on an automatic pilot and are free from congressional review. This Senator has serious reservations about public financing. Many of our colleagues think the system should be fundamentally altered. My amendment will insure a forum for debate. After taxpayers pay for the ride in the 1976 elections, Congress will determine whether it is worth the trip.

Let me give an example as to the type of debate I think should take place in this area.

I understand the motivation behind public financing. It was deemed a reform measure to reduce the role of money in the American political process and to diminish the amount of money spent in the course of an election. But I suggest that, in effect, all we did when we enacted public financing was to accept the problem and merely find a way to finance it.

What am I talking about here? I am specifically saying that the reason why so much money is expended is the length of our political campaigns.

Why then did we not attack the basic problem, reduce the time? Because, indeed, if we had done that, we would have reduced the funds to be expended. Instead, we accept the inordinately long length of campaign time.

Believe me, unless the funds are coming from some source other than individuals, it does demand a sort of financing scheme.

This is the type of debate that should be taking place and, if my amendment is adopted, will take place after we have had an experience with public financing.

I want to see this legislation passed—I want to make that point clear. I do not want to interrupt the system as it applies to the 1976 campaign. I think it would be a big mistake for the U.S. Senate or the Congress or anyone else to delay S. 3065 so that we would have only gone half way with this public financing system during the course of the 1976 Presidential election campaign.

Let it run all the way and see how it looks. I am all for that. But I am also calling for a review before we automatically renew our license to dip into the U.S. Treasury.

From the start, I have believed that public financing was a mistake. This proposal reflects my long-held belief that public financing of Presidential campaigns rather than being a reform is a dangerous step toward decontrol of the Federal Government, and decontrol in the sense of the control exercised over us by the sovereign people of the United States.

With the best of intentions, the Congress enacted campaign reform legislation calling for direct Federal subsidies to Presidential candidates. However, that accommodates rather than eliminates the problem. The problem is long time translating into big money. Public financing only pays the blackmail imposed by that sin.

Matching funds have kept floundering Presidential campaigns afloat beyond their time. They have allowed one issue candidates and those with only a marginal chance of success to overspend their budgets, knowing a taxpayer bonanza waited in the wings. Mr. President, allowing the Federal Government to bankroll everybody who wants to be President is a subsidy that can only sap the vitality of a free society whose excellence depends on the survival of the fittest ideas.

One measure of a candidate is his or her ability to generate contributions for public office. Candidates should sell their ideas to win, not just be a warm body and rely on the Federal dole. Worse, public financing gives Congress control of the campaign war chests of Presidential challengers. The Campaign Reform Act was drafted in 1974, with the Congress and White House controlled by different parties. Under these circumstances, each candidate of a major political party would receive $20 million in a general election. Were the Nation to elect a President with a large majority of his own party in the Congress, who can say that the formula for allocating funds would remain the same? And what of enforcement? Once we hand the Congress the political purse strings, the people will no longer have the final say. Instead, politicians will be monitoring politicians. And that is not a healthy situation.

Mr. President, the dangers of public financing were recognized by the majority of the Watergate Committee when they opposed enactment of that decision. In a brief filed by the appellants for the Supreme Court, in the case James L. Buckley against Francis R. Valeo, these dangers were clearly described:

> Grave dangers to the future of democratic government result from direct payments to parties and candidates. Democracy depends largely on free political competition and the freedom to form, join or leave political organizations. Once a party becomes officially sponsored by the government or government begins to determine the allocation of political resources, that freedom is endangered.

The experience to date with the tax checkoff to finance Presidential campaign funds indicates little interest and enthusiasm among the people. Only 10 percent of the taxpayers chose to direct the $1 of their taxes owed for 1972 to the campaign fund. The total amount designated for 1972 was $12.9 million. For the taxable year 1973, approximately 14 percent of the taxpayers exercised this option, accounting for $17.3 million. Approximately 20 percent of the taxpayers submitting returns for 1974 funneled moneys into the Presidential campaign fund. The total amount for that year was $31.9 million. As of February 25, 1976, approximately $6.1 million has been accumulated. The total funds received since 1971 is approximately $68 million.

With 80 percent of the American people saying no to checkoffs, it is time the Congress reexamined the policy of paying checks out to Presidential candidates.

I understand that there are those who would want to extend the Federal financing principle to senatorial and congressional campaigns. Then how long will it be before nondesignated general funds are used when indeed the pot becomes too small for the numbers desiring to run or participate?

I confess that with today's myriad of unresolved needs, I find financing political campaigns rather far down on my priority list. If we have become so devoid of initiative, ideas, and courage that the American people are walking away from today's politicians, then it is time to get out, rather than to monetarily assure a continued presence. If we want to reduce the role of money in politics, reduce the time of politicking. In so doing we will preserve the rights of Americans, while getting better men and women to serve.

Mr. President, I have heard comment that in fact these are not general funds, that these are designated by various taxpayers.

Well, now, let us examine that just for a minute. I do not have the right, neither does any American taxpayer, to designate that a certain amount of my tax shall go to HUD, or that a certain amount of my tax shall go to Defense. So, in effect, we are giving a special privilege here. It is money that does come out of the general fund. It is money not going into the general fund but, rather, into the business of politics and financing of campaigns.

I think, and this is all the amendment is stating, that if we are going to take this step, both in the sense of its effectiveness in reducing the ills of our political system and in the sense of what it does to the basic rights of Americans, this is something we should tred into with a light step. It makes eminent sense to examine our experience, as we will the experience of the election of 1976, before we impose such a system forever on the American people. It would be very hypocritical, indeed, for this Congress to demand a zero budget-type base for all the other agencies and programs of Government if we are not willing to do it to ourselves.

I hope the American people understand what is at issue here. I have always thoroughly objected to this public financing being labeled as Watergate reform. It was no such thing. It has no relationship to the facts of Executive abuse, no relationship whatsoever. Indeed, what we have done with this type of reform is to put more power into the hands of the Executive; more power into the hands of the Congress.

One thing the American people still have to themselves is their vote, their support, their contributions. This is their one check on the Government, and it is one that I feel they should preserve. But certainly, since the Congress, the representatives of the people, deemed it advisable to give a new system a chance, let us try it out, but then let us put an affirmative responsibility on our shoulders to justify its continued existence.

I would hope, Mr. President, that the Senate would rise to support this measure because, in effect, it means that we are not afraid to challenge ourselves; that we can stand up to the arguments of logic, that which tests our ability, tests the record of our performance, and that we are just not here because the law says we are here, but, rather, that we are here on the basis of our abilities.

This is, to me, very important in the total concept of this democracy.

I repeat to my colleagues it in no way interferes with the present Presidential campaign, but as far as the continuation of this public financing system it does demand that the facts and the experience justify its continuation.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, we have gone up the hill and down the hill on this particular issue. I submit the Senator has made his position clear. I think his position was clear before, that he is opposed to public financing. What he is doing here is going through the legislative process in reverse. He is saying if his amendment is passed, that the public financing provision would be repealed unless Congress, before a certain date, takes action to say that it is not repealed.

If he wants to repeal it, all he would have to do is propose legislation next year that would repeal the public financing provision, have hearings on it and make that determination, instead of doing it in the reverse of the legislative process.

We argued this matter very thoroughly before, as to whether we ought to have financing of Presidential races. There are many people who feel we ought to go far beyond that. I sat through weeks of hearings, of floor consideration, and consideration in the conference committee on this issue. I hope we will not go back and start it all over again, Mr. President.

I am ready to have a vote on this issue up or down.

Mr. WEICKER. The purpose of the amendment is to impose upon us the obligation of review. In the sense that this affects politicians, clearly, I think, there is an added burden placed on each Senator to justify the expenditure of these moneys. We have devised something for our own benefit. This is money that would be available for other programs, except that we have allowed it to be available to ourselves.

We ask everybody to justify their actions and their programs. It seems to me what is sauce for the goose is sauce for the gander. It is incumbent upon us to justify our expenditure of public moneys in campaigning. Nobody is going to deny the fact that money has played too great a role in American politics. But understand this: We are not reducing the role of money in American politics with this legislation. We are just going ahead and slapping the bill on all the taxpayers. The money does not change at all. The concept of money does not change. This is the time to debate reform.

I have accepted the judgment as it came to pass in the form of this legislation, but I want to make sure that we are going to have another debate 4 years from now and, after that election as well, debate how we can improve this system.

As I indicated in my opening comments, we all realize where the basic fault lies. There is no way one can run a 2-year campaign in this country and not incur substantial sums of money. In the case of U.S. Senator most campaigns last a year and a half, and involve substantial sums of money. In the case of a Representative, it is 1 year. But there has been no attempt to address that aspect of the problem.

Maybe the suggestion I made the other day is not perfect, but at least it tries to reach the real problem, not just accept it and finance it.

I made the statement that I thought in this country what we should do is have the candidates file the first Tuesday in September, let there be direct primaries the first Tuesday in October, and then let the general election take place the first Tuesday in November, letting the whole process consume 60 days. Believe me, then we will reduce the role of money in campaigns and we will also, I think, achieve a very affirmative result: No. 1, I think most people's attention span is quite good, if we are talking 60 days. I think in 2 years it sort of wavers a little thin.

There is no question in my mind that in this way ideas will be at a premium and they will count. By the same token, obviously, the funds expended will nosedive. But what we in effect have done—and I admit this is an argument to be made several years from now if my amendment takes hold—is just to go ahead and accept a bad situation and figure out not how we are going to pay for it, but how the American taxpayers are going to pay for it.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. WEICKER. I yield to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, my position was similar to that of the distinguished Senator from Connecticut when this measure originally passed. I feel a little stronger on it now, and I wonder if the American people do not feel a little stronger also, having read in the newspapers about the millions of dollars of taxpayers' money that is being spent in public financing, and as we have read from time to time what each candidate receives by way of matching funds.

I would submit that if we had a referendum on this subject, the position of the distinguished Senator would prevail among the American people. I believe the proposal for public financing is less popular after we have seen these tables, and see how the taxpayers' money is being spent.

So I commend the distinguished Senator for bringing this matter up. I hope we will have a vote rather soon, though. I doubt that many Senators are going to change their minds on this matter.

Mr. WEICKER. I agree with the distinguished Senator. Along the lines he has mentioned, it must be appalling to people to see candidates use words of

art, as they drop out of the race, so they will not lose any money to pay their bills.

It used to be that you were either in or out of a race. Now you suspend; you are not either in or out, you suspend—a very serviceable word—to keep the money coming in.

They raise that initial money, cross that threshold, and then frankly they are in; just stay alive. In other words, be a warm body and the money keeps coming in.

This is not a reform. It is a nice cushion for all of us and our colleagues, but believe me, I think the American people are paying a fearful price in the sense of being an effective check on their own Government.

I am willing to continue this for this year, but it seems to me we have an affirmative obligation before the next election to check and see what we have done, and then reconsider the problem.

Mr. President, unless there are further comments, I am perfectly agreeable to going to a vote. I believe the yeas and nays have been ordered.

Mr. MANSFIELD. Mr. President, I am prepared to yield back the time of the distinguished Senator from Nevada.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination at the desk, reported earlier in the day by the Committee on Banking, Housing, and Urban Affairs, which has been cleared all around.

The PRESIDING OFFICER. Without objection, it is so ordered. The nomination will be stated.

FEDERAL DEPOSIT INSURANCE CORPORATION

The second assistant legislative clerk read the nomination of Robert E. Barnett, of the District of Columbia, to be a member of the Board of Directors of the Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. I move that the Senate return to legislative session.

The motion was agreed to.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

Mr. FANNIN. Mr. President, I am pleased to cosponsor the amendment to S. 3065 offered by Senator WEICKER to eliminate the tax checkoff and public financing provisions from the current Federal campaign law. I am in complete agreement with the Senator from Connecticut that Federal subsidies of Presidential campaigns has done nothing but "subsidize mediocrity at taxpapers' expense."

In my opinion, public financing of elections was never a good idea. I voted against the 1974 amendments to the Federal Election Campaign Act approved by Congress because I was convinced then that, instead of reforming our electoral system, those amendments would only weaken the system by encouraging ambitious but weak political aspirants to seek public office at the taxpayers' expense. To my regret, my worst fears have been realized.

Campaign "reform" legislation has proved a total flop. By providing Federal matching funds what we are really doing is putting up millions of dollars of taxpayer money—and I do not care whether there is a so-called voluntary checkoff or not—so that politicians who want to take the greatest of all ego trips can indulge at no expense to themselves. We now have the phenomenon of single-issue candidates getting into an important Presidential race, drawing hundreds of thousands of dollars in Government subsidies, to help plug their cause without any hope or chance of winning the nomination or the election.

Mr. President, yesterday's Arizona Republic carried an editorial which accurately reflects what has come about as a result of Federal campaign subsidies legislated by the Congress. I ask unanimous consent that the full text of this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD as follows:

EGO TRIP SUBSIDIES

The little box on the federal income tax reporting form (1040) allowing a $1 deduction for presidential hopefuls obviously has become a boondoogle for political egos.

As of last week, the Federal Election Commission reported it has paid out $10,664,278 to 14 candidates hoping to be President.

Included were five who now either have announced they've dropped out, or are doing so badly that they've all but stopped campaigning.

These five collectively have been handed some $2 million in taxpayers' contributions to pursue their short-lived and predictably futile ego trips.

Pennsylvania Gov. Milton Shapp's oversized ambitions were subsidized with $283,749; former North Carolina Gov. Terry Sanford's quizotic adventure cost taxpayers $246,388; populist Fred (Tax The Super Rich) Harris wangled $409,363 from the till millionaire Texas Sen. Lloyd Bentsen's dead-in-the-water presidential tryout cost $611,022; and Indiana Sen. Birch Bayh took a $450,034 slice.

Others will fold, and with their campaigns collapse will go the funds supplied by compliant taxpayers.

What all this means is that the taxpayer has been sucked in to provide subsidies and political dole for oversized egos who knew perfectly well their chances ranged from zero to impossible, but cashed in on taxpayer generosity to spread their faces in media campaigns.

For taxpayers who yet have not checked off the little box on their Form 1040, there still is time to say no.

Mr. FANNIN. Mr. President, the only solution is for the Congress to admit its mistake and to repeal the tax check-off provision and end public financing as soon as possible. Accordingly, I urge my colleagues to vote for the Weicker amendment.

Of course, no matter how much we amend this bill, there is very little that can be done to improve the many bad provisions of S. 3065. This proposed legislation will severely weaken the Federal Election Commission as an effective independent enforcement agency. The bill strongly favors incumbent office holders by allowing them a veto over FEC opinions they dislike, a powerful option not available to their challengers. S. 3065 would also greatly weaken the two-party system, in my opinion. It contains a number of loopholes which will work to the advantage of special interest groups, labor unions and incumbent candidates, while discriminating against businessmen and private individuals.

S. 3065 is a mish-mash of ill-conceived proposals to change current campaign financing laws which, in my view, will seriously abridge the rights of ordinary Americans to contribute to and engage in the political process of our Nation.

I am extremely disappointed that the House and Senate Rules Committees held only brief hearings on S. 3065 and the Hays bill, H.R. 12015. It is disgraceful that the House and Senate Rules Committees would not consider alternative measures to a bill which was virtually written by the AFL–CIO. Before the Federal Election Commission is reconstituted or the campaign laws are radically revised, extensive hearings should be held and careful consideration should be given to the constitutionality, administrative feasibility and probable effects of various proposals on the Federal election process.

The President recommended that the Congress pass a simple bill reestablishing the Federal Election Commission and hold off on election reform measures until next year. I hope that the majority of my colleagues will heed his warning and will vote against S. 3065. Failing that, I pray that the President will veto this ill-conceived piece of legislation.

Mr. CLARK. Mr. President, the Senate first adopted public financing of Presidential elections in 1966. The Senate again passed Presidential public financing in 1970, as did the House, and in 1971 public financing of Presidential elections became law.

The amendment of the Senator from Connecticut would wipe the slate clean. The Weicker amendment would once again put the Presidency of the United States up for sale—to once again be auctioned off to the rich "fat cats" and special interest groups that have always dominated private campaign financing and always will.

As a member of the Subcommittee on Privileges and Elections, I will be delighted to hear the Senator's case after the 1976 election. Now is the wrong time.

Mr. DOLE. Mr. President, although we

are still very early into our first experience with public financing of Presidential campaigns, I think we are beginning to realize that the concept is not everything its proponents have made it out to be. Unfortunately, I am afraid, it is much, much more—and in terms of taxpayers' dollars, that is of concern to every American citizen.

According to the Federal Election Commission's most recent figures, public matching funds have even now exceeded $20 million. The expectation is that they will go as high as $100 million by the November election. Moreover, the attraction of doubling one's money and using the proceeds to promote his personal ambitions promises to leave us with a large slate of candidates who will hang on just to keep the treasury bonuses coming in.

POLITICAL WELFARE REFORM

What all this means is that it is time to take another look at the public financing ideal. In that regard, I wish to commend the distinguished Senator from Connecticut (Mr. WEICKER) for bringing the matter to the attention of the Senate with this amendment—for which I offer my complete support. Certainly, he is right when he points out that the Politicians' Subsidy Act which we have now hardly represents real reform.

Those of us who were so critical of the concept during Senate debate on the 1974 amendments find it very difficult not to look back now and say, "I told you so." For instead of purifying the political process as it was supposed to do, it has resulted only in the proliferation of candidates whose causes have less support in votes than they do in Federal dollars.

PROMOTES EXCESS SPENDING

As the 1976 Presidential election moves forward toward its ultimate destiny of becoming the most expensive in history, I think the public is going to question more and more the entire notion of their tax dollars going to buy bumper stickers for a candidate with whose views they are totally unable to associate. When it is all over, we are going to have the same President we would have had without public financing—the only difference being that he will have spent twice as much in getting there.

Mr. President, it was my feeling 2 years ago—and it has not changed—that strict reporting and disclosure requirements—and not a mixture of private and public dollars—are the ingredients of true campaign reform. I also continue to believe that of the great many concerns on the list of the American people, the financial problems of politicians is not very high.

PUBLIC FINANCING UNNECESSARY

Besides being fundamentally dangerous, Mr. President, public financing is ineffective and, most of all, unnecessary. We simply do not need it because—regardless of all the crocodile tears on Capitol Hill—there is money to support the political system cleanly, honestly, and sufficiently, without milking the Federal Treasury. The campaigns of BARRY GOLDWATER in 1968 and GEORGE MCGOVERN in 1972 are the best evidence available that small contributors can be tapped—even against hopeless odds—to support major campaigns.

As far as I know we still subscribe to the free enterprise system in this country. And a basic element of that system is the old saying that if you build a better mousetrap the world will beat a path to your door.

I do not recall anything in the free enterprise ethic that mentions Government beating a path to your door with handouts if you merely want to build a better mousetrap. So why should there be any difference between mousetrap makers, shoe salesmen, lawyers—or politicians?

END COSTLY EXPERIMENT

Admittedly, there have been inequities in the state of political affairs—but these are never going to be corrected by an artificial "one-candidate, one-dollar" formula of equality among candidates. I think it is time we face up to that fact now and restore some confidence in our ability to make wise use of our constituents' tax dollars by adopting this amendment.

While it is too late to change the course of public financing events for our Bicentennial election year, perhaps its repeal during this historic period will be regarded in another 200 years as a landmark exercise in remedial legislation. For if we are honest enough to admit a mistake with the public financing experiment and refuse to impose its burdens on our electorate again, we will no doubt be accorded more than the casual degree of respect normally given a congressional body.

Mr. President, in urging my colleagues to support this worthwhile and expedient amendment, I would call their attention to an article from the most recent edition of U.S. News & World Report magazine entitled "When the Public Foots Bill for Politicians on the Stump." I ask unanimous consent that it be printed in the RECORD following those remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

$20 MILLION FOR STARTERS—WHEN THE PUBLIC FOOTS BILL FOR POLITICIANS ON THE STUMP

Taxpayers' cash for presidential candidates is running into big money. Now a move is on to help Congressmen campaign as well.

With more than seven months of electioneering yet to go, the federal plan to bankroll presidential campaigns already has begun to raise eyebrows.

Sheer costs is part of the concern.

So far, more than 11 million dollars in tax revenues has been funneled into the war chests of 14 presidential candidates. Several have spent most of their money and dropped out of the race.

In addition, an estimated 10 million dollars will be spent to provide Secret Service protection for candidates this year, as described on page 17.

And that 20 millions plus is only a starter. By the November election, federal subsidies for presidential campaigns are expected to reach 75 to 100 millions. What's more, a big push is on in Congress to provide taxpayers' dollars not only to presidential aspirants, but also to candidates for the Senate and the House of Representatives.

Reformers are talking about limiting subsidies for Congressmen this year. But if the plan approved by a Senate committee two years ago were to be adopted, the public could end up shelling out more than 350 millions in each four-year period to subsidize presidential and congressional politicking.

NOT REAL REFORM

"I can see an endless subsidization of campaigns going higher and higher year after year," complains Senator Lowell P. Weicker, Jr. (Rep.), of Connecticut, who served on the Senate Watergate Committee. "This is not real reform."

Besides the matter of dollars, other questions are being raised about the law. When enacted in 1974, the Election-Reform Act was aimed at removing the influence of big-money contributions on officeholders.

Limits were placed on the size of private contributions to candidates for the Presidency and Congress. A key part provided for Federal subsidies for candidates in presidential primaries. To qualify for these subsidies, a candidate must collect at least $5,000 in each of 20 States through private contributions of $250 or less.

Such money is then matched dollar for dollar up to a maximum of 5.4 million dollars per candidate for the primaries alone. The subsidy money comes from a special campaign "checkoff" fund in the U.S. Treasury. Taxpayers can divert $1 of their federal income-tax payments each year into the fund by checking a box on their tax return.

The whole question of the campaign law has been reopened on Capitol Hill by a recent Supreme Court decision.

The Court ruled on January 30 that the public financing of presidential campaigns is constitutional. However, it turned thumbs down on the body set up to administer the law—the Federal Election Commission—because of the manner in which its six members were appointed.

Congress, as a result, is now debating legislation to reorganize the Commission. In the process, legislators are battling over other parts of the law as well.

According to critics in and out of Washington, the present law makes it too easy for candidates to qualify for subsidies and enables them to remain eligible for subsidies even if they are defeated in primary after primary.

"We're subsidizing mediocrity," declares Senator Weicker.

ATTRACTS EVERY SQUIRREL

Says Representative Bill Frenzel (Rep.), of Minnesota: "Public financing attracts every squirrel in the cage, and it keeps them in there. They don't know when they're beaten."

Critics point out that even an antiabortion crusader, Ellen McCormack, has been able to qualify for $135,000 in public money, yet few voters take her seriously as a presidential contender.

Pennsylvania Governor Milton J. Shapp has collected $266,000 in campaign subsidies. But he received only 3 per cent of the vote in the Massachusetts primary and 2 per cent in Florida.

In an editorial urging Governor Shapp to "return to Pennsylvania," the *Philadelphia Inquirer* on March 11 said, "Still more of the cost of this exercise in futility is also borne by the taxpayers, who foot the bill for Secret Service agents protecting Milton Shapp from nonexistent crowds." On March 12 the Pennsylvania Governor pulled out of the presidential contest.

Three other Democratic recipients of subsidies—Senator Lloyd Bentsen of Texas, Senator Birch Bayh of Indiana and former North Carolina Governor Terry Sanford—dropped out of the presidential race when their campaigns flopped.

Yet they are still technically eligible for further matching funds, if they apply for them. They will not have to refund any portion of the public money given them until the end of the year after all their campaign debts are paid.

All told, the infusion of public money into the presidential-primary campaigns this year may well make them the most expensive in U.S. history, according to some estimates.

But defenders of public financing say it's achieving two of its main goals:

Making it easier for candidates of limited resources to get their views before the voters. "Fourteen candidates for the Presidency is not an untoward number for the early primaries," says Representative Phillip Burton (Dem.), of California. "Let's leave the choice up to the voters and not exclude candidates who don't happen to have a big block of money."

Reducing dependence on contributions from special interests who may seek favor in return. "A candidate without money has to take it from business or labor—then he is beholden to the giver," observes Representative Richard Ottinger (Dem.), of New York. "Money is the single most corrupting factor in politics. It was never contemplated by the Founding Fathers."

WISEST INVESTMENT

Arguing in the same vein, Senators such as Hugh Scott (Rep.) of Pennsylvania, Edward M. Kennedy (Dem.), of Massacchusetts, and Dick Clark (Dem.), of Iowa, term public financing "the wisest investment a taxpayer can make in the future of the country." They are leading sponsors of a bill that would extend public financing to congressional campaigns.

They argue that the case for their bill is made more compelling by the Supreme Court's ruling. One part of the ruling struck down the spending ceiling on congressional candidates.

Under the Court's interpretation, these ceilings can be reimposed only if candidates voluntarily accept the limits as a precondition for receiving campaign subsidies.

"Without spending ceilings, we're going to have to have seats going to the highest bidder. Congress will be back on the auction block," laments one Democrat.

SPECIAL-INTEREST MONEY

A study of Common Cause, the self-styled "citizens lobby," contends that special interests are primed for bigspending. According to the study.

As of January, special-interest war chests totaled 16.4 million dollars—40 per cent more than was on hand at the same point in the 1974 campaign.

Business, agricultural and professional groups raised 8.8 millions of this total, labor organizations 6.6 millions. The remainder was put up by other groups.

At the moment, Capitol Hill supporters of public financing for congressional races are pushing a plan that would divert any money left over in the presidential checkoff fund into this year's congressional campaigns.

This fund is expected to reach a total of 95 to 100 million dollars, but all but 25 million or less will probably be spent in the presidential-primary and general-election contests.

Funds left over would pay only a fraction of congressional-campaign costs, but backers of congressional financing would have a nose in the tent.

Whether or not such a plan wins approval this year, the use of taxpayers' money to bankroll political candidates is an issue that promises to grow in the months ahead.

THOSE SUBSIDIES FOR CANDIDATES—HOW BILLS STACK UP

Latest tally of funds certified by the Federal Election Commission for distribution by the U.S. Treasury to presidential candidates. These sums, matching private contributions, are for spending on pre-Convention campaigning, including primaries—

DEMOCRATS

George Wallace	$2,445,59[illegible]
Henry Jackson	1,485,83[illegible]
Jimmy Carter	847,13[illegible]
Morris Udall	783,22[illegible]
Lloyd Bentsen	511,02[illegible]
Fred Harris	444,84[illegible]
Birch Bayh	418,79[illegible]
Milton Shapp	265,79[illegible]
Sargent Shriver	255,81[illegible]
Terry Sanford	246,38[illegible]
Frank Church	209,69[illegible]
Ellen McCormack	134,73[illegible]
Total	8,049,47[illegible]

REPUBLICANS

Gerald Ford	1,532,05[illegible]
Ronald Reagan	1,473,16[illegible]
Total	3,005,22[illegible]
All told	11,054,70[illegible]

Source: Federal Election Commission.

The PRESIDING OFFICER (Mr. TOWER). All remaining time having been yielded back, the question is on agreeing to the amendment—No. 1437, as modified—of the Senator from Connecticut (Mr. WEICKER). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. A rollcall is in progress.

Mr. ALLEN. There has been no answer.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Connecticut. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PASTORE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), and the Senator from Rhode Island (Mr. PASTORE) would each vote "nay".

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from New York (Mr. BUCKLEY), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The result was announced—yeas 34, nays 54, as follows:

[Rollcall Vote No. 74 Leg.]

YEAS—34

Allen	Fong	Nunn
Baker	Ford	Packwood
Beall	Garn	Pearson
Bellmon	Goldwater	Roth
Brock	Griffin	Scott, William L.
Byrd, Harry F., Jr.	Hansen	Stennis
Curtis	Hatfield	Taft
Dole	Helms	Talmadge
Domenici	Hruska	Thurmond
Eastland	Laxalt	Tower
Fannin	McClellan	Weicker
	McClure	

NAYS—54

Abourezk	Hart, Philip A.	Montoya
Bayh	Haskell	Morgan
Bentsen	Hathaway	Moss
Biden	Huddleston	Muskie
Brooke	Humphrey	Nelson
Bumpers	Inouye	Pell
Burdick	Javits	Percy
Byrd, Robert C.	Johnston	Proxmire
Cannon	Kennedy	Randolph
Case	Leahy	Ribicoff
Chiles	Long	Schweiker
Clark	Magnuson	Scott, Hugh
Cranston	Mansfield	Sparkman
Culver	Mathias	Stevens
Eagleton	McGee	Stevenson
Glenn	McIntyre	Stone
Gravel	Metcalf	Symington
Hart, Gary	Mondale	Tunney

NOT VOTING—12

Bartlett	Hartke	Pastore
Buckley	Hollings	Stafford
Church	Jackson	Williams
Durkin	McGovern	Young

So Mr. WEICKER's amendment (No. 1437), as modified, was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CLARK. Mr. President, I yield to the Senator from Oklahoma.

AMENDMENT NO. 1447

Mr. BELLMON. Mr. President, I call up my amendment No. 1447.

The PRESIDING OFFICER (Mr. PEARSON). The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes Amendment No. 1447.

The amendment is as follows:

On page 51, after line 16, add the following:

TITLE IV—AMENDMENTS TO THE VOTING RIGHTS ACT OF 1965

SEC. 401. Section 14(c) of the Voting Rights Act of 1965 is amended by striking paragraph (3) and inserting the following new paragraph in lieu thereof:

"(3) The term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English.".

SEC. 402. Section 203 of the Voting Rights Act of 1965 is amended by striking subsection (e) and inserting the following new subsection in lieu thereof:

"(e) For purposes of this section, the term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English.".

Mr. BELLMON. Mr. President, this amendment would correct a flaw that exists, in my opinion, in the Voting Rights Extension Act which was passed last year. In that act, the purpose clause of the bill refers to the need to prevent voting discrimination against citizens of language minorities "from environments in which the dominant language is other than English." However, the qualifying phrase "whose dominant language is other than English" was missing from the definition sections stating which minority groups would be covered.

This amendment simply adds those words, and it stops the totally unnecessary practice that has been forced on us in Oklahoma of having interpreters present at voting places where the American Indians in our State vote. These Indians speak English. In many cases, they do not even have a written language other than English; but it terms of the law as it now exists, it is necessary for us to have interpreters present at those polling places, even though no one makes use of them.

This has caused a great hardship on our State. The law that now exists has done no good for the Indian citizens who do not need this help. It has caused a great hardship on our election officials and great expense to areas that in many cases are hard pressed to find the money to pay for these extra costs.

I have discussed the matter with both the manager of the bill and the ranking minority member, and I believe they have agreed to accept the amendment, unless something has happened in the last moment.

Mr. President, last July when the Senate passed the voting rights extension bill, I warned that it contained a provision which was totally unnecessary and which, if not removed, would prove to be both burdensome and costly in future elections. I refer to the requirement that political subdivisions conduct bilingual elections even though there is no single language minority.

At that time I sought to amend the bill to correct what appeared to be an oversight. The purpose clause of the bill referred to the need to prevent voting discrimination against citizens of language minorities "from environments in which the dominant language is other than English." However, the qualifying phrase, "whose dominant language is other than English" was missing from the definition sections stating which minority groups would be covered. My amendment simply sought to add those words.

My amendment was defeated, the bill was passed and signed into law, and the Department of Justice went to work to enforce its provisions.

For the benefit of those who chose not to heed my warning, I would like to touch briefly on what has taken place since the bill became law.

The Census Bureau determined that political subdivisions in 26 States would be required to conduct bilingual elections and otherwise provide special assistance to minority group voters. These groups included Spanish-speaking Americans, Asian Americans, Alaskan Natives, and American Indians.

Under the Census Bureau finding, seven States were required to provide the special assistance statewide. These States are: Alaska, Hawaii, Arizona, California, Colorado, New Mexico, and Texas. In the remaining States, some 270 counties fell under the guidelines. Those States are: Connecticut, Florida, Kansas, Louisiana, Minnesota, Mississippi, Montana, Maine, Nebraska, Nevada, North Dakota, New York, North Carolina, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

In Oklahoma, 25 of the State's 77 counties come under the provisions of the 1975 act—2 because of Spanish language minorities, the remainder because of their Indian population.

This law has been a particularly difficult problem for Oklahoma because more than 60 Indian tribes are represented in my State, and some of the tribes have more than one native language. But because Indians do not live on reservations in Oklahoma and have comingled with the rest of the population, they are accustomed to speaking and writing English. Few Oklahoma Indians can even understand their tribal language because it is no longer used. Many tribes do not even have a written language.

A census of the Choctaw Nation conducted by Oklahoma State University last year showed that less than 1 percent of the population did not speak English. All were in one county, McCurtain, and were over 65 years old.

In spite of the fact that English is the dominant language among Oklahoma Indians, and that tribal elections are conducted in English, Oklahoma election officials were confronted with an impossible situation in locating, transporting, and paying translators to comply with the law.

A good example of the difficulty faced by Oklahoma election officials is Sequoyah County. According to the Census Bureau, Sequoyah County has around 1,900 Cherokees, plus a few Creeks, Alabamas, Coushattas, Kaws, Omegas, Osages, Poncas, and Quapaws—nine different tribes. The county has 36 precincts, which means that to be in full compliance with the law, up to 324 interpreters would be needed to cover all the polling places.

A. J. Henshaw, Jr., secretary of the Sequoyah County Election Board, explained his plight in a letter to State Senator James E. Hamilton. Henshaw wrote:

> The procedures this county must adopt to comply with this Act are a financial burden our county is not able to bear. The minimum amount the Election Board could pay these people is $17 per day, plus mileage, assuming you could get the interpreters to work 12 straight hours for that amount. The cost for the interpreters for just one election would be in excess of $6,000.

Henshaw stated further:

> To find the 324 people who speak all of the respective languages that the Census Bureau alleges we have is virtually impossible.

Yet, Senator Hamilton has told me, representatives of the Justice Department have, in effect, threatened law suits against the individual election board workers if any of them fail to comply with this Federal edict.

Another election board secretary, Glenn Wood of Pawnee County wrote Assistant Attorney General J. Stanley Pottinger concerning the experience in his county in attempting to abide by the law in a city of Pawnee special election last November:

> After considerable searching, we finally found five Indians, one each for the five precincts in the City of Pawnee, who claimed they could speak both dialects of the Pawnee language, thus qualifying as interpreters for this election. Of 1,300 registered voters, we had a total vote cast of 825 of which 25 were Indians, none of whom requested or needed assistance in voting their ballot.

Wood said that in giving the interpreters their instructions prior to election day, they were asked for comments on the new law. He stated:

> Each of them made a very definite statement, stating in their opinion the law was ridiculous, not needed and an insult to the intelligence of the American Indian. They called attention to the fact that when they held their tribal elections all ballots and other materials necessary to the conducting of the election are printed in the English language only, and no effort is made to provide interpreters, due to the fact there are no Indians, at least in this area, but what understand and speak the English language.

The Mayes County Election Board secretary, Hetta Morgan, wrote me that the election officials in that county believe the bilingual election requirements are "an atrocious expense and certainly not a feasible or economical plan for our taxpaying people in Mayes County."

Oklahoma Indian tribal leaders are equally critical of the new law. When I explained the bill's provisions to Sylvester Tinker, Chief of the Osages, he was amazed. He told me that although far more than 5 percent of the voting age citizens in Osage County are Osage Indians, only a very few members of the tribe can read or speak the Osage language. Even as chief of the tribe, Tinker has difficulty himself in reading the Osage language although he can speak it fluently. Overton James, Governor of the Chickasaw Nation, wrote me that "in the Chickasaw Tribe, we have so few—in fact, I doubt any—who cannot read and understand English that it would be insignificant."

The Oklahoma State Election Board recently completed a survey concerning the implementation of the 1975 amendments to the 1965 Voting Rights Act in the 25 counties in Oklahoma affected by the act. Lee Slater, election board secretary, sent me a summary of the survey findings:

> School elections conducted throughout Oklahoma on January 27, 1976, presented the first opportunity for elections to be held simultaneously throughout the state since the Voting Rights Act became effective in those 25 counties.
>
> A total of 246 polling places were used for the school elections in the affected counties, and 42,154 persons cast ballots. Of that number, a total of 22 (Indians) requested assistance.
>
> County Election Boards provided a total of 116 interpreters—including 39 for Cherokee, 32 for Choctaw, 25 for Creek, six for Cheyenne, five for Chickasaw, three for Seminole, and one each for Apache, Shawnee, Spanish, Osage, Seneca-Cayuga and Pawnee.
>
> Of those requesting assistance, 15 re-

quested assistance in Cherokee, six in Choctaw and one in Apache.

A total of $1,637.60 was paid to these interpreters. That figure does not include the cost of printing materials in Spanish, of meetings by the County Election Boards and other costs which probably tripled or quadrupled the total cost. As you can see, that is a very high cost per voter using the service.

Pointing out the problems that lie ahead, Slater said that for regular primary, runoff primary, and general elections in Oklahoma this year, the number of polling places will nearly triple the number used in school elections. Likewise, he said, the participation by voters will increase substantially, as school elections historically produce the smallest voter participation of any elections in Oklahoma.

Mr. President, I believe there is ample evidence, at least in my home State, to illustrate the absurdity of the bilingual provisions of the Voting Rights Act. It is a situation similar to that of the Boy Scout who sought to do a good deed by helping an elderly woman across the street. The problem was, she did not want to go.

Congress, through its failure to correct a technical error in the drafting of this law, has forced election officials in 26 States to provide assistance that is unneeded and unwanted, and which imposes an unnecessary additional financial burden upon the taxpayers of those States.

We should act now to rescind this legislative mistake by enacting my amendment.

This amendment will simply clarify the sections in titles II and III of the Voting Rights Act, defining the term "language minorities," by adding to the various groups listed—American Indians, Asian Americans, Alaskan Natives, and Americans of Spanish heritage—the qualifying phrase: "and whose dominant language is other than English." This clause more properly defines those single language minorities who should be subject to protection under the Voting Rights Act.

It should be emphasized that the language added by this amendment is not foreign to the bill. The phrase, "and whose dominant language is other than English," is identical to the purpose clause of the act which states:

The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English.

In addition, it should be noted that Senator STEVENS' amendment adding this identical language to the minority group "Alaskan Natives" was eventually accepted during floor debate on the Voting Rights Act. I am merely asking that this modification be extended to all groups.

The goal of the new bilingual provisions is a good and just one—to insure that no citizen is denied the right to vote because his dominant language is other than English. I fully support this goal and the remedial device, bilingual elections, as a means to guarantee full participation and equal voting rights.

However, there is one major flaw in these provisions. Because of the absence of the qualifying language from the purpose clause, "and whose dominant language is other than English," many political subdivisions will be forced to conduct bilingual elections even though there is no single language minority where 5 percent of the voting age citizens have a dominant language other than English.

The way to prevent this from occurring is for the Congress to adopt the language of my amendment, which will insure that the costly and burdensome bilingual registration and voting mechanism will only be applied where there is an actual need to assure citizens' voting rights because of an English deficiency.

State Senator Hamilton, a former president pro tempore of the Oklahoma State Senate, told me that if this law remains unchanged, he feels that mass resignations will result among election officials in Oklahoma. These officials know that they cannot comply with the law and simply will not take a chance on being sued by some Federal official because of their inability to do the impossible.

Time is of the essence in this matter because of the forthcoming elections.

This change will strengthen the act. The remedies and triggering provisions will remain intact. No instance of voting discrimination cited in either the House or Senate reports will fail to be corrected because of the adoption of this amendment. I urge its approval.

Mr. CANNON. Mr. President, I did tell the Senator that, so far as I was concerned, I would be willing to accept the amendment. However, that matter has been up on a previous occasion, when I was not the floor manager of the bill. The floor manager of that matter is in the Chamber, and I understand that he is strongly opposed to the amendment, so I will have to defer to Senator TUNNEY.

Mr. BELLMON. Mr. President, I did not know that this would be a matter in controversy. I understood that the amendment would be accepted. Perhaps I had better discuss the matter with Senator TUNNEY.

The PRESIDING OFFICER. Does the Senator withdraw his amendment?

Mr. BELLMON. I withdraw the amendment temporarily.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CLARK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, beginning with "The" in line 22, strike out through line 2 on page 23 and insert in lieu thereof the following:

"(7) The Commission shall make available to the public the results of any conciliation attempt, including any conciliation agreement entered into by the Commission, and any determination by the Commission that no violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

On page 23, line 3, strike out "(7)" and insert in lieu thereof "(8)".

On page 23, line 21, strike out "(8)" and insert in lieu thereof "(9)".

On page 23, line 22, strike out "(7)" and insert in lieu theerof "(8)".

On page 23, line 25, strike out "(9)" and insert in lieu thereof "(10)".

On page 24, line 22, strike out "(10)" and insert in lieu thereof "(11)".

On page 25, line 4, strike out "(11)" and insert in lieu thereof "(12)".

On page 25, line 8, strike out "(12)" and insert in lieu thereof "(13)".

Mr. CLARK. Mr. President, this is a technical amendment. The enforcement provisions of S. 3065, embodied in section 313, specify that:

The Commission shall make available to the public the results of any conciliation attempt, including any conciliation agreement entered into by the Commission, and any determinations by the Commission that no violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

Unfortunately, Mr. President, this important provision inadvertently was tacked on as part of the civil penalty provision, section 313(a)(6). To avoid any possible confusion, my amendment would simply provide that this provision be redesignated as a new subsection (7).

Mr. CANNON. Will the Senator yield?

Mr. CLARK. I yield.

Mr. CANNON. Do I understand correctly, then, that there is no change other than a renumbering in the bill itself?

Mr. CLARK. That is exactly right.

Mr. CANNON. Mr. President, I have no objection to that amendment.

The PRESIDING OFFICER (Mr. PERCY). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CLARK. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 46, line 14, after "Sec. 301." insert the following: "(a)".

On page 47, between lines 7 and 8, insert the following:

(b) For purposes of applying section 9006 (d) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

On page 50, after the matter between lines 6 and 7, insert the following:

(c) For purposes of applying section 9006 (d) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

Mr. CLARK. Mr. President, S. 3065 reinstates the $50,000 limit on personal expenditures by a Presidential candidate as a condition for receiving public fi-

nancing in accordance with the Supreme Court decision in Buckley against Valeo. It is important, however, that no candidate be penalized for any personal expenditures he or she may have made between the time of the Supreme Court decision and the day of enactment of this act. My amendment, therefore, would simply stipulate that personal expenditures made between January 29, 1976, the date of Buckley against Valeo, and the enactment of this bill shall not count toward the personal limitation.

Mr. CANNON. Mr. President, it seems to me that the amendment is a good amendment, simply making one change, that people who may have expended money after January 29, 1976, and before the date of the enactment, should not be taken into account, covering the interim period of the Supreme Court decision. I think the amendment should be accepted. I approve of it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 18, line 24, strike out "prescribe rules or regulations" and insert in lieu thereof "propose a rule or regulation in accordance with the provisions of chapter 5 of title 5, United States Code,".

Mr. CLARK. Mr. President, section 107(b) of the bill requires that an advisory opinion of general applicability must be prescribed as a rule or regulation within 30 days. This would conflict with the provisions of the Administrative Procedures Act, which requires that a proposed regulation must appear in the Federal Register to allow for a 30-day period of comment before a regulation can be formally prescribed. Obviously, both provisions cannot be met; they are in contradiction. This amendment simply would stipulate that the Commission, within 30 days, would have to propose a rule or regulation in accordance with the procedures set forth in the Administrative Procedures Act.

Mr. CANNON. Mr. President, the Senator is correct that the word "prescribed" should be changed to "proposed" rule or regulation. I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CLARK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 7, after "party" insert the following: "(unless the person paying for such services is a person other than the employer of the individual rendering such services)".

On page 9, line 14, after "1954" insert the following: "(unless the person paying for such services is a person other than the employer of the individual rendering such services)".

On page 10, line 9, after "party" insert the following: "(unless the person paying for such services is a person other than the employer of the individual rendering such services)".

On page 10, line 17, after "1954" insert the following: "(unless the person paying for such services is a person other than the employer of the individual rendering such services)".

On page 50, line 24, after "party" insert the following: "(unless the person paying for such services is a person other than the employer of the individual rendering such services)".

Mr. CLARK. Mr. President, this amendment simply seeks to clarify the sections added in committee with regard to legal and accounting services. It is clear that the committee's intent was to exempt certain specified legal and accounting services from the contribution and expenditure limits in the act. However, it was certainly not the committee's intent to allow outside individuals or groups to pick up the tab for these services. My amendment would simply clarify that point.

Mr. CANNON. Mr. President, the Senator is correct. This amendment would properly clarify the intent of the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 12, lines 18 and 19, strike "totaling in excess of $5,000, or made expenditures totaling in excess of $5,000," and inserting in lieu thereof the following: "or made expenditures or both, the total amount of which, taken together, exceeds $5,000,".

Mr. CLARK. Mr. President, during committee consideration of the bill now before us, some confusion arose regarding the off-year reporting exemption provided for in section 104. Briefly put, this provision was intended to provide that in any quarter of a nonelection year in which a candidate's campaign committee engaged in less than $5,000 of activity, the committee will not be required to report such activity until the end of the calendar year.

Because of some ambiguity in the original language, an amendment was offered which changed the meaning of that section so that the exemption would apply if the candidate's committee received less than $5,000 in contributions or made less than $5,000 in expenditures, taken separately.

My amendment simply would restore the original intent of the provision, which would now stipulate that if a candidate's authorized committees received contributions or made expenditures, or both, the total of which taken together was $5,000 or less, the committees would not have to report to the Federal Election Commission until the end of the calendar year.

Mr. CANNON. Mr. President, that amendment is acceptable and I am willing to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CLARK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, line 21, insert ", including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation," immediately after "order".

On page 22, line 1, insert ", including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation," immediately after "other order".

On page 22, beginning with line 13, strike out through line 2 on page 23 and insert in lieu thereof the following:

"(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $10,000; or (ii) an amount equal to 300 percent of the amount of any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(C) The Commission shall make available to the public the results of any conciliation attempt including any conciliation agreement entered into by the Commission and any determination by the Commission that no violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

Mr. CLARK. Mr. President, the civil penalty provisions now in S. 3065 provide for penalties only in the case of "knowing and willful" violations of the act. In other words, the Commission must be able to demonstrate criminal intent even to assess civil penalties. Gross negligence, therefore, would go completely unpunished.

The purpose of this amendment is to add language already in the House bill, to provide a civil penalty of $5,000 or 100 percent of the amount involved in the violation, whichever is greater, for any violation of the act.

At present, the Federal Election Cam-

paign Act provides for a criminal penalty for any violation. This amendment would simply provide a minimal civil penalty for any violation.

Mr. CANNON. Mr. President, that amendment of the Senator's is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 44, line 2, strike the period and insert the following: ", except that in the case of a knowing and willful violation of section 325 or 326, the penalties set forth in this section shall apply to a violation involving an amount having a value in the aggregate of $250 or more during a calendar year. In the case of a knowing and willful violation of section 328, the penalties set forth in this section shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more was involved.".

Mr. CLARK. Mr. President, under the Federal Election Campaign Act as it now stands there are extensive and severe penalties, criminal penalties, for any violation which falls under the act.

The bill now before us, S. 3065, establishes a new and elaborate civil penalty structure and combines all criminal penalties into one new section 329.

Unfortunately, as it is presently written, section 329 contains three significant weaknesses, in my judgment, which this amendment is designed to correct. Both the present law and S. 3065 contain a vitally important prohibition against making cash contributions which are in excess of $100.

We all know, Mr. President, that the unrestricted flow of cash in political campaigns was at the very heart of the Watergate affair, and that it represents by far the most serious threat to effective enforcement and administration of the campaign law.

Because the general penalty provision of section 329 contains criminal sanctions only for violations which are in excess of $1,000, a significant gap would occur between the criminal provision and the prohibition against cash contributions.

I recognize that there is some concern about providing criminal penalties for rather minor violations of the act. Therefore, Mr. President, my amendment would stipulate that the criminal penalties of section 329 would apply in any violation involving cash contributions of $250 or more. Cash is so dangerous that we are lowering the threshold, in other words, from $1,000 to $250.

Mr. President, just as both the present law and S. 3065 provide a separate provision against cash contributions so do they also provide a separate provision to prohibit the earmarking of contributions. Earmarking—where a contribution is funneled through an intermediary to a candidate—is a practice which represents a very serious threat to the integrity of the contribution limits provided in the campaign law.

Therefore, Mr. President, as with cash contributions this amendment would establish a $250 criminal penalty threshold for violations of this important section.

Finally, Mr. President, because the structure of section 329 connects the criminal penalties to violations involving a certain amount of money, S. 3065 now contains no criminal penalty to cover the fraudulent misrepresentation of campaign authority provision embodied in section 328 of this bill. This amendment would simply add a criminal penalty to cover this section.

This amendment would represent, I think, an important strengthening of the the criminal provisions of S. 3065 and I urge its adoption.

Mr. CANNON. Mr. President, I have discussed this amendment with the distinguished Senator, and I think it is a valuable addition to the bill, and I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask that it be read.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 44, strike out lines 3 through 11 and insert in lieu thereof the following:

"(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect.".

Mr. CLARK. Mr. President, section 329 (b) of the measure before us, S. 3065, stipulates that once a person has entered into a conciliation agreement with the Federal Election Commission, the Department of Justice would be barred from initiating any action relating to the violation dealt with in the agreement.

My own concern goes to this point: No one would want the Department of Justice to be continually undercutting the actions of the Federal Election Commission, by initiating criminal prosecutions against people who have already entered into conciliation agreements with the FEC. Nevertheless, I do not believe we would want the FEC to be able to go completely unchallenged in entering into such agreements.

If the Commission should enter into a particularly weak agreement, even in the face of a serious violation of the act, it should be held accountable for such an action. Prohibiting criminal prosecutions by the Justice Department would eliminate this necessary check.

Furthermore, Mr. President, section 329(b) would be an unprecedented restriction on the prosecutorial powers of the Attorney General. A mere agreement entered into by an independent executive branch agency would, in and of itself, be enough to tie the hands of the Justice Department.

This amendment seeks to strike a balance between the intent of the provision, on the one hand, and the important issue of Commission accountability, on the other. It would provide that a defendant in a criminal action brought for the violation of a provision of this act could introduce as evidence of his lack of knowledge of and/or intent to commit the offense for which the action was brought the fact that a conciliation agreement regarding the offense had already been entered into with the Commission.

Mr. CANNON. Mr. President, the original provision in the bill S. 3065, as we presented it here, was the result of an amendment of the Senator from Alabama, and I would like to have him respond as to whether or not he believes this language is adequate. It seems to me it probably is, but I would like to defer to the distinguished Senator from Alabama on this point.

Mr. ALLEN. Yes, I agree with the thrust of the Senator's amendment.

I think it ought to be stated that it not only be, the conciliation agreement not only be, received as evidence of lack of knowledge of the offense or lack of intent. I think it might add some wording to the effect that it be considered in mitigation of the offense, some language of that sort which, I think, would be helpful.

I wonder if the Senator would consider adding a clause to that effect?

Mr. CLARK. A clause to the effect that what?

Mr. ALLEN. That the conciliation agreement that bars any civil action, I believe, even under the Senator's amendment, that that would be accepted in evidence, I believe, under the Senator's amendment, as evidence of lack of knowledge of the offense and of lack of intent to violate the law. Could it not also be added that it could be accepted in mitigation of the offense?

Mr. CLARK. Well, does the Senator have specific language to offer at this time?

Mr. ALLEN. I think it might be well if we passed this one over. The Senator has had about eight amendments adopted, and possibly other Senators might have some amendments, and it would give us an opportunity to discuss this amendment.

Mr. CLARK. Fine.

Mr. President, I withdraw the pending amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CLARK. Mr. President, I have an additional amendment to send to the desk and I ask that it be read.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 27, beginning with line 16, strike out through "graph," on line 16 on page 28 and insert in lieu thereof the following:

"SEC. 320. (a)(1) No person shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized political committee of any candidate, in any calendar year which, in the aggregate, exceed $25,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

"(2) No multicandidate political committee shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized committee of any candidate in any calendar year, which, in the aggregate, exceed $25,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $10,000.

For purposes of this paragraph, the term 'multicandidate political committee' means a political committee which has been registered under section 303 for a period of not less than six months, which has received contributions from more than fifty persons, and, except for any State political party organization, has made contributions to five or more candidates for Federal office.

"(3) For purposes of the limitations under paragraphs (1) and (2),

On page 29, line 9, strike out "(3)" and insert in lieu thereof "(4)".

On page 29, line 16, strike out "(4)" and insert in lieu thereof "(5)".

On page 30, line 14, strike out "(5)" and insert in lieu thereof "(6)".

On page 30, line 22, strike out "(6)" and insert in lieu thereof "(7)".

Mr. CLARK. Mr. President, this obviously is not a technical amendment. It is a substantive amendment.

S. 3065 retains the $1,000 limitation on contributions by an individual to a candidate and the $5,000 limitation on contributions by a political committee to a candidate.

However, S. 3065 also retains the unnecessarily high limitation of $25,000 for contributions by an individual to a multicandidate political committee and imposes merely a $25,000 limitation on transfers of funds from one noncandidate committee to another.

In light of the Supreme Court decision against the constitutionality of expenditure limitations, these $25,000 limits on contributions to political committees clearly are inadequate. Such high limitations will only serve to vastly increase the already disproportionate influence of the wealthy and the special interests in the political process.

The purpose of this amendment is to establish a new $5,000 limitation on contributions by an individual to a multicandidate political committee. However, an individual would still be permitted to contribute up to $25,000 to a political committee established and maintained by a political party, which, of course, generally supports the activities of all the candidates of that particular party.

Further, my amendment would establish a new $10,000 limitation on transfers of funds from one political committee to another.

Again, however, transfers of funds from any committee to a party committee would still be permitted in amounts up to $25,000.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

Mr. CANNON. Mr. President, if no one else wishes to speak on this amendment, we could proceed to vote.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the Senator from Iowa. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from New York (Mr. BUCKLEY), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The result was announced—yeas 53, nays 32, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—53

Abourezk	Glenn	Morgan
Allen	Gravel	Moss
Bayh	Hart, Gary	Muskie
Bentsen	Hart, Philip A.	Nunn
Biden	Haskell	Pearson
Brooke	Hathaway	Pell
Bumpers	Javits	Proxmire
Burdick	Johnston	Randolph
Byrd, Harry F., Jr.	Kennedy	Ribicoff
Byrd, Robert C.	Leahy	Schweiker
Cannon	Magnuson	Sparkman
Case	Mansfield	Stennis
Chiles	Mathias	Stevenson
Clark	McGee	Stone
Cranston	McIntyre	Symington
Culver	Metcalf	Talmadge
Eagleton	Mondale	Tunney
	Montoya	Weicker

NAYS—32

Baker	Curtis	Fannin
Beall	Dole	Fong
Bellmon	Domenici	Ford
Brock	Eastland	Garn
Goldwater	Laxalt	Scott, Hugh
Griffin	Long	Scott, William L.
Hansen	McClellan	Stevens
Hatfield	McClure	Taft
Helms	Packwood	Thurmond
Hruska	Percy	Tower
Huddleston	Roth	

NOT VOTING—15

Bartlett	Hollings	Nelson
Buckley	Humphrey	Pastore
Church	Inouye	Stafford
Durkin	Jackson	Williams
Hartke	McGovern	Young

So Mr. CLARK's amendment was agreed to.

Mr. CLARK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROCK. Mr. President, I have two amendments at the desk which I offer on behalf of myself and the Senator from Florida (Mr. STONE) and the Senator from California (Mr. CRANSTON). I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments will be stated.

The assistant legislative clerk read as follows:

On page 27, strike out lines 11 through 14, and insert the following in lieu thereof: "is amended—

"(1) by inserting '(a)' before 'No' in section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act;

"(2) by adding the following new subsection at the end of section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act:

'(b) Notwithstanding any other provision of law, no Senator, Representative, Resident Commissioner, or Delegate shall mail as franked mail under section 3210 of title 39, United States Code, any general mass mailing when such mailing is mailed at or delivered to any postal facility less than 60 days prior to the date of any primary or general election in which such Senator, Representative, Resident Commissioner, or Delegate is a candidate for Federal office. For purposes of this subsection the term "general mass mailing" means newsletters and similar mailings of more than 500 pieces the content of which is substantially identical and which are mailed to or delivered to any postal facility at the same time or several different times.';

"(3) by striking out section 320 (2 U.S.C. 441), as redesignated by section 105 of this Act; and

"(4) by inserting after section 319 (2 U.S.C. 439c), as redesignated by such section 105, the following new sections:".

At the end of the bill, add the following new title:

TITLE IV—MISCELLANEOUS PROVISIONS

USE OF FRANKED MAIL BEFORE ELECTIONS

SEC. 401. Section 3210(a)(5)(D) of title 39, United States Code, is amended to read as follows:

"(D) any general mass mailing when the same is mailed at or delivered to any postal facility less than 60 days prior to the date of a primary, general, or special election, or a nominating caucus or convention, for any Federal office which is held in the State, district, or territory from which he was elected. For the purpose of this subparagraph, the term 'general mass mailing' shall mean newsletters and similar mailings of more than 500 pieces in which the content

of the matter mailed is substantially identical and which are mailed at or delivered to any postal facility at the same time or at several different times.".

Mr. BROCK. Mr. President, these two amendments do identical things. One amends the existing law on the Federal Election Commission and the other amends the Postal Code. The purpose of the amendments is very simple and very clear. It is to prohibit the use of the frank for mass mailing purposes for a period of 60 days prior to an election.

I remind my colleagues that the Senate has already adopted this posture in the past; that, as a matter of fact, in the last consideration of this particular piece of legislation, we adopted, I think, an identical amendment.

On consideration by the House, the term of the prohibition was reduced from 60 to 28 days. The reason I offer this, then, is to restate and attempt to reestablish the Senate position, simply because, if there is one simple criterion that should be in this bill, it is equity for all parties. There is no one who can successfully challenge the fact that an incumbent with an unlimited use of the frank has an unbelievable advantage over any potential challenger which can be almost impossible to overcome. What we try to do with this particular amendment that the Senator from California and I have worked on, together with the Senator from Florida, is create a time frame during which no special advantage would accrue to the incumbent but, rather, that the two candidates can compete with each other on their merits before the people of their respective constituencies so that the people can make their own determination.

I shall be delighted to yield to the Senator from Florida if he wishes to comment.

Mr. CRANSTON. I am delighted to join with the Senator from Tennessee in this very important amendment, which is a needed reform relating to the use of the frank. I hope that it will be adopted unanimously.

Mr. BROCK. I thank the Senator for his comment. May I say he has been a long-time leader in this effort. I appreciate very much his support.

Mr. CLARK. Mr. President, I wish to join with the Senator from Tennessee, as well. Certainly, it is a well-known fact that incumbents have an enormous advantage in elections now. Although this is not going to correct the balance entirely, it is a very significant step in that direction, and I wish to support it, also.

Mr. BROCK. I thank the Senator for his comments and support.

Mr. CANNON. Mr. President, the Senator is correct. The Senate has adopted that position in the past. We were required in conference to give up on that particular point and take a shorter period of time. I certainly supported the provision before, and I am willing to support it now. Unless some of my colleagues object to it, I am willing to accept the amendment.

Mr. BROCK. I am very grateful. I am prepared for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to en bloc.

Mr. PACKWOOD. Mr. President, I have an amendment at the desk that I wish to call up. It does not have a number. It was handed in only several hours ago.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 37, beginning with line 22, strike out through line 3 on page 38 and insert in lieu thereof the following:

"(3) It shall not be unlawful under this section for a corporation or a separate segregated fund established by a corporation to solicit contributions from stockholders and their families or from employees of the corporation (whether or not they are members of a labor organization) and their families. It shall not be unlawful under this section for a labor organization or a separate segregated fund created by a labor organization to solicit contributions from members of that organization and their families or from stockholders or employees of a corporation and their families if that organization is the labor representative of some employees of that corporation in dealing with that corporation as to matters of pay, working conditions, and other benefits.

Mr. PACKWOOD. Mr. President, I shall explain what this amendment is, and it is controversial. I expect a rollcall vote on it.

This amendment would strike out the present provision of the bill indicating whom unions can solicit in a corporation and whom a business political action fund can solicit in a corporation and, in essence, lets everybody solicit everybody in the corporation. A union or a separate segregated union fund can solicit any union employees of the corporation or any nonunion employees of the corporation. It may happen to be nonsupervisory personnel. They can solicit administrative and executive personnel, officers, stockholders, and the families of any of those people.

Conversely, a fund created by the corporation can solicit shareholders, executive personnel, administrative personnel, nonunion personnel, and union personnel.

The amendment, pretty much, puts the situation back where the Federal Election Commission had left it with their rulings in the creation of what was known as the SUNPAC decision. It seems to me that, in fairness and in equity, if a union can solicit the union employees of a corporation, as is now presented in the bill, they ought to have equal access to solicit the nonunion and nonsupervisory employees. And there is no reason why they should not be allowed to mail to the shareholders of a corporation, asking those shareholders to contribute to a union fund or a separate segregated fund provided by the union.

Again, it treats unions and businesses equitably. Any money raised by these funds would have to be disclosed, any money spent would have to be disclosed. I think it is a step toward encouraging political participation, because it will encourage people to give to whatever fund they choose and they can be equally solicited by either side.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from New Hampshire (Mr. DURKIN), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Washington (Mr. JACKSON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), Senator from Massachusetts (Mr. BROOKE), Senator from New York (Mr. BUCKLEY), Senator from Arizona (Mr. GOLDWATER), and Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The result was announced—yeas 40, nays 45, as follows:

[Rollcall Vote No. 76 Leg.]

YEAS—40

Allen	Fong	Percy
Baker	Garn	Roth
Beall	Griffin	Scott, Hugh
Bellmon	Hansen	Scott, William L.
Bentsen	Hatfield	Sparkman
Brock	Helms	Stennis
Byrd, Harry F., Jr.	Hruska	Stevens
Chiles	Laxalt	Stone
Curtis	Mathias	Taft
Dole	McClellan	Talmadge
Domenici	McClure	Thurmond
Eastland	Nunn	Tower
Fannin	Packwood	Weicker
	Pearson	

NAYS—45

Abourezk	Hart, Gary	McIntyre
Bayh	Hart, Philip A.	Metcalf
Biden	Haskell	Mondale
Bumpers	Hathaway	Montoya
Burdick	Huddleston	Morgan
Byrd, Robert C.	Humphrey	Moss
Cannon	Inouye	Muskie
Case	Javits	Pell
Clark	Johnston	Proxmire
Cranston	Kennedy	Randolph
Culver	Leahy	Ribicoff
Eagleton	Long	Schweiker
Ford	Magnuson	Stevenson
Glenn	Mansfield	Symington
Grave.	McGee	Tunney

NOT VOTING—15

Bartlett	Goldwater	Nelson
Brooke	Hartke	Pastore
Buckley	Hollings	Stafford
Church	Jackson	Williams
Durkin	McGovern	Young

So the amendment of the Senator from Oregon was rejected.

Mr. CANNON. Mr. President, I move to

reconsider the note by which the amendment was rejected.

Mr. CLARK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I am curious, because I do have other——

The PRESIDING OFFICER. The Senate will be in order.

Mr. PACKWOOD. I do have other amendments to offer and I shall offer them. I am trying to reach some common ground, some median that this body will regard as fair to unions and to employers. This last amendment, which was defeated by a 45-to-40 vote, would have allowed union political action funds to solicit anybody in a corporation that that union had any organization in, and it would have allowed a corporate political fund to solicit any of the employees. It was a complete crossover.

As we heard the vote going on, several people asked me about it and they expressed the feeling that maybe the corporation should not be allowed to solicit union employees, although I see no reason not to allow it. It seems to me that a union employee might have as much interest in his corporation that employs him as he does in the union he belongs to. But that is neither here nor there. The amendment lost.

The feeling was expressed that a corporation should not solicit from union employees. Others said that unions should not be soliciting from shareholders and executive personnel, administrative personnel, because basically their alinement was not with the union and everybody ought to be left to solicit really those with whom they have a common interest.

Mr. President, I send to the desk an amendment. I ask that it be read in full and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 37, beginning with line 22, strike out through line 3 on page 38 and insert in lieu thereof the following:

"(3) (A) It is lawful for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such fund under paragraph (1) from stockholders and their families and from executive and administrative personnel and their families.

"(B) It is lawful for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such fund under paragraph (1) from members of that organization and their families.

"(C) It is lawful under this section for a corporation, a labor organization, or a separate segregated fund established by a corporation or a labor organization to solicit contributions from employees of a corporation, and their families, who are neither executive and administrative personnel nor members of that labor organization.

(D) It shall be unlawful under this section—

"(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions from employees of that corporation who are represented by a labor organization in dealing with that corporation with respect to matters of pay, working conditions, and other employee benefits, and

"(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions from stockholders of a corporation and their families or from executive and administrative personnel of a corporation and their families.

Mr. PACKWOOD. Mr. President, this is what is called the middle ground amendment. I had the Library of Congress check for me with the major corporations in this country to find out how many total employees they had, how many were unionized, how many were nonunionized. Let me just go down the list.

General Motors has 480,000 employees in this country. There are 352,000 who are unionized and 128,000 are not.

Ford Motor Co. has 206,000 employees. There are 138,500 who are unionized, and 66,791 are not.

International Telephone & Telegraph refused the information.

General Electric has 270,000 employees. There are 118,000 who are unionized, and 152,000 not unionized.

International Business Machines—and I checked this figure by calling one of their officers today because I found it hard to believe but it is true—International Business Machines has 157,000 employees in this country and none are unionized, period. Zero.

Chrysler has 129,000 employees of which 105,000 are unionized. There are 24,000 not unionized.

Westinghouse Electric: 130,000 total; 78,000 unionized, 52,000 not unionized.

Western Electric: 149,700 employees. There are 98,428 who are unionized, and 51,272 not unionized.

Goodyear Tire and Rubber: 80,600 employees. There are 40,000 who are unionized, and 40,600 are not unionized.

If we add all of these up, what we come to is this situation with the major industrial corporations in this country: About half of what we would call their blue collar or nonsupervisory white-collar employees are unionized and about half are not.

Under what was called the SUNPAC decision of the Federal Election Commission, all of the employees of a corporation, whether they were unionized or not, could have been solicited by a business or a union political action fund or a lawfulness or a union political action fund or a lawfully separate segregated fund.

After that decision came down, there was strong opposition to it, frankly, strong opposition from unions. They did not like the idea that unions and businesses would have an equal access to all employees. So an amendment was offered to this bill and it carried in committee, and a similar amendment carried in the House in the committee, which limits unions to soliciting only union employees, and it limits a corporate political action fund to soliciting only shareholders or very high echelon executive and administrative personnel. In each case either of those funds can solicit the families. But it leaves out this great middle group. These nonsupervisory, nonunionized employees, who are half of the work force of the major corporations in this country cannot be solicited by the union and cannot be solicited by the employer.

They surely have a stake in what goes on that might affect their company. They surely have a stake in what the unions who represent half of the employees of that company may advocate. Yet they cannot be solicited.

So, all I am doing with this middle ground amendment is allowing those employees who at the moment are nonunionized and nonsupervisory to be solicited by a union political action fund or a corporate political action fund.

Just let me read a selective list of the kinds of employees we are talking about:

CORPORATE OCCUPATIONS THAT DO NOT FALL WITHIN DEFINITION OF AN "EXECUTIVE" OR "ADMINISTRATIVE" EMPLOYEE [1]

Total: 152.

Accountant, accounting clerk, actor, administrative clerk, advertising workers/writers, announcer, radio, announcer, television, apprentice machine operator.

Artist, assistant section supervisor (key tape), assistant unit supervisor, bank clerks, bank tellers, bookkeeper, bookkeeper, head, camera men, carpenter.

Cartographers, cartoonist, cashiers, checker, chemist, cleaning staff, clerk, clerk, chief, clerk, coding, clerk, counter, clerk, data exam, clerk, mail/bindery.

Clerk, principal, clerk, receipts, clerk, shipping, clerk typist, clerks, file, columnist, comparison shopper, composer.

Computer operator, computer operator trainee, computer programmer, correspondence typists, craftsman, custodian, delivery man, dental assistants, dental technicians.

Dentist, dietitian, displaymen, doctor/surgeon/anesthetist, draftsman, dramatic critic, driver salesmen, editorial assistant, engineer, engineer, junior, executive secretary, food processors.

Graphic deisgners, guard, hotel assistants, illustrator, inside salesman, inspector, interns, interpreters, jobber's representative, jobber's salesman.

Journalist, junior programmer, key punch operator, key tape operator, laundry/dry cleaning personnel, lawyer, legal paraprofessional, legal stenographer, librarian, library assistants.

Linotype operator, lumber grader, machine operator, maintenance personnel, master press operator, mechanic, medical paraprofessional, medical technologist, messengers.

Methods engineer, musician, newspaper writer, novelist, nurse, office machine operators, painter, painter's assistant, personnel clerk, pharmacist, photographers.

Physician, physician intern, physician osteopathic, physician resident, podiatrist, press operator, programmer trainee, proofreader, psychologist.

Psychometrist, rate setter, receptionist, record control clerk (K/P), registered nurse, reporter, representative, manufacturer's, researchers.

Retail routeman, retoucher photographic, route driver, routeman, salesman, dealer, salesman, distributor, salesman, laundry, salesman, mail, salesman, route, salesman, telephone.

Salesman, typewriter repair, salesman, wholesale, salesman's helper, sales research expert, scientific technicians, secretary, serviceman, social worker, statistician, stenographers, stock clerks, tape librarian, teaching assistants.

Technologist, therapist, timekeeper, traffic clerks, trainer-salesman, truck driver, typists, unit supervisor, watch engineer, word processing operator writer, xerox operator, x-ray technician public relations staffer.

[1] Source: Fair Labor Standards Act and Regulations Title 29, Part 541 of the Code of Federal Regulations, U.S. Department of Labor, Wage and Hour Division.

We all know the kind of employee we are talking about. Is there any reason why they should be excluded from either a union political action solicitation or a corporate political action solicitation?

I want to make clear in this amendment we are not saying that a union or business political action fund can solicit somebody unrelated to the corporation. Business cannot use its political action fund to go out and solicit shareholders of other corporations or employees of other corporations, nor can a union go outside the corporation where it is organized and solicit willy-nilly from other employees or from the public at large.

I think in fairness, in trying to reach a middle ground, this amendment does give an evenhanded chance to both groups to reach a group of employees that at the moment cannot be solicited by either group. I think that is unfair.

I have given up, although I was unhappy with the defeat of the amendment, employers soliciting union members and unions soliciting shareholders or higher echelon executive personnel.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. PACKWOOD. I yield.

Mr. BUMPERS. The last amendment which was just defeated, I think, troubled most of the Members in this body for a very simple reason: Everybody is concerned about the possibilities of a gentle, nevertheless overt, pressure when employees are solicited by their employer.

It is no less true in some instances, and I know you are all talking about employees who belong to unions who might be solicited by shop stewards by at least a gentle pressure that is always there. The Senator's amendment, if I understand correctly, would, for example, permit a small employer with perhaps 100 employees that are nonunion to solicit those 100 employees for his political action committee; would that be correct?

Mr. PACKWOOD. For his nonunion employees, yes; that is correct.

Mr. BUMPERS. Provided they are nonunion.

Mr. PACKWOOD. Pardon me?

Mr. BUMPERS. Provided they are nonunion.

Mr. PACKWOOD. Yes.

Mr. BUMPERS. If they are nonunion employees, he may solicit them.

Mr. PACKWOOD. That is correct.

Mr. BUMPERS. The thing that troubles me about that is that it occurs to me that the pressure is really more stark in the instance where the employee is not unionized and does not have anyone as a bulwark between him and the employer. He has no organization; he has no one to protect him if he decides to say no to the employer. Does the Senator not see that as a problem?

Mr. PACKWOOD. It is a problem. It is illegal under existing law to coerce or pressure anyone into making contributions, but the Senator from Arkansas is correct; I will admit it is a problem, but a problem we disregard when we passed the remission of the Hatch Act this last week. The fear was expressed that people would be solicited in the Federal Government and, because they were worried about their jobs or desired promotions, they might give. But that argument at that time did not wash.

Mr. BUMPERS. I thank the Senator. That answers my question. I see the Senator is cognizant of the problem. I am not talking about the question of where there is overt pressure to either give or you will not have a job next week, but I think the pressure is there, and that troubles me.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. BROCK. I just wanted to tell the Senator from Arkansas, because I think I agree with him on the problem, that I realize that what the Senator from Oregon is reaching for is a situation where a salesman, for example, for a particular company, cannot be solicited by either side. That does not seem to limit the access to the persons, and I do not know how to resolve it without some amendment of this sort. If the Senator wanted to offer a modification which would say hourly employees in a nonunion plant could not be solicited, I might be willing to take a look at that. But I think you have got to find some way other than a rejection of the amendment to deal with the problem.

I have here, I do not know, there are about 150 occupational codes listed by Civil Service of types of occupations which fall between the cracks. How do you handle that? That is the basic problem.

Mr. CLARK. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. I yield.

Mr. CLARK. I am just trying to anticipate what would happen under this amendment, as I understand it, if you have a nonunion shop, where there is no union. The employees who work for that corporation, the nonunion employees, would be open game for the corporation to solicit for funds, but no labor union would be allowed to solicit them, since they do not have a labor union. Am I right or wrong about that?

Mr. PACKWOOD. That is true. The reason for that is—so far as I am concerned, I would be delighted to open it up and find out whether or not we are talking about corporations, but this Senator wanted to narrow that, to show there is no interest in a corporation on the part of a union that never bothered to organize it.

Mr. CLARK. Well, if that is the case, under the Senator's amendment, as I understand it, the only available new people for the union to solicit are those in a plant where there is a union, but where the employees have refused to join that union or do not belong to that union. Those are the only additional people, under the Senator's amendment, who would be available for unions to solicit, are they not?

Mr. PACKWOOD. Yes; if there is no union in the plant, then the union cannot solicit those employees.

Mr. CLARK. And in those plants where there is a union, the only new source of recruitment for funding would be from those members who have decided against joining the union; is that correct?

Mr. PACKWOOD and Mr. BROCK addressed the Chair.

Mr. PACKWOOD. Go ahead.

Mr. BROCK. I was going to say if they have a boilermaker's union, for example, they would rarely ask the artist in the PR department to join. As a matter of fact, I do not think they would give him the opportunity; he is not considered suitable by the union, since unions organize by their own crafts.

Mr. CLARK. So the Senator is saying nonorganized crafts within the same shop?

Mr. BROCK. Sure.

Mr. CLARK. As I understand the law now, a corporation under the law may use a checkoff system for either stockholders, executive employees, or, indeed, any employees.

Mr. PACKWOOD. Under the present law, under the SUNPAC decision, that is true. Under this bill it is very limited as to whom they can solicit.

Mr. CLARK. Well, to make my question very clear, as I understand it a corporation under present law my use a checkoff system to collect funds from those people who are eligible to give funds to them.

Mr. PACKWOOD. If a person wants to volunteer and say, "Yes, you may use a checkoff and take a dollar out of my salary or my dividends each year," that is permitted.

Mr. CLARK. That is correct, it is permitted under the law, but as I understand it, under the Taft-Hartley law unions may not use a checkoff for a similar purpose. Is that correct?

Mr. PACKWOOD. No, I do not think that is correct. Under the bill, on page 38, unions would be allowed to check off.

Mr. CLARK. So under this system both unions and corporations would be allowed to use a checkoff for additional recruits that are going to be made available?

Mr. PACKWOOD. They do not have to. They could, according to what we have been talking about today. It applies to both unions and corporations. If one does it, the other can do it.

Mr. CLARK. I thank the Senator.

Mr. BROCK. Mr. President, I want to be very sure we understand what we are doing here. I am sympathetic with what the Senator from Iowa was doing, by implication at least, and I think the Senator from Arkansas; and I would like to be very honest: any of these pacts, they all bother me. There is implict in a pact, if not the fact at least the opportunity for pressure. That bothers me greatly. It occurs just as much in a union shop as it does with a corporation soliciting its lower management group, and I think it is something we ought to be troubled about, and we ought to be extremely careful what we do.

I do not know how to resolve that, because I do not know how to limit voluntary associations for public purposes. I think they are very good, but, boy, it does trouble me to have a law setting these things up with full understanding, in a posture whereby people can be abused, or at least be concerned about being abused. That is the real danger. They do not know what is going to hap-

pen. They do not know if they are going to have their union card pulled, or if they are going to lose that opportunity for promotion.

But we had the same problem in the Hatch Act debate, as the Senator from Oregon pointed out. I think the Senate made a mistake in that case. I voted against that bill, but I was in the distinct minority. I think we may be making a mistake again.

The only argument I have on this amendment is as to the merit of the pact. I cannot make that argument, because I am not sure I believe in it. But I think if we have a law it should apply to all individuals. That is all the Senator from Oregon is saying, that these people should not be allowed to fall between the cracks because they happen to be a bookkeeper-clerk, an artist, or a comparison shopper. That is all.

Mr. PACKWOOD. Mr. President, I agree with the Senator from Tennessee. I would be very happy if it were constitutional. If we could pass a law in this country that would say there could be no political action funds and all contributions must be individual and that one cannot have contributions of over $100, if we could tie that all together, I think it would be a good thing for the political system of this country. I am not sure it is constitutional but it certainly would be desirable.

Mr. BROCK. I think it would be, too. I tell the Senator that one of these days someone is going to read this law carefully, and is going to find the loopholes that are in it, and some corporation is going to do something like send out a letter, or maybe all of them will, to the 25 or 30 million American stockholders, and people are going to scream like stuck pigs in Congress about the abuse that that constitutes.

I say to Senators that is exactly what they are allowing to happen in this bill today, and I think it is wrong.

Mr. CANNON. Mr. President, first I wish to respond to the Senator——

The PRESIDING OFFICER. Did the Senator from Oregon yield the floor?

Mr. PACKWOOD. No, I have not yielded the floor, but I am happy to yield.

Mr. CANNON. I am sorry. I thought the Senator had yielded.

The PRESIDING OFFICER. The Senator from Oregon has the floor and is still recognized.

Mr. PACKWOOD. Worry was expressed by the Senator from Arkansas about the subtle coercion or suggestion that might be used by employers who seek contributions. Again I assure the Senate such coercion is illegal under present law. There is nothing in this bill that changes that.

I quote from the condition that the Federal Election Commission laid that down in their SUN PAC decision:

> 3. Sun may solicit contributions for SUN PAC from its stockholders and employees, provided there is "no coercion or reprisal of any kind in the solicitation of contributions." The Commission set out three guidelines to "minimize the appearance or perception of coercion":
>
> (a) No superior should solicit a subordinate;
>
> (b) The solicited employee must be informed of the political purpose of SUN PAC;
>
> (c) The employee should be informed of his right to refuse to contribute without reprisal.

I am sure we can expect that if we pass this amendment, although in a somewhat more limited degree than the Federal Election Commission allows, legalizing the creation of these union and business political funds and saying they can solicit within a broad range, but not everyone, all these employees, the Federal Election Commission is going to come right back and put in these guidelines again that one cannot coerce an employee, that he must tell the employee what the purpose of the fund is and must inform the employee of the right to refuse. I would support those guidelines. I think those would be good provisions.

So I think again, in conclusion, that this is nothing but a middle-of-the-road amendment making sure that employees who are neither union nor supervisory will have a chance to be solicited by unions and by employers, without coercion from either side, and they, too, should have a chance to participate in these funds.

I yield the floor.

Mr. HANSEN. Vote.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. CANNON. Mr. President, first, I say to the Senator from Tennessee as to his statement a little while ago about the possibility of corporations sending out letters to all of their stockholders making a solicitation and there would be a great furor, that provision is not true in this proposal here. That is in existing law, and apparently they have not overly abused this, or we would have had that furor from the stockholders already. So I just wanted to make that clear, that this is not new in S. 3065.

Mr. BROCK. I say to the Senator, if they did it with a vengeance and spending a lot of corporate money, the Senator knows people would be screaming up here.

Mr. CANNON. I would certainly think so.

Mr. BROCK. Why do we allow something that we know is wrong? That is all I am saying.

Mr. CANNON. I do not quite follow the Senator there. If he is trying to change existing law, he has not proposed it in this provision.

Mr. BROCK. May I say to the Senator that we are prepared to talk about that later on. We have an amendment on which we will give the Senator an opportunity to vote.

Mr. CANNON. I assume the Senator will, because I do not think the Senator will vote for the bill no matter how it comes out.

Mr. BROCK. I would vote for a simple extension, yes, I would.

Mr. RANDOLPH. Vote.

Mr. CANNON. Then, the Senator from Iowa raised the question about whether or not the method permitting a solicitation to a corporation was the method that would be permitted or would be the same method permitted a union, and that is not quite true, because on page 38, subsection 5, it provides as follows:

> Any corporation that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, that method to a labor organization representing any members working for that corporation.

So this does not reach the problem of the nonunion corporation or the problem of the nonunion employees. In other words, the same method of solicitation would not be permitted to unions as it would to the corporations insofar as those people are concerned.

There is one other very bad feature of the Senator's proposal, and I do not believe he intended it this way, but if one will note under the unlawful provisions: It shall be unlawful for this section, and this is subsection (d), and if we go down to (2) listen now what it is unlawful to do:

> For a labor organization or a separate segregated fund established by labor organizations to solicit contributions from stockholders of a corporation and their families, or from executive and administrative personnel of a corporation and their families.

What he is doing there is disregarding completely the fact that the many labor people, employees of corporations are likewise stockholders in the corporation, and he makes it unlawful there for a union to silicit union members who happen to be stockholders.

We had the provision on page 38 in the definition of a stockholder:

> For purposes of this section, the term "stockholder" includes any individual who has a legal or vested beneficial interest in stock, including, but not limited to, an employee of a corporation who participates in a stock bonus, stock option, or employee stock ownership plan.

Many corporations in the country have precisely that kind of a plan where they permit the employees, labor union or not labor union, whichever it happens to be, to share in the corporation through the stock bonus plan, the stock purchase plan where a person can reinvest dividends through many forms of stock ownership, and the Senator's amendment would, therefore, make it unlawful for a labor organization or a separate segregated fund established by that organization to solicit contributions from stockholders of a corporation even though those stockholders might be members of the union.

I do not think the Senator intended that, but that is what his amendment says, and I ask him if he has any proposal to correct it so that it would make it certainly fairer because we have to recognize that stockholders of corporations are certainly not limited to people who are not members of labor organizations.

Mr. PACKWOOD. I think the chairman has brought the valid point to the amendment, and I will be happy to amend it to read as follows:

On the next to the last line after the word "families" "unless said stockholders are members of the union," and that would allow the union to solicit all of the shareholders who happen to be mem-

bers of the union. I certainly do not want to limit the union from soliciting those people just because they happen to be stockholders.

Mr. CANNON. Did the Senator propose an amendment to his amendment there?

Mr. PACKWOOD. Mr. President, I so offer that amendment.

Mr. CANNON. Mr. President, will the Senator restate it?

Mr. PACKWOOD. Yes.

After the word "families" insert the words "unless said stockholders are members of the union"—or change it "to labor organization."

The PRESIDING OFFICER. The Senator has the right to modify his amendment, and the amendment will be so modified.

Mr. CANNON. Mr. President, could we ask the clerk to read subparagraph 2 as it is now amended.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

For a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions from stockholders of a corporation and their families unless said stockholders are members of labor or from executive and administrative personnel of a corporation and their families.

Mr. PACKWOOD. Instead of "union," it should read "labor organization."

I thank the Chairman for catching that, because there was no intention in my mind to eliminate the many union members, especially when we are talking about pension plans and employee stock ownership plans, to prohibt the union from soliciting them.

The modified amendment is as follows:

On page 37, beginning with line 22, strike out through line 3 on page 38 and insert in lieu thereof the following:

"(3)(A) It is lawful for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such fund under paragraph (1) from stockholders and their families and from executive and administrative personnel and their families.

"(B) It is lawful for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such fund under paragraph (1) from members of that organization and their families.

"(C) It is lawful under this section for a corporation, a labor organization, or a separate segregated fund established by a corporation or a labor organization to solicit contributions from employees of a corporation, and their families, who are neither executive and administrative personnel nor members of that labor organization.

"(D) It shall be unlawful under this section—

"(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions from employees of that corporation who are represented by a labor organization in dealing with that corporation with respect to matters of pay, working conditions, and other employee benefits, and

"(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions from stockholders of a corporation and their families unless said stockholders are members of labor organizations or from executive and administrative personnel of a corporation and their families.

Mr. PACKWOOD. I am prepared to vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from North Dakota (Mr. DURKIN) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), and the Senator from Rhode Island (Mr. PASTORE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The result was announced—yeas 33, nays 47, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—33

Allen	Fannin	Pearson
Baker	Fong	Percy
Beall	Garn	Roth
Bellmon	Griffin	Scott, Hugh
Bentsen	Hansen	Scott, William L.
Brock	Hatfield	Sparkman
Byrd, Harry F., Jr.	Helms	Stevens
Curtis	Hruska	Taft
Dole	Laxalt	Thurmond
Domenici	McClellan	Tower
Eastland	McClure	
	Packwood	

NAYS—47

Abourezk	Hart, Philip A.	Mondale
Bayh	Haskell	Montoya
Bumpers	Hathaway	Morgan
Burdick	Huddleston	Moss
Byrd, Robert C.	Humphrey	Nunn
Cannon	Inouye	Pell
Case	Javits	Proxmire
Chiles	Johnston	Randolph
Clark	Kennedy	Ribicoff
Cranston	Leahy	Schweiker
Culver	Magnuson	Stevenson
Eagleton	Mansfield	Stone
Ford	Mathias	Symington
Glenn	McGee	Tunney
Gravel	McIntyre	Weicker
Hart, Gary	Metcalf	

NOT VOTING—20

Bartlett	Hartke	Pastore
Biden	Hollings	Stafford
Brooke	Jackson	Stennis
Buckley	Long	Talmadge
Church	McGovern	Williams
Durkin	Muskie	Young
Goldwater	Nelson	

So Mr. PACKWOOD's amendment, as modified, was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The PRESIDING OFFICER (Mr. NUNN). The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. SCHWEIKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 11, beginning with line 22, strike out through line 5 on page 12 and insert in lieu thereof the following:

(b) Section 302(c)(2) of such Act (2 U.S.C. 432(c)(2)) is amended by striking out "$10" and inserting thereof "$100."

On page 13, beginning with line 10, strike out through line 20.

On page 13, line 21, strike out "(5)" and insert in lieu thereof "(1)".

On page 13, line 23, strike out "(6)" and insert in lieu thereof "(2)".

On page 14, line 1, strike out "(7)" and insert in lieu thereof "(3)".

Mr. SCHWEIKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FANNIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me without losing his right to the floor?

Mr. President, I am informed that the amendment the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) is offering, will be accepted by the manager of the bill thus relieving the Senate of another rollcall vote today.

I am also advised that Mr. GRIFFIN will then lay down his substitute, and we think we have worked out an agreement whereby a final vote on that substitute would occur tomorrow at 1:30 p.m., and if the Chair will get order, I will attempt to get the request now, so that Senators will know what the agreement is, and they can then go to their separate abodes without concern that there will be another rollcall vote tonight.

Mr. MANSFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. Senators will take their seats and will clear the well.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the

substitute which will be shortly offered by Mr. GRIFFIN—I yield to the Senator.

Mr. CHILES. If the Senator will yield, I do not intend to offer a substitute or lay down an amendment. I have an amendment which I want to place on the desk and have printed, and I would like to have a couple of minutes to talk about it before we adjourn tonight.

Mr. ROBERT C. BYRD. Yes; the Senator will be accommodated in that regard.

REQUEST FOR TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the substitute which will be shortly offered by Mr. GRIFFIN have a time limitation thereon, without any time running on the substitute tonight, of not to exceed 2 hours, the time to be equally divided between Mr. CANNON and Mr. GRIFFIN; that there be a time limitation on any amendment thereto or to the bill of not to exceed 1 hour, the time to be divided and controlled in accordance with the usual form; that a vote occur on the substitute tomorrow at 1:30 p.m.; provided further, that no amendment be in order after the hour of 1 p.m. tomorrow; provided further that the Senate proceed to the consideration of the substitute at 10 o'clock tomorrow morning; and ordered further that the agreement be in the usual form.

Mr. HATFIELD. Mr. President, I think there is also the matter of the germaneness of the amendments.

Mr. ROBERT C. BYRD. That was taken care of in the phraseology "usual form."

Mr. MATHIAS. Mr. President, reserving the right to object, I have an amendment pending which, I think, should be disposed of prior to the vote on the Griffin amendment. I wonder if the distinguished majority whip might contemplate that?

Mr. ROBERT C. BYRD. Is the Senator's amendment to the substitute?

Mr. MATHIAS. No.

Mr. ROBERT C. BYRD. It would be a perfecting amendment to the bill?

Mr. MATHIAS. It is an amendment to the bill, but it deals with the question of the composition of the Election Commission and, I think, it could be disposed of in advance, and it would then be desirable——

Mr. ROBERT C. BYRD. May I ask a question as to whether or not the Griffin substitute is a substitute for the entire bill?

Mr. HATFIELD. It is.

Mr. ROBERT C. BYRD. It is.

Mr. HATFIELD. It is a substitute for the entire bill.

Mr. ROBERT C. BYRD. The Senator could offer his amendment under this agreement.

Mr. MATHIAS. It is not an amendment to the Griffin substitute.

Mr. ROBERT C. BYRD. Yes, but he could offer his amendment to the bill. The Senator could offer his amendment to the bill under this agreement.

Mr. BROCK. Unless the substitute is passed.

Mr. MATHIAS. Mr. President, just so we are perfectly clear on this, my amendment is not an amendment to the Griffin substitute. It is an amendment to the bill, and what I would like to see, before we enter into this agreement, is that I have an opportunity to call up the amendment prior to the vote on the Griffin substitute.

Mr. CHILES. I now understand that on the Griffin substitute—reserving the right to object—before the Griffin substitute is locked in I think the amendment I was going to lay down tonight would have to be conformed so that it could be an amendment to the Griffin substitute, otherwise I might be wiped out, so I would like to be included and in the time on that.

Mr. ROBERT C. BYRD. Let me rephrase my request in part, Mr. President.

I ask unanimous consent that there be a time limitation on any amendment to the substitute or to the bill of 30 minutes; that there be a time limitation on any debatable motion or appeal or point of order of 20 minutes; that no amendment either to the bill or to the substitute be in order after the hour of 1 p.m. tomorrow, and that the agreement be in the usual form, with consideration of the bill beginning tomorrow morning at 10 a.m.

Mr. BROCK and Mr. TAFT addressed the Chair.

Mr. BROCK. Reserving the right to object, Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BROCK. The Senator from Florida and I have, I think, a very significant and major amendment. It is going to take some time. We will try to do a little bit of talking tonight about it, but I honestly am not sure it will be possible for us to adequately dispose of it in 30 minutes. I wonder if we might ask for an exception to the rule and allow 1 hour for the Chiles-Brock amendment?

Mr. CHILES. Are we getting time now?

Mr. BROCK. I was asking for a modification so that the amendment of the Senator from Florida can be accorded 1 hour instead of a half hour.

Mr. CHILES. Yes.

Mr. ALLEN. Reserving the right to object, Mr. President, did I understand the distinguished assistant majority leader to say that the amendments had to be germane to the substitute?

Mr. ROBERT C. BYRD. That the agreement be in the usual form, so that we do not get a busing amendment or an amendment of that kind.

Mr. ALLEN. I understand. But that an amendment could be offered during the pendency of the substitute to the bill itself, could it?

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. And it would only have to be germane to the bill; it would not have to be germane to the amendment?

Mr. ROBERT C. BYRD. It ought to be germane to the amendment or to the bill.

Mr. ALLEN. I have not seen the substitute. I do not know what is in there. I have some amendments, one of which the floor manager of the bill, the distinguished Senator from Nevada, has agreed to accept. I would not want to have the substitute cut-off good amendments that would be germane to the bill.

Mr. ROBERT C. BYRD. I think I may have confused the Senator by my request.

The vote which would come at 1:30 p.m. tomorrow would be on the substitute for the bill. It is not a vote on the bill.

Mr. ALLEN. I understand. But the substitute would wipe out any future amendments to the bill itself, and the substitue does not cover all contingencies, I am sure.

If a substitute is pending, an amendment would be in order to the bill itself.

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. I would not want to cut-off the right to amend the bill. I do not know what is in the substitute.

Mr. ROBERT C. BYRD. My request does not cut-off the right to amend the bill.

Mr. ALLEN. The Senator said a moment ago it would have to be germane to the substitute.

The PRESIDING OFFICER. Amendments offered to the substitute would have to be germane to the substitute, but amendments offered to the bill would not have to be germane.

Mr. ALLEN. That has never been stated.

The only trouble is that by having a time limit on the substitute, that could well cut off taking action on proper and substantial and constructive amendments to the bill. We would be sitting there with a handful of good amendments and the substitute would cut off those amendments.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. CANNON. Will the Senator yield to me to respond?

Mr. ALLEN. Yes.

Mr. CANNON. If the Senator voted against the substitute, as I intend to do, then the bill would be wide open after the substitute is defeated, so the amendments would then be in order.

Mr. ALLEN. I understand.

I do not know how it is going to go, but I might want to vote for the substitute.

Mr. ROBERT C. BYRD. Mr. President, for the time being, I withdraw my request and, in the meantime, the Senator from Pennsylvania can proceed, after which we will renew the request.

I think all Senators can be assured there will be no more rollcall votes tonight.

The PRESIDING OFFICER. The unanimous-consent request is withdrawn.

The Senator from Pennsylvania has the floor.

Mr. SCHWEIKER. Mr. President, very simply, this amendment does one important thing. That is, it restores something that the committee bill had taken away, which is the disclosure requirement of the employer of a person who makes a contribution of over $100.

The bill before us would have withdrawn that requirement and merely listed the person's name and address. It would not have required that person's employer or occupation to be listed.

My amendment—which is cosponsored by the distinguished Senator from Iowa (Mr. CLARK), who has done a great deal of work in this area and deserves much

credit for the work he has done—would simply change the law back to what is now on the books, the law that says that a candidate must report the employer of the person who makes a contribution over $100.

This disclosure is needed so that we know if there is a heavy, weighted contribution from any one segment, any private interest, any special interest. These contributions can be earmarked, they can be targeted, and they can be reported. The theory of election reform is disclosure, and that means disclosure of what interests are giving contributions.

I think this amendment is an important step. I am very hopeful that the distinguished chairman of this committee will see fit to accept this amendment.

Mr. CLARK. Mr. President, I am pleased to join with my distinguished colleague, the Senator from Pennsylvania (Mr. SCHWEIKER) in offering this amendment. I think all of us would agree that disclosure represents the single most essential element in the entire campaign law. Disclosure of a contributor's occupation and place of business, including the name of the firm where the person is employed, is vitally important if the public is to know and understand the source of a candidate's campaign funds. Our amendment would restore this necessary disclosure requirement, and I urge its adoption.

Mr. CANNON. Mr. President, we had previously agreed in the committee to the provision requiring reporting with respect to contributions in excess of $100. The Senator from West Virginia had an amendment that was accepted by the committee.

This proposal now would change the proposed language back to existing law. I am advised by the Senator from West Virginia that it is acceptable to him. Accordingly, I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CHILES. Mr. President, the Senator from Florida has an amendment at the desk that he is not going to take up tomorrow. I suppose it will come as an amendment to the Griffin substitute if there is a time limitation agreement and if the Griffin amendment is made a substitute. I believe it will bring this thing into focus a little bit.

What we have been talking about are exceptions to the prime purpose of the act, of allowing individuals to contribute in political campaigns. I believe the amendment of the Senator from Florida, as cosponsored by a number of Senators, among them Senator PACKWOOD, Senator NUNN, Senator BROCK, Senator BELLMON, Senator DOMENICI, would simply say that corporations would not be able to solicit their stockholders, their executives, their vice presidents, nor would labor unions be able to solicit their members. Neither side would be able to get a war chest for trying to invoke their own special interest. We simply allow it to individuals.

The whole electoral process, as I understand it, Mr. President, was created so that individuals could vote, so that individuals could nominate, so that individuals could elect. It looks like the fight that I have been seeing going on all day is sort of the fight between the giants. Each side believes the other has a little advantage so each side is trying to get a foothold.

I have not heard much talk about the people today. I have not heard much talk about what is really good as far as democracy and what is really good as far as individuals. It is whether we are going to allow AMPAC to be able to get its funds so it can promote itself. It is whether we are going to allow COPE to get its funds to promote itself. It is whether we are going to allow whatever the organization of the American banking group is to promote itself, or General Motors, or any of the other giants.

I believe one of the problems we have today is that all of those groups are well represented, too well represented. The people know it and the people are tired of it. The people feel it is time that they are the ones who are represented.

If we start talking about how to save some campaign costs, if we start talking about how to get people where they participate more in their electoral process, we will limit this to individuals.

Somebody said to me that constitutionally they are not sure whether this is all right. I would sure like to try that; I would sure like to test that. I do not find anything in the Constitution that says General Motors has the right to vote. I do not find anything in there that says the AFL–CIO has the right to vote. If they do not have the right to vote, why should they have the right to solicit funds to set up a war chest so that they can go out and work their will?

Nothing in this amendment says that COPE cannot be the Committee on Political Education. Nothing in this amendment says that AMPAC cannot be a committee to educate people on the benefits of the American Medical Society. Nothing says that the bankers cannot go out. They will be able to get their funds to put on their cocktail parties, to put on their solicitations to politically educate people.

What it says is that those groups are not going to walk around with a bag, they are not going to walk around with a sack, and they are not going to say:

Wait a minute, Senator CHILES. If you want our support, if you want our contributions, we are going to look at your voting record a minute. We are going to see how you stand on these particular issues. We have a little honey sack here and we have it all prepared and set up. If you want to get your nose in the honey sack, you better do right, boy, if you are going to get in there.

What I think this says is that each one of us, and every other elected official, is going to have to go out and sort of put his trust with the people. He is going to have to go out. He cannot please a Mr. Big who heads up the American Medical Society. He cannot please a Mr. Big who heads up a labor union. He has to go out to the rank and file. He has to go out to individuals. He has to kind of get his message across and go out and campaign where he is.

If Senators want to talk about incumbents and who is better off, we know all the keys. We incumbents know who have the honey sacks. We know who has what kind of campaign war chest. We know that every time we start taking a vote.

It seems to me that for those who want to vote against the Packwood amendment that is going to give some special advantage to the corporation, and those who want to vote against the Packwood amendment who think the labor unions have a special advantage, here is a home. Here is a place where they can come home because they are coming home to what the process is about. They are coming home to what our Government is supposed to be about—representing people, not committees, not unions, not bankers, not doctors, but individuals. People.

That is the kind of question I think we are going to have a chance to vote on tomorrow. I urge Senators to take the chance to look at this amendment. We would like to have Senators participate in the vote and in the amendment tomorrow.

Mr. BROCK. Will the Senator yield?

Mr. CHILES. I yield.

Mr. BROCK. May I at this early moment take the opportunity of joining my colleague from Florida, as I have done on occasion in the past to my privilege, to support this amendment. I think he knows as well as I do that this bill without this amendment is nothing but a major loophole in and of itself. It applies to the American people but it does not apply to any groups, corporate or labor, because they are exempt from the law. They can spend all the money they want to out of their own committees to elect anybody they want to and there is no way we can control it. There is no way we can stop the abuse of people who work in those groups, and the opportunity for pressure and human abuse is great.

That is what this is all about, to let every American citizen be the equal of every other American citizen. That is what the amendment is designed to do. I appreciate the Senator's leadership in the matter and intend to support him the best I can.

Mr. CHILES. I thank the distinguished Senator.

Mr. CLARK. Will the Senator yield for a question?

Mr. CHILES. I yield.

Mr. CLARK. It is really a comment and a question, I guess.

I think it is a great temptation to support the amendment. I am not going to support it, I suspect, but I think it is a great temptation. I would like to discuss why I think it would present one major problem.

First of all, obviously it would correct a number of situations. It means that there would no longer be groups to bring together money to influence politics. Each individual would make his or her contribution and that would be the money that would be raised.

I assume that the Senator would, therefore, limit the amount that an individual can give and the amount that he or she can contribute to their own campaign.

Mr. CHILES. That amount is already limited in the bill itself.

Mr. CLARK. Right.

Mr. CHILES. I have not attempted to do it. The Supreme Court struck out the amount that a person could spend from his own money. I do not purport to put myself over that decision, so I have not done anything about that.

Mr. CLARK. As I understand it, under the amendment, if it were to pass, we would have a $1,000 limitation in terms of what a candidate could accept from an individual.

Mr. CHILES. I guess that is true that is in the bill. The Senator from Florida has not paid too much attention to that because I limited my campaign contributions to $10. Because of that I guess I have not paid too much attention to that.

Mr. CLARK. I know that. I think it is an excellent practice, and I commend the Senator for doing it.

I think there is really only one problem that is created by the Senator's amendment, and that is that it will end up being very favorable to an incumbent. Why? Because if, as a candidate running for office for the first time, as I did and as I recall you did and several other people did, being unknown, if I am limited to contributions from individuals only, I think a $1,000 limitation, what that means is that my chance of ever raising enough money to go against an incumbent candidate, with all the advantages of incumbency, would be next to nothing.

Mr. CHILES. I have to disagree with the Senator on that. I happened to spend $370,000, in total, in my campaign. I spent, I think, less than $100,000 in the first primary. The man who ran third in the first primary spent $550,000 of his own money.

I got into the primary. The Senator from Iowa kind of walked his State, like I did. There is always a way for someone who wants to take his case to the people.

I think what the Senator from Iowa did was run against big money. I did, and I think the people responded to that. I think if the incumbent has an advantage, you can use that.

The Senator from Iowa got here, and the Senator from Florida got here. I did not spend big money, and I do not think he spent big money to get here. So the very argument the Senator makes does not ring true to me on that score.

The other thing I want to point out now is that if you want to look at spending, if you look at the records—I have, and I hope you have—you will find that the incumbent has outspent the challengers in virtually every race that has taken place in the Senate by, in many instances, two times, and in almost every instance over a third.

If you want to talk about an advantage, I think an incumbent has an advantage with these groups, a tremendous advantage: You know who they are, you know what they are interested in, you know the issues, and you know how to contact them. You know how to spring, and play the field.

Mr. CLARK. I do not question that for a moment.

Mr. CHILES. I do think an incumbent has that advantage.

Mr. CLARK. I do not question that for a moment. I think they do have an advantage. I think that is clear from the record. What I am saying is that if my colleague back here from California, let us say, is challenged, obviously by a nonincumbent if he is challenged, in a State where you have 20 million people, if he was limited to a few thousand dollars, or, indeed, a few tens of thousands of dollars, or a few hundred thousand dollars, if he or she is unknown, it is very unlikely that that challenger can make a credible campaign against an incumbent.

Mr. CHILES. Still, this has done nothing about the limitation on the total amount of spending that is in the bill.

Mr. CLARK. I understand that.

Mr. CHILES. It has done nothing about what an individual can spend himself. And if the Senator from California does not have a better advantage than incumbency in getting this kind of money, he is just no good. He has that because he is an incumbent.

Mr. CLARK. He has the advantage on individual money as well.

Mr. CHILES. Well, what we are talking about is something different from the amendment. There is something that bothers the Senator from Florida, and that is that an incumbent, regardless of this amendment or not, has an advantage.

Mr. CLARK. Yes.

Mr. CHILES. I do not think he has any greater advantage with this amendment. I think he has less. We might differ on that.

Mr. CLARK. Well——

Mr. CHILES. You know what the Senator from Iowa is talking about? The one thing an incumbent has is, he has a record, and some day we are going to require that he has to stand on that record and present himself on that record, and give the other man a chance to talk about that record. That is the only way of evening that up. But I do not believe this bill will do that, or this amendment.

Mr. CLARK. Let me say, to finish, because I know the Senator from Georgia has some questions as well, my own view is that the best solution to this problem is public financing of campaigns.

Mr. CHILES. Oh——

Mr. CLARK. Wait until I finish. Because it seems to me that if we are going to give a challenger the same kind of position, an equal position insofar as that can be done in a campaign——

Mr. CHILES. Yes.

Mr. CLARK. In effect, we are going to have to see that they are both going to have an adequate amount of money to be seen and viewed by all of the people in their States.

Mr. CHILES. I do not dispute that. I voted last time——

Mr. CLARK. I know you did.

Mr. CHILES. In every instance, for trying public financing. I think it has to be a mixture of public and private. But again, that question is not in front of us. The question now is whether we are going to allow these giants to compete and fight among themselves to get the most leverage, to get the most war chips so they can work their will.

I say a pox on both of their houses, because I do not think either one of them are doing the kind of things for the fabric of this society that the people are looking for. I do not think the people are looking for us to represent corporations or labor unions.

Mr. CLARK. I agree.

Mr. CHILES. I think they are looking for us to represent them, and the best way I know to do that is to allow them to be the ones to make the contributions, and that is where we look for support. That is where we owe our allegiance; that is where we owe anything that gets us elected, not to some group, whether it be on one side or the other.

Mr. CLARK. In closing, is it the——

Mr. CHILES. You have looked at the polls, I know you have, strongly. And you find that the majority of the people of this country do not believe that the decisions are made for the average person.

Mr. CLARK. Right.

Mr. CHILES. If they are not made for the average person, who are they made for? They have got to be made for Mr. Big, or they have got to be made for someone else that is less—you know, that sits in a group. And the people know that, and you know that it is true for the legislation that comes in here, and the way we fight and the way we divide up.

Mr. CLARK. The Senator does not say anything with which I disagree. But I think we must be concerned that we not create a situation in which challengers cannot raise enough funds to be known to the constituency they are running for, that we are not going to have an incumbent's bill.

Mr. CHILES. If you are saying to me that that challenger, to get that right, must go either to business or to labor——

Mr. CLARK. No, he goes to public financing.

Mr. CHILES. But that is not before us. If you want to argue that, I am with you. But what you are saying is that now he has to go—if you are against my amendment, if you are not supporting it—now he has to go toward labor or toward business so he will have the wherewithal to make it. If he courts them, who does he belong to?

Mr. NUNN. Mr. President, will the Senator yield on that point?

Mr. CHILES. I yield.

Mr. NUNN. The argument of the Senator from Iowa, it seems ot me, is that a nonincumbent, in order to get started and get known, has to start off with special interest financing.

Mr. CLARK. No, he has to have some money from somewhere, and if he has no public money and no financing——

Mr. CHILES. The Senator from Iowa did not have any money.

Mr. NUNN. We will let him get money from any individual in the State of Iowa, or from any individual in the State of California, but the Senator from Iowa is basically telling us that with all the limitations we put on financing in the bills that we have had, and it will continue under this measure, that the only way an incumbent can be challenged successfully is for a person to go either to a labor organization or a business organiz-

ation, and if that is what the Senator is saying, what he is really saying is the mechanism we have created prevents any kind of meaningful challenge to an incumbent unless the challenger is paid with seed money.

Mr. CLARK. That is precisely what I am saying because the record——

Mr. NUNN. We have a very bad situation, if the Senator is correct.

Mr. CLARK. That is right. That is why we have to go to public financing.

Mr. NUNN. That goes to the heart of the very limitation on expenditures in the beginning. That argument does not go to the amendment of the Senator from Florida. That argument goes to the whole process that has been set up here.

Mr. CLARK. Let us remember that less than 5 percent of the individuals in this country contribute to some campaign, whether it is presidential, down to the local campaign. Very little of the money that the Senator from Georgia, I, and others here received in our campaigns came from individuals in terms of percentage of the whole.

Mr. CHILES. Why?

Mr. NUNN. The Senator is incorrect. In my situation I did not get any special interest contributions until I had the nomination. I was running against an incumbent. I think the fact is the opposite. I think a person running against an incumbent would have a more difficult time getting special interest donations than a person who is here.

As the Senator from Florida pointed out, everyone here knows what makes the special interest tick. They know the votes. They know the records.

Mr. CLARK. I agree with that.

Mr. NUNN. They know who does it. What we have is a very sick situation. The reason we have it is not because of recent laws. The reason is because of the political process in terms of fund raising has been dominated by special interests for a long time, and individuals in this country have gotten discouraged with the political process.

If we take out the special interests, then I think we will stimulate greatly the participation of individuals in the political process, not only in fund raising but also in getting active in campaigns, which I think is even more important than monetary contributions.

Mr. CLARK. I am going to listen to the debate with great interest tomorrow.

Mr. CHILES. I thank the distinguished Senator from Iowa. I think he has helped the debate already, and I appreciate it.

Mr. President, I yield to the distinguished Senator from West Virginia who wishes to make a unanimous consent agreement, providing I do not lose my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Florida.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—with the understanding that no time will be charged against any amendment or against the substitute or the bill tonight—that there be a time limitation on a substitute amendment which will be offered by Mr. GRIFFIN today of 1 hour to be equally divided between Mr. GRIFFIN and Mr. CANNON; that there be a time limitation on an amendment by Mr. TAFT of 30 minutes, to be equally divided and controlled in acocrdance form; that there be a time limitation on any amendment of 1 hour to be equally divided in accordance with the usual form; that there be a time limitation on any debatable motion, appeal, or point of order of 20 minutes, to be equally divided and controlled in accordance with the usual form; that no amendment not germane either to the bill or to the substitute be in order; and that a final vote occur on the substitute at 1:30 p.m. tomorrow, with the understanding that no amendment be in order to be called up between the hour of 1 p.m. tomorrow and 1:30 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, and I do not wish to object, the distinguished Senator has stipulated in the unanimous-consent request that no amendment not germane either to the substitute or the original bill be in order. There is no doubt in the mind of the Senator from Alabama that an amendment providing for public financing of House and Senate races would not be in order, but there would be nothing under the agreement to prevent such an amendment being offered, and if the Parliamentarian had it submitted to the Senate, or the Chair ruled it was not germane and an appeal was taken, then the Senate could pass such an amendment with a time limit.

Would the Senator be willing to stipulate that no amendment providing for public subsidies to House and Senate races be in order?

Mr. ROBERT C. BYRD. That would be agreeable with me. The distinguished Senator does raise a very nice point here, and it could apply not only to an amendment of that subject matter but also to other types of amendments if the Senate wanted to overrule the Chair on an appeal as to germaneness.

I would, if it is agreeable with other Senators——

Mr. TAFT. Mr. President, reserving the right to object——

Mr. CLARK. I object.

Mr. ALLEN. That is the reason the Senator from Alabama made the point.

Does the Senator from Iowa object to the——

Mr. CLARK. I would object, Mr. President. I am not in opposition to any part of the unanimous-consent request except that which would obviously automatically rule out the possibility of a public financing amendment being offered.

Mr. ALLEN. Offered? What I am saying——

Mr. CLARK. I do not mean offered. I mean in order.

Mr. ALLEN. In order during this period. That is what I am trying to rule out, because I do not want a time limit on such an amendment.

Mr. CLARK. When does the period end?

Mr. ROBERT C. BYRD. 1:30 p.m.

Mr. CLARK. Until 1:30 only. I am not opposed to that.

Mr. TAFT. Mr. President, reserving the right to object, the problem I have is that I have an amendment at the desk which I may offer either to the substitute or to the bill. I will probably offer it first to the substitute and if the substitute is adopted my end would be achieved. If it is not adopted, I might wish to offer it to the bill. But I am concerned because while the amendment deals with the subject matter of the law involved, dealing specifically with the campaign contribution portion, or the campaign participation section of the Internal Revenue Code, that section, as I see it, is not covered in the bill itself, and I would like to reserve the amendment that I had pending being in order to the amendment, to the substitute, or to the bill.

Mr. ROBERT C. BYRD. The Senator's amendment is protected under the request.

Mr. TAFT. It is protected as to time but not as to germaneness.

Mr. BROCK. Yes, as to both.

Mr. GRIFFIN. Mr. President, if it is so understood, I have no objection.

Mr. TAFT. If it is, I have no objection.

Mr. ROBERT C. BYRD. The amendment of the Senator is protected in any event.

The PRESIDING OFFICER (Mr. NUNN). The Senator's amendment is protected on both time and germaneness under the present proposal.

Mr. PACKWOOD. Mr. President, reserving the right to object, I ask: Did the Senator say that if the amendment were germane to either the bill or the substitute it would be germane to either one?

Mr. ROBERT C. BYRD. Yes.

Mr. PACKWOOD. So the amendment to the bill offered to the substitute would be germane.

Second, what was the part of the request about 1 p.m. to 1:30 p.m.?

Mr. ROBERT C. BYRD. To assure Senators that after the hour of 1:30 p.m. tomorrow, in the event the substitute is not adopted, amendments to the bill will be in order.

Mr. PACKWOOD. Say that again—between 1 p.m. and 1:30 p.m. what happens?

Mr. BROCK. No new amendments.

Mr. ROBERT C. BYRD. No new amendment can be offered during that period.

Mr. BROCK. So we can vote at 1:30 p.m.

Mr. HATFIELD. And dispose of it.

Mr. PACKWOOD. I am speaking for Senator GOLDWATER. He is not here. He is ready to offer an amendment. If for one reason or another he does not get to the Chamber before 1 p.m. and no amendment is offered until 1:30 p.m., I want a further understanding that if the substitute is adopted at 1:30 p.m., his amendment would still be germane if germane to the original bill.

I have to object.

Mr. ROBERT C. BYRD. If the substitute is adopted, it would not be. The ball game would be over then.

Mr. GRIFFIN. Germaneness after that.

Mr. PACKWOOD. Then I have to object. If he does not get the floor and

have a chance to offer it, then I object on his behalf.

Mr. BROCK. Can the Senator not guarantee him the right to have it?

Mr. ALLEN. If the substitute is not adopted, it would then be in order.

Mr. PACKWOOD. If he gets to the floor and is not able to offer it, because we are stacked up with all the amendments, he is precluded from 1 p.m. to 1:30 p.m. At 1:30 p.m. the substitute may be adopted. Hopefully, that is the end of it.

Mr. ROBERT C. BYRD. Any Senator is caught in that situation.

Mr. PACKWOOD. Yes.

Mr. ROBERT C. BYRD. Any Senator who might not have had an opportunity to offer an amendment prior to 1 p.m. would be shut out. It would not be only Mr. GOLDWATER.

Mr. PACKWOOD. I understand that.

Mr. ROBERT C. BYRD. Could he not offer it prior to 1 p.m.?

Mr. PACKWOOD. If he can get the floor, that is why I want to make sure he gets a chance to get on. I will advise him tonight. But it looks like we have a lot of amendments to be considered and we are not going to get them all.

Mr. ROBERT C. BYRD. Of course, if the substitute is not adopted, then——

Mr. PACKWOOD. I understand that.

Mr. ROBERT C. BYRD. Anyone can offer an amendment.

Mr. GRIFFIN. As I understand it, under this arrangement, any Senator is able to offer an amendment and have it voted on, even though he did not have time to debate it. Is that correct?

Mr. BROCK. That is correct.

Mr. ROBERT C. BYRD. Not after 1 p.m.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. He would have to offer it before 1 p.m.

The PRESIDING OFFICER. He would have to have offered it before 1 p.m.

Mr. PACKWOOD. All right. It would be voted on with no debate.

Mr. BROCK. That is right.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. ALLEN. Mr. President, reserving the right to object, is it stipulated then that prior to the vote on the substitute there will be no amendment offered dealing with public financing of House and Senate races?

Mr. ROBERT C. BYRD. That was included in the request.

The PRESIDING OFFICER. That is part of the unanimous-consent request. Is there objection?

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I should like to amend the proposal in the following respect: that the vote on the substitute occur at 1:45 p.m. instead of 1:30 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. And that no amendment may be called up between 1:15 p.m. and 1:45 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I understood the Senator to say that amendments could be called up but there would be no debate.

Mr. ROBERT C. BYRD. No. I meant that no amendment may be called up after 1:15 p.m.

Mr. ALLEN. I do not know whether that suits Senator PACKWOOD.

Mr. PACKWOOD. So long as we can call it up before 1:15.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

Mr. GRIFFIN. Mr. President, I should like to be recognized for a half minute to send the substitute to the desk.

The PRESIDING OFFICER. The substitute will be stated.

The assistant legislative clerk proceeded to read the substitute amendment.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The substitute amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

SEC. 2. (a) The text of paragraph 1 of Section 310 (a) of the Federal Election Campaign Act of 1971 (hereinafter the "Act") (2 U.S.C. 537c(a)) is amended to read as follows: "There is established a Commission to be known as the Federal Election Commission. "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio, and without the right to vote, and six members appointed by the President of the United States, by and with the advice and consent of the Senate. No more than three of the members shall be affiliated with the same political party."

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c (a) (2)), as redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of six years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979,

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

SEC. 3. (1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437(a)), as redesignated by section 105 and as amended by this act, as soon as practicable after the date of the enactment.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Eelection Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until all six of the members of the Commission are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section. Until all six of the members of the Commission are appointed and qualified under the amendments made by this Act, members serving on such Commission on the date of enactment of this Act may exercise only such powers and functions as are consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75–436, 75–437) January 30, 1976.

SEC. 4. The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

SEC. 5. (1) All personenl, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Federal Election Campaign Act of 1971 as such title existed on January 1, 1976, or under any other provision of law are transferred to the Federal Election Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2)(A) Except as provided in subparagraph (B) of this paragraph, personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remain in full force and effect. All orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1) shall continue in effect to the same extent as if such transfer had not occurred.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission at the time this section takes effect.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within twelve months after the date of enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing

the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

SEC. 6. By addition to Section 610 of title 18 United States Code at the end thereof viz: On page 37, line 6, after "subject" insert the following: ", except that expenditures for any such communications which expressly advocate the election or defeat of a clearly identified candidate must be reported to the Commission in accordance with section 434(e)".

Mr. GRIFFIN. Mr. President, this is essentially the same substitute that was offered before, with two exceptions: one, it provides that the Secretary of the Senate and the Clerk of the House will be members of the Federal Election Commission, ex officio. It also incorporates the amendment offered by Mr. PACKWOOD, which was adopted by the Senate earlier today, the major amendment that the Senate has adopted, having to do with the reporting by corporations and labor organizations. Otherwise, it is essentially the same amendment that we had before.

Mr. CRANSTON. Mr. President, I should like to address a brief question to the distinguished Senator from Nevada. This will take just a moment.

There is an ambiguity in the proposal before us which I would like to try to clarify. Pages 9 and 10 deal in part with the legal and accounting services donated to the national committee of a political party which do not further any candidate's election to Federal office and to similar services donated to a candidate or political committee which enable him to comply with Federal law. Both categories of donation are exempted as contributions and from spending limits. Following the exemptions, however, the bill requires that "such legal or accounting services" be reported in accordance with the requirements of section 304(b)." It is not clear whether the disclosure requirements cover both donations to the political party and to the candidate or only to the latter.

I feel the second interpretation makes most sense. In other words, disclosure should apply only to donations to candidates or campaign committees but not to political parties.

There is ample argument that volunteer legal and accounting services donated to a particular candidate or campaign committee should be disclosed. The basic purpose of disclosure is to enable the public to know what private individuals and interests are helping in the election of the men and women who are running the Nation, who are making national decisions affecting all of us.

But volunteer services donated to a political party's convention processes is an entirely different matter. Such a contribution has negligible influence on the outcome of an election. Moreover, the political party has no legislative nor executive responsibilities in the conduct of our national affairs. The party's major responsibilities end on election day.

After then their influence on national affairs is most akin to general interest lobbying groups like Common Cause or the Sierra Club. If anything, the party is less influential, since many incumbents see themselves—not party officials—as the embodiment of the party.

Thus I see no justification for the Federal Government's requiring disclosure of volunteer services donated to the party. While I favor full disclosure of all aspects of the election process of candidates, I do not favor disclosure for disclosure's sake. It seems to me that the volunteering of institutional services which do not relate to the election of candidates should be a private matter—in the same category as the volunteering of time to help Common Cause or the Sierra Club or any other similar organization.

Thus, Mr. Chairman, I would hope that we could agree that the requirement of disclosure should apply only to a donation of legal or accounting services to a candidate or political committee—not to the national committee of a political party.

I ask the distinguished chairman, is this an appropriate interpretation of the bill?

Mr. CANNON. Mr. President, I believe the statement of the Senator from California is a helpful interpretation and will serve to clarify that the requirement of disclosure should apply only to the donation of legal accounting services to a candidate or political committee and not to the party committee. I would say, therefore, that his interpretation is correct, in my judgment.

Mr. CRANSTON. I thank the Senator very much.

Mr. CANNON. Mr. President, I propose two amendments to S. 3065 of a technical and clarifying nature. The first one is a traditional amendment to make technical and conforming changes to S. 3065 deemed necessary from review after it was reported to the Senate.

The second amendment restates existing law and is necessary because of the transfer of the title 18 limitations on contributions into the Federal Election Campaign Act of 1971. As the law now exists, section 501(e)(1) of title 18 U.S.C. excepts from the definition of contribution for limitation purposes a loan of money by a bank in the ordinary course of business. This second amendment would transfer the language in section 591(e)(1) on this subject to section 431(e) in order to except such a loan on the same terms from the definition of contribution for limitation purposes. The amendment, however, would require such a loan to be reported as in existing law.

Mr. President, as these two amendments are of a technical and clarifying nature I ask unanimous consent that they be approved en bloc as part of S. 3065.

The PRESIDING OFFICER. The amendments will be stated.

The amendments are as follows:

On page 9, between lines 16 and 17, insert the following:

(d) Section 304(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended by striking out "individual" where it appears after clause (F) and inserting in lieu thereof "person".

On page 9, line 17, strike out "(d)" and insert "(e)".

On page 10, line 20, strike out "(e)" and insert "(f)".

On page 17, line 23, after "candidate" insert "Caucus, Conference,".

On page 26, line 16, strike out "thirty" and insert in lieu thereof "30".

On page 26, line 18, strike out "thirty" and insert in lieu thereof "30".

On page 26, line 18, strike out "fifteen" and insert in lieu thereof "15".

On page 31, line 6, insert "(1)" immediately before "No".

On page 36, line 19, strike out "791" and insert in lieu thereof "791".

On page 36, line 22, strike out "anything" and insert n lieu thereof "anythng".

On page 45, line 13, strike out "(1)".

On page 45, after line 22, add the following new subsections:

(d)(1) Section 301(e)(5)(F) of the Act (2 U.S.C. 431(e)(5)(F)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(2) Section 301(f)(4)(H) of the Act (2 U.S.C. 431(f)(4)(H)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(e) Section 314(a) of the Act (2 U.S.C. 437h(a)), as redesignated by section 105, is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code" in the first sentence of such section and by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code," in the second sentence of such subsection.

(f)(1) Section 406(a) of the Act (2 U.S.C. 456(a)) is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code".

(2) Section 406(b) of the Act (2 U.S.C. 455(b)) is amended by striking out "or section 608, 610, 611, or 613 of title 18, United States Code,".

(g) Section 591 of title 18, United States Code, is amended—

(1) by striking out "608(c) of this title" in subsection (f)(4)(H) and inserting in lieu thereof "section 320(b) of the Federal Election Campaign Act of 1971";

(2) by striking out "by section 608(b)(2) of this title" in subsection (f)(4)(I) and inserting in lieu thereof "under section 320(a)(2) of the Federal Election Campaign Act of 1971"; and

(3) by striking out "310(a)" in subsection (k) and inserting in lieu thereof "309(a)".

On page 51, after line 16, add the following new subsections:

(e) Section 9004(a)(1) of the Internal Revenue Code of 1954 (relating to entitlements of eligible candidates to payments) is amended by striking out "608(c)(1)(B) of title 18, United States Code" and inserting in lieu thereof "320(b)(1)(B) of the Federal Election Campaign Act of 1971".

(f) Section 9007(b)(3) of the Internal Revenue Code of 1954 (relating to repayments) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

(g) Section 9012(b)(1) of the Internal Revenue Code of 1954 (relating to contributions) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

On page 9, between lines 16 and 17, insert the following:

(d) Section 301(e)(5) is amended—

(1) by striking out "or" at the end of subparagraph (E),

(2) by inserting "or" at the end of subparagraph (F), and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loans—

"(i) shall be reported in accordance with the requirements of section 304(b); and

(ii) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors;".

On page 9, line 17, strike out "(d)" and insert in lieu thereof "(e)".

On page 10, line 5, strike out "or".

On page 10, line 19, strike out the closing quotation marks and the period and insert in lieu thereof "(or)".

On page 10, between lines 19 and 20, insert the following:

"(K) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loan shall be reported in accordance with section 304(b);".

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

ADDITIONAL STATEMENTS SUBMITTED ON S. 3065

Mr. HRUSKA. Mr. President, as the Senate moves to final consideration of the pending bill to amend the Federal Election Campaign Act, it is of paramount importance that we do so in a careful and judicious manner. We are in the midst of a presidential campaign year. There is much at stake.

President Ford stressed the seriousness of the situation on February 27:

With the 1976 elections only nine months away, I do not believe this is the proper time to begin tampering with the campaign reform laws, and I will veto any bill that will create confusion and will invite further delay and litigation.

Mr. President, in my judgment, President Ford has adopted the right attitude. He has asked the Congress to reestablish the Federal Election Commission in conformity with the Supreme Court decision, as quickly as possible and get on with the job of insuring that the political system in 1976 be fair and equitable to all candidates for Federal office.

The Supreme Court, when it ruled in Buckley against Valeo, made clear its intention that the present election laws could be simply remedied by a reconstitution of the Federal Election Commission. We should not make any significant or overreaching changes in our election rules in the middle of an election campaign. Another time, preferably after the election this fall, would be more appropriate for a deliberate and comprehensive consideration of changes in existing law.

Mr. President, a careful reading of the court's decision in Buckley against Valeo clearly reveals the intent of the court to not unduly disrupt the political process in this campaign year. In its ruling on the Commission's makeup, the court said:

It is also our view that the Commission's inability to exercise certain powers because of the method by which its members have been selected should not affect the validity of the Commission's administrative actions and determinations to this date, including its administration of those provisions, upheld today, authorizing the public financing of federal elections. The past acts of the commission are therefore accorded *de facto* validity. . . . *Buckley v. Valeo*, ——US ——, (U.S. Supreme Court Docket No. 75–436, January 30, 1976, Slip Opinion, p. 136).

There are other reasons, of course, why this bill only should make the minimum, necessary corrections in current law.

There are serious problems in the pending bill with regard to contributions by political action committees. The limitations placed on corporations and their methods of making political contributions will generate more legal problems and litigation than they will solve. The consideration of hastily drawn changes such as these in the current campaign laws can only inject more uncertainty into the campaign process. Such action should be avoided at all costs.

Mr. President, I support the administration's proposal to simply reestablish the Federal Election Commission and correct the errors found in the election law as pointed out by the Supreme Court. To do anymore would be unwise and contrary to our political system and the interests of the people of America.

Mr. PELL. Mr. President, the legislation before us, S. 3065, is essential to provide a legal framework for the financing of the Presidential and congressional election campaigns already underway this year.

It is, I believe, unfortunate that we are required to make substantive changes in the laws governing our Federal election campaigns at this time in an election year, allowing candidates and campaign contributors relatively little time to adjust to changes in the law.

But as we all know, we are required to act now because the Supreme Court in its decision Buckley against Valeo on January 20 invalidated certain critical provisions of the Federal Election Campaign Act of 1971, as amended in 1974.

Immediately after the Supreme Court decision, as chairman of the Subcommittee on Privileges and Elections of the Committee on Rules and Administration, I conducted hearings on the Court decision and on proposals for revision of the Federal Election Campaign Act in light of the court decision.

Those hearings provided the basis for the legislation prepared by the Committee on Rules and Administration which is now before the Senate.

Legislation involving the financing of Federal election campaigns is extremely sensitive, touching as it does on the political nerve endings of all us who are elected officials, and reaching close to the heart of our democratic political processes.

In this sensitive context, I believe our committee has acted promptly, but with careful consideration, in reporting this legislation to the Senate, and I would particularly commend the distinguished chairman of the Rules Committee, Senator CANNON, for his fairness and leadership in the handling of this legislation.

The provisions of the bill are well summarized in the committee report. In my remarks, I will focus on several of what I believe to be the most important provisions.

The most significant effect of the Supreme Court decision in Buckley against Valeo was the elimination, as unconstitutional, of the limitations which the Congress had imposed on expenditures in campaigns for Federal office, except for those Presidential candidates who accept public funding.

The foreseeable result of that decision will be an influx of unlimited amounts of money into political campaigns, particularly in the form of expenditures on behalf of or in opposition to candidates by independent organizations or persons.

In these circumstances, I believe it is critically important that, if the amount of expenditures cannot be limited, that there be firm requirements for full disclosure so that the voting public can judge a candidate on the basis of the source of his campaign support.

S. 3065 has an extensive reporting requirement for political committees and other persons who spend more than $100, expressly advocating the election or defeat of a clearly identified candidate. The Court held such a reporting requirement to be constitutional, and these reports, together with the indices of such expenditures to be prepared by the Commission on a candidate-by-candidate basis will enable candidates and the general public to know where money being spent on campaigns is coming from and and whether it is being authorized by particular candidates.

In the same regard, S. 3065 has a provision requiring that any printed or broadcast communication which expressly advocates the election or defeat of a clearly identified candidate, and which is disseminated to the public, must contain a clear and conspicuous notice that it is authorized by a candidate, or that it is not authorized by any candidate. In the latter case, the communications must contain the name of the person who made or financed the communication, including in the case of a political committee, the name of any affiliated or connected organization.

Mr. President, the bill gives to the Federal Election Commission the exclusive and primary jurisdiction for the civil enforcement of the Federal Election Campaign Act of 1971. The bill also gives to the Commission additional civil enforcement powers and reasonably differentiates between more serious violations of the act, which are subject to criminal penalties, and less substantial violations which would be subject to the civil enforcement and conciliation powers of the Commission.

Finally, as I believe disclosure may be an even greater deterrent than the threat of criminal prosecution for violating provisions of an act such as this, I would note that a new disclosure provision would require the Commission to make available to the public the results of any attempt to correct violations or possible violations of the act through conciliation. Thus the public would be made aware of the results, whether favorable or unfavorable to the candidate, of all conciliation efforts of the Commission.

These reporting, disclosure, and en-

forcement provisions are vital safeguards to the integrity of our Federal elective processes. They are, I believe, the best guarantee we can provide, within constitutional limits, that the financing of our Federal election campaigns will be fair and open and not subject to the corrosive effects of secret contributions and financing.

Mr. President, the legislation before us will fill an urgent need in the wake of the Supreme Court decision. I urge its prompt approval.

Mr. BAKER. Mr. President, while I agree with the query of the Chief Justice, in dissent in Buckley against Valeo, as to whether the majority opinion in that decision left "a workable program" of campaign regulation for Federal office, and not withstanding my belief that the Federal Election Campaign Act Amendments of 1974, even as modified by the Supreme Court, are cumbersome at best and illogical at worst, I consider S. 3065, and the proposed Federal Election Campaign Act Amendments of 1976 contained therein, to be undesirable and a further compounding of our earlier errors.

As may be remembered, I voted against the 1974 amendments, after sponsoring five unsuccessful revisions, primarily because of my opposition to the public financing of Federal elections and to limitations on campaign expenditures. Consequently, because the Court overturned expenditure limitations, and because I was pleased that Congress would be afforded another opportunity to review the unwise and unworkable 1974 amendments, I was gratified by some aspects of the decision in Buckley against Valeo.

Unfortunately, it appears that not only is the Senate forgoing the opportunity to respond to the more dubious aspects of the 1974 amendments and the Buckley against Valeo decision, but that S. 3065, as reported to the Senate by the Rules Committee, would elaborate and extend the mistakes propounded both in the 1974 act and by the Supreme Court.

It was my hope that the Congress would have responded to the Buckley against Valeo decision by reconstituting the Federal Election Commission in a constitutional manner; by eliminating public financing of Federal elections; and by removing or substantially raising the limitations on individual contributions to candidates for Federal elections. This latter recommendation is necessary, I believe, to counteract the distortive effect of the Supreme Court's upholding limitations on individual contributions to candidates, but finding unconstitutional expenditure limitations upon so-called "independent" efforts to elect or defeat candidates. I think that this rather curious distinction mitigates against the time-honored and traditional form of American politcal expression, that is, direct participation in and support for a particular candidate's campaign, in that the result of the decision is implicit encouragement of political expression independent of campaigns and parties; and I believe that removing limitations on contributions would reduce the incentive of those who are now tempted to establish and finance efforts independent of the candidate and his party.

In supporting the removal of limitations upon contributions, I am not advocating a return to an era in which campaigns for Federal office largely are financed by a few people making large contributions; and I think that such situations would be avoided by requiring full and timely disclosure and by the deterrent effect of our Watergate experience. I do think, however, that campaign contributions are an integral element of freedom of expression; and, notwithstanding the Court's decision to the contrary, I believe that restriction of contributions should be removed forthwith. Furthermore, I would rather see substantial contributions channeled into the official campaign process and, thereby subject to the control of the candidate and his party, rather than being expended through independent efforts free of the checks and balances of the political process.

The proposed 1976 amendments, however, do not meet these concerns but, rather, would do mischief of their own.

S. 3065 would reconstitute, and weaken, the Federal Election Commission. While I share the reservations of those who question the breadth and scope of the license appropriated by the FEC in utilizing its enforcement authorities, the new procedures that would be imposed are too complex and unwieldy for direct, effective regulations. Moreover, by further enhancing the advantages of incumbency, and through reduction of criminal sanctions, this bill abrogates two vital, but apparently not lasting, lessons imparted by our recent distress.

More disturbingly, the 1976 amendments, under the guise of reform and refinement, interjects elements of partisan expediency by limiting those employees who may contribute to political action committees, and by exempting certain fund-raising transfers traditionally utilized by only one of the two national parties.

During the pendency of the 1974 amendments, I offered an amendment which would have prohibited all group contributions, under the justification that, as only individuals can vote, only individuals should be able to contribute to political campaigns. But if we are to allow group giving, as we apparently are, I firmly believe that the ground rules should not favor or discriminate between groups, and that businesses and labor unions should be able to solicit contributions on an equal footing.

Mr. President, although I would prefer that Congress respond in a definitive fashion to the challenge provided by the Buckley against Valeo decision, the proposed amendments before the Senate are fraught with difficulty and advantage. Thus, while I rue this loss of opportunity, I voted for, and hope to again, the unsuccessful amendment offered by my distinguished colleague from Michigan (Mr. GRIFFIN) for a simple extension of the Federal Election Campaign Act Amendments of 1974. It appears that the best we can do is to pass a straight-forward bill reconstituting the Federal Election Commission.

I hope that the Senate and House do not continue along the track evidenced by S. 3065; and, if this or similar legislation is agreed to, I shall urge President Ford to veto it. The regulation of political campaigns is an area of great constitutional and democratic sensitivity, and our republic will be ill-served by the passage of this legislation as reported by the committee.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 4355(a), appoints the following Senators to the Board of Visitors to the U.S. Military Academy: the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. EAGLETON), and the Senators from Oklahoma (Messrs. BELLMON and BARTLETT).

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 9355(a), appoints the following Senators to the Board of Visitors to the U.S. Air Force Academy: the Senator from Wyoming (Mr. MCGEE), the Senator from Colorado (Mr. GARY HART), the Senator from Wyoming (Mr. HANSEN), and the Senator from Alaska (Mr. STEVENS).

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 6968(a), appoints the following Senators to the Board of Visitors to the U.S. Naval Academy: the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. GLENN), the Senator from Oregon (Mr. HATFIELD), and the Senator from Ohio (Mr. TAFT).

JOINT REFERRAL OF COMMUNICATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that two communications relative to the annual report of the Board of Governors of the Federal Reserve System and the annual report for the Consumer Affairs Division of the Comptroller of the Currency be referred jointly to the Committee on Commerce and the Committee on Banking, Housing and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOUTHEASTERN UNIVERSITY OF THE DISTRICT OF COLUMBIA

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 611.

The PRESIDING OFFICER (Mr. ALLEN) laid before the Senate the amendment of the House of Representatives to the bill (S. 611) for the relief of Southeastern University of the District of Columbia, as follows:

Page 5, after line 19, insert:

SEC. 11. The provisions of sections 2 and 3 of the Act of August 30, 1964 (Public Law 88-504; sections 2 and 3, 78 Stat. 636; 36 U.S.C. 1102, 1103) entitled "An Act to provide for audit of accounts of private corporations established under Federal law" shall apply with respect to the corporation.

SENATE FLOOR DEBATES ON S. 3065 MARCH 18, 1976

Under current postal policy, the answer to these questions is "probably yes"; and it is important that any change contemplated must only occur under law. The proper forum for airing the Postmaster General's views is in the Congress of the United States. All of us know, from our mail, from our talks with folks at home what kind of service the average citizen wants. He wants postal service as good as possible; at least no worse than it is now. And it is in the Congress that these and other, perhaps divergent, views should be weighed, assessed, and decided upon. Congress is here for that purpose—to set public policy, including the broad guidelines under which the Postal Service will be operated.

Mr. President, the Post Office and Civil Service Committee is currently in the midst of hearings on a bill which I sponsor to increase substantially the public service allowance authorized by the Congress to allow the Postal Service to operate a universal mail system serving all the people.

Among the important purposes of the bill is to reduce the frequency of postal rate increases. If postal revenues and costs can be brought more nearly into consonance by the additional funding the bill would authorize, I am confident that the constant upward spiral of rates can be substantially slowed. Rates inevitably will increase as costs go up, but over the past 5 years first-class rates have far outdistanced the Consumer Price Index. Since May 1971, when the 8-cent rate became effective, first-class postage has risen 63 percent. At the same time, the CPI has increased 35 percent. May bill would slow down rate increases and this effect, we are confident, would help maintain the stable mail volume upon which the Postal Service relies so heavily for revenue.

In its consideration of S. 2844, the committee has heard testimony from Postmaster General Ben Bailar. He endorsed the thrust of the measure and responded to questions about postal operations. It is true that in his testimony he also questioned whether the present structure of traditional postal services is essential or relevant to our future national needs, but nowhere did he call for a national dialog or request far-reaching policy changes.

Now that he has unveiled in Detroit and San Francisco his strong misgivings about the economic viability of a universal postal service for America, I think it appropriate to ask him to discuss these views in greater detail with the committee—with Members of the Senate responsible under the Constitution for considering the kind of broad-gage changes he has been suggesting around the country.

Accordingly, I am scheduling a hearing for March 29—a hearing at which the Postmaster General and his staff will be the sole witnesses. In addition to hearing his views on why the scope of postal operations should be reduced, the committee will want to question him on service cuts. And I will ask for his assurance that he will maintain service at its current levels in accordance with the guarantees of the Postal Reorganization Act. For that law must prevail unless or until it is changed.

TRAFFIC SAFETY IS EVERYBODY'S BUSINESS

Mr. MATHIAS. Mr. President, the Safety First Club of Maryland is celebrating its 20th anniversary on April 29, 1976. In conjunction with that event, the following statement, entitled "Traffic Safety Is Everybody's Business," has been prepared. The Safety First Club, which is a nonprofit organization dedicated to traffic safety, has been honored with two National Safety Council Awards. I would like to take this opportunity to congratulate this group for its years of service to the community and to share with you some of their observations on the importance of traffic safety.

Mr. President, I ask unanimous consent that this statement by the Safety First Club of Maryland be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TRAFFIC SAFETY IS EVERYBODY'S BUSINESS

At the beginning of the century we did not have an annual fatality record of 50,000 from automobile accidents. The worst that could then be said by statisticians was that we had in excess of 20 million horses on the roads.

Today we have progressed to an astounding mobility, thanks to our automobile. We have also progressed to a numbness that allows us to accept a slaughter of human beings on our highways unprecedented in the annals of recorded history.

At the Transpo '72 exhibit near Washington, in 1972, GM experts indicated that the automobile would continue to be the principal form of transportation during most of the balance of this century. Much was made of improvement in highway technology, lanes for larger vehicles and buses, peripheral parking facilities, electronically automated traffic control systems, use of smaller electric cars for inner city use, separation of pedestrians from traffic malls, and others. Little was said about re-programming automobile drivers who, as one humorist said, are "the loose nut behind the wheel" that causes most accidents.

The automobile driver's physical well-being, as well as the mechanical health of his vehicles, is vital, of course. In 31 different states, however, a blind person may renew his license. In 10 states a stone-deaf person can renew his license without any question. Few states even check the hearing of an applicant; fewer still ask for an eye examination after the initial one (at age 16 or 18). All you need in most states is a check to be sent in for the renewal. What a license to kill!

In 1973, there were 3,800,000 miles of roads in the United States to accommodate the approximately 100,000,000 cars. Our courts devote 57% of their time to cases involving the automobile. More than half a million abandoned cars each year crowd the landscapes—45,000 alone in New York City. One-third of every American city is appropriated by businesses which cater exclusively to motor cars—and another third is flattened out for the fabulous expanses of asphalt and concrete which provide mobility and parking for these urban monsters.

But what, at long last, becomes the most horrendous statistic of all: over 50,000 people annually are sacrificed to the most voracious god of all humanity, the automobile—and the statistics are proportionately even worse in some other countries, though quantitatively less.

In 1974, and primarily due to the 55 mile-per-hour limit, 46,200 lost their lives in traffic accidents in the U.S.A. In Maryland alone, 862 individuals became traffic toll fatalities during the year 1975.

As the Safety First Club of Maryland, one of the foremost citizen organizations working for traffic safety, stated it: "The automobile designed for our comfort, our need and our convenience, imposes upon us the responsibility of utilizing it without making of it at the same time an instrument of destruction." This applies equally to you and me.

The Safety First Club of Maryland, a nonprofit citizens' organization, with headquarters in Baltimore, has been crusading since 1956 for safety on our streets and highways. The organization's major objectives are to help reduce traffic fatalities; stress the importance of traffic safety among our youth; work for the passage and enforcement of statutes aiming to reduce the traffic toll; and give proper recognition to the deserving for attainments in the field of traffic safety.

The organization believes that traffic supervision and control belong in the sphere of duly constituted experts and authorities; but, nevertheless, such groups as the Safety First Club of Maryland can render services through planned and consistent safety programs, campaigns and activities aimed at helping to reduce the mounting toll.

The Safety First Club of Maryland will feature the theme "Master Motor Menace" at the organization's 20th Anniversary Wheelmaster Dinner, to be held Thursday evening, April 29, 1976, at the Mercantile Club in Baltimore.

The Safety First Club of Maryland believes, and advocates, that eternal vigilance is the price of liberty—and traffic safety.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. If there be no further morning business, morning business is closed.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 3065, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Paul Donnelly, a member of Senator SYMINGTON'S staff, may have the privilege of the floor during the debate on S. 3065.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I send to the desk an amendment for myself and the senior Senator from South Dakota (Mr. MCGOVERN) and ask that it be read and considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill add the following new section:

HONORARIA

SEC. . Section 616 of Title 18, United States Code, is repealed.

Mr. GOLDWATER. I want to make it clear, Mr. President, that the amendment is to the substitute which has been offered by the Senator from Michigan.

The PRESIDING OFFICER. The amendment of the Senator from Arizona will be so modified.

Mr. GOLDWATER. Mr. President, I rise to speak in support of the amendment jointly offered by the senior Senator from South Dakota (Mr. McGOVERN) and my self to strike out the limitations on honorariums in section 327 of the Federal Election Campaign Act.

This provision is both mischievous and discriminatory. It was originally added to a Senate-passed campaign finance bill by Members of the House of Representatives, not as a reform measure, but to openly punish and pressure Members of the Senate who had not gone along with the idea of steep pay raises for Members of Congress. The House author of the honorarians limitation, Congressman ANNUNZIO, vocally announced his purpose in proposing the provision. During what brief discussion there was of the section in the House, the author of this restriction stated that:

In the main, it is aimed at the members of the other body who have been so piously proclaiming from time to time that Members of Congress do not need any pay raises.

He repeated this purpose when discussing the conference report which became law, adding the hope that we Senators, in his words, "will now come along to acting more wisely when the measure of a pay raise comes up."

Surely, Mr. President, there is no room in Federal law for provisions such as this, which are run through by one House of Congress out of pique with the other body, and as a self-serving tool for pressuring that other body to approve congressional pay raises. Mr. President, this bit of background on the origin of what is now section 327 highlights what is wrong with it. It is a narrow and badly worded limitation on outside income of Members of Congress and other Government officials. When an amendment was offered during debate on the Campaign Finance Law which called for a far-reaching restriction of outside payments and fees to Members of Congress, it was beaten down by a vote of 61 to 31. That proposed amendment had been offered by Senator ALLEN and it would have prohibited the receipt by Members of Congress and Government officials of nearly all payments other than their official salaries. This is the kind of honest amendment I can vote for and, although I did cast my vote against tabling the Allen amendment, it was badly beaten.

Mr. President, this makes my point that Congress has made no effort to restrict all outside income.

Nothing in section 327 prohibits the 286 lawyers who are Members of Congress from earning outside income from their vocation. Nothing prevents the 41 or so farmers in Congress from accepting income from Government agricultural subsidies. Nothing prevents the 16 Members of Congress who had a business or banking background from receiving any income for whatever enterprises they may have retained. Nor does anything in the section limit the receipt of income from securities and other investments.

I might add, Mr. President, that nothing in 327 prevents any Member of this body from writing a book. I have written a number of books since I have been in this body. I am not foolish enough to think that BARRY GOLDWATER, a merchant in Phoenix, Ariz., could ever get a book published, but BARRY GOLDWATER, a Senator from Arizona, gets his books published. Yet there is nothing in this section that prevents my doing that. There is a limitation on the amount of money that can be received by a Member of Congress for writing an article for a magazine.

Another example: There is nothing in this section that prevents us from appearing on television shows or radio shows and being paid for it. I happen to be a member of a union, the Television Actors Union. I guess that possibly saves my hide, but, nevertheless, a number of us do have income from those sources. I have a radio program. It is on twice a day on some 400 stations in this country. Nothing in this section prevents my being paid for it.

I bring these points out from personal experience, and I am sure that many Members of this body could cite similar experiences.

Mr. President, what the section does do is impose a discriminatory limit only on the income of people who happen to be qualified as lecturers, speakers, or writers—and, I might add, not that any of us are. But sometimes we are mistakenly looked upon as such. What it does is severely restrict income that up to now has been available to schools, colleges and local charities. In many cases those of us who received honorariums for speeches would donate the entire balance to this church, that hospital, or some other charitable organization. Yet under the existing and proposed law, there is no way to contribute an honorarium to a charity over the limits of the section even though not one penny of it would go through the speaker's accounts or through his hands or be under his direction. What this has meant is that many charities are going, and will be going, to go without help that formerly have depended on it.

Again, I can cite my own personal experience. Before this bill became law, I had made pledges to various charities, churches, hospitals, and so forth, in my State of close to $50,000, which I did not have to give. But I propose to give the income from lecturing to these purposes. I wrote the chairman of the committee that controls that law and asked if the honorariums could be paid to these charities direct—not even going through my hands for signature or anything else. He ruled no. So I have the unpleasant future of trying to find $50,000. I will do it, but it would be much easier if we did not have to be hamstrung by this law.

Mr. President, there are other reasons why section 327 should be stricken from the law. The language of this provision is badly drafted and no one can fairly understand what he is prohibited from doing. The term "honorarium" is not defined in this section or anywhere else in the Federal Election Campaign Act. Nor does any other section of the United States Criminal Code to which this section has been added, contain any definition of "honorarium."

There is very little legislative history as to the meaning of this word. In fact, of the several hundred pages of legislative history relating to the Campaign Finance Amendments of 1974, only about 10 pages in all involve the honorarium section. Not one of these pages contains a definition of the word.

I remind those of my colleagues who are attorneys that one of the first principles of the Constitution rests in the protection of individual rights by the fifth amendment, what is known as the due process clause. In brief, the Supreme Court has said that due process includes "the deepest notions of what is fair and right and just."

Due process, in the context of a criminal statute means that the language of that statute "must be sufficiently explicit to inform those who are subject to its what conduct on their part will render them liable to its penalties." A statute which forbids "the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application," in the words of the Supreme Court, "violates the first essential of due process of law."

This doctrine has been known as the "vagueness" doctrine and it has been the basis for voiding several legislative statutes. In this instance particularly, where section 327 restricts on its face first amendments freedom of speech, I believe such an unclear statute is a bad one. As the Supreme Court said in the recent case of Buckley against Valeo, "where first amendment rights are involved, an even 'greater degree of specificity' is required."

Mr. President, I urge that my colleagues add section 616 to the substitute which has been offered by my friend from Michigan.

I yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I rise to support the amendment of the Senator from Arizona and the Senator from South Dakota. To me, the present restriction in the law is a blatant example of unfairness and unconstitutionality. It is perfectly all right for a Member of the Senate to manage an apartment house, to own an apartment house, to spend his weekends fixing toilets, putting on sideboards, or whatever else he wants to do. It is perfectly all right legally to practice law and to earn income from that. It is not all right, as the bill is read and apparently intended, to go out and make a speech or go out and write an article and be paid in excess of $1,000 to do it. It is all right, interestingly enough, to write a book—to write, in essence, long articles and be paid great amounts of money. I

have, compiled by the Library of Congress, a list of all the autobiographies and books written by Members of Congress, many written by Members of the Senate, including many who voted against any change in this honorarium limitation.

It takes a great deal of time to write a lengthy book, if they wrote it themselves. At least their names appear on them.

It seems to me immoral, Mr. President, to say you can write a long article and be paid $25,000 if you call it a book, but you cannot write a short article and be paid $1,500 if it is called an article.

I ask unanimous consent to have this list of authors in the Congress printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
Washington, D.C., April 17, 1974.

To: Hon. JOHN BRADEMAS,
Attn: Annie Goekjian.
From: Congressional Reference Division.
Subject: Books on Congress by recent Members of Congress.

We are enclosing a list of recent autobiographies by Members of Congress, while these books are not exclusively devoted to the operations of Congress, all have pertinent material.

In addition to this previously-prepared list, we have located the following titles:

Abzug, Bella. Bella! Ms. Abzug goes to Washington. New York, Saturday Review Press, 1972. 314 p., E840.8.A2A3.

Anderson, John B. A Congressman's choice. Grand Rapids, Mich., Zondervan Publishing House, 1972. 228 p., E839.5.A73.

Anderson, John B. Congress and conscience. Philadelphia, Lippincott, 1970. 192 p., JK1051.C8.

Bolling, Richard. House out of order. New York, Dutton, 1972. 253 p., JK1319.B6.

Bolling, Richard. Power in the House. New York, Dutton, 1968. 291 p., JK1316.B5.

Clark, Joseph S. Congress, the sapless branch. New York, Harper and Row, 1965. 266 p., JK1061. C57 1965.

Clark, Joseph S. Congressional reform: problems and prospects. New York, Crowell, 1965. 364 p., JK1061.C58.

Clark, Joseph S. The Senate establishment. New York, Hill and Wang, 1963. 138 p., JK1239.C55.

Curtis, Thomas B. Decision making in the U.S. Congress. Los Angeles, Institute of Government and Public Affairs, University of California, 1969. 441 p., AS36.C2A35 no. 126.

Evins, Joe L. Understanding Congress. New York, C. N. Potter, 1963. 304 p., JK1061.E85.

Hartke, Vance. Inside the the New Frontier. New York, Macfadden-Bartell Corp., 1962. 237 p., E841.H3.

Hartke, Vance. You and your senator. New York, Coward-McCann, 1970. 251 p., JK1161. H27.

Keating, Kenneth. Government of the people. Cleveland, World Publishing Co., 1964. 174 p., JK1061.K37.

Kuykendall, Dan. Among other questions. Privately printed, 1971.

McCloskey, Paul. Truth and untruth: political deceit in America. New York, Simon and Schuster, 1972. 264 p., JK271.M244.

Miller, Clem. Member of the House; letters of a Congressman. New York, Scribner, 1962. 195 p., JK1319.M5.

Muskie, Edmund. Journeys. Garden City, N.Y., Doubleday, 1972. 264 p., E840.8.M85A34.

Powell, Adam Clayton. Adam by Adam. New York, Dial Press, 1971. 260 p., E748.P86A3.

Riegle, Dan. O! Congress. Garden City, N.Y., Doubleday, 1972. 297 p., E840.8.R53A3.

Stennis, John. The role of Congress in foreign policy. Washington, American Enterprise Institute of Public Policy Research, 1971. 139 p., KF4651.S74.

Udall, Morris. Education of a Congressman. Indianapolis, Bobbs-Merrill, 1972. 384 p., E840.8.U3.

Udall, Morris. The job of the Congressman. Indianapolis, Bobbs-Merrill, 1970. 461 p., JK1331.T3.

Wright, Jim. You and your Congressman. New York, Coward-McCann and Geoghegan, 1972, 304 p., JK1021.W7.

BOOKS BY U.S. SENATORS (91ST CONGRESS)

Aiken, George David. Pioneering with fruits and berries, by George D. Aiken; illustrated with photographs by Kenneth Rockwell. Brattleboro, Vermont, Stephen Daye press [c1936]. SB355.A35.

Aiken, George David. Pioneering with wildflowers, by George D. Aiken. Putney, Vermont, The author, 1935. "First printing, 1933." SB439.A5 1935.

Aiken, George David. Speaking from Vermont, By George D. Aiken . . . New York, Frederick A. Stokes Company, 1938. 233 p., F54.A55.

Bayh, Birch E. One heartbeat away; presidential disability and succession. Indianapolos, Bobbs-Merrill, 1968. 372 p., JK609.B39.

Bennett, Wallace Foster. Faith and freedom, the pillars of American democracy. New York, Scribner, 1950. 154 p., JC599.U5B4.

Bennett, Wallace Foster. Why I am a Mormon. New York, T. Nelson [1958]. 256 p., BX 8635.B39.

Brooke, Edward William. The challenge of change; crisis in our two-party system, by Edward W. Brooke. [1st ed.], Boston, Little, Brown [c1966]. 269 p., E743.B77.

Dirksen, Everett McKinley. Gallant men; stories of American adventure, by Everett McKinley Dirksen and H. Paul Jeffers. New York, McGraw-Hill, 1967. 122 p., CT217.D5.

Dodd, Thomas J. Freedom and foreign policy. New York, Bookmailer [1962]. 321 p., E744.D56.

Fulbright, James William. The arrogance of power. New York, Random House [c1966]. 264 p., E774.F886.

Fulbright, James William. Fulbright of Arkansas: the public positions of a private thinker. Ed. by Karl E. Meyer. Pref. by Walter Lippmann. Washington, R. B. Luce [1963]. 279 p., E743.F8.

Fulbright, James William. Old myths and new realities, and other commentaries, by J. W. Fulbright. New York, Random House [1964]. 147 p. E846.F8.

Fulbright, James William. Prospects for the West. Cambridge, Harvard University Press, 1963. 132 p. E744.F9.

Goldwater, Barry Morris. Arizona portraits. Phoenix, 1940. 25 p. (24 plates). F811.G6 1940.

Goldwater, Barry Morris. Barry speaks to you; for the first time: an A to Z breakdown of Goldwater's stands. New York, Macfadden-Bartell, 1964. 34 p. E850.G54.

Goldwater, Barry Morris. The conscience of a Conservative. Shepherdsville, Ky., Victor Pub. Co., 1960. 123 p. JK271.G668.

Goldwater, Barry Morris. The face of Arizona. Phoenix, F. P. Middleton, 1964. 14 p. (50 plates). TR650.G58.

Goldwatr, Barry Morris. People and places; text and photos. New York, Random House, 1962. 86 p. TR650.G59.

Goldwater, Barry Morris. Where I stand. New York, McGraw-Hill, 1964. 126 p. E850.G6.

Goldwater, Barry Morris. Why not victory? A fresh look at American foreign policy. New York, McGraw-Hill, 1962. 201 p. E744.G57.

Harris, Fred R. Alams and hopes; a personal journey, a personal view. New York, Harper & Row, 1968. 173 p. HC106.6.H3.

Hartke, Vance. The American crisis in Vietnam. Indianapolis, Bobbs-Merrill, 1968. 163 p. DS557.A63H3.

Hartke, Vance, and John M. Redding. Inside the New Frontier. New York, Macfadden-Bartell, 1962. 237 p. E841.H3.

Hatfield, Mark O. Not quite so simple. New York, Harper & Row, 1968. 302 p., E840.8.H3A3.

Inouye, Daniel K. Journey to Washington. Englewood Cliffs, N.J., Prentice-Hall, 1967. 297 p. E840.8.I5A3.

Jackson, Henry Martin. Fact, fiction, and national security. New York, Macfadden-Bartell, 1964. 128 p., E744.J27.

Jackson, Henry Martin. The Atlantic alliance; Jackson subcommittee hearings and findings. Edited by Henry M. Jackson. New York, Praeger, 1967. 309 p., UA646.3.U445.

Jackson, Henry Martin. The National Security Council; Jackson subcommittee papers on policy-making at the Presidential level. Edited by Henry M. Jackson. New York, Praeger, 1965. 311 p., UA23.A41656 1965b.

Jackson, Henry Martin. The Secretary of State and the Ambassador; Jackson subcommittee papers on the conduct of American foreign policy. New York, Praeger, 1964. 203 p., JX1706.Z5A56.

Javits, Jacob Koppell. Discrimination, U.S.A. Rev. ed. New York, Washington Square Press, 1962. 289 p., E184.A1J3 1962.

Javits, Jacob Koppell. Order of battle; a Republican's call to reason [by] Jacob K. Javits. New, rev., and enl. ed. New York, Pocket Books 1966. 297 p., E743.J3 1966.

Kennedy, Edward Moore. Decisions for a decade; policies and programs for the 1970s. Garden City, N.Y., Doubleday, 1968. 222 p., E846.K43.

McCarthy, Eugene J. The Crescent dictionary of American politics. New York, Macmillan, 1962. 182 p., JK9.M2.

McCarthy, Eugene J. First things first; new priorities for America. New York, New American Library, 1968. 47 p., E846.M32.

McCarthy, Eugene J. A liberal answer to the conservative challenge. New York, Praeger, 1965. 128 p., JK271.M24 1965.

McCarthy, Eugene J. Frontiers in American democracy. Cleveland, World, 1960. 155 p., JK271.M23.

McCarthy, Eugene J. The limits of power; America's role in the world. New York, Holt, Rinehart, Winston, 1967. 246 p., E744.M15.

McClellan, John Little. Crime without punishment. New York, Duell, Sloan & Pearce, 1962. 300 p., HD6490.R3U73.

McGee, Gale W. The responsibilities of world power. Washington, National Press, 1968. 274. p., E183.8.V5M33.

McGovern, George Stanley. A time of war, a time of peace. New York, Random House, 1968. 203 p., E840.M3.

McGovern, George Stanley. War against want: America's food for Peace program. New York, Walker, 1964. 148 p., HD9006.M32.

Magnuson, Warren Grant. The dark side of the marketplace; the plight of the American consumer [by] Warren G. Magnuson and Jean Carper, Englewood Cliffs, N.J., Prentice-Hall, 1968. 240 p., HC110.C6M28.

Metcalf, Lee. Overcharge [by] Lee Metcalf and Vic Reinemer. New York, McKay, 1967. 338 p., HD9685.U5M4.

Moss, Frank E. The water crisis. New York, Praeger, 1967. 305 p., HD1694.A5M63.

Pastore, John O. The story of communications from beacon light to Telstar. New York, Macfadden-Bartell, 1964. 128 p., HE7775.P3.

Pell, Claiborne de B., with Harold Leland Goodwin. Challenge of the seven seas. New York, Morrow, 1966. 306 p., GC21.P65.

Pell, Claiborne de B., with Harold Leland Goodwin. Megalopolis unbound; the supercity and the transportation of tomorrow. New York, Praeger, 1966. 233 p., HE355.P4.

Proxmire, William. Can small business survive? Chicago, Regnery, 1964. 225 p., HC106.5.P75.

Randolph, Jennings [and James A. Bell]. Mr. Chairman, ladies and gentlemen; a practical guide to successful speaking. [Washington, 1951]. 169 p. (1st ed., published in 1939

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Scott, Hugh Doggett. The golden age of Chinese art: the lively T'ang dynasty. Rutland, Vt., Tuttle, 1967 [c1966]. 191 p. N7343.S37.

Scott, Hugh Goggett. How to go into politics. New York, J. Day, 1949. 197 p., JF2051.S3.

Scott, Hugh Doggett. How to run for office, and win! Washington, National Press, 1968. 187 p., JK 1976.S37.

Scott, Hugh Doggett. Law of bailments, with special reference to Pennsylvania, containing forms and relevant statutes. Philadelphia, C. M. Dixon, 1931. 547 p., Law.

Talmadge, Herman Eugene. You and segregation. Birmingham, Ala., Vulcan Press, 1955. 79 p., E185.1.T2.

Thurmond, Strom. The faith we have not kept. San Diego, Viewpoint Books, 1968. 192 p., E839.T49.

Tower, John G. A program for conservatives. New York, Macfadden-Bartell, 1962. 158 p., E841.T6.

Young, Stephen Marvin. Tales out of Congress. Philadelphia, Lippincott, 1964. 254 p., E748.Y75A3.

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Anderson, Clinton P., with Milton Viorst. Outsider in the Senate: Senator Clinton Anderson memoirs. New York, World, 1970. 328 p., E840.8.A5A3.

Celler, Emanuel. You never leave Brooklyn; the autobiography of Emanuel Celler. New York, John Day, 1953. 280 p. E748.C4A3.

Chisholm, Shirley. Unbought and unbossed. Boston, Houghton Mifflin, 1970. 177 p. E840.8C48A3.

Connally, Thomas. My name is Tom Connally. New York, Crowell, 1954. 376 p. E748.C76A3.

Flanders, Ralph E. Senator from Vermont. Boston, Little, Brown, 1961. 312 p. E748.F5A43.

Green, William. The Congressman. New York, McGraw-Hill, 1969. 128 p. E540.8.C7A3.

Rays, Brooks. A hotbed of tranquility; my life in five worlds. New York, Macmillan, 1968. 238 p. E748.E389A25.

Hendricks, Joseph E. Little Joe; my memoirs. Kissimmee, Fla., Cody Publications, 1966. 417 p. E748.E415A3.

Inouye, Daniel K. Journey to Washington. Englewood Cliffs, N.J., Prentice-Hall, 1967. 297 p., E840.6.I5A3.

Lindsay, John V. Journey into politics; some informal observations. New York, Dodd, Mead, 1967. 152 p., E840.8.L5A3.

Martin, Edward. Always be on time; an autobiography. Harrisburg, Pa., Telegraph Press, 1959. E748.M355A3.

Martin, Joseph, Jr., as told to Robert J. Donovan. My first fifty years in politics. New York, McGraw-Hill, 1960. 261 p., E748.M-375A3.

Murphy, George, with Victor Lasky. "Say . . . Didn't you used to be George Murphy?" New York, Bartholomew House, 1970. 438 p., E840.8.A8A3.

Nixon, Richard M. Six crises. Garden City, N.Y., Doubleday, 1962, 450 p., E748.N5A3.

Saund, Dalip S. Congressman from India. New York, Dutton, 1960. 192 p., E748.S23A3.

Scott, Hugh D. Come to the Party. Englewood Cliffs, N.J. Prentice-Hall, 1968. 269 p., JK2357 1968.S33.

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Wheeler, Burton K., with Paul F. Healy. Yankee from the West. Garden City, N.Y., Doubleday, 1962, 436 p., E748.W5A3.

Williamson, William. William Williamson: Student, homesteader, leader, lawyer, judge, congressman and trusted friend; an autobiography. Rapid City, S.D., (privately printed), 1964. 297 p., E748.W69A3.

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ADDITIONAL BOOKS BY U.S. SENATORS

Buckley, James L., and Paul Warnke. Strategic sufficiency: fact or fiction? Washington, American Enterprise Institute for Public Policy Research [1972] 87 p., UA23.B7848.

Fulbright, James William. The crippled giant; American foreign policy and its domestic consequences. New York, Random House [1972] 292 p., E744.F888 1972b.

Hatfield, Mark O. Conflict and conscience. Waco, Tex., Ward Books [1971] 172 p., E840.8.H3A28.

Javits, Jacob K., with Don Kellermann. Who makes war; President versus Congress. New York, Morrow, 1973. 300 p., KF5060.J38.

Proxmire, William. Uncle Sam—the last of the big time spenders. New York, Simon and Schuster [1972] 275 p., HJ7537.P76.

Proxmire, William. You can do it: Senator Proxmire's exercise, diet, and relaxation plan. New York, Simon and Schuster [1973] 256 p., RA776.P868.

Ribicoff, Abraham A., with Paul Danaceau. The American medical machine. New York, Saturday Review Press [1972] 212 p., RA395.A3R52 1972.

Mr. PACKWOOD. Secondly, the argument is raised that making speeches and writing books causes us to miss votes in the Senate. So I again had the Library of Congress prepare for me a list of the top moneymakers on the honorarium circuit for 1973 and 1974, the years that this limitation has been in effect. I do not have the figures for 1975 because the honorariums have not yet been reported for 1975.

But in taking the entire list of those who have spoken, with one exception—and in this entire list of 15 to 20 people with one exception each year, there is one person who is extraordinarily low—the Senate average would be around 85 or 86 percent, with one person down to 55 percent. In each case it happened to be, 1973 and 1974, a candidate running for election in 1974, and those running for election are notoriously low in their attendance. Subtracting that one person in each year, who was notoriously low, the average attendance record for all of those who go out and speak is above the Senate average. So they are not missing votes any more, at least, than other people miss votes, for whatever reasons other people miss votes. They are not missing votes because they are writing articles and making speeches.

What it really boils down to is that some people like to play golf, some people like to go fishing, go hunting, some people like to make speeches on weekends, and we all ought to be allowed to do what we like to do, and there should not be any restriction, a very narrow and limited restriction, on those who go out and make speeches.

I wholeheartedly support the amendment.

Mr. GOLDWATER. I thank my friend from Oregon. I think he has made a great contribution to the logic that I hope, exists in this proposal.

I want to repeat what I said earlier that this came about because the House of Representatives, at least some Members, were mad at the Senate for seeming to resist the pay raise, so they are going to take it out on the Senate and the whole Congress by disallowing any so-called honorariums, whatever they might be.

I will withhold the remainder of my time unless the Senator from New York wishes to be heard.

Mr. BUCKLEY. I thank the Senator from Arizona.

Mr. President, I also rise to support this amendment. It seems to me the limitation that has been put into the law is irrational and erratic. I believe it is of dubious constitutionality.

I will say, quite frankly, when the plaintiffs in Buckley against Valeo considered the specific complaints that they would argue before the Supreme Court they chose not to zero in on this one because I and other Members of Congress did not want to color our case with any potential self-advantage, but I wish that somebody had joined in to have tested this as well because, it seems to me, it is a deprivation of a property right, the right to earn, without due process and without the kind of rationality that could justify such a restriction.

I also happen to believe, Mr. President, that this provision is counterproductive. Let us face the facts. Members of the Senate are really required to maintain two households. They maintain their household in their State of origin and they must also maintain a house here in the District or in the neighboring areas.

The provision that allows us to deduct expenses for our residence here is way outdated. We are allowed $3,000 as a deduction. The rent on my first apartment here exceeded that, and it was a modest apartment.

The fact is that a number of people in this body feel they have to supplement the income they have to meet the costs, the extra costs, incurred by virtue of their service in the Senate, the cost of education and all the rest.

Therefore, in order to maintain their maximum earning potential they are forced to leave town, go somewhere 15 times a year at $1,000 a head instead of 5, 6, or 7 times a year for a larger amount.

Then, I believe, the Senator from Oregon talked about the time it takes to write a book. I guess I am on that list. I happen to have written a book in the last year, and I can certify that I spent infinitely more time on that particular project than I have in the last 5 years speaking, and I have spoken with some regularity in New York State and around the country.

So I hope we will drop all of the pieties. They fool nobody, and I hope we will restore to ourselves the basic rights that anybody else in this country has to use his spare time as he sees fit.

I thank the Senator from Arizona for having introduced this amendment.

Mr. GOLDWATER. Mr. President, I reserve the remainder of my time.

Mr. CANNON. Mr. President, I yield myself 5 minutes.

Mr. President, the Senator from Ari-

zona is quite right historically on the background of this amendment. Senators will recall that there was no such provision in the bill as passed by the Senate and there had not been, prior to that time, any such limitation. But the House imposed such a limit and wrote it into the law, and that went to conference.

In our conference with the House, the House's thinking was colored by exactly the same reasons as stated by the Senator from Arizona as to why they wanted to get this particular limitation in. It turned out that the House Members were not receiving great amounts of honoraiums and were not engaging in it to the extent that some of the Senators were, and so the House conferees were quite critical, and in an effort to try to get a bill we accepted that add-on by the House at that particular time.

Then, this year, the issue, of course, came up again because it was in the draft of the House bill as it came to us. In the Rules Committee we considered the issue itself, and one of the members of the Rules Committee offered an amendment to change it as it now is in S. 3065 on page 42. So that the figure, the limitation, was doubled from $1,000 to $2,000 per appearance, that is, for any appearance, speech, or article or honorariums aggregating more than $24,000 in a particular year.

The rationale in arriving at the $24,000 was that we have raised the amount for a particular one from $1,000 to $2,000, and you could have 15 appearances under the existing law for $1,000 each, and yet under this one, one could have $2,000 each, and it would only take 12 appearances or 12 times theoretically away from Washington to build up to the $24,000. That was the rationale that was presented, and the committee did accept that and wrote it into the bill as it is here.

The Senator from Arizona's proposal now, of course, would strike any limitation at all, leave the law as it was prior to the enactment of the Act in 1974.

Mr. MATHIAS. Will the Senator yield for a unanimous-consent request?

Mr. CANNON. Certainly.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Colbert King of my staff be granted privilege of the floor during the debate on this bill.

The PRESIDING OFFICER. Without obection, it is so ordered.

Mr. CANNON. Mr. President, I do not see any other Senator who wants to talk on this matter. I am prepared to yield back the remainder of my time, if the Senator is.

Mr. GOLDWATER. Mr. President, I am prepared to yield back my time.

Mr. GRIFFIN. Will the Senator yield to me?

I believe, frankly, that the present limitation is unconstitutional. If it were tested in the courts, my judgment is that it would be declared unconstitutional. I think that view is buttressed by another point which I should like to make.

I refer to the fact that the amendment of the Senator from Arizona does not change in any way the existing requirement of public disclosure of the honoraria received by any Senator. Is that correct?

Mr. GOLDWATER. That is absolutely correct.

Mr. GRIFFIN. Accordingly, in the future, as in the past, on an annual basis, each Senator would still have to file and publicly disclose the sources and amounts of honoraria received?

Mr. GOLDWATER. That is correct. This amendment does not touch that.

Mr. GRIFFIN. I thank the Senator.

Mr. GOLDWATER. Mr. President, I yield back the remainder of my time.

Mr. CANNON. Mr. President, I would like to make one further observation. The Senator is precisely correct; there is no limitation in the law, in this provision or elsewhere on a person's engaging in any other activity, and he can do that.

However, there is a provision in the Rules of the Senate, rule 44, which requires the Senator to file under the direction of the Committee on Standards and Conduct disclosure of any amount that he may have received, from whatever that source is, each fee or compensation of $1,000 or more received by him during the preceding year from a client, and so on. There are various other requirements in rule 44 as well.

So there is a complete filing required and as well as disclosure.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

Mr. GOLDWATER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) for himself and Mr. McGOVERN proposes an amendment to the bill, as follows:

On page 42, beginning with line 18, strike out through line 2 on page 43.

Mr. GOLDWATER. Mr. President, all that this amendment does is apply the same reasoning to the bill. The other amendment was to the substitute which will be offered later. This amendment is merely to the bill.

Mr. President, I yield back the remainder of my time and ask for its immediate consideration.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

Mr. GRIFFIN. Mr. President, I move to reconsider the vote by which the Goldwater amendment was just agreed to.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that it be in order to move to reconsider the vote by which the previous Goldwater amendment to the substitute was agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I so move.

Mr. GOLDWATER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1467

Mr. MATHIAS. Mr. President, I have an amendment at the desk, No. 1467.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an amendment numbered 1467.

The amendment is as follows:

On page 2, line 11, strike out "six" and insert in lieu thereof "eight".

On page 2, line 17, after "party" insert the following: ", and at least two members appointed under this paragraph shall not be affiliated with any political party".

On page 2, line 17, after "party" insert the following: ", and at least two members appointed under this paragraph shall not be affiliated with any political party".

On page 2, line 22, strike out "six" and insert in lieu thereof "eight".

On page 3, line 5, strike out "and".

On page 3, line 8, strike out the period and insert in lieu thereof a comma and the word "and".

On page 3, between lines 8 and 9, insert the following:

"(iv) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1983.".

Mr. MATHIAS. Mr. President, this is an amendment to the bill rather than to the Griffin substitute.

I explained the amendment in some detail when I offered it several days ago and the explanation appears in full in the RECORD.

The very simple purpose is to add two members to the Commission who will not be affiliated with any political party.

The purpose of this is simply to give some representation to what may well be the largest group of voters on the American political scene today—those who are not affiliated with a political party.

I know that there are some people who are reluctant to take this step because they think it will encourage people to leave political parties. I submit, Mr. President, that this is not a step that will encourage it. It is the old method of doing business that has encouraged people to leave political parties. It is the old way of doing business that has driven the nonmembership, the numbers of those not affiliated with political parties, from about 20 percent of the American electorate 20 years ago to over 40 percent of the American electorate today.

So, Mr. President, this is a very simple step which recognizes that a very large percentage, perhaps half, perhaps larger than either of the political parties, a very large percentage of the American electorate, does not choose to affiliate with a political party and these people deserve some representation.

It is a very simple amendment adding two nonaffiliated members to the Commission.

I urge the Senate to consider it favorably.

Mr. CANNON. Mr. President, I yield myself 2 minutes.

Mr. President, the Senator from

Maryland has discussed this amendment with me and, frankly, I had the feeling that he expressed that some people might have reservations about the fact that adding two members who were not affiliated with any political party might tend to encourage people to not belong to a political party.

I do not think we should do anything that would discourage them from belonging to a political party, or encourage them not to belong.

However, I do not feel very strongly about it. The Senator has stated to me and has stated on the floor that he believes this would not have any adverse impact. So I am willing to take this amendment to conference. It is not in the House proposal as reported out by the House, but I am willing to accept the amendment and take it to conference.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Senator from Colorado (Mr. GARY HART) be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President. I appreciate very much the attitude of the distinguished Senator, the manager of the bill, and I believe that I have not misled him. We are just facing the facts.

Not just particularly, but I very much do not like to see what is a sign of disintegration of the two-party system. But whether we like it or not the facts and figures are there. Forty percent of the American voters do not affiliate with a political party. It seems to me it is the most simple justice to allow them some representation on the election commission.

Mr. GRIFFIN. Mr. President, the concept, of course, of the Federal Election Commission is that it should be bipartisan insofar as the appointment of its members is concerned. During the confirmation hearings, when the FEC appointees were being considered by the Senate Committee on Rules and Administration, this Senator—and I think I was joined by some of my colleagues—made a point of emphasizing to those being appointed that once they were appointed to the Commission it was expected that they would not be partisan; that they were responsible for serving the public interest without regard to their previous political affiliation.

There is nothing new or unusual about that expectation. Just as a person who is appointed a Federal judge may come from a background of experience and affiliation with one political party, nevertheless, it is expected that in his judicial capacity he will exercise judgment on a nonpartisan basis.

What I am leading up to, really, is an indication that I see nothing wrong with the amendment of the Senator from Maryland. I hope he will also offer it to the substitute because I am sure he would like to make certain that it is adopted, whichever of the two courses the Senate elects to take.

I would like to indicate that there is an amendment in the committee bill which I am sure the Senator from Maryland would not like. That is the requirement that for the Commission to take any action of a meaningful nature there must be two votes from each party in support of that action.

What that language does, it seems to me, is to politicize the Commission. They must always be conscious of the political affiliation of the membership, which goes exactly contrary to the original intent, and certainly contrary, it seems to me, to the purpose of the amendment of the Senator from Maryland.

I wonder what the effect of the Senator's amendment will be on the provision of the committee bill to which I have just alluded. Has the Senator from Maryland considered that?

Mr. MATHIAS. I did not consider that.

Mr. GRIFFIN. Was the Senator aware that there was such a provision in the committee bill?

Mr. MATHIAS. Yes, I am aware of that provision.

Mr. GRIFFIN. I think it is one of the most objectionable parts of the committee bill.

Mr. MATHIAS. It seems to me that the independent members might well provide a majority swinging either side, but it would not affect the requirement that, in a decision of the majority, they had to have two members from each political party.

Mr. GRIFFIN. I take it that that would be true unless there was some other change made.

Mr. MATHIAS. Yes. I think unless there is another change what we would have to have, in other words, is not a simple majoritarian principle but a majoritarian principle plus a minimum of the party.

I do not really like that provision, but I do not think this amendment affects it.

Mr. GRIFFIN. If anything, it dilutes it.

Mr. MATHIAS. It dilutes it.

Mr. GRIFFIN. That is one of the reasons I see merit to the Senator's amendment.

If there is any Senator who is not familiar with this provision that I am referring to, it is on page 4 of the committee bill. Line 19 says, "Except that the affirmative vote of four members of the Commission—no less than two of whom are affiliated with the same political party—shall be required" in order for the Commission to take certain actions. They are the most important actions, of course, on which the Commission is supposed to rule.

That means that as the bill is now, any two members of the same political party have an absolute veto on anything as far as the Commission is concerned. This is intended, it is deliberate. It is deliberately intended to weaken the Commission, to make it impossible for a combination of three members of one political party to be joined by one member of the other political party and take any action. I think that is a very serious and bad provision.

Mr. CANNON. Will the Senator yield?

Mr. GRIFFIN. I will be glad to yield.

Mr. CANNON. In the existing law three members have a veto anyway. It takes a vote of four. If three members have a veto and all the Senator is saying now is two members of a political party——

Mr. GRIFFIN. That is different than saying two members have a veto.

Mr. CANNON. The difference is not as great as the Senator would have it appear.

Mr. GRIFFIN. It makes all the difference in the world.

Mr. CANNON. If the Senator's amendment is approved, then we are in quite a different situation because there would be an eight member Commission.

Mr. GRIFFIN. We will have that under the chairman's bill anyway. Is that correct? If the Mathias amendment is adopted, there will be an eight-member Commission. Is that correct?

Mr. CANNON. That is what I said.

Mr. MATHIAS. I do not want to prolong this debate, but it does seem to me that one point deserves very brief comment. I do not believe that this is quite the situation of a Federal judge who becomes nonpartisan and neutral, politically, once he ascends the bench. I think these people are being drawn from each party and hopefully, under this amendment, from no party, because of their political experiences, because this is not an area of general jurisdiction, law in equity, admiralty, and all the rest.

This is a very special area of jurisdiction dealing with election practices. Their political experience in life will necessarily color their decisions, and properly so. That is why we are choosing these people, because they have some political experience in life. I think those who are independents or nonaffiliated, or as we in Maryland call them, "decines," have had a particular experience, I am sure, involving a considerable amount of frustration. That view, I think, will add something to the reality of the decisions of the Commission.

I appreciate the attitude of the Senator from Michigan in accepting at least the concept that this may be of some value.

Mr. GRIFFIN. I believe the comment of the Senator from Maryland is realistic, even though we did extract from the appointees their agreement that when they were confirmed they were to be nonpartisan. I think the Senator makes a good point, that in this particular area it may be somewhat unrealistic to assume that it will not affect their decisions on political questions.

Nevertheless, it seems to me that should be the goal and the objective to the extent possible.

Mr. MATHIAS. Oh, I agree. But I think we are dealing with two time frames.

Mr. GRIFFIN. Right.

Mr. MATHIAS. One, the unpartisan way in which we hope they will act in the future; but that is necessarily going to be colored by their partisan experiences in the past.

Mr. GRIFFIN. I do not know who has the floor. Is the Senator from New York seeking to contribute to this colloquy?

Mr. BUCKLEY. Frankly, I had risen

to make an observation, but the discussion got beyond the point.

I had risen when the Senator spoke about the provision in existing law. I think he talked about a party vote being allowed to advance a decision by a party.

Mr. GRIFFIN. It is not in existing law, but it would be the law if the pending bill should be passed.

Mr. BUCKLEY. But this confirms my reaction, which is one of cynicism, pure and simple. We have wrapped in all kinds of advantages for the incumbent.

The Supreme Court by its decision eliminated some, fortunately, which would have redounded even more to the advantage of incumbents; but I hope these comments will somehow get into public discussion so people can have a better understanding that this is not reform, but it is legislation which sort of consolidates the status quo.

Mr. GRIFFIN. Mr. President, I wonder if the Senator from Maryland would object to having a rollcall on his amendment, to be sure that in conference it will receive proper attention.

Mr. MATHIAS. No, I certainly have no objection.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER (Mr. McGOVERN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. MATHIAS. Mr. President, just briefly, since there it to be a rollcall on it, I just want to recall again to the Senate some of the critical statistics which support the amendment.

According to the Gallup opinion index for November-December 1975, 33 percent of the electorate considered themselves independents, while only 22 percent considered themselves Republicans and 45 percent considered themselves Democrats.

Independents, therefore, outnumber Republicans by 3 to 2, and the same Gallup poll reflects that since 1964, in the short space of 12 years, the proportion of independents has increased 50 percent, while the Democrats have declined from a majority status to a low of 42 percent.

So that is really the fact of the matter. That is the reality that we face, and it is the reality that this amendment recognizes.

I am prepared to vote.

Mr. GRIFFIN. If I could ask a question for clarification——

Mr. MATHIAS. Yes.

Mr. GRIFFIN. The question has been asked concerning the intent: would it be possible for a President to name a member of a third party as one of the two appointees?

Mr. MATHIAS. As the amendment is drawn, it is clearly for the nonaffiliated.

Mr. GRIFFIN. With any party.

Mr. MATHIAS. Yes, with any party, because that, statistically, is the large group, the reservoir from whom we would have to draw.

Mr. GRIFFIN. Then it would be the assumption that the six members would be affiliated——

Mr. MATHIAS. With the two major parties.

Mr. GRIFFIN. No more than two from any one major party.

Mr. MATHIAS. Right.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. MATHIAS. I am happy to yield to the Senator from New York.

Mr. BUCKLEY. I believe the question raised by the Senator from Maryland has merit. The fact is that under existing law, minor parties have very special problems. There are all kinds of discriminations against them, and I believe it would be helpful, frankly——

Mr. MATHIAS. I have made some study of that subject, and I am aware of it.

[Laughter.]

Mr. BUCKLEY. I am a product of that system, so I too am aware of it. But I do believe it would be worthwhile to require that one be a member of the public unaffiliated with a political party and the other have an affiliation with a minor party. I wonder if the Senator from Maryland would be willing to modify his amendment to that effect. I truly believe there are special problems affecting minor parties.

Mr. GRIFFIN. Must be, or may be?

Mr. BUCKLEY. May be.

Mr. MATHIAS. Well, I am impressed with the kind of equity which underlies the suggestion of the Senator from New York. I do believe, however, we are dealing on a solid statistical base with the amendment as it stands. We are dealing with figures that are known and recognized.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD the results of a survey conducted in 1974, including the period from 1956 to 1974, conducted by the University of Michigan, which I think supports these figures.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

TABLE 1.—DISTRIBUTION OF PARTY IDENTIFICATION IN THE UNITED STATES, 1952–73

[In percent]

Question: "Generally speaking, do you usually think of yourself as a Republican, a Democrat, an Independent, or what? If Republican or Democrat: Would you call yourself a strong Republican or Democrat or a not very strong Republican or Democrat? If Independent: Do you think of yourself as closer to the Republican or Democratic Party?"

	October 1952	October 1954	October 1956	October 1958	October 1960	November 1962	October 1964	November 1966	November 1968	November 1970	November 1972	November 1973
Democrat:												
Strong	22	22	21	23	21	23	26	18	20	20	15	13
Weak	25	25	23	24	25	23	25	27	25	23	25	23
Independent:												
Democrat	10	9	7	7	8	8	9	9	10	10	11	14
Independent	5	7	9	8	8	8	8	12	11	13	13	18
Republican	7	6	8	4	7	6	6	7	9	8	11	9
Republican:												
Weak	14	14	14	16	13	16	13	15	14	15	13	13
Strong	13	13	15	13	14	12	11	10	10	10	10	8
Apolitical, don't know	4	4	3	5	4	4	2	2	1	1	2	2
Total	100	100	100	100	100	100	100	100	100	100	100	100
Number of cases	1,614	1,139	1,772	1,269	3,021	1,289	1,571	1,291	1,553	1,802	2,705	1,444

Center for Political Studies, the University of Michigan.

Mr. MATHIAS. It does indicate that this large number of independents exists.

I do not have before me at this moment, and this makes me somewhat reluctant to amend the amendment at this point, statistics which actually show us the membership of the minor political parties. I would be reluctant to alter this pattern which looks to a group that we know exists; they are a group in being. I would hope that the Senator from New York, much as I sympathize with the spirit of his amendment, and much as I sympathize with the problems of a third party, would withhold that, because I am just not sure enough of how the numbers fit together. This amendment is directed at this group which we know, according to Dr. Gallup, just at the end of the year was at least a third of the national electorate.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. MATHIAS. Yes.

Mr. BUCKLEY. I shall not press the matter at this point. As a matter of fact, I shall not do so for tactical reasons. I am persuaded that in due course members of minority parties, or minority parties themselves, will be able to assemble the provable evidence to demonstrate the discriminatory character of this law; and were my suggestion to be adopted, it would weaken the case that I think will ultimately succeed in abolishing this monstrosity.

Mr. MATHIAS. I think the Senator is right. I do not know whether the third parties will be able to assemble the evi-

dence, but I think third parties and independents will assemble together as a mighty political force in this country, and will challenge the two traditional parties in many instances. I do not think there is any doubt about that, and I shall be happy to join with the Senator. I just suggest that we prepare ourselves a little better before we try to present a case here to the Senate on an amendment on which there will be a rollcall in a few minutes. We do have a sound statistical base on which we are now moving, and if we can withhold that argument, I will be glad to join in it with the Senator when the foundation is laid.

Mr. GRIFFIN. One further question, which I think I know the answer to, but perhaps it would be well to get the view of the Senator from Maryland. The staff has called it to my attention. How long would one have to be an independent in order to be eligible for appointment?

Mr. MATHIAS. I think as long as good faith requires. You know, people do move around in the American political system. They do not always stay as one or the other.

I had occasion to be discussing with Mr. Edward Bennett Williams the other day the fact that prior to 1964 he was a Republican. He was one of my ardent supporters, and he worked in my campaigns when I ran for election to the other body. In 1964 he left the Republican Party, and he wanted me to go with him; and he was chiding me the other day. He said, "You see, you should have gone." He said. "You have waited too long." He said, "On the other hand, John Connally moved too soon."

[Laughter.]

Mr. GRIFFIN. Well, I think a further answer to my question is that these appointments have to be confirmed by the Senate, and the bona fides of the person's claim to independence or to being a Republican or a Democrat is subject to judgment by the Senate.

Mr. MATHIAS. I think the Senator is absolutely right. There has to be discretion by the Senate. And I think if in fact someone had obviously registered as either a Democrat or as a Republican, or had dropped any party affiliation, simply to get appointed to this commission, it would be patent on the face of it, and the Senate would not have much trouble in smelling that out and I hope the President would not in making the appointments in the first place.

Mr. GRIFFIN. There is another question which may be taken care of, but sometimes one cannot tell by looking at the amendments which would have to be technical in nature. In the bill which the Senator's amendment would amend, in that paragraph which I referred to earlier, it requires the affirmative vote of four members of the Commission to take action. Obviously, unless there were some conforming amendments to the bill, I assume we would not want an eight-man Commission with four members making the decision.

The Senator is thinking then five members would be a majority for action?

Mr. MATHIAS. I would think the Senator is right, and we should have a conforming amendment. If this amendment is adopted, we would prepare a conforming amendment which would, I think, say that a majority——

Mr. GRIFFIN. That is so, because obviously if they had a tie, nothing has been decided by eight members. So I suggest that the staff be looking at the bill and the substitute to provide the necessary conforming amendments to make sure that the bill or the substitute makes sense, if the amendment of the Senator from Maryland is adopted.

Does the Senator from Nevada have anything further?

Mr. CANNON. Mr. President, it had entered my mind earlier that it might be well for the Senator to suggest the absence of a quorum and try to modify his amendment.

Mr. GRIFFIN. I would suggest that it would be well to modify his amendment to include these conforming amendments.

Mr. MATHIAS. I am happy to do this at this time.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum for this purpose.

The PRESIDING OFFICER. On whose time does the Senator suggest.

Mr. CANNON. To be charged equally.

Mr. MATHIAS. On my time. I make a point of order that a quorum is not present.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, while they are working on this, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMON CAUSE NOT MEETING WITH DEMOCRATIC CAUCUS

Mr. GRIFFIN. I do that only to make a very brief statement and to call attention to a notice in the Washington Post this morning that at 12:15 p.m. there will be a meeting of the Democratic Caucus of the Senate and that they will be meeting in closed session with Common Cause.

Mr. MANSFIELD. What is that?

Mr. GRIFFIN. Surely the Washington Post cannot be correct in its publication here today.

Mr. MANSFIELD. Mr. President, will the Senator repeat what he said?

Mr. GRIFFIN. It says that Common Cause—I take it that that would be representatives of Common Cause—are meeting in closed session with the Democratic Caucus of the Senate today at 12:15 p.m.

Mr. MANSFIELD. No; there will be a Democratic conference today. The purpose is to discuss the resolution based on the suit brought by Common Cause.

Mr. GRIFFIN. I see.

I show the majority leader what was in the paper. It was a little bit shocking. I wondered if it might need some explanation.

Mr. MANSFIELD. The press makes mistakes once in a while just as we do.

Mr. GRIFFIN. All right.

Mr. MANSFIELD. But we never invite outside organizations into our caucuses. We would invite our Republican colleagues in first.

Mr. GRIFFIN. I thank the Senator.

I would apologize, except I think that, in this instance, it is probably a good thing to mention. The majority leader agrees with me that this should be straightened out because, otherwise, there would have been a great deal of misunderstanding.

Mr. MANSFIELD. What we want to do now is straighten out a resolution which we discussed at the last conference, but we developed a plug, and we hope to eradicate that.

Mr. MATHIAS. Mr. President, will the Senator from Michigan yield?

Mr. GRIFFIN. Yes.

Mr. MATHIAS. I add a word to what the majority leader has said. I honestly believe from what I know of John Gardner of Common Cause, that even if the majority leader invited them to a closed door partisan session they would not come.

Mr. MANSFIELD. I tend to agree with the Senator's observation.

Mr. MATHIAS. I suspect they have been enticed into a few by Members of both parties, the invitations to which they have resisted.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

Mr. MATHIAS. Mr. President, I am prepared with the conforming amendment to my amendment.

Mr. GRIFFIN. The yeas and nays have been ordered so the Senator shall have to ask unanimous consent.

Mr. MATHIAS. Mr. President, I ask unanimous consent that I may have permission to modify my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I offer a modification to the amendment to the effect that on page 4, line 20, strike the word "four" and insert in lieu thereof "5".

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

The modification will be stated.

The assistant legislative clerk read as follows:

On page 2, line 11, strike out "six" and insert in lieu thereof "eight".

On page 2, line 17, after "party" insert the following: ", and at least two members appointed under this paragraph shall not be affiliated with any political party".

On page 2, line 17, after "party" insert the following: ", and at least two members appointed under this paragraph shall not be affiliated with any political party".

On page 2, line 22, strike out "six" and insert in lieu thereof "eight".

On page 3, line 5, strike out "and".

On page 3, line 8, strike out the period and insert in lieu thereof a comma and the word "and".

On page 3, between lines 8 and 9, insert the following:

"(vi) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1983.".

On page 4, line 20, strike out "four" and insert in lieu thereof "5".

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Is all time yielded back?

Mr. MATHIAS. Mr. President, I yield back the remainder of my time.

Mr. CANNON. Mr. President, I said earlier I was willing to accept the amendment, but as long as the minority wants a rollcall vote on it, I am prepared to yield back the remainder of my time unless someone on this side wants to speak.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Rhode Island (Mr. PASTORE), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS), are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PASTORE) would each have voted "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from North Carolina (Mr. HELMS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "yea."

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—88

Abourezk	Curtis	Huddleston
Allen	Dole	Humphrey
Baker	Domenici	Inouye
Bartlett	Durkin	Javits
Bayh	Eagleton	Johnston
Beall	Eastland	Laxalt
Bellmon	Fannin	Leahy
Bentsen	Fong	Magnuson
Biden	Ford	Mansfield
Brock	Garn	Mathias
Buckley	Glenn	McClellan
Bumpers	Goldwater	McClure
Burdick	Gravel	McGee
Byrd, Harry F., Jr.	Griffin	McGovern
	Hansen	McIntyre
Byrd, Robert C.	Hart, Gary	Metcalf
Cannon	Hart, Philip A.	Mondale
Case	Haskell	Montoya
Chiles	Hatfield	Morgan
Clark	Hathaway	Moss
Cranston	Hollings	Muskie
Culver	Hruska	Nelson
Nunn	Roth	Stevenson
Packwood	Schweiker	Stone
Pearson	Scott, Hugh	Symington
Pell	Scott, William L.	Taft
Percy	Sparkman	Talmadge
Proxmire	Stennis	Thurmond
Randolph	Stevens	Tower
Ribicoff		Weicker

NAYS—0

NOT VOTING—12

Brooke	Jackson	Stafford
Church	Kennedy	Tunney
Hartke	Long	Williams
Helms	Pastore	Young

So Mr. MATHIAS' amendment was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRIFFIN and Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS and Mr. TAFT addressed the Chair.

Mr. MATHIAS. Mr. President, will the Senator from Ohio yield to me?

Mr. TAFT. I had already agreed to yield, and I ask unanimous consent to yield to the distinguished minority leader, without losing my right to the floor.

Mr. MATHIAS. Fine.

The PRESIDING OFFICER (Mr. GARY HART). Who yields time?

Mr. TAFT. I ask unanimous consent to yield to Senator GRIFFIN, without losing my right to the floor.

The PRESIDING OFFICER. The Senator has no time until the amendment is offered. Who yields time?

Mr. TAFT. Mr. President, I believe I am in control of time.

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

The PRESIDING OFFICER. Will the clerk suspend until the Senate is in order? The Senate is not in order. Will Senators take their seats or have their conversations take place in the cloakroom? The Senate is not in order.

The clerk may proceed.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Amendment 1491 add the following new section:

TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT

Sec. .Section 9037 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates in primary campaigns) is amended by adding at the end thereof the following new subsection:

"(c) Termination of Payments for Lack of Demonstrable Support.—

"(1) General rule.—Notwithstanding any other provision of this chapter, no payment shall be made under this chapter to any candidate more than 30 days after the date of the second consecutive primary election in which such candadate receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election if the candidate permitted or authorized the appearance of his name on the ballot. If the primary elections are held in more than one State on the same date, a candidate shall, for purposes of this subsection, be treated as receiving that percentage of the votes on that date which he received in the primary election conducted on such date in which he received the greatest percentage vote.

"(2) Reinstatement of payments.—Notwithstanding the provisions of paragraph (1), a candidate whose payments have been terminated under paragraph (1) may again receive payments (including amounts he would have received but for paragraph (1)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.".

Mr. TAFT. Mr. President, I ask unanimous consent that Mr. Tom Block of my staff have the privilege of the floor during the debate and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, the amendment I have offered is a modification of amendment No. 1491 proposed by Mr. GRIFFIN, amended only so that it would be an amendment to the substitute now pending.

The amendment is offered to protect the intergrity of the Presidential matching fund program. Let me be candid. I opposed this concept when it initially came before the Senate, and I intend to support efforts to delete the checkoff provision altogether. Nonetheless, I also believe if a majority of the Senate wants to have a Federal program then it should be a workable program.

Clearly the system that has been operating during hte current primaries has not worked. The Washington Post, in an editorial on March 9, put the case well, and I quote:

> The program was not intended, for instance, to encourage marginal contenders to spend far beyond their means on the assumption that public funds would cover up to half of their debts. Nor was it meant to keep the door of the treasury open to those who acknowledged that their path to the nomination has been closed.

I agree with the Washington Post, and I believe Congress should terminate payments to those who show a lack of support.

Under my amendment funds would be terminated if a candidate does not receive at least 10 percent of the vote in the two consecutive primaries that fall on different days. The termination would become effective 30 days after the trigger date so as to give a period for cleaning up the operations of the campaign.

I have also included a provision to allow a candidate to again become eligible if he goes into a further primary without the public financing involved and receives more than 20 percent of the vote in that future primary.

Mr. President, it is difficult to establish at what point a candidacy loses by ability, but I believe the standards set in my amendment would generally be agreed upon by my brethren in the art of politics.

Critics will undoubtedly charge that the levels I have set are arbitrary. But this legislation is full of arbitrary deci-

sions Congress has made in the field of campaigning and they are decisions that the Supreme Court has affirmed.

The setting of a $1,000 ceiling on contributions is an arbitrary figure; the itemization of each donation over $10 is an arbitrary decision; and the limits of contributions to multicandidate committees is arbitrary.

There is no scientific way of setting these limits and, I believe, the standards set in my amendment are fair.

Once a candidate has failed to obtain 10 percent of the vote in two consecutive races he would have 30 days to terminate his campaign. This would allow for debts that were incurred during eligible primaries to be paid, and it would also give the candidate's staff time to adjust to the conclusion of the campaign.

I want to emphasize that the failure to obtain 10 percent of the vote in two consecutive primaries does not mean that a candidate can no longer run for President.

It will only mean that the taxpayers should no longer be required to finance the apparently fruitless effort. Under my amendment any individual who wants to run for President can, and any individual can obtain Federal matching funds. But once the campaign begins and the votes are counted, my amendment will separate the serious candidates from those who are not going to be nominated.

I know that on some occasions there are primaries in more than one State on the same day. Candidates, therefore, target their efforts. I, therefore, have language in my amendment stating that the consecutive showing of less than 10 percent cannot occur from the same date.

I also realize that in some States candidates have no choice as to whether or not their names appear on the ballot. I, therefore, have inserted language stating that the candidate must have permitted or authorized his name to be entered on a particular primary ballot in order for it to count in the disqualification process.

This amendment will not cover all cases where candidates withdraw from the nomination but still receive funds. But I do think by passage of this amendment we will be expressing the sense of the Congress that the public financing program is not to support campaigns that are going nowhere fast.

The passage of this amendment will not close all the loopholes. A candidate could receive matching funds and not enter any primary States or enter only caucus States. However, I think it has become apparent that for any announced candidate to get the nomination, primaries are a prerequisite. In the first primary, four announced candidates received less than 10 percent of the vote in the Democratic primaries this year. They were Mr. Shriver, Governor Wallace, Senator JACKSON, and Mrs. McCormack.

Next week primaries were held in Vermont and Massachusetts. Only Mrs. McCormack received less than 10 percent in Vermont, but in Massachusetts, Shriver, HARRIS, BAYH, Shapp, and Mrs. McCormack all received less than 10 percent.

Under my amendment at this point the trigger would have been set for candidates McCormack and Shriver.

In Florida the following; Shapp, UDALL, BAYH, McCormack, Shriver, ROBERT BYRD, HARRIS, and CHURCH all received less than 10 percent of the vote. This would have added BAYH, Shapp, and HARRIS to the list of candidates who were no longer eligible for funds.

Mr. President, I ask unanimous consent to have printed in the RECORD the statistics on what the various candidates have received from matching funds as of March 11.

There being no objection, the statistics were ordered to be printed in the RECORD, as follows:

Senator Birch Bayh	$418,79[illegible]00
Senator Lloyd M. Bentsen, Jr.	511,02[illegible]61
James E. Carter	847,13[illegible]55
Senator Frank Church	209,69[illegible]28
President Gerald R. Ford	1,532,05[illegible]1
Ferd R. Harris	444,84[illegible]83
Senator Henry M. Jackson	1,485,83[illegible]85
Ellen McCormack	134,78[illegible]53
Ronald Reagan	1,473,16[illegible]73
Terry Sanford	246,38[illegible]82
Gov. Milton J. Shapp	265,79[illegible]6
R. Sargent Shriver	255,81[illegible]74
Congressman Morris K. Udall	783,85[illegible]25
Gov. George C. Wallace	2,445,59[illegible]54
Total	11,054,70[illegible]40

Mr. TAFT. I think it is worthwhile to note that the March 11 press release from the Federal Election Commission states that they were receiving requests for $627,531 from six candidates: BAYH, Carter, Ford, Reagan, Shriver, UDALL, two of whom would no longer be eligible for funds under my amendment.

I also ask unanimous consent to have printed in the RECORD an editorial from the Cincinnati Enquirer on the subject, and the list of the primaries that are to be held this year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUBSIDIZED EGO TRIPS

As the 1976 political season continues to unfold, our faith in human nature tells us that the American people will become increasingly alive to the utter absurdity of the Federal Election Campaign Act of 1974.

That enactment, of course, was the 94th Congress' formal, legislative response to the whole morass known as Watergate. It was an enactment, we were informed by such outfits as "the people's lobby," Common Cause, that would clean up American politics and restore the people's faith in the entire electoral process. It was also an enactment, Sen. Edward M. Kennedy (D-Mass.) solemnly assured the Senate, that would make future Watergates impossible.

The formal withdrawal of Sen. Birch Bayh (D-Ind.) as an active seeker after the Democratic presidential nomination in the wake of what was, for him, the disaster of the Massachusetts primary, helps to underscore the pitfalls written into the Federal Election Campaign Act.

No one can know for certain where Senator Bayh got the idea that he ought to be President of the United States. But it is difficult to doubt that he was helped to that decision by the Federal Election Campaign Act.

For among that enactment's provisions is a complex formula for diverting tax-derived revenues to help finance seekers after the presidential nominations of the major parties. If they raise enough money on their own in a sufficiently representative number of states, than they qualify for federal matching funds.

In the case of Senator Bayh, these funds amounted to $273,848. Senator Bayh's campaign lived long enough to see him finish third in one primary, seventh in another.

Senator Bayh was alert enough to recognize that there was no real groundswell for him after all, *but only after the American taxpayers had invested roughly $6 for every vote he received in Massachusetts and New Hampshire.*

That, it strikes us, is a pretty steep price to pay for Senator Bayh's ego trip. But it is less high, really, than the price the taxpayers have paid for Sen. Lloyd Bentsen's (D-Texas) campaign for the White House—or former North Carolina Gov. Terry Sanford's.

Senator Bentsen withdrew even before the first primary—but only after the taxpayers had invested $511,023 in his campaign.

Mr. Sanford Withdrew also without going before the electorate in a single primary, after an investment of $246,388 from the taxpayers.

It is worth noting that Senator Bayh, like Senator Bentsen and Mr. Sanford, is not out of the campaign altogether; he is simply out of the active campaigning. He will still be around if the electorate calls. And why shouldn't he be, if there is the prospect of more federal matching funds?

The fact appears to be that the Federal Election Campaign Act, among its other miscalculations, is having the effect of making presidential aspirants of men and women who would not otherwise dream of running for President, and of keeping them technically in the race long after it has become obvious that they aren't going to be nominated.

If that is a contribution to cleaning up the political process, we hope the nation's taxpayers are convinced they're getting their money's worth.

THE 1976 PRESIDENTIAL PRIMARY DATES

State and date:
New Hampshire, Feb. 24.
Massachusetts, March 2.
Florida, March 9.
Illinois, March 16.
North Carolina, March 23.
New York, April 6.
Wisconsin, April 6.
Pennsylvania, April 27.
Texas, May 1.
Alabama, May 4.
Georgia, May 4.
Indiana, May 4.
District of Columbia, May 4.
Tennessee, May 6.
Nebraska, May 11.
West Virginia, May 11.
Maryland, May 18.
Michigan, May 18.
Idaho, May 25.
Kentucky, May 25.
Nevada, May 25.
Oregon, May 25.
Mississippi, June 1.
Montana, June 1.
Rhode Island, June 1.
South Dakota, June 1.
Arkansas*, June 8.
California, June 8.
New Jersey, June 8.
Ohio, June 8.

* Arkansas is expected to change its presidential primary date to May or March.

Mr. TAFT. Mr. President, I believe that we owe passage of this amendment to

the people who choose to use the Federal income tax checkoff system. I am confident these individuals, like the majority of the Congress, do not want to see the matching funds go to keep dead candidacies alive.

Mr. President, I urge passage of my amendment.

Mr. President, I ask for the yeas and nays on my amendment and I reserve the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAYH. Will the Senator yield for a question?

Mr. TAFT. The time is under control. Does the Senator wish to talk on my time?

Mr. BAYH. Will the Senator from Nevada permit me to have a couple of minutes to address myself to this matter?

Mr. CANNON. I yield 5 minutes to the Senator.

Mr. BAYH. As one who, I must say, comes to this particular issue with perhaps less than total objectivity, try as I will, I find the general thrust of the Senator from Ohio's amendment salutary.

I do not know whether 10 percent of the vote is the place to identify a candidate's viability, or not. Regardless, I wonder if on the second page, the fifth line, the Senator would be willing to accept an amendment after "candidate" which says "competes actively and receives less than 10 percent"?

I ask him to consider that because the State laws in some States now permit a local official to make the determination of who is going to be on the ballot. Thus a State official can try to determine the strategy of someone running for the presidency. Even though one's name is placed on the ballot, one might not choose to campaign in a State and thus finish below the 10-percent figure but lose matching funds under the amendment. It seems to me that situation is probably not what the Senator from Ohio is directing his attention to.

Mr. TAFT. I think the Senator from Indiana makes an excellent point and this was a point we tried to cover in the language of the amendment.

I point out to the Senator that on line eight we have the words:

If the candidate permitted or authorized the appearance of his name on the ballot.

In other words, if the name of the candidate appeared on the ballot, if not permission or authorization, as possible under some State laws, that primary election would not be counted for the purpose of the 10 percent minimum requirement.

I think it takes care of the problem the Senator is concerned with.

Mr. BAYH. I would like to again urge my colleague from Ohio to consider the fact that in order to take advantage of the provision on line eight, while it is possible to take one's name off the ballot in some states, in order to do that one has to totally disavow the national candidacy, which one may not want to do.

For example, an active and viable candidate may wish to spend his money some other place than a State where his name is placed on the ballot by a State official.

Would there be any great change in the thrust of the Senator's amendment to add "competes actively"?

To make my concern clear: One can take his name off the ballot in some States, but to do that he has to disavow any future intention to be a national candidate. I am certain it is not the Senator's intention to require a national candidate to spend money and to campaign in States one feels did not make sense for his candidacy.

Mr. TAFT. I think the Senator has a point. I think the language he has used and the place he has used it might be confusing. Other than that, I am inclined to suggest we add at the end of the sentence on line 9 words along the line of "or has indicated his desire to withdraw from active participation in the primaries in question."

Mr. BAYH. Why do I not yield the floor and get together with my colleague from Ohio, or his staff member, as long as he understands and is in general favor with the concern I express.

I do not care where we put the language. As I say, I think his idea of making certain Federal funds go to credible candidates, realizing it may be risky for us to establish a standard of credibility, nevertheless is wise. But I am trying to point out a very real technical problem that exists. It does not exist to me, frankly, as one who made the decision to be less than an active candidate. My name was on the Florida ballot, for example, even though I was out of the picture and was not actively campaigning.

I use that as a personal experience similar to that which might confront another candidate who is active now or would be in another election.

I thank my colleague.

Mr. TAFT. I thank the Senator for calling the matter to my attention.

Mr. President, I send an amendment to the desk and ask unanimous consent that the amendment be modified as indicated.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is so modified, as follows:

On page 1, in subsection (c)(1) after the word "ballot", add the following:

"or has indicated his desire to withdraw from active participation in the primary in question."

Mr. CLARK. Is it my understanding that I have been yielded 3 minutes?

Mr. CANNON. Five minutes.

Mr. CLARK. Five minutes.

I wish to discuss with the Senator from Ohio the effects of his amendment.

It seems to me that the intent of it is commendable because he would, in fact, try to avoid giving matching funds, Federal tax money, in effect, to candidates who were not serious candidates or who had proven through their own primary election efforts that they were not able to attract votes.

But I wonder, in fact, if we would not find if we adopted this amendment that certain serious candidates might, in fact, find themselves at a disadvantage in comparison with other candidates.

Let us remember, first of all, that these are not grants of money to candidates. We do not simply give the money to a candidate. They have to raise it by going out in a number of States and raising a rather significant amount of money in small amounts.

These are matching funds. These are funds, really, only given to a candidate if he goes out and raises the same kind of money himself.

But second, and perhaps more important, suppose a candidate were to enter a race rather late. Let us suppose a candidate decides, for one reason or another—and we have seen this happen in the past—that he wants to go into the New Hampshire primary and he decides that only a day or two or three before the New Hampshire primary, and perhaps another primary follows a week later; he may be a very serious candidate and, indeed, if given time to prove that, may even emerge as the nominee. Yet in that first race and in the second race a week later, he may well find he is not well enough organized, he does not have the media, he does not have the wherewithal yet to really put it together. We would be saying, "You're done unless you can come back in at a disadvantage with other candidates and raise that vote total to 20 percent."

I wonder if, in fact, the effect of the amendment would not be to put at a disadvantage rather serious candidates.

Mr. TAFT. I think the first question boils down to whether someone who does not get more than 10 percent of the vote on two consecutive dates is a serious candidate. We have to make that judgment. This is an arbitrary figure one arrives at. We do a lot of arbitrary things in this particular bill.

My feeling is if a man is a serious candidate he is going to meet that 10 percent. He probably is not going into a primary where he will get less than 10 percent, certainly not go into two where he will get less than 10 percent.

I would point out again, which I am sure the Senator understands, there is nothing in this amendment which would prevent a man from continuing to be a candidate. In fact, there is a requalification procedure. If he then becomes a more serious candidate at a later time, goes into another primary campaign in a particular State and gets 20 percent of the vote, he is restored to matching at that time for any funds raised from that point on.

Also, of course there is a 30-day lag in the cutoff after the two 10 percent or less than 10 percent primaries, in which period he still would have the privilege of getting matching funds against funds that he raised during that period. All in all I think there is a sufficient period there to get off the ground any candidate who is really a serious contender. We have been criticized a good deal for having our primary campaigns too long anyway, dragged out, divided, and confusing for the public generally. It seems to me that this measure would prevent the

kind of criticism that we are getting now, I think very validly, for allowing the continuation of matching payments for people who are no longer candidates. We have not been able to come up with any better answer than the one we propose in this particular amendment.

Mr. CLARK. The Senator would agree, as I understand it, that if, indeed, a candidate did enter very late and was not able to get the 10 percent within the first 8 days—because there are often two primaries, one following the other within 7 days—if he or she were not able to get his or her campaign together adequately to raise 10 percent in those first two, they would be an enormous disadvantage to the candidate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TAFT. All I would say to the distinguished Senator from Iowa is if I were that candidate and my campaign manager advised me to go into the two States where I did not get 10 percent, I would be looking for a new campaign manager very quickly.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. I yield myself 2 minutes. I would say that not only would the Senator be looking for a new campaign manager but new financing as well.

I think the Senator makes a very good point. I am not sure that his breakoff point is correct, but I do believe we have to have some provision that terminates when a person demonstrates that they are not a viable candidate. I think we have seen that in the experience so far with the law as it now is. I would be inclined to accept his amendment though, as I say, I am not sure that his point of determination of a person being a nonviable candidate is precisely the correct point. I do not have a better one to offer. I had an amendment, which is printed and at the desk, which was directed generally along these same lines, to achieve the same result.

Mr. BAYH. Will the Senator yield?

Mr. CANNON. Yes.

Mr. BAYH. I respectfully suggest that if we had about 3 minutes for a quorum call we could deal with the problem that I was concerned about and that the Senator from Iowa was concerned about in the language which is now being debated. We could give the candidate the option, as in the example the Senator mentioned and the one that I mentioned, by advising in writing that he did not intend to actively seek support in a given State. I think what we are trying to accomplish is to avoid penalizing candidates who do not seek support in States where their name is placed on the ballot by State law. It is not for us to determine what the strategy of future campaigns or this campaign is going to be, to determine where candidates spend their time or money. I do not think we want to do that. May we have a couple of minutes?

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TAFT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordererd.

Mr. TAFT. Mr. President, I send a modification of my amendment to the desk and ask unanimous consent for its adoption.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

On page 1, in subsection (c)(1) after the word "ballot", add the following: "or certifies to the Commission that he will not be an active candidate in the primary".

At the end of subsection (c)(1) add the following new sentence:

"The provisions of this section shall apply as of the date of enactment."

The PRESIDING OFFICER. Is there objection to the modification of the amendment? Without objection, the amendment will be so modified.

Mr. TAFT's amendment, as modified, is as follows:

At the end thereof add the following new section:

TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT

SEC. —. Section 9037 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates in primary campaigns) is amended by adding at the end thereof the following new subsection:

"(c) Termination of Payments for Lack of Demonstrable Support.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, no payment shall be made under this chapter to any candidate more than 30 days after the date of the second consecutive primary election in which such candidate receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election if the candidate permitted or authorized the appearance of his name on the ballot or certifies to the Commission that he will not be an active candidate in the primary. If the primary elections are held in more than one State on the same date, a candidate shall, for purposes of this subsection, be treated as receiving that percentage of the votes on that date which he received in the primary election conducted on such date in which he received the greatest percentage vote. The provisions of this section shall apply as of the date of enactment.

"(2) REINSTATEMENT OF PAYMENTS.—Notwithstanding the provisions of paragraph (1), a candidate whose payments have been terminated under paragraph (1) may again receive payments (including amounts he would have received but for paragraph (1)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.".

Mr. TAFT. Mr. President, as the amendment is modified, I would just advise the Senate that we have worked out with a number of Senators on the floor this modification, which would allow a candidate who is not a serious candidate in a particular primary election to certify to that effect, and under those circumstances, if he receives less than 10 percent of the vote in that primary, it would not be a disqualifying primary for the purposes of the general disqualification established by the amendment.

The PRESIDING OFFICER. The Senator has 1 minute remaining on his amendment.

Mr. CANNON. Mr. President, as stated earlier, I support the Senator's amendment in principle. I have reviewed it——

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order? The Senate will be in order.

The Senator from Nevada may proceed.

Mr. CANNON. Mr. President, I have reviewed the Senator's amendment as it is now modified. It has the same objective, as I have said, that I had in an amendment I sent to the desk yesterday to have printed, and I am willing to accept the Senator's amendment as modified.

Mr. GRIFFIN. Mr. President, will the Senator yield to me?

Mr. CANNON. I yield.

Mr. GRIFFIN. Is the amendment now pending to the substitute or to the committee bill?

The PRESIDING OFFICER. It is to the substitute.

Mr. GRIFFIN. I appreciate the fact that the floor manager is willing to accept the amendment as an amendment to the substitute. I am sure he did not mean it that way but I take it that it would be the intention of the Senator from Ohio to immediately also offer it to the bill.

Mr. TAFT. I had that intention.

Mr. GRIFFIN. Then that would, of course, make things appropriate. Is the Senator going to have a rollcall?

Mr. TAFT. Mr. President, I ask unanimous consent to withdraw the order for the yeas and nays on the amendment.

Mr. GRIFFIN. Mr. President, reserving the right to object—I do not intend to object, and I hope I shall not—we had a similar situation with regard to the Mathias amendment with reference to the two independent Commissioners to be appointed. That was adopted on the substitute, and I am sure it would be a formality to have it also adopted on the bill. I would like to be recognized for a few moments after we deal with the Taft amendment on the substitute and the bill for that purpose. I ask unanimous consent, Mr. President, that I be recognized after the disposal of the Taft amendment for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there objection to vacating the order for the yeas and nays on the amendment of the Senator from Ohio? Without objection, it is so ordered.

The question is on agreeing to the amendment, as modified, of the Senator from Ohio (Mr. TAFT).

Mr. CANNON. I yield back the remainder of my time.

Mr. TAFT. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Ohio, as modified.

The amendment, as modified, was agreed to.

Mr. TAFT. Mr. President, I call up an amendment on the bill in the exact form of the amendment that has just been adopted on the substitute.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT's amendment is as follows:

At the end thereof add the following new section:

TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT

SEC. —. Section 9037 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates in primary campaigns) is amended by adding at the end thereof the following new subsection:

(c) TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, no payment shall be made under this chapter to any candidate more than 30 days after the date of the second consecutive primary election in which such candidates receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election if the candidate permitted or authorized the appearance of his name on the ballot or certifies to the Commission that he will not be an active candidate in the primary. If the primary elections are held in more than one State on the same date, a candidate shall, for purposes of this subsection, be treated as receiving that percentage of the votes on that date which he received in the primary election conducted on such date in which he received the greatest percentage vote. The provisions of this section shall apply as of the date of enactment.

"(2) REINSTATEMENT OF PAYMENTS.—Notwithstanding the provisions of paragraph (1), a candidate whose payments have been terminated under paragraph (1) may again receive payments (including amounts he would have received but for paragraph (1)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.".

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. CANNON. I yield back my time.

Mr. TAFT. I yield back any time I may have remaining.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. GRIFFIN. Mr. President, I send to the desk an amendment to the substitute, and ask unanimous consent that the reading of the amendment be waived, with the explanation that this is the Mathias amendment as adopted earlier to be put on the bill itself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN's amendment is as follows:

In section 2(a) of the amendment, strike out "six members" and insert "eight members".

In section 2(a) of the amendment, after "the same political party" insert the following: ", and at least two of the members shall not be affiliated with any political party".

In section 2(b) of the amendment strike out "six years" and insert "eight years".

In section 2(b), strike out "1981." and insert "1981, and".

In section 2(b) of the amendment before subparagraph (B) of section 310(a)(2) of the Act as amended by section 2(b), insert the following:

"(iv) two of the members, not affiliated with any same political party, shall be appointed for terms ending on April 30, 1983.".

Page 4, line 20, strike "four" and insert in lieu thereof "five".

Mr. GRIFFIN. I yield back the remainder of my time.

Mr. CANNON. I yield back my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

AMENDMENT NO. 1430

Mr. BUCKLEY. Mr. President, I call up my amendment No. 1430, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. BUCKLEY) proposes an amendment numbered 1430.

Mr. BUCKLEY's amendment (No. 1430) is as follows:

On page 27, line 9, strike out "$1,000." and insert in lieu thereof the following: "$5,000.".

On page 27, line 23, strike out "$5,000;" and insert in lieu thereof the following: "$25,000, except in the case of a candidate for election to the office of representative, the contribution shall not exceed $10,000;".

Mr. BUCKLEY. Mr. President, this is an amendment to the bill itself. I call the attention of the Senate to a typographical error on line 1. Where it reads "line 9" it should read "line 19," and I modify my amendment to correctly reflect the line number.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. BUCKLEY's amendment, as modified, is as follows:

On page 27, line 19 strike out "$1,000." and insert in lieu thereof the following: "$5,000.".

On page 27, line 23, strike out "5,000;" and insert in lieu thereof the following: "$25,000, except in the case of a candidate for election to the office of representative, the contribution shall not exceed $10,000;".

Mr. BUCKLEY. Mr. President, the purpose of this amendment is simple. What it would do would be to raise the permissible contribution by an individual from the current level of $1,000 to a new threshold of $5,000. Also, with respect to political committees, which are now restricted to contributions aggregating $5,000 or less for a single candidate, they would be permitted to give up to $25,000 to a Presidential or Senatorial candidate, and $10,000 to a candidate for the House of Representatives.

Current limitations in the bill discriminate against challengers in two important respects. In the first place, it is much more difficult for a challenger without the benefit of a wide recognition factor and the perquisites of office to obtain sufficient contributions in small amounts to provide the necessary seed money to launch his campaign. This is because challengers are less well known than incumbents, and do not have the use of mailings lists available to incumbents and of the mailing-list facilities of the Senate computer.

Furthermore, challengers who are not independently wealthy do not have the benefit of large amounts of cash on hand at the outset of their campaigns. In preparation for the 1974 elections, incumbent Senators seeking reelection had $1,402,083 in cash on hand on September 1, 1973. In 1974 House races, incumbents had $398,097 on hand on September 1, 1973. It is an undeniable fact that incumbents have a far easier time raising funds than most challengers. It is also an undeniable fact that challengers must usually spend signficant sums at the outset of a campaign just to gain the recognition already possessed by the incumbent by virtue of his office.

There is another way in which the 1974 amendments to the election law discriminate against challengers and in favor of incumbents. In imposing limitations upon permissible contributions to candidates, Congress failed to include any provision to offset the advantages it grants to itself through the prerogatives of office. In 10 years, the cost of the frank alone has risen from $7.5 million in 1966 to a projected $46 million in 1976. Americans for Democratic Action has estimated that the total advantage per term which an incumbent Congressman possesses by virtue of his perquisites of office amounts to about $976,000. This colossal lump-sum transfer, which is exempt from the $1,000 contribution ceiling, constitutes a contribution which few could equal from private sources even if it were allowed under the election laws.

That the drafters of the 1974 amendments were perfectly aware of the advantages to their own incumbencies is evidenced by this bald, unequivocal statement in the Senate report on those amendments:

Lower limits on campaign contributions, by themselves, would serve to increase the advantages incumbents presently have in fund raising.

At the very least, we should demonstrate to the American people that we will not, in fleeing from Watergate, seek refuge in the incumbency-maximizing techniques which characterized that period.

There is a second problem concerning discrimination in favor of affluent candidates which has been presented in the wake of the Supreme Court's decision in Buckley against Valeo. Now that the Supreme Court has held that wealthy candidates may, as a constitutional matter, spend unlimited amounts of money from their own personal assets to forward their own campaigns, it is only the less wealthy candidates who are now effectively restricted in their attempts to make their campaigns viable.

It is my opinion that the Court, when faced with a specific example a candidate

discriminated against in this manner, will declare such a state of affairs unconstitutional. It is my opinion that Congress should act immediately to eliminate the inequities inherent in the campaign laws before such a course is forced upon it by the Supreme Court.

Mr. President, I should like to call attention to another factor involved in volved in campaigns.

I do not think that this body has sufficiently focused on the extraordinary inequities that have now evolved as a result of the Supreme Court's decision. As I said a little earlier, people who are independently wealthy or candidates who happen to have the support of well-organized and well-financed independent political action committees are able to spend virtually unlimited sums, while, on the other hand, the unknown challenger is forced to rely on the contributions available under the $1,000 limit in order to launch a successful campaign.

This kind of candidate is particularly in need of what is called seed money—that is, the initial funding to get the campaign off to a good start.

I say quite candidly, Mr. President, that I could not be in this Chamber today but for the fact that some people were willing to provide me with about $50,000 of seed money in 1970. Only with that money in the bank was I able to establish myself as a credible candidate. Only with that money in the bank was I able to conduct the polling required; to open an office, which required a $15,000 deposit; or to even get the telephone company to come in and wire the office. They would not do so unless an additional $15,000 was advanced.

So I submit that elementary fairness and equity should mandate that we raise the current limits to a level where a new face can seek the kind of support required to launch a credible candidacy.

The limits I have selected here are such that I do not think anyone possibly could claim that a candidate might be "bought." I am talking about $5,000 from individuals; and in the case of political committees, we are talking about the following figures, in relation to the particular type of election; namely, senatorial and Presidential on one side, where there would be a $25,000 contribution, down to $10,000 in the case of the House.

I believe that the Members of this body should take into consideration another consequence that is probable should we fail to raise these limitations. Because the Supreme Court decided that independent groups and individuals may spend whatever they wish in support of a particular candidate, so long as that spending is not coordinated with the particular candidate's campaign effort, we will find that we will be fracturing political campaigns. We will see groups going off on their own tangents, putting ads in the paper, printing literature, doing whatever they wish, and the candidate will have no ability to coordinate these expenditures into a comprehensive effort to inform the public what he believes and why.

For all these reasons, Mr. President, I hope that this body will support this amendment.

Mr. CLARK. Mr. President, will the Senator from Nevada yield me 3 minutes?

Mr. CANNON. I yield 5 minutes to the Senator.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield, without the time being charged against him?

Mr. CLARK. I yield.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the substitute amendment occur at 2 p.m. instead of 1:45 p.m., and that the one-half hour during which no amendment may be offered be that period between 1:30 and 2 p.m., rather than 1:15 p.m. and 1:45 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. CLARK. Mr. President, in listening to the Senator from New York explain his amendment and in reading it the intent of the amendment is very clear; and I think none of us should have much difficulty in understanding what it would do. I think he makes some valid arguments in terms of his position. But let us look at what the effect would be.

What we are saying is that individuals would not be limited by a $1,000 contribution but that that would be increased five times over. An individual under this amendment, actually could contribute $5,000. Who can contribute more than $1,000 to political campaigns and candidates, with the rare exception of relatives or someone very close to the campaign who may be willing to make a special sacrifice out of their own lives to help a candidate? That would be a very, very small number of people, who might be very close to and might be interested in the candidate.

So almost all the additional money is going to come from people whom we could identify as being wealthy. There are very few people in this country who can contribute more than $1,000, except the wealthy.

I believe that the whole purpose of this bill is to try to encourage more people at lower levels to participate in the process, to try to become less dependent upon the rich in politics, to make all of us less dependent upon that kind of contribution.

So, to increase the individual contribution from $1,000 to $5,000, five times over, seems to me, in effect, to give wealthy contributors five times the influence that they presently have under the law.

Second, what we are talking about doing in terms of committees is the same thing so far as Presidential and congressional campaigns are concerned.

We are going to increase the amount five times over. It does not seem to me that that goes in the direction or the intent of campaign finance reform or campaign reform.

I know that the Senator from New York, for a very good reason, and some very strong reasons from his point of view, feels that these efforts in the past have, for the most part, been in the wrong direction. But I think that the majority of the Members of this body have expressed themselves clearly that they do not want to go in the direction of a greater influence from wealthy people and that they do not want to go in the direction of bigger money for committees. For those reasons, I feel confident that this body would vote "No" on this amendment.

I yield back the remainder of my time to the floor manager.

Mr. CANNON. Mr. President, I yield to the Senator from Texas.

VISIT TO THE SENATE BY A MEMBER OF THE NEW ZEALAND PARLIAMENT

Mr. TOWER. Mr. President, I am pleased to present to the Senate Mr. Robert Talbot, a member of the Parliament of New Zealand for South Canterbury, and the Chairman Designate of the Foreign Relations Committee of the New Zealand Parliament.

[Applause, Senators rising.]

RECESS

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 minute so that Members may greet our distinguished guest.

There being no objection, the Senate, at 12:10 p.m., recessed until 12:11; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. JOHNSTON).

FEDERAL ELECTION CAMPAIGN ACT AMENMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I do not have time. Is the time under the control of the Senator from New York?

The PRESIDING OFFICER. That is correct, and the Senator from Nevada.

Mr. PACKWOOD. Will the Senator yield me 2 minutes?

Mr. BUCKLEY. Yes.

Mr. PACKWOOD. Mr. President, I am going to join with the Senator from New York. This is a change of direction from my previous views. I supported the lower limits before, but I think the lower we make these limits, the more we make this an incumbents' paradise.

From a selfish standpoint, I could wish we had lowered the limits to $100. Nobody can give more than that, and very few incumbents would ever be defeated. Let us face it: incumbents start out with a couple of hundred thousand dollars worth of publicity, from serving 2 years in the House, or 6 years or more in the House or the Senate. When we are talking about an unknown challenger starting out and that challenger has very low limits of contributions placed upon him, unless the challenger candidate happens

to be wealthy, there is no way that that challenger, in most cases, is going to be well enough known by November to be elected.

When we look at the statistics over the past years, the number of incumbents that win is bad enough as it is. If we keep these limits where they are, I expect on replacement that from 95 to 96 percent of the House will be reelected and 90 to 95 percent of the Senate will be reelected. So I very strongly support the Senator from New York in supporting this amendment.

Mr. BUCKLEY. I yield myself 2 minutes.

I want to thank the Senator from Oregon for saying precisely what the consequences are of the existing legislation. The Senator from Iowa said that my amendment would somehow tilt the scales in favor of the wealthy people. I say that its designed to do precisely the opposite. Right now, because of the Supreme Court's having found unconstitutional any limitation on direct spending by a candidate, a wealthy candidate can spend unlimited amounts of money.

Also, well-financed, well-organized political action committees can spend as much money as they want in support of a particular candidate, again in unlimited amounts.

Who are the people who cannot muster the resources under this bill? The people, I suggest, are those who are not incumbents, and, therefore, do not have a wide spread of contacts that they can tap, or people who do not have large personal means, or people who do not seem to appeal to one of these well-organized political action committees.

I believe that the only way we can help restore the scales, in terms of access to money to wage a credible campaign, is to lift the individual limits so that the money can come in and get people started.

I have heard it stated, for example, that our colleague (Mr. McGOVERN) could never have successfully fought for the nomination had he not had some supporters early in the game who believed in him, believed in what he was trying to accomplish, and provided him with that essential seed money.

This, I suggest, is not possible under the present circumstances.

Again, to answer the statement by the Senator from Iowa with respect to wealth, the fact is that at the present time, anybody with money who wants to support any political cause can do so in unlimited amounts. The only thing he cannot do is contribute to a particular candidate sums in excess of $1,000 so as to enable that candidate to organize a campaign to establish credibility, to overcome the enormous disadvantages that a newcomer has when facing an entrenched incumbent, and get himself off in the race with some hope that he might be able to present his views clearly enough and effectively enough to win an election. So this is anything but legislation intended to help the wealthy; rather, it is intended to equalize the scales against the wealthy. I hope the Senate will give it its approval.

Mr. CANNON. Mr. President, I yield myself 2 minutes.

The Senator from New York appeared before the Senate Committee on Rules and made his position known in this area, with respect to the limitation on financing. The committee did have in mind the limitations that are imposed now by the Supreme Court. I must say that I find some difficulty, myself, in the Court's decision that permits unlimited spending by an individual on his own campaign and permits unlimited spending in an independent effort by others, either for or against a candidate, and then says that the limitation of a $1,000 contribution was constitutional. It does give me some problems. In any event, that was the wish of the committee. We did act on that very deliberately and I would be forced to oppose the amendment.

Mr. BUCKLEY. Mr. President, I should like to ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. Mr. President, I want to pursue this a bit further so the record is clear. Let us assume you are an unknown challenger. You served on the city council of one of the towns of your State or in the State legislature, but you are fairly unknown outside of the district or town you are from. How do you go about, under this limitation, starting to get enough seed money to raise money? What do you do?

Mr. BUCKLEY. I can tell the Senator from my own experience, it is extremely difficult.

Mr. PACKWOOD. You cannot afford to do any kind of mass mailing, because frankly, mailing, as we all know, is quite expensive. You are talking about mailing in the order of 200,000 to 300,000 pieces.

Mr. BUCKLEY. All you can do is hope to get people to talk to other people. I have been in two races. In the first, I had no chance to win. But important contributions do not go to people who are not considered credible candidates. You therefore have to have a certain amount of activity. You have to get some favorable press comment. You have to have a poll that indicates that on specific issues, you have got popular support, and so on, before you can get the kind of money that is required to open a headquarters, to get the telephones, to send out the mailings, to do all of the mechanical things essential to a political campaign.

Mr. PACKWOOD. We have almost got the dog chasing the tail. You have to have some seed money to collect other money, and this bill is going to prohibit you from getting the seed money, and you cannot get other money, and you are going to undo the whole race.

Mr. BUCKLEY. I think it would be constructive if I stated my own situation in my second race. I was a candidate of a third party. We all know third parties do not win elections in a big State like New York or smaller States like Oregon. But I happened to be the Conservative candidate. I entered the race, and I felt confident that I would have a reasonable chance, but I found that even though I spoke to dozens of people who believed in what I believed in they would not part with their money. They said, "Give us the proof." I said, "I think I am a credible candidate. I think you are not wasting your money. I think I do have a chance under this year's circumstances."

They said, "Where is the proof? Where is the poll?"

I was able to get a poll. Why? Because one family contributed $15,000. That got us a poll. OK. That then showed I could win.

Mr. PACKWOOD. Which right away would be prohibited under this new law. Lou never would have gotten the $15,000 to start with.

Mr. BUCKLEY. Exactly.

Mr. PACKWOOD. All right.

Mr. BUCKLEY. Even so that was not quite enough to persuade enough people to get an election headquarters. You have to start a campaign with people in place, with the appearance of confidence even if you did not have confidence, in order to get the press attention, to get you started and your message rolling.

Weeks and weeks went by, and I was unable to put the pieces together until a friend of mine said, "I will lend you $50,000 to be repaid out of further collections after you get a mailing launched," and so on.

With that $50,000 I was able to do three things: Get myself a headquarters—visibility which is terribly important; No. 2, to get telephones put into my headquarters, essential in a State like New York; and No. 3, to initiate a mailing which, from that point forward, was a principal source of my campaign financing. But without that friend I could never have got started.

Mr. PACKWOOD. And you found as soon as you got the headquarters and visibility you suddenly became more newsworthy and got more exposure on television because you had a headquarters, and so you put up the headquarters.

Mr. BUCKLEY. Precisely. Because I was more visible and everything seemed to be running——

Mr. PACKWOOD. And under this bill you cannot even get a loan to pay back.

Mr. BUCKLEY. Exactly.

There is another thing here that affects a third party but not regular party candidates. A political party is able to give its candidate a substantial contribution. Not every political party is able to do it, but certainly a third party almost never has that kind of money around. Usually they are going for debt to debt and loan to loan. But, as I say, I believe the law as it now stands, especially in light of the inequities which have resulted from the Supreme Court decision, makes it virtually impossible for a challenger to get started and, I think, it is unconscionable, frankly, that we do not recognize this.

The purpose for these limitations was originally to avoid corruption, was it not?

Mr. PACKWOOD. Absolutely.

Mr. BUCKLEY. No one is going to be corrupted by a $5,000 gift in a campaign that costs $2 million. And we have the disclosure provisions which allow the whole world to know who is contributing in your campaign.

Mr. PACKWOOD. That is the key part,

when you have disclosure, when it is ahead of the election not after the election, ahead of the election, and certainly your opponent is going to point to every conceivable dirty contribution you have had and say, "Shame, look where he is getting his money from," and that in and of itself normally should be sufficiently cleansing, and I frankly wish we would go back to where we were, or at least change where we are, and have full disclosure of everything from a penny on upward, and take off all limits on contributions. But, obviously, we are not going to do that.

Mr. BUCKLEY. That is why I agree with the Senator from Oregon, and that is why I proposed rather modest increases again to allow someone to get started.

Mr. PACKWOOD. I do have an amendment I may want to offer to the Senator's amendment. Is an amendment in order to the Senator's amendment?

The PRESIDING OFFICER. At the time when the time has either been yielded back or used an amendment would be in order.

Mr. PACKWOOD. At a time when it has been yielded back or used it will be in order.

May I ask for a quorum call now to consult with the Senator very briefly?

The PRESIDING OFFICER. On whose time?

Mr. PACKWOOD. I ask that it be divided equally, if the Senator does not mind.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. May I have—I thank the Chair.

The PRESIDING OFFICER. Was there objection?

Mr. CANNON. The Senator is taking it out of his time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BEALL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I ask unanimous consent that David Rust from my staff be granted the privileges of the floor during the debate on this bill and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BEALL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BEALL. Equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. CLARK. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BEALL. Mr. President, I ask unanimous consent that the time for the quorum call be taken out of the time of the proposers of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGH SCOTT. I seek recognition.

I think that some comments are in order at this time regarding the obvious unconsitutionality of section 111 of the bill we are now debating—the so-called Election Campaign Act Amendments of 1976.

In its present form, section 111 of Senate bill 3065 adds a new section 321 to title 2 of the United States Code, replacing the existing 18 U.S.C. 610, which generally prohibits contributions by national banks, corporations, or labor organizations, but permits them to pay the costs of establishing, administering, and soliciting contributions to a separate segregated fund to be used for political purposes. This new section would limit the classes of persons who may be either informed or solicited for contributions. Proposed section 321 would make it illegal for a corporation, or a political committee created by it, to solicit contributions to the committee from any person other than the corporation's stockholders, executive or administrative personnel, and their families. It would, at the same time, prohibit a labor organization and any of its political committees from soliciting contributions from any persons other than union members and their families. These restrictions would affect not just solicitations, but the dissemination of information.

The ultimate consequence of this section's provisions, however, goes further than merely preventing large numbers of persons from contributing to or receiving information from those political action committees—with whom they identify. It deprives vast numbers of individuals, some 75 million, from being given the opportunity of associating with either labor organizations or corporate management. Preserved under this proposed section are the separate constituencies of labor and business—union members and corporate executives. Forgotten, ignored, and discriminated against are millions who are neither executive officers nor union members, but who have a vital interest in the political climate in which their employers or unionized fellow workers operate, and who might well wish to support one or the other's political action committee.

Section 321's blatant abridgement of the freedom of expression in the political area far exceeds what any court would countenance. Solicitation of contributions by corporations or labor organizations to their respective political action arms is a form of expression, regardless of whether it is oral or written. And while the regulation of conduct or the manner of expression can be constitutionally permissible, the Supreme Court, in United States against O'Brien, which was favorably cited in the Buckley case, set forth a constitutional test for regulation of courses of conduct having both speech and nonspeech elements.

The PRESIDING OFFICER. The time of the proponents of the amendment has expired. The Senator from Nevada has 23 minutes.

Mr. CANNON. I yield 2 minutes to the Senator.

Mr. HUGH SCOTT. I thank the Senator.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, to be constitutionally acceptable, the Government must have a substantial interest unrelated to suppression of first amendment freedoms, and the regulation itself must be no greater than is necessary to further the interest and can have only incidental impact on those freedoms.

Admittedly, the Federal Government has a substantial interest in its electoral process and in the preservation of the right and freedoms of individuals to participate fully in our unique political process. But, where the speech of any individual does not infringe upon another's rights, then the Government can demonstrate no legitimate interest.

The new section 321 fails the O'Brien test, since it restricts not only the manner of solicitation, but also its extent. Inas much as unions or corporations are restricted to solicitations of narrowly defined classes of persons, the extent of the solicitations, or speech, is also restricted. Such restrictions are clearly prohibited by the Constitution. The Supreme Court made this distinction between "manner" and "extent" in Buckley against Valeo, and held that direct quantity, or extent, restrictions on political communication are not permissible under the Constitution.

Mr. President, I am convinced of the desire on the part of my colleagues in this Chamber to enact a fair, equitable, and workable election law. Section 321, however, is the antithesis of what is fair, equitable, and workable. It will accomplish nothing but the further polarization, this time by legislative dictate, of management and unions. It will relegate to political limbo a very substantial number of our fellow citizens, the very people who were originally intended to be the beneficiaries of these reform measures. But, far worse, it gives a congressional stamp of approval to the denigration of our most cherished, our most valuable, and our most sacred right—the right of free speech.

Mr. President, I ask unanimous consent that a list of occupations which are excluded under the pending bill be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST

Commercial, professional, educational, and service occupations that do not fall within definition of an "executive" or "administrative" employee.[1]

[1] Source: Fair Labor Standards Act and Regulations Title 29, Part 541 of the Code of Federal Regulations, U.S. Department of Labor, Wage and Hour Division.

Accountant, accounting clerk; actor, administrative clerk, advertising workers/writers, announcer, radio; announcer, television; apprentice machine operator, artist, assistant section supervisor (key tape), assistant unit supervisor, bank clerks, bank tellers.

Bookkeeper, bookkeeper, head; camera men, carpenter cartographers, cartoonist, cashiers, checker, chemist, cleaning staff, clerk, clerk, chief; clerk, coding.

Clerk, counter; clerk, data exam; clerk, mail/bindery; clerk, principal; clerk, receipts; clerk, shipping; clerk typist, clerks, file; columnist, comparison shopper, composer.

Computer operator, computer operator trainee, computer programmer, correspondence typists, craftsman, custodian, delivery man, dental assistants, dental technicians, dentist, dietitian, displaymen, doctor/surgeon/anesthetist.

Draftsman, dramatic critic, driver salesmen, editorial assistant, engineer, engineer, junior, executive secretary, food processors, graphic designers, guard, hotel assistants, illustrator, inside salesman.

Inspector, interns, interpreters, jobber's representative, jobber's salesman, journalist, junior programmer, key punch operator, key tape operator, laundry/dry cleaning personnel, lawyer, legal paraprofessional, legal stenographer.

Librarian, library assistants, linotype operator, lumber grader, machine operator, maintenance personnel, master press operator, mechanic, medical paraprofessional, medical technologist, messengers.

Methods engineer, musician, newspaper writer, novelist, nurse, office machine operators, painter, painter's assistant, personnel clerk, pharmacist, photographers.

Physician, physician, intern, physician, osteopathic, physician, resident, podiatrist, press operator, programmer trainee, proofreader, psychologist, psychometrist, rate setter, receptionist.

Record control clerk (K/P), registered nurse, reporter, representative, manufacturer's, researchers, retail routeman, retoucher, photographic, route driver, routeman, salesman, dealer; salesman, distributor.

Salesman, laundry; salesman, route; salesman, telephone; salesman, typewriter repair; salesman, wholesale; salesman's helper, sales research expert, scientific technicians, secretary, serviceman, social worker, statistician.

Stenographers, stock clerks, tape librarian, teaching assistants, technologist, therapist, timekeeper, traffic clerks, trainer-salesman, truck driver.

Typists, unit supervisor, watch engineer, word processing operator, writer, xerox operator, x-ray technician, public relations staffer.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that with the exception of the last 2 minutes which the distinguished Senator from Nevada has yielded me, that my time may be taken from the time of the substitute offered by Mr. GRIFFIN.

The PRESIDING OFFICER. Is there objection?

Mr. CHILES. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CHILES. Reserving the right to object, I want to say to the distinguished minority leader that some of us have been waiting all morning to present our amendments. There is a fixed time, a certain time we are going to vote on the Griffin amendment, or take it up.

Some of us who have been sitting here all morning waiting for an opportunity to present our amendments feel that we should have a chance to present and discuss those amendments.

That was the purpose of this Senator's objection.

The PRESIDING OFFICER (Mr. STONE). The 2 additional minutes granted have expired.

Mr. CANNON. Mr. President, do I understand the time on the Senator's amendment has expired?

The PRESIDING OFFICER. The time of the proponents has expired.

Mr. CANNON. Of the proponents, and the yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

Mr. PACKWOOD. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an amendment to the amendment of the Senator from New York (Mr. BUCKLEY), No. 1430, as follows:

On page 28, line 3, strike out "Contributions" and insert in lieu thereof the following: "The limitations on contributions contained in the preceding sentence do not apply to transfers between and among political committees which are National, State, district, or local committees (including any subordinate committee thereof) of the same political party; but contributions".

The PRESIDING OFFICER. The Chair would observe that the form of the amendment just reported is not in order as being an amendment to the bill as opposed to the pending amendment.

Mr. PACKWOOD. Mr. President, I offered that as an amendment to the amendment of the Senator from New York.

The PRESIDING OFFICER. The Chair understands that, but in form it does not do that. It amends another part of the bill.

Mr. CANNON. Mr. President. The time has expired.

The PRESIDING OFFICER. The time having expired and the yeas and nays having been ordered on the pending amendment, the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Ohio (Mr. TAFT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

On this vote, the Senator from North Carolina (Mr. HELMS) is paired with the Senator from Ohio (Mr. TAFT). If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Ohio would vote "nay."

The result was announced—yeas 23, nays 69, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—23

Bartlett	Garn	McClure
Bellmon	Goldwater	Packwood
Buckley	Gravel	Scott, Hugh
Curtis	Hansen	Scott, William L.
Dole	Hatfield	Stevens
Eastland	Hruska	Thurmond
Fannin	Johnston	Tower
Fong	Laxalt	

NAYS—69

Abourezk	Glenn	Morgan
Allen	Griffin	Moss
Baker	Hart, Gary	Muskie
Bayh	Hart, Philip A.	Nelson
Beall	Haskell	Nunn
Bentsen	Hathaway	Pastore
Biden	Hollings	Pearson
Brock	Huddleston	Pell
Brooke	Humphrey	Percy
Bumpers	Inouye	Proxmire
Burdick	Javits	Randolph
Byrd, Harry F., Jr.	Kennedy	Ribicoff
Byrd, Robert C.	Leahy	Roth
Cannon	Long	Schweiker
Case	Magnuson	Sparkman
Chiles	Mansfield	Stennis
Clark	Mathias	Stevenson
Cranston	McClellan	Stone
Culver	McGee	Symington
Domenici	McGovern	Talmadge
Durkin	McIntyre	Weicker
Eagleton	Metcalf	Williams
Ford	Mondale	
	Montoya	

NOT VOTING—8

Church	Jackson	Tunney
Hartke	Stafford	Young
Helms	Taft	

So Mr. BUCKLEY's amendment (No. 1430), as modified, was rejected.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I yield 1 minute to the distinguished Senator from Iowa, under the provision that I do not lose my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. CANNON. Mr. President, reserving the right to object, may I inquire spefically for what purpose?

Mr. CLARK. For the purpose of offering an amendment which was offered yesterday and withdrawn until certain changes were made.

Mr. CANNON. And it is an agreed upon amendment now?

Mr. CHILES. It is.

Mr. CANNON. Then I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. CLARK) proposes an amendment on page 44, between lines 2 and 3——

Mr. CLARK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK's amendment is as follows:

On page 44, between lines 2 and 3 insert the following:

"(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect.".

On page 44, strike out lines 3 through 6 and insert in lieu thereof the following:

"(c) In any criminal action brought for a violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the offense and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

Mr. CLARK. Mr. President, section 329(b) of the bill stipulates that once a person has entered into a conciliation agreement with the Federal Election Commission, the Department of Justice would be barred from initiating any action relating to the violation dealt with in the agreement.

My amendment would provide that a defendant in a criminal action brought for a violation of this could introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought the fact that a conciliation agreement had already been entered into with the Commission.

Further, it would provide that the court would take into account, in considering any penalty which might be imposed, whether a conciliation agreement had been entered into and was being adhered to.

Senator ALLEN had some questions about an earlier amendment, and I have now changed it, discussed it with the manager of the bill and with him, and all have agreed that this wording of the amendment would be better.

Mr. CANNON. Mr. President, the amendment is in acordance with the discussion yesterday, and I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. CHILES. Mr. President, I ask unanimous consent that I be allowed to yield 2 minutes to the Senator from Kansas for the purpose of presenting an amendment which I understand has been agreed to on both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Griffin substitute amendment add the following new section:

SEC. —. Section 431(f)(4)(B) of the Act is amended by deleting the semicolon at the end thereof and adding the following: ", or partisan activity designed to encourage individuals to register to vote, or to vote, conducted by the national committee of a political party, or a subordinate committee thereof, or the State committee of a national party, except, that such partisan activity shall be considered an expenditure for the purposes of the reporting requirements under this Act;"

Mr. DOLE. Mr. President, this is an amendment to the pending substitute offered by the distinguished Senator from Michigan (Mr. GRIFFIN). I have discussed it with the distinguished manager of the bill, Mr. CANNON, as well as the distinguished Senator from Iowa (Mr. CLARK).

In discussing briefly its purpose, I would have Senators recall that yesterday, by a vote of 50 to 41, we adopted an amendment proposed by the distinguished Senator from Oregon (Mr. PACKWOOD) dealing with reporting requirements for nonpartisan voter registration drives conducted by a labor or business organization. My amendment is designed to complement that provision with respect to partisan registration efforts made by an element of a national political party.

What it would do, thus, is exempt from the definition of "expenditure" all partisan voter registration drives and get-out-the-vote activities carried on by committees or subordinate committees of a national party. At the same time, however, it would clearly specify that such costs would have to be reported to the Federal Election Commission under section 304.

The intent of the amendment is, very plainly, to remove the requirement under existing law that such activity be allocated among particular candidates. In the process, it should help strengthen the party structure and increase political participation.

In light of the fact that there is no longer an overall spending ceiling imposed by law—except for Presidential candidates who accept matching funds—elimination of the allocation requirement would be totally consistent with the Buckley against Valeo Supreme Court decision. Moreover, it would alleviate the very difficult problem of trying to determine the "fair and reasonable benefit" accruing to each candidate from registration activities sponsored by the party organization itself.

Traditionally, Mr. President, the high incidence of "independents" in the voting population have forced parties to look beyond just party affiliation in encouraging registration for, and voting on, election day. Thus, the name of one or more candidates is often used as a criterion for making these determinations.

While none of us is prepared to suggest that partisan voter registration drives are not going to aid a candidate's cause, I think we can all agree that there is no longer a need to make subjective evaluations regarding the extent of that aid. Therefore, we should do away with this unnecessary and burdensome accounting problem by adopting this amendment.

Clearly, this is a bipartisan proposal which should benefit all candidates and all parties equally. The only exception might be to the extent that there are more potential Democrats than Republicans among independent voters—but in the interest of competition, we are willing to assume that risk.

Mr. President, this is a commonsense amendment which I understand is acceptable to the committee. It will simplify reporting by national parties while making them stronger and more effective—and these are goals which deserve our uniform support.

Mr. CANNON. Mr. President, the Senator has discussed the amendment with me. I think it is an acceptable amendment, and I am willing to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

Mr. CHILES. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an amendment:

On page 44, line 15, strike out the closing quotation marks and the final period.

On page 44, between lines 15 and 16, insert the following:

"LIMITATION ON CONTRIBUTIONS BY ARTIFICIAL LEGAL ENTITIES

"SEC. 330. (a) The Congress finds and declares that—

"(1) it is inappropriate for artificial legal entities, whether in corporate or other form, which are not permitted to vote for Federal candidates to make political contributions in campaigns for Federal office, and

"(2) that it would be appropriate as a means of guarding against the reality or appearance of improer influence stemming from the dependence of candidates on large campaign contributions from such entities to limit the privilege of contributing to Federal political campaigns to individuals generally.

"(b) Notwithstanding any other provision of this Act, no person other than an individual may make a contribution to or for the use of any candidate for Federal office. This subsection does not apply to a political committee established and maintained by a political party.

"(c) Nothing in this section shall be construed to prevent or inhibit the right of individuals to associate with each other for the purpose of making political expenditures or for expressing their views on political matters.".

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. CHILES. For what purpose?

Mr. CRANSTON. I should like to discuss the Senator's amendment and ask if he would be willing to modify it. I am not going to offer an amendment. I should like to discuss the amendment.

Mr. CHILES. I yield to the distinguished Senator.

Mr. CRANSTON. I thank the Senator very much for yielding.

Mr. President, I was in the Chamber last night, and the Senator caught my attention when he said the following:

The whole electoral process, as I understand it, Mr. President, was created so that individuals could vote, so that individuals

could nominate, so that individuals could elect. It looks like the fight that I have been seeing going on all day is sort of the fight between the giants. Each side believes the other has a little advantage so each side is trying to get a foothold.

I have not heard much talk about the people today. I have not heard much talk about what is really good as far as democracy and what is really good as far as individuals.

Mr. President, I think that is a very eloquent and meaningful statement which we should all take into account as we are considering this matter. We have not paid adequate attention to the just plain citizens whose voices are the most important voices in our democracy. I believe there has been too much jockeying for advantage going on from one side of the aisle to the other, one party to the other, representatives speaking more or less for one group of interested people and for another.

It was that statement by the Senator from Florida that caused me to look seriously at his amendment, which has much appeal.

My concern about the amendment is that in limiting the ability of poor people to band together to support a candidate they might particularly support because of issues that are of great interest to them, if they cannot band together, the individuals whose small contributions only become significant in terms of what they mean in elections if many of them make contributions—and they are not apt to occur unless they can make them together—the consequence of the amendment in its present form, without that being the intention of the Senator from Florida, I know, would give a greater advantage to those who give large contributions, who do not need to band together with others in order to have a very significant impact from their contributions.

That is my concern, and I know that the Senator is more concerned about this than any other Member of the Senate. The Senator from Florida has made it his own practice, I understand, to accept only small contributions.

Were they limited in the Senator's campaign to $10?

Mr. CHILES. Yes.

Mr. CRANSTON. I wonder whether the Senator would be willing to accept an amendment—and I would offer it only with his permission—which would have the effect of sustaining even more strongly his purpose of eliminating what I feel would be the advantage to large contributors without this proviso.

The amendment I propose would be to limit acceptable contributions, the size of contributions, to $10 from individuals.

Mr. CHILES. From any contributor?

Mr. CRANSTON. Any contributor. Limited to $10.

Mr. CHILES. I would not be prepared to accept that, and the reason is the one I gave in my press conference at the time I said that I was limiting my contributions to $10. That reason was this, purely and simply: If we limited it to that amount for every individual, then I believe that the incumbents would have too great an advantage. I was asked whether I thought that anyone running against me should limit his contributions to $10. I answered "no," because I think that if they are running against me and I am an incumbent, I can see that it might be necessary for them to feel that they have to accept more than that, because they do not have name identification and they might not engage in a walk which would get them name identification, or something like that. For that reason, I would not go along with that.

However, I invite the attention of the Senator from California to subsection (c), which was put in overnight, and is now in the amendment. That states what the Supreme Court really has said. It reads:

Nothing in this section shall be construed to prohibit or inhibit the right of individuals to associate with each other for the purpose of making political expenditures or for expressing their views on political matters.

So if the group that the Senator is talking about, the poor people, wish to associate themselves in a common cause in order to be able to express themselves, they can do so. Nothing in this amendment would prohibit that.

However, they would not be able to give that money, in a satchel or a war chest, to the candidate. Neither could the labor unions do that; neither could the banks do that; neither could the American Medical Association do that. If they wanted to make expenditures, they would have to make them themselves. The label of who made those expenditures would have to be there. So, again, the voters would be able to see who was attempting to sort of influence that election.

I think that would take care of the Senator's fears. I can see that the Senator has thought through that if we limited everybody's contribution to $10, we, as incumbents, would have an advantage, unless we made some sort of free television time available, unless we made available some kind of franking privilege, and other things, because we do enjoy tremendous advantages.

Mr. CRANSTON. I share the Senator's concern about not giving unfair advantages to incumbents. I was one of the Senators who voted some time ago for an amendment by the Senator from New York (Mr. BUCKLEY) that would have permitted challengers to spend more than incumbents, which is one way to try to equalize the situation. I am prepared to vote for and work for such an amendment. We cannot require TV stations to give anybody free time, because that would be a violation of the first amendment. Perhaps we could find a way to subsidize television time for challengers.

I am more concerned about the ability of large donors to have advantages than I am about incumbents to have advantages, because at least the large donors are not elected by the people. Incumbents at least have won an election. I would like to see the advantages that incumbents have taken away from them.

Mr. CHILES. If the Senator wanted to change the thousand dollars that is now set forth in the bill to a lower figure, the Senator from Florida would join in that amendment, because I do not think we should have those large funds; but I think that $10 would be much too low, as I have expressed.

Mr. BROCK. Mr. President, will the Senator yield?

Mr. CHILES. I yield to the Senator from Tennessee.

Mr. BROCK. First, a technical question. Is the Senator's amendment, now pending, to the substitute?

Mr. CHILES. It is an amendment to the substitute.

Mr. BROCK. The clerk did not understand that.

The PRESIDING OFFICER. The amendment is not drafted as being to the substitute.

Mr. CHILES. I modify it so that it would be an amendment to the substitute.

The PRESIDING OFFICER. The amendment is so modified.

Mr. BROCK. I wanted to be sure of that, because if the substitute is not agreed to, we can offer it to the bill.

Mr. CHILES. I thank the Senator from Tennessee.

Mr. BROCK. If the Senator will permit me to make a couple of comments in light of the comment of the Senator from California, I think the whole purpose of this amendment is to eliminate the power of the major money influence that exists today. That is the whole purpose of it. We have been debating, for the last 2 days, amendments to advantage or disadvantage power group and not people. This is the first time we have had an opportunity in this particular body and during consideration of this particular bill to consider an amendment which would divest the power centers of this special advantage, their loopholes, their exemptions, and allow the American people to have a voice in the full process, a full and complete voice. I think that is why support for this amendment is so terribly important.

It says, in effect, that we are not going to grant any special exemption to major corporations to go out to their 30 million stockholders with an all-expense paid campaign to tell them how to vote. Nor are we going to do that for labor. We are going to let the American people individually select their political representation, as the Constitution originally envisioned it. I think that is why the amendment is so precise, and I am delighted to support it.

Mr. CHILES. I thank the Senator from Tennessee. I think the Senator from Tennessee, as well as most of us in this body, has looked with some alarm at those polls. We now see not only the esteem in which they hold Congress in the executive branch, but further, when we poll a little deeper on the question, "Do you feel that Government represents the average man in this country?", the answer to that is astoundingly and overwhelmingly, "No." I think they have found the truth.

What we are talking about here—and I have been going up to a lot of Senators, asking them to support this amendment. The general thing that I find is that everybody says, "That is something that we ought to do sometime, that is something that I am generally for; that is a good idea, but—I get my help from here

or from there." Or "I feel that where I am receiving my help from is this group or that group."

That is what is convincing me that those polls show that people have found out; they have some kind of idea.

I just wanted to relate to the Senators that in my campaign, where I have limited my contributions to $10, a lot of people have said, "There is no way you can do that; you are not going to get that kind of people. People don't participate, period. There are only certain people who are willing to give."

Interestingly enough, from the first newspaper ads—not newspaper ads, newspaper stories—that went out on the announcement, I received a flood of checks. Almost every one of those letters said, in different words, "The idea that I could be your largest contributor, the idea that you would not accept and no one would give more than my $10, is why I decided to contribute." The vast majority of people who are contributing to my campaign on that basis have never contributed before.

Mr. PACKWOOD. Will the Senator yield?

Mr. CHILES. Yes, I will.

Mr. PACKWOOD. I can verify that point. I was in the Senator's State over the weekend and I met with some of the Senator's supporters who were raising money for him. People who previously were used to raising $100 or $1,000, say, "Our work is cut out. It is like organizing a door to door campaign."

What I was intrigued with was they said that white collar workers, secretaries, and so on, have come up to them in their work and given them a check for LAWTON CHILES' campaign, unsolicited, because they felt so good that nobody could give more than $10. I think the Senator has hit upon a great idea for a campaign, a gold mine of an idea. I think what he has done is so unique, putting out shares saying that you can own a share of a candidate and you can have a certificate that you own a share of a candidate if you contribute $10. I think it is the best idea in politics I have heard in years.

Mr. CHILES. I thank the Senator from Oregon for those kind remarks. I want to say, in addition to that, that what I am finding is that people are a completely different set of people now. Some of the best money raisers that I now have are not the corporate presidents. He does not want to go and ask anybody for $10. Nor are they the labor people. The best contributors that I have are, really, sort of little people.

I had a lady come to a rally, and she has to be 85 years old. She went in her neighborhood and she collected 20 $10 contributions.

I have a Cuban doctor who lives in Monticello, Fla. That is a Cracker north Florida community, in which he is the only Cuban in town. He has gotten about 200 of those $10 contributions.

I have a cookie salesman who goes to stores. Again, he has gotten a number of these, because they put that thing in their pockets. They will ask somebody and the people they are asking all feel that they are participating.

I thank the Senator.

Mr. CANNON. Mr. President, will the Senator yield, on my time?

Mr. CHILES. Yes, I shall be delighted to yield.

Mr. CANNON. I want to correct one misimpression that I think the Senator from Tennessee has. I wish to verify it from the Senator from Florida.

The Senator from Tennessee said that this would prohibit corporations or the PAC groups from going out and soliciting contributions. That is not true at all. They can go out and solicit. What we are doing is changing where the power base is even more disproportionately than it is right at the moment.

For example, by this amendment now we force independent groups to operate exclusively by an independent expenditure. They can go out, they can form their associations, they can raise their money, and they can spend unlimited amounts for or against a candidate, as long as it is an independent expenditure in accordance with the Supreme Court decision.

The Senator has even gone so far as to recognize that in the addon of his amendment, which takes the language from the Valeo case and says that this shall not be construed to deprive persons of their right to associate together. This, in my judgment, completely turns the power and the conduct of a campaign over to the special interest groups, because they can go out and solicit. They can solicit from their stockholders and so on. They can use those funds and spend them independently against a candidate.

I think that, really, what it does is deprive the candidates and political parties of control of their own campaigns. I shall be talking later on the constitutionality of it, but I did want to raise that point, because the Senator from Tennessee said that this would stop the solicitation by the corporations to the independent funds and by the labor unions and so on. It will do no such thing.

Mr. CHILES. I yield to the Senator from Georgia to clear the Senator up on that.

Mr. NUNN. I thank my colleague from Florida. I am cosponsor of this amendment and I talked to my colleague from Florida for some time about it. I think it is really the heart of campaign reform. I think it is going to divide the special interests from the people in this country. I agree with everything that the Senator from Florida has said and that the Senator from Tennessee has said.

I shall have to take exception to the analysis of the Senator from Nevada.

Certainly, this amendment provides that there is no dilution of the freedom of association. Certainly, it permits labor unions, corporations and other groups to solicit their members for campaign contributions. But those funds would not then be able to be given to the candidate. They could spend the money. Yes, they could spend the money. There cannot be a limitation on expenditure under the Supreme Court decision. But they cannot go up with a bag and give money to a candidate. They cannot get the recognition that the candidates himself owes them one single thing in terms of a favor, in terms of an office, appointment, or in terms of a vote.

Besides that, the most important part about this amendment is that if the American Medical Association wants to oppose the Senator from Nevada or the Senator from Georgia or Tennessee or Florida, then they are going to have to let people know what they are doing. It is not going to be in the form of a television ad that comes on, showing the Senator from Georgia talking about an issue concerning foreign policy. It is going to have to be under the name of the American Medical Association, or under the name of COPE, or under the name of the American Bar Association, or General Motors.

If we really want to take special interests out of politics, if we really want to return the political process to the individual in this country, then this amendment is a clear, concise way to do it.

You watch what scurrying will go on around the Capitol and around Washington, D.C., and around this country if the Chiles-Nunn-Brock-Packwood-Hart amendment passes. Just watch it. If you do not think this is the key to campaign reform, the interest group reaction to passage of this amendment will confirm that it is.

Mr. BROCK. I agree. You watch what a restoration of faith there will be in the American people if we pass this. There will be more excitement by people in this country saying: "Hey, I have a voice again. I have something to say, and they will listen to me."

Mr. NUNN. We have not been hearing from individuals about this act because individuals still realize this is a battle between special interests. We have had 1 week of battle between special interests, and now we are getting down to the heart of the democratic process. We have an opportunity to really do something about what all of us know is at the very foot and foundation of the problems we have in the process now.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. NUNN. I would be glad to yield. The Senator from Florida yielded to me, so I yield back to the Senator from Florida.

Mr. BUMPERS. First, I want to say I have always been an admirer of the Senator from Florida because of the very unique way he was elected in the first instance, and I applaud his limitation of contributions to $10.

I would say this: that if a country lawyer, with whom I am very familiar, who in 1970 had a 1-percent name and face recognition, had limited his campaign to $10 per person, he would still be the country lawyer and not the junior Senator from the State of Arkansas.

Now, the thing that troubles me about this bill—and I applaud most of it, but the thing that troubles me about this bill—as it troubled me about the original so-called Campaign Finance Reform Act is the effect it has on an unknown challenger.

It is easy for me to stand here with the name and face recognition that I have in my State and say, "I am going to limit

my contributions." I certainly think it is laudable, and I think all of us ought to do it. But, I recognize the difference between a sitting Senator or a sitting Governor making that kind of fine gesture on behalf of participatory democracy and somebody who is equally interested in getting involved but is totally unknown, having to depend on individual people to give him $1 or $2 when they never heard of him, they do not know what he stands for, and the likelihood of their ever knowing what he stands for is never very good unless he is one of those fairly wealthy people who can spend his own money.

Mr. CHILES. But if he depends on getting elected by getting contributions from one of these groups, COPE or AMPAC, whose man is he going to be when he comes to the Senate, if he depends on them?

Mr. BUMPERS. He is going to belong to his own hometown, I am afraid, forever unless he can go to somebody and persuade them as a group.

I like the amendment, and the Senator from Florida knows I have seriously considered cosponsoring it. But I am also extremely concerned about unknown people who have a right, indeed a duty and a responsibility, to challenge the people who sit in this body.

Mr. CHILES. I share that concern. But what I do not know and what I cannot understand is how this amendment—you know, this concern that the Senator has goes to other things in the whole bill. They go to whether you are going to grant TV time, and they go to whether we are going to have public financing, and they go to many of these, but I do not see how this amendment is going to change that unless you are going to say if you want to sell your soul to one of those groups you can get financed, and I do not think—that does not give me much comfort that that is the way that is going to help an unknown lawyer or anyone else.

Mr. NUNN. Mr. President, will the Senator from Florida yield one minute on that? I would agree with the Senator from Florida and disagree with my good friend from Arkansas for this reason: I think a careful analysis of campaign contributions to incumbents versus challengers will reveal that the challengers get very little so-called group money. I think it would reveal that the incumbents are the ones who get the group money and that challengers usually have to wait until they have won a primary or made substantial progress before they are entitled to any group money.

So I would say if the Senator's argument is anything it is the best argument for this amendment. If you really want to protect the right to challenge then you will take away the right of groups to come and pool their money and give to candidates because usually—and I know there are exceptions, but usually—I think any careful analysis will reveal that the majority of group money goes to incumbents and a very small amount goes to challengers until such time as they look like they are going to be winners and then, oh, yes, you can find the groups when you are a winner. You can find them. They come from everywhere. You meet people you never heard of before; you meet them very quickly when you are a winner but not when you are unknown.

I have gone through that period of time when I had only 1 percent recognition, and I went through that period of time when the only people who supported me were people in my hometown. They were not groups but individuals.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. CLARK. Mr. President, will the Senator yield?

Mr. CHILES. I would like to yield the floor now and let the chairman——

Mr. CANNON. Mr. President, I yield 5 minutes to the Senator from Iowa.

Mr. CLARK. I must say I am very divided myself on this amendment because, as the Senator from Arkansas has said, there are so many attractive aspects to it in terms of getting private money, group money, out of politics.

I think the question that all of us raise and face is whether if we do this, if we go to this kind of system, whether any nonincumbent could seriously expect to raise money to make a serious challenge.

I think the record would show very clearly that both challengers and incumbents get well over half of all their money from groups. I think perhaps as much as 75 percent is raised in that fashion. I do not find that an attractive fact. But I do believe that it is a fact, and I doubt that there are very many people in this Chamber who were unknown when they ran for office who would have been able even to accumulate the minimum amount of money to be a candidate, a successful candidate, without something more than individual contributions.

Now, having said that, it seems to me that the amendment has so many attractive aspects that if we were indeed to modify the amendment along the lines that the Senator from California suggested that, in spite of its proincumbent nature, it would be worth adopting. I think I would support the Senator from Florida if he were to accept that amendment because I think it would at least say we are not going to let wealthy people determine who is going to run for office.

The fact is right now under the bill as it is drawn we know what would happen. We would have $1,000 cocktail parties all over this town. If that would get the special interests out of politics I would be very much surprised. We are going to have in our States and in this city $1,000 cocktail parties, and the wealthy people are going to determine who can make the serious challenges because you are not going to be able to run on $10, $15, and $20 contributions alone.

So I would ask the Senator from Florida if he would consider—if I may have his attention—an amendment which I have prepared which would simply limit the amount of money that could be spent, not to $10 because he has expressed opposition to that, but to $100, and I will support the amendment and I would support his proposal.

But I do not believe, in view of the fact we are making it such an incumbent bill in the process, that we ought to leave it to the wealthy people who can contribute $1,000 at cocktail parties to determine who the candidates will be.

If the Senator will accept that, I would be prepared to support his amendment.

Mr. CHILES. I thank the distinguished Senator. I think he would, but the reason I would not is because I think I would be going against the very thing the Senator is talking about. You would still be giving a tremendous incumbent advantage.

Mr. CLARK. I understand that.

Mr. CHILES. If you limit it to $100, you are giving a tremendous advantage to us.

Mr. CLARK. I understand that. You are giving incumbents a tremendous advantage with $1,000 and, obviously, you are aggravating that if you go to $100. But my point is at least the wealthy would not be determining who the candidates will be.

Mr. CHILES. I am convinced personally that the best way you would limit the spending and the contributions is to prove that a $10 campaign works, to prove that a $100 limitation works, because all of us like to emulate success.

The Senator from Iowa is here today because he saw an idea that would work.

Mr. CLARK. He borrowed the idea.

Mr. CHILES. And he tried walking the State.

I am working to fill this Chamber with people who will decide that $10 is the way to go, not by passing a law but by showing that it works. But I think you do have to set certain standards that the people can look at, and one of those standards is we are not going to receive our money from the war chest.

I would just quickly answer one other thing. The $1,000 cocktail parties, both sides can hold those.

Mr. CLARK. I do not like that, though.

Mr. CHILES. I do not either.

Mr. CLARK. Let us go to $100 and we will both be on the same side.

Mr. CHILES. The Senator is doing what he does not want me to do. He is giving too much advantage to the incumbent.

Mr. CLARK. That is very true—at least, you are going to do that in either proposal, but in this proposal you are not going to leave it to the $1,000 contributors to determine who the candidates will be.

Mr. CHILES. I will tell you what I think is the best way. If the Senator will offer that as an amendment to the bill I will vote for it, not to my amendment.

Mr. CLARK. I cannot do that.

Mr. CHILES. Let the Senator offer it as an amendment to the bill and I will vote for it. I will vote for $10 in the bill. I will not vote for $10. That is too low. I will vote for $100. But if the Senator puts it on this amendment he is going to lose all kinds of votes, and I do not think that would be proper to do.

Mr. CLARK. I think the problem with attaching it to the bill, without the amendment, clearly is that you are going to leave groups in, then, for $5,000 contributions and individuals at $100 and that just would not be practical.

Mr. CHILES. Mr. President, I would like to send another modification to the desk that just conforms with the amendment to the substitute.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of the amendment, add the following:

On page 44, between lines 15 and 16, insert the following:

"LIMITATION ON CONTRIBUTIONS BY ARTIFICIAL LEGAL ENTITIES

"SEC. 380. (a) The Congress finds and declares that—

"(1) it is inappropriate for artificial legal entities, whether in corporate or other form, which are not permitted to vote for Federal candidates to make political contributions in campaigns for Federal office, and

"(2) that it would be appropriate as a means of guarding against the reality or appearance of improper influence stemming from the dependence of candidates on large campaign contributions from such entities to limit the privilege of contributing to Federal political campaigns to individuals generally.

"(b) Notwithstanding any other provision law, no person other than an individual may make a contribution to or for the use of any candidate for Federal office. This subsection does not apply to a political committee established and maintained by a political party.

"(c) Nothing in this section shall be construed to prevent or inhibit the right of individuals to associate with each other for the purpose of making political expenditures or for expressing their views on political matters.".

The PRESIDING OFFICER (Mr. MORGAN). The Senator from Nevada.

Mr. CANNON. Mr. President, first, it is not often that the Senator from New York and I are on the same side and I am delighted to yield 5 minutes to him at this time.

Mr. BUCKLEY. I thank my friend from Nevada.

Mr. President, I must say that I rise with some reluctance. I like the thrust of what this amendment is attempting to achieve, but, unfortunately, I think that a ruling of the Supreme Court which declares that independent groups may spend unlimited funds under the Constitution will have the effect of creating a bias in favor of the largest pressure groups, the ones that are best organized, best financed, who know how to effectively mobilize funds in support of a candidate, but doing so independently of that candidate's campaign.

I see the net result of the adoption of this amendment to be one that eliminates smaller people, smaller groups.

Yes, call them interest groups, but they tend to come on every side of the equation, from having any kind of input comparable to the kind of input we are going to be seeing, as the AFL–CIO votes, and perhaps the American Medical Association, or the business groups, but the big ones, are going to have as they work independently in the political process.

It is for that reason I am reluctantly going to have to vote in opposition.

Mr. NUNN. Will the Senator yield for a brief question?

It seems to me the Senator is in the position of not disagreeing to the amendment, but rather, disagreeing with the Supreme Court decision, perhaps that is not true.

This amendment removes all of groups from direct contribution, but gives any of them the opportunity to go out, complying with the Supreme Court decision to expend funds as opposed to contributing.

So that the Senator's argument appears to the Senator from Georgia to be going against the Supreme Court decision rather than against this amendment.

Mr. BUCKLEY. Not at all, Mr. President. The fact is that I do not disagree with the Supreme Court interpretation of the Constitution. This is a fact we live with, and I would not want to change the Constitution in this respect. But the practical consensus of that decision is that we are going to see more and more well-organized, well-financed groups operating outside of an individual campaign, parallel to it, but independently.

So the amendment offered by the Senator from Florida and cosponsored by the Senator from Georgia will not have the effect of significantly taming the really large political action committees and groups in this country, but it will make it impossible for the smaller groups to throw any kind of counterweight into the equation.

Mr. NUNN. The amendments are not intended to remove biased groups from freedom of association and participation, as is their constitutional right. It is aimed at not having candidates receive and direct funds, which I think would substantially improve not only the process but also the image that the average American individual has in feeling that he has some degree of input into the process or is not competing with corporations and labor unions.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CANNON. Mr. President, I yield myself 5 minutes.

I must say that I completely agree with the analysis given by the Senator from New York. This does put big groups in the position that they can go forth and solicit contributions and they can spend them any way they see fit. They can spend them for a candidate, they can spend them against a candidate, and they put a candidate to a tremendous disadvantage.

I said earlier today, and this gets to the point the Senator from Georgia was making, I found it a little difficult to rationalize how the Supreme Court could say that a candidate was limited to a $1,000 contribution, but, on the other hand, an organization could spend all of the money it wanted of its own or spend in association with others for the defeat or for the election of a candidate.

It seems a little incongruous.

Mr. NUNN. If the Senator will yield for a brief comment. I would agree that is a paradoxical result, but it is not a result of this amendment. It is a result of the Supreme Court decision, which we are going to have to live with.

Mr. CANNON. I understand that. But this amendment says that an association or an organization cannot contribute to a candidate.

This gets right back to what the Senator from Arkansas was saying. This puts the unknown candidate at a worse disadvantage than he was to start with because he cannot go to any organization that may be friendly to what his views are and solicit them for a contribution.

Mr. NUNN. Let us look at it and weigh the facts. Anything we do toward limiting contributions overall would have the effect of making it a little more difficult for an unknown to mount a campaign. Anything we do in regard to limiting overall limits of contributions. I argued this fact when we first considered this bill.

But I would say, if the worst result we have of this amendment is that we force some poor candidate who is not known to have to go to the people of his State and community to raise funds for a campaign, it will be very therapeutic and a very lofty result.

In other words, what the Senator is saying is that we have a terrible amendment here because it is going to require candidates to go to the people for their contributions rather than to groups. I think that is an argument for the amendment, not against it.

Mr. BUMPERS. Will the Senator yield?

Mr. CANNON. I yield 3 minutes to the Senator.

Mr. BUMPERS. I thank the floor manager. I want to submit a question to the Senator from Georgia.

If we adopt this, is not the effect of this to say that any candidate can drop into the nearest bank, visit with the president of the bank, and perhaps he will give $1,000, he can afford to give everybody in the race $1,000, and he gives $1,000.

What does that do to the challenger who must go out on an assembly line or at the plant gate and try to solicit $1 to $5 from working people who are leaving in the afternoon?

It occurs to me that the effect of this is to force him into going after the large contribution from the bankers and the insurance executives instead of the small people.

Mr. NUNN. I say that under the present law it is very unusual when a candidate solicits funds at the plant gate. That is not where we get funds and the Senator from Arkansas knows that. We go to the leaders of the particlar union or the leaders of the corporation.

If the present law was as the Senator described where people really did get out on the assembly line and solicit funds, I would not be proposing this amendment.

That is not how the system works and everybody knows that.

Mr. BUMPERS. How does the Senator reach those people for solicitation?

Mr. NUNN. Passage of this amendment would result in exactly what the Senator says is done now, which the Senator from Georgia disagrees with, one would get

out on the assembly line and talk about $1 or $5 contributions.

That is what this amendment would result in, but that is not the present system.

Mr. BUMPERS. How long would it take an unknown to gather up $1,000 that way as compared to walking in to a bank president and getting it just like that?

Mr. NUNN. The unknown under any limitation on expenditures is put at a disadvantage. The overall laws we passed a year and a half or 2 years ago put an unknown at a disadvantage.

This amendment does not put an unknown at a disadvantage because the unknown does not get special interest contributions until he gets known, until he has already demonstrated he is a viable candidate.

I would challenge the Senator to have someone look at the record and determine when the associations give to a campaign. They do not give to an unknown with no chance. They give to a non-Governor, or a former Governor.

The PRESIDING OFFICER. Time has expired.

Mr. CANNON. Mr. President, I yield 3 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I oppose the amendment of the Senator from Michigan (Mr. GRIFFIN). I listened to the debate and the discussion at the time he presented a similar amendment earlier in the week. It was defeated then. I am hopeful that it will be defeated now.

The Rules Committee bill makes some very important and substantial and necessary changes in the election laws, outside of the question of the reconstitution of the Federal Election Commission. If we are going to accept the Griffin amendment, then all of those other changes which have been proposed, which I think are extremely important for preserving the integrity of the election process, will be abrogated.

I would mention specifically the problems of independent spending and wealthy candidates which exists as a result of the Supreme Court's decision. If we accept the Griffin amendment, these problems will not be solved. Wealthy activists will be able to spend massive amounts on the candidates they favor. Wealthy candidates will be able to spend unlimited amounts of their own resources. The Rules Committee bill brings these abuses under control in three important ways—it subjects candidates who accept public financing in Presidential elections to the limits on spending of their own resources. It requires independent spending to be genuinely independent, by clarifying the prohibition on cooperation or coordination of such spending with a candidate. If there is such cooperation, the expenditure is a contribution and will be subject to the spending limits. Also, the bill prohibits independent spending by those who simply disseminate materials prepared by the candidate. And, finally, the bill requires full disclosure of all independent spending.

I would also mention the important provisions of the bill modifying the basic enforcement machinery of the FEC. These changes are going to make it a more effective and useful agency in dealing with the difficult practical problems within its jurisdiction.

Finally, I would mention the important provisions in the bill that prohibit proliferation of political committees. This abuse is the newest emerging loophole in the election laws. It is being used to avoid the contribution limits in the law. The committee bill would close this loophole by prohibiting such artificial proliferation of political committees.

So it is a serious oversimplification to argue that the Griffin amendment is going to do the job that needs to be done if Congress is to deal responsibly with the problems of campaign financing left in the wake of the Supreme Court's decision.

I also share the concerns of those opposed to the Chiles amendment. The question which troubles me most, is the undue advantage that will be given to persons able to afford $1,000 contributions. They will make their voices heard even more loudly than they are heard today, because ordinary citizens will be prevented from grouping together to make their small contributions more effective.

I think there are serious constitutional questions raised by the Chiles amendment. The first amendment guarantees the right of free association, and this amendment clearly impairs that right. It handicaps and limits those who are interested in participating in the political process, but whose separate efforts under this amendment would be too isolated to be effective. I hope the amendment will be defeated.

Mr. CANNON. Mr. President, I yield myself 5 minutes.

Mr. President, the amendment offered by the distinguished Senator from Florida would permit only individuals in their personal capacities to participate in our electoral process. Although this amendment would allow certain political party committees to contribute to candidates and campaigns, the essential thrust of the proposal would be to cast a severe chilling effect upon the first amendment rights of associations, committees, partnerships, political committees—whether formed by individuals or segregated fund committees of corporations and labor organizations—and all other organizations or groups of persons. These groups and organizations would be summarily ostracized from participating in our democratic form of government. The proposal is thus fraught with grave constitutional infirmities.

When I say they would be ostracized in the sense of being able to make any contributions, it is true they could go out and make their own independent expenditures, go their merry way, and take the control of a campaign completely out of the hands of the participants in the campaign.

Mr. President, this amendment does not propose a reasonable restraint upon constitutionally protected associational freedoms, such as the overall contribution limitations in the Federal Election Campaign Act. These were upheld by the Supreme Court as appropriate legislative weapons against the reality or appearance of improper influence stemming from the dependence of candidates on large campaign contributions. The Court found these contribution ceilings to serve the basic governmental interest in safeguarding the integrity of the electoral process without impinging upon the rights of individual citizens and candidates to engage in political debate and discussion.

The amendment proposed by the distinguished Senator from Florida, however, does not serve any governmental interest. Instead of a limitation it is a direct prohibition of the constitutionally protected freedom of association. In Buckley against Valeo the Supreme Court reemphasized that "the right of association is a 'basic constitutional freedom' that is closely allied to freedom of speech and a right which like free speech lies at the foundation of a free society." [Slip opinion p. 19.]

In referring to the nature of protected associational freedom the Supreme Court stated, and I quote,

> Making a contribution, like joining a political party, serves to affiliate a person with a candidate. In addition it enables like-minded persons to pool their reserves in furtherance of common political goals." (Slip opinion p. 17).

The Court in Buckley said the act's contribution ceilings limit one important means of associating with a candidate or committee; that is, the making of a contribution. This extraordinary amendment, Mr. President, would prohibit this important means of associating with a candidate or committee to groups, associations, and other organizations which have in and of themselves protected first amendment rights.

Such a broad prohibition, furthermore, would preclude all associations from amplifying the voice of their adherents and members. Such amplification and expression of the voice of an association's adherents—here in the context of the association's participating in the electoral process by making contributions to candidates or committees—is the original basis for the recognition of first amendment protection of the freedom of association. [*Buckley* v. *Valeo*, slip opinion p. 17.]

Mr. President, at this moment it is difficult to conceive of a proposal which would have more severe constitutional questions and I would strongly urge my colleagues to vote against it.

Mr. President, I reserve the remainder of my time.

Mr. CHILES. Mr. President, I yield 1 minute to the Senator from Oregon.

Mr. PACKWOOD. First, the Supreme Court said it was up to the Congress to set the limits where they want. We set it at $1,000 and $5,000.

Two, political action committees can now give money to a candidate or spend it themselves. All we are saying is henceforth they cannot give it to a candidate.

Three, as to where the money goes now, the Senator from Georgia said most of it goes to incumbents. I have a study, though not with me, which shows that 90 percent of political action committee

money now before primaries goes to incumbents, Republican or Democrat, and only 10 percent goes to challengers, and then only if the incumbent is not running.

After the primary, 80 percent of the money still goes to the incumbent. The fat cat PAC money goes to us. It does not go to the country lawyer. It does not go to the guy who has never been heard of before. It goes to us and this will change it.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Will the floor manager yield me a couple of minutes?

Mr. CANNON. I yield 2 minutes.

Mr. BUMPERS. I want to make one final comment. As a practical matter, this will work in reverse of the way the sponsors of the amendment think these steps will work. I was just talking to my distinguished colleague from Florida. I believe that the success of an organization like Common Cause, for example, is because individual people do not think their voice makes any difference. They feel that if they can join with a coalition or group of people and allow the leadership of that group to express their opinions, then they have some clout with this body, with Congress, and with the President.

Does it not work the same way if the ordinary worker in this country is limited to giving $1 or $5 to a candidate and he sees the published reports where the bankers, insurance executives, and other "fat cats" are giving $1,000? How does he feel about his $5 contribution? How much effect does he think it has as opposed to those big $1,000 contributions he sees reported periodically?

If that worker has a sense of apprehension about it, or if he has a feeling that he can be effective by joining with others and pooling his $5 with others until it amounts to $1,000, why should he not be permitted to do it?

I am saying that by this amendment we would force candidates to go to individual workers who would feel that a $1 or $5 contribution would not mean anything, and we would really be distorting the very participatory democratic processes we are trying to enhance. I thank the manager for allowing me this time.

Mr. CHILES. Mr. President, I thank the distinguished Senator from Arkansas for making this observation because I think he has put his finger right on the point.

Why is Common Cause growing to the extent that it is? Why is it an organization that now has over a million members, and grows by leaps and bounds?

I think it is because people have decided there are all kinds of pressure groups. There are labor pressure groups that are influencing all kinds of decisions, there are management pressure groups that are influencing all kinds of decisions, and I as an individual do not count any more. So I am going to try to get together and form what I think might be a pressure group that would interest me.

Who are members of Common Cause? A lot of them are retired. A lot of them are on fixed incomes and retired, and do not belong to any of these other pressure groups.

If you want to talk about the growth of Common Cause, let us talk about why. The reason is that the process we are talking about—and it is so interesting—we are not talking about this process as though it belongs to the people, we are talking about the process as though it belongs to the committees. "Wait a minute, now, we should not hamper the committees this way or that way."

You know why that is? Because we have got the feeling that it belongs to the committees. We have started feeling that way because that is where our money has been coming from, from the committees.

You can parade the $1,000 cocktail party through here as often as you want to, but what are you saying? My ear really tells me something different. It says, "I have got to be careful; my money comes from here or my money comes from the other side, and I want to make sure that I do not rock the boat, so I am not going to do anything about that."

It seems like to me I cannot do anything about the Supreme Court decision and the Supreme Court decision said a group of people can band together and can spend money if they want to, and to try to limit them from doing that is against their first amendment freedoms.

All right, so we recognize that we cannot do anything about it. So if COPE wants to collect money they can. If they want to spend it they can. If AMPAC wants to collect money, they can and they can spend it.

If you vote for this amendment, it has to be under the committee. Then every mother's son gets a chance to see that that is COPE spending that money, that that is AMPAC spending that money. I believe they are entitled to know that. As the Senator from Georgia said, I do not believe they know that if they see my face on the tube saying I am for this or for that. No one says, in that kind of TV ad, where that money comes from. But if they want to put on an ad as a COPE ad or an AMPAC ad, they can put it on. I cannot stop that. The Supreme Court has said that.

But what else has the Supreme Court said? The Supreme Court has said, after Congress spoke and said we do not think labor unions should make a contribution, the Supreme Court said, "That's all right, you can make that limitation."

We said, "We don't think corporations should make a contribution." The Supreme Court said that is all right.

Now, if the Supreme Court says it is all right for us to limit that a corporation or a union cannot make a contribution, why is the Supreme Court going to say, "We are not going to allow those very managers to go solicit their members and/or their stockholders to make that contribution"?

I do not hear anyone arguing that we ought to allow a labor union directly to make a contribution. I do not hear anyone arguing that we ought to allow a corporation directly to make a contribution. So why are we wedded to the committee structure? Purely and simply because we have been living by it, and we are afraid we will die without it. So what becomes the habit and what we look to is what concerns us.

I think in this amendment we have a chance to say, "We are going to reverse that process, that is, we are going to recognize it 'ain't' committees that elect people, it is people, and it ought to be people that contribute."

We talk about how to get the money out. I wish we could get the money out like that. I have supported the public financing thing. I would support making some free TV time available for nonincumbents. I think we incumbents have a tremendous advantage. This amendment does not change that one way or the other.

Mr. NUNN. Mr. President, will the Senator yield for a brief question?

Mr. CHILES. I am happy to yield to the Senator from Georgia.

Mr. NUNN. The amendment of the Senator from Florida, as I understand it, would not prevent 15 individuals from walking into a Senator's headquarters in Jacksonville, Fla., and individually giving their money to that campaign.

Mr. CHILES. As long as it was not more than $10, in my campaign.

Mr. NUNN. The Senator has a limitation. But let us assume you did not have a $10 limit. This would not prevent a group of people from walking in and giving their money, all in one pack.

Mr. CHILES. No, sir; and as the Senator from Arkansas mentioned, you cannot go out on the assembly lines and ask for the money.

Mr. NUNN. If this amendment passes you could.

Mr. CHILES. Yes. If you decide to limit all contributions you can now, because I have been out there and done that.

Mr. CLARK. Mr. President, will the Senator yield the floor a couple of minutes for purposes of an observation?

Mr. CHILES. I yield.

Mr. CLARK. Will the Senator from Nevada yield me 2 minutes?

Mr. CANNON. Mr. President, what is the time situation?

The VICE PRESIDENT. The Senator from Nevada has 3 minutes remaining.

Mr. CANNON. I yield a minute to the Senator from Iowa.

Mr. CLARK. In 1 minute, as we have seen, Mr. President, the amendment of the Senator from Florida would do a lot of attractive things in terms of eliminating special interest committees, but the offset would be that no candidate could conceivably raise enough money to have a credible race against an incumbent save for one possibility: That he or she is going out and start holding thousand-dollar cocktail parties or $500 cocktail parties. You are not conceivably, in a small State, going to be able to raise enough money if you are an unknown except in $1,000 amounts.

Mr. CHILES. The Senator from Florida did not do that.

Mr. CLARK. I have only 1 minute. If we are going somehow to say a committee which joins together a group of people with $5 or $10 in sufficient numbers to get us $10,000, which is the present limitation——

The VICE PRESIDENT. The Senator's 1 minute has expired.

Mr. CLARK. To go out and raise those out of contributions of $5 or $10, that is hardly getting the big money out of politics.

Several Senators addressed the Chair.

Mr. BUMPERS. Mr. President, I sort of supervised myself the first time I sought public office. I ran against several well-known people in the State, and took a solemn vow that I would never support legislation which I thought gave an incumbent an advantage over his challenger. Rightly or wrongly, I know there is an honest difference of opinion here, but I perceive this amendment as giving incumbents an unfair advantage. Therefore, I shall be compelled to vote against it.

The VICE PRESIDENT. Who yields time?

Mr. CHILES. Mr. President, I yield 30 seconds to the distinguished Senator from Tennessee.

Mr. BROCK. Mr. President, since when do we have to have groups of contributors? For 200 years the country has operated without them; now all of a sudden we have to have groups.

The groups stake the incumbents. That is where the money goes, and that is where the power is. All we are saying is, let us open up the process, get the group influence out of it, and let the people have a voice.

Mr. CHILES. Mr. President, I do not think the Senator has enough faith in people. I say to the Senator from Arkansas that if someone uses big money, and you are an incumbent, if you cannot use that against him I do not think you are very inventive; I do not think you have any ingenuity. I did not get big money when I got elected. The Senator from Iowa, I do not think, got big money when he got elected. The Senator from Georgia did not raise big money when he got elected. I look around at most of the new incumbents I see here, and I do not see a mother's son that raised big money to get elected, and I do not see a one who has spoken who did not raise more money than his opponent.

The VICE PRESIDENT. The time of the Senator from Florida has expired. The Senator from Nevada has 1 minute remaining.

Mr. CANNON. Mr. President, purely and simply what this amendment would do is take the conduct of an election campaign out of the hands of a candidate and give it to the special interest groups, because all that is said here is that the groups that can be organized, the associations, the AMPAC's, and whatever they are, that can be organized under the law and in accordance with the Supreme Court decision, can go out and spend independently any amount of money they want to spend either for or against a particular candidate.

This means that the man who has no source of income other than going to the maximum limit of a $1,000 contribution will have, effectively, the control of his campaign taken away from him. It is left in the hands of the big groups, who have no limit on the amount of money they can spend, the amount they can raise, the amount they can solicit. The corporations can solicit through separate, independent political organizations. They can solicit their stockholders and employees, consistent with the act. The labor unions can solicit, and they can go out and spend without limit. But the Senator is saying that no group can make a contribution to a candidate.

Mr. President, I submit that this is not the way to solve the handling of the political process, and I move to lay the amendment on the table. I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Washington (Mr. JACKSON), and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from North Dakota (Mr. YOUNG) is necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The result was announced—yeas 46, nays 49, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—46

Abourezk	Gravel	Mondale
Bayh	Hart, Philip A.	Montoya
Bentsen	Haskell	Moss
Biden	Hathaway	Muskie
Brooke	Hollings	Nelson
Bumpers	Humphrey	Pastore
Burdick	Inouye	Pell
Byrd, Robert C.	Javits	Proxmire
Cannon	Kennedy	Randolph
Case	Leahy	Schweiker
Clark	Long	Stone
Cranston	Magnuson	Symington
Culver	Mansfield	Tunney
Eagleton	McGee	Williams
Ford	McGovern	
Glenn	McIntyre	

NAYS—49

Allen	Garn	Packwood
Baker	Goldwater	Pearson
Bartlett	Griffin	Percy
Beall	Hansen	Ribicoff
Bellmon	Hart, Gary	Roth
Brock	Hatfield	Scott, Hugh
Buckley	Helms	Scott, William L.
Byrd, Harry F., Jr.	Hruska	Sparkman
Chiles	Huddleston	Stennis
Curtis	Johnston	Stevens
Dole	Laxalt	Stevenson
Domenici	Mathias	Taft
Durkin	McClellan	Talmadge
Eastland	McClure	Thurmond
Fannin	Metcalf	Tower
Fong	Morgan	Weicker
	Nunn	

NOT VOTING—5

Church	Jackson	Young
Hartke	Stafford	

So the motion to lay Mr. CHILES' amendment on the table was rejected.

Mr. NUNN. Mr. President, I ask for the yeas and nays on the amendment.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from North Dakota (Mr. YOUNG), is necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The result was announced—yeas 43, nays 52, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—43

Allen	Fong	Packwood
Baker	Garn	Pearson
Bartlett	Goldwater	Ribicoff
Beall	Griffin	Roth
Bellmon	Hansen	Scott, Hugh
Brock	Hart, Gary	Scott, William L.
Byrd, Harry F., Jr.	Hatfield	Sparkman
Chiles	Helms	Stennis
Curtis	Hruska	Stevens
Dole	Johnston	Stevenson
Domenici	Laxalt	Taft
Durkin	McClellan	Talmadge
Eastland	McClure	Thurmond
Fannin	Morgan	Tower
	Nunn	

NAYS—52

Abourezk	Hart, Philip A.	Mondale
Bayh	Haskell	Montoya
Bentsen	Hathaway	Moss
Biden	Hollings	Muskie
Brooke	Huddleston	Nelson
Buckley	Humphrey	Pastore
Bumpers	Inouye	Pell
Burdick	Javits	Percy
Byrd, Robert C.	Kennedy	Proxmire
Cannon	Leahy	Randolph
Case	Long	Schweiker
Clark	Magnuson	Stone
Cranston	Mansfield	Symington
Culver	Mathias	Tunney
Eagleton	McGee	Weicker
Ford	McGovern	Williams
Glenn	McIntyre	
Gravel	Metcalf	

NOT VOTING—5

Church	Jackson	Young
Hartke	Stafford	

So Mr. CHILES' amendment was rejected.

The VICE PRESIDENT. The question now is on agreeing to the amendment of the Senator from Michigan in the nature of a substitute, as amended.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. GRIFFIN. Have the yeas and nays been ordered on this amendment?

The VICE PRESIDENT. They have not been ordered.

Mr. GRIFFIN. I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. GRIFFIN. If this substitute is adopted, is it true that no further amendments are in order and we would proceed to final passage of the bill?

The VICE PRESIDENT. The question would then be on the bill, as amended.

Mr. GRIFFIN. I thank the Chair.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the Chiles amendment was rejected.

Mr. MOSS. I move to lay that motion on the table.

Mr. NUNN. I ask for the yeas and nays on the motion to table.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The yeas and nays have been ordered. The question is on agreeing to the motion to table the motion to reconsider the vote by which the Chiles amendment was rejected. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from North Dakota (Mr. YOUNG) is necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The result was announced—yeas 47, nays 47, as follows:

[Rollcall Vote No. 82 Leg.]

YEAS—47

Abourezk	Gravel	McIntyre
Bayh	Hart, Philip A.	Mondale
Bentsen	Haskell	Montoya
Biden	Hathaway	Moss
Brooke	Hollings	Muskie
Bumpers	Huddleston	Nelson
Burdick	Humphrey	Pastore
Byrd, Robert C.	Inouye	Pell
Cannon	Javits	Proxmire
Case	Kennedy	Randolph
Clark	Leahy	Schweiker
Cranston	Magnuson	Symington
Culver	Mansfield	Tunney
Eagleton	Mathias	Weicker
Ford	McGee	Williams
Glenn	McGovern	

NAYS—47

Allen	Garn	Percy
Baker	Goldwater	Ribicoff
Bartlett	Griffin	Roth
Beall	Hansen	Scott, Hugh
Bellmon	Hart, Gary	Scott,
Brock	Hatfield	William L.
Buckley	Helms	Sparkman
Byrd,	Hruska	Stennis
Harry F., Jr.	Johnston	Stevens
Chiles	Laxalt	Stevenson
Curtis	Long	Stone
Dole	McClellan	Taft
Domenici	McClure	Talmadge
Durkin	Morgan	Thurmond
Eastland	Nunn	Tower
Fannin	Packwood	
Fong	Pearson	

NOT VOTING—6

Church	Jackson	Stafford
Hartke	Metcalf	Young

So the motion to lay on the table the motion to reconsider was not agreed to.

Mr. ABOUREZK. Mr. President, I withdraw my motion for reconsideration.

Mr. GRIFFIN. I object.

The VICE PRESIDENT. If objection is heard, it takes unanimous consent.

Mr. ABOUREZK. A parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. ABOUREZK. We did not have the yeas and nays ordered on my motion to reconsider.

The VICE PRESIDENT. It takes unanimous consent or approval of the Senate under the precedents to withdraw a motion to reconsider.

Mr. HUGH SCOTT. I ask unanimous consent that it be in order to order the yeas and nays.

The VICE PRESIDENT. Without objection, it is so ordered.

Several Senators demanded the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to reconsider the vote by which the Chiles amendment was rejected. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from North Dakota (Mr. YOUNG) is necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The result was announced—yeas 46, nays 49, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—46

Allen	Fong	Pearson
Baker	Garn	Percy
Bartlett	Goldwater	Randolph
Beall	Griffin	Ribicoff
Bellmon	Hansen	Roth
Brock	Hart, Gary	Scott, Hugh
Buckley	Hatfield	Scott,
Byrd,	Helms	William L.
Harry F., Jr.	Hruska	Sparkman
Chiles	Laxalt	Stennis
Curtis	Long	Stevens
Dole	McClellan	Stevenson
Domenici	McClure	Taft
Durkin	Morgan	Talmadge
Eastland	Nunn	Thurmond
Fannin	Packwood	Tower

NAYS—49

Abourezk	Hart, Philip A.	Metcalf
Bayh	Haskell	Mondale
Bentsen	Hathaway	Montoya
Biden	Hollings	Moss
Brooke	Huddleston	Muskie
Bumpers	Humphrey	Nelson
Burdick	Inouye	Pastore
Byrd, Robert C.	Javits	Pell
Cannon	Johnston	Proxmire
Case	Kennedy	Schweiker
Clark	Leahy	Stone
Cranston	Magnuson	Symington
Culver	Mansfield	Tunney
Eagleton	Mathias	Weicker
Ford	McGee	Williams
Glenn	McGovern	
Gravel	McIntyre	

NOT VOTING—5

Church	Jackson	Young
Hartke	Stafford	

So the motion to reconsider was rejected.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Michigan. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. McCLELLAN (when his name was called). Mr. President, on this vote, I have a live pair with the distinguished Senator from Washington (Mr. JACKSON). If he were present and voting, he would vote "nay;" if I were permitted to vote, I would vote "aye;" therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from North Dakota (Mr. YOUNG) is necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

The result was announced—yeas 39, nays 55, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—39

Allen	Fannin	Percy
Baker	Fong	Roth
Bartlett	Garn	Scott, Hugh
Beall	Goldwater	Scott,
Bellmon	Griffin	William L.
Bentsen	Hansen	Sparkman
Brock	Hatfield	Stennis
Buckley	Helms	Stevens
Byrd,	Hruska	Taft
Harry F., Jr.	Laxalt	Talmadge
Curtis	Long	Thurmond
Dole	McClure	Tower
Domenici	Packwood	Weicker
Eastland	Pearson	

NAYS—55

Abourezk	Hart, Philip A.	Montoya
Bayh	Haskell	Morgan
Biden	Hathaway	Moss
Brooke	Hollings	Muskie
Bumpers	Huddleston	Nelson
Burdick	Humphrey	Nunn
Byrd, Robert C.	Inouye	Pastore
Cannon	Javits	Pell
Case	Johnston	Proxmire
Chiles	Kennedy	Randolph
Clark	Leahy	Ribicoff
Cranston	Magnuson	Schweiker
Culver	Mansfield	Stevenson
Durkin	Mathias	Stone
Eagleton	McGee	Symington
Ford	McGovern	Tunney
Glenn	McIntyre	Williams
Gravel	Metcalf	
Hart, Gary	Mondale	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

McClellan, for.

NOT VOTING—5

Church	Jackson	Young
Hartke	Stafford	

So Mr. GRIFFIN's amendment was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. GRIFFIN. Mr. President, I send an amendment to the desk.

The VICE PRESIDENT. The clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

(Pursuant to an order entered later in today's proceedings, Mr. GRIFFIN'S second amendment in the nature of a substitute is not printed in the RECORD.)

Mr. GRIFFIN. I would like to explain this amendment.

Mr. CANNON. Does the Senator have a copy, Mr. President?

Mr. GRIFFIN. We will get some Xeroxed copies made for the chairman and others.

I will tell the Senate this is another substitute, and in this case the Packwood amendment, which is a very meritorious amendment, one of the most important amendments that we have ever adopted around here, but realizing that it is controversial and we lose votes because it is in the substitute, has been eliminated. But the Chiles amendment has been included.

This substitute includes the Chiles amendment, and it also carries the amendment of the Senator from Arizona with regard to honoraria, and we would just like to call the roll again.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. GRIFFIN. I yield.

Mr. TAFT. I wonder if it also contains the amendment of the Senator from Ohio?

Mr. GRIFFIN. I will have to admit it does not at this point. Of course, it is amenable.

Mr. President, I suggest the absence of a quorum.

Mr. CANNON. Mr. President, I would like to see a copy of the amendment.

Mr. GRIFFIN. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I have an amendment which I send to the desk.

The VICE PRESIDENT. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. CLARK. I object.

The VICE PRESIDENT. Objection is heard. The clerk will read the amendment.

The assistant legislative clerk read as follows:

Amendment to Line 23 of Page 27 of S3065, amending Section 320(a)(2) of the bill, as follows:

After "exceed $5,000." add "except that the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, the National Republican Congressional Committee, or the national committee of a political party may contribute at any time amounts not exceeding $20,000 to candidates for Congress with respect to any or all of the elections in which such candidates seek office during an election year."

Mr. JOHNSTON. Mr. President, this amendment is submitted on behalf of myself, Senator BENTSEN, who is a former chairman of our Democratic Senatorial Campaign Committee, as well as Senator STEVENS, the chairman of the Republican Senatorial Campaign Committee.

What it does is simply this: It increases to $20,000 per year for elections that the committee may give to any candidate. Under the present law the committee, the Senatorial, Democratic or Republican, Committee may give $5,000 per election, election including the primary, runoff, and general election, or $15,000 for candidates who have all three elections.

What this amendment does is simply say that that amount is increased to $20,000 is not made dependent upon whether they are primaries, runoffs, or general elections.

Mr. President, the whole thrust, the whole reason, for this campaign law is to do away, insofar as we can, with what you might call committed money—some call it dirty money, money with strings, money where there is some quid pro quo, express or implied, for the contribution.

So, Mr. President, this amendment increases the amount which you can get from the one source, that is, your Senatorial Campaign Committees or your national committees, for which there is no quid pro quo.

As a matter of fact, I daresay the average Senator in this body does not even know where the contributions come to for the Senatorial Campaign Committees. In the case of the Democratic Committee we do not pass around the list. Some Senators do not even secure contributions, but they all get contributions on a parity basis.

It seems to me, Mr. President, we ought to make it as easy as possible within reason to allow these contributions to be made in reasonable amounts when we know they are not going to be based on any semblance of any promise, expressed or implied.

I hope the manager can go along with this. It has bipartisan support. Frankly, Mr. President, I see no conceivable objection.

I ask for the adoption of this amendment.

Mr. CLARK. Mr. President, when this bill was originally drawn 2 years ago we, of course, had a very extensive debate here about whether or not all committees ought to be limited to $5,000 or whether we were going to create a special loophole a special situation, a special condition, for our own.

That is really what the issue here is. Are we going to say that labor committees and business committees and so-called good government committees, and all other committees, are limited to $5,000, but when it comes to us that does not apply to the committees that contributes to us and to us only?

In those cases, if we are to adopt this amendment, we would find ourselves giving ourselves $20,000.

The absolute contribution limitation on the Democratic National Committee, the State committees, county committees, every other committee, is $5,000. If we adopt this amendment, we are saying that that would apply to all but our own in-house committees.

The great problem with this amendment is that because we wanted to keep the party strong, we have said that an individual may contribute to a party committee, the national committee, or the Democratic or Republican senatorial committees and congressional committees, not just $5,000, but $25,000.

I think that is perhaps overly generous, but it is in the bill and in the law. Any individual may contribute to the congressional campaign committees and senatorial campaign committees up to $25,000. If we are going to allow $20,000 to go to a candidate, that means we really open up and invite the possibility of earmarking. At least, we make it extremely difficult to enforce the law against earmarking because then we have a way to pass at least $20,000 out of an individual and into the hands of a House or Senate Member.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. CLARK. I do yield.

Mr. JOHNSTON. The Senator is aware that there is a specific law which prohibits the earmarking?

Mr. CLARK. Yes.

Mr. JOHNSTON. If someone, expressly or by implication, earmarks, then it is the duty of the committee to so note that earmarking and it is the duty of the candidate to report that as if it were a direct contribution from the original donor and the final donee, the Senator is aware of that?

Mr. CLARK. Yes, that is why I was very careful in saying that it obviously makes it hard to enforce the earmarking law. The earmarking law is the law the Senator just described. Of course, if one can identify someone who said, "We want this $20,000 to go to that candidate," it is against the law.

But we have to be very concerned in the process of passing this legislation that we do not invite difficulties in the enforcement of this law. I think this would do so.

Mr. JOHNSTON. The Senator is not suggesting that the chairman or the committees of this Congress would be party to circumventing that law, either expressly or impliedly?

Mr. CLARK. No.

Mr. JOHNSTON. The Senator surely is not doing that.

Mr. CLARK. No. But obviously, not every dollar that comes in to the campaign committee goes through the chairman, is seen by him and passed on by him.

Mr. JOHNSTON. Oh, yes, it is. I beg to disagree.

The PRESIDING OFFICER (Mr. GARN). If the Senator will yield, I ad-

vise the Senator from Louisiana that his amendment is not in order. Line 23 has already been deleted from the bill.

Mr. JOHNSTON. Mr. President, I would, therefore, move to amend my amendment by striking the words "after exceed $5,000 add" and in lieu thereof insert the following "notwithstanding any other provision of this act".

I also want to strike "except that" and put the quotes in front of "the." So, therefore, it would read as follows:

Notwithstanding any other provision of this Act "the Republican or Democratic Senatorial Campaign Committee"

Et cetera.

The PRESIDING OFFICER. The question remains, where does the Senator wish the amendment to come in the bill?

Mr. JOHNSTON. At the appropriate place.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place in the bill insert the following: "Notwithstanding any other provision of this Act the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, the National Republican Congressional Committee, or the national committee of a political party may contribute at any time amounts not exceeding $20,000 to candidates for Congress with respect to any or all of the elections in which such candidates seek office during an election year."

Mr. JOHNSTON. As I was saying to the Senator, if I recall the question, earmarking is totally impossible, and I am sure this applies with equal force to the Republican committee as it does with the Democratic committee.

Not one cent goes out to a political candidate. I know this is true. It was true when Senator BENTSEN was chairman of the committee. It is true when I am chairman of the committee.

Not one cent goes out that is not signed by the chairman, cosigned by the executive council and distributed under a plan generally perfected by the committee.

Mr. CLARK. If I understand the Senator's statement, every cent of money that is taken into the committee is personally received by him, and if there were any conditions assigned to that, he would be aware of it?

Mr. JOHNSTON. No. Every cent that goes out.

Mr. CLARK. That goes out?

Mr. JOHNSTON. That is right.

Mr. CLARK. But not that comes in?

Mr. JOHNSTON. It is illegal to accept under conditions—unless they are earmarked, and that is so stated.

Mr. CLARK. Right.

Mr. JOHNSTON. It does not go out without the chairman actually signing the check.

Mr. CLARK. I understand.

Mr. JOHNSTON. So that it is impossible for a staffer, for example, to receive some money and understand the conditions and send it out of the committee. It comes through as it should, as it must, through the chairman.

Mr. CLARK. Let me try to explain more specifically with regard to this point that I do not think we ought to set up a different standard for the senatorial and congressional campaign committees than we set up for any other committee.

Particularly, I do not think we ought to set up a different level of contribution. There was a good deal of debate here a little while ago on the Chiles amendment about how much faith people have lost in the system, how people believe big money corrupts and that special interests money corrupts.

Now the senatorial and congressional campaign committees can receive money exactly the same way, and from the same kind of sources as any other committee may.

There is no restriction where they can take money.

I would argue that for us then to create a special category—every committee in America can spend so much except one committee, our committee—it is only going to cause greater cynicism, and justifiably so, from the American electorate.

Mr. JOHNSTON. I say to my distinguished friend that precisely the opposite results come from this committee.

Surely the Senator cannot compare a Democratic committee or a Republican committee to a labor committee or a business committee or any special interest.

Mr. CLARK. Why not?

Mr. JOHNSTON. Because we have no public interest, other than the party interest.

Mr. CLARK. The Senator is going to take contributions from labor for the committee, is he not? It is exactly the same dollar—from business as well—whether for Republican or Democrat.

The Senator makes no restriction on where that money comes from.

Mr. JOHNSTON. But it is comingled in a common pot and given out without strings.

That is the key, and that is the reason for this amendment.

If we assume a certain amount of money is essential in a campaign, and I think that is a safe assumption, then if we cannot get it from the committee, we get it directly from the special interest group, and is this not much better than getting it from the special interest?

Mr. CLARK. Is the Senator saying the campaign committees handle money that is somehow purified as compared to the Democratic National Committee or the Republican National Committee or the State committees?

Mr. JOHNSTON. This amendment is applicable to the Republican National Committee and the Democratic National Committee and, yes, that is precisely what I am saying. It is purified because to the extent that there is any express or implied strings on the money, or the appearance of strings on the money, then those strings are cut by going through this committee.

Mr. CLARK. Maybe I misunderstood the Senator's amendment.

Mr. JOHNSTON. Apparently, what?

Mr. CLARK. There are no copies of the amendment available.

Mr. JOHNSTON. I gave the Senator a copy earlier, as a matter of fact.

Mr. CLARK. It says:

Except that the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, the National Republican Congressional Committee, or the national committee of a political party may contribute at any time amounts not exceeding $20,000 to candidates for Congress with respect to any or all of the elections in which such candidates seek office during an election year."

What is being said is that every committee in America is limited to $5,000, except the senatorial and congressional campaign committees and the national committees.

Mr. JOHNSTON. That is precisely correct.

Mr. CLARK. Mr. President, I would like to say that what we are doing now is saying to the Democratic National Committee, "You cannot only give $5,000 under the present law, you can spend 2 cents a voter for every voter in a State, with a minimum of $20,000, on behalf of a candidate. So you can spend $5,000 now plus $20,000 or 2 cents a voter, whichever is more. Now we are going to lift that limit of $5,000 all the way to $20,000."

That means the Democratic National Committee and the Republican National Committee can now contribute a minimum of $40,000 to any candidate in Congress. Apparently, according to the amendment, it could not do that for the President. He would be restricted to $5,000. But Senators and Congressmen would be allowed $20,000 in direct cash and a minimum of $20,000 in expenditures on their behalf. That is now a $40,000 minimum limitation that can be either given directly or spent on their behalf.

Am I interpreting the amendment correctly?

Mr. JOHNSTON. This amendment simply changes from an aggregate of $15,000 to an aggregate of $20,000 that a candidate may get directly from these committees. It does not change in any way what he may get otherwise. Right now, as I understand the law, a candidate may have expenditures made on his behalf by the national committee to the extent of $20,000 and he may have spent on his behalf by the Congressional Committee $15,000, assuming he has a primary, a runoff and a general election. All this changes is that $15,000 provision to a $20,000 provision, and it takes over the requirement that there are three elections. In other words, they may get $20,000 even if they only have a general election.

I would suggest to the Senator we are not changing it to allow the $40,000 but simply changing it from the $15,000 to the $20,000. If a candidate were so lucky to get the full $40,000, and I submit that is going to be very rare indeed, what is wrong with that? Is it not better for him to get that money, which I submit is purified, rather than get it directly from the special interest group, directly from the labor group or directly from the business group?

Mr. CLARK. I must say that I do not

share the Senator's view that somehow the money that goes through the Senatorial Campaign Committee or the Congressional Campaign Committee is as pure as the driven snow, and the money that comes from individuals who participate in labor is tainted or business money is tainted.

Mr. JOHNSTON. It is not that it is tainted. It is that they have a special point of view and they give their money to promote candidates who share that point of view.

Mr. CLARK. I assume if that were the only criterion, the Democratic Committee gives it to candidates that share their view and the Republicans give it to candidates that share their view.

Mr. JOHNSTON. No, that is not so, because any member of the Democratic Caucus, regardless of his view, even if at times it strays from the majority, is entitled to his share of the money.

Mr. CLARK. But it is a Democratic view. They are not giving money to anybody but Democrats or they are not giving money to anybody but Republicans.

Mr. JOHNSTON. That may be so, but that, I submit, is under our system of government which, in effect, has enshrined the two-party system. That is permissible and that is the kind of taint, if the party puts a taint on money, that our system of government envisions and endorses and has run on traditionally. No one out there in America can say because a party gives someone money that there is anything wrong with that. That is traditional American politics.

Mr. CLARK. I think what the amendment does and what it says is quite clear. I would like the Senator from Louisiana to correct me if I am wrong. Every single committee in the United States that falls under this law would have a $5,000 limitation on the amount that they can contribute, with two exceptions carved out by this amendment: The national committees of the two major parties and the congressional and senatorial committees of the two major parties. In those cases they would be allowed to give $20,000 in direct cash plus, in accordance with the present law, the national party committees would be allowed to spend a minimum of $20,000 on their behalf.

That means that we are going to arrive at a conclusion where the two national committees can now spend an aggregate of $40,000, $20,000 indirect and $20,000 direct, $40,000 minimum. In those States where two cents a voter amounts to more than $20,000, they would be able to spend in excess of that.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. CLARK. Yes.

Mr. JOHNSTON. How much can those sources now spend, assuming there is a primary, a runoff, and a general election?

Mr. CLARK. First of all, let us assume that the primary, runoff, and general election do not occur in at least half of the races in America. We have never had a runoff, to my knowledge, in any place in my part of the country. I do not think one can assume that one automatically gets $5,000 in three elections. I think on the average there will be two elections, and on some occasions three elections. That is direct money. What the Senator is suggesting is that in those cases where there is a primary and a general election we would be able to double that to $20,000. I think it only means the introduction of bigger money into politics and greater cynicism about it, particularly when we are doing it for ourselves, particularly when we are doing it to our own committees.

As I say, we debated this at length 2 years ago. Maybe the Senate feels differently about it now, but I feel very strongly that if we were to say that our committees ought to be different, that we ought to be able to give $20,000 instead of $5,000, we would come in for a great deal of justifiable criticism.

Mr. JOHNSTON. Mr. President, just one final word. I believe the amendment is well understood. I would like to simply point out that the $20,000 the National Committee may now spend on behalf of a candidate is not inserted by this amendment. That is not changed by this amendment. All this amendment does is increase basically for the senatorial campaign committees from an aggregate of $15,000 in case there are the three elections to a total of $20,000 for however many elections there are.

I submit that when we say we are doing it for ourselves, what we mean is that we are doing it for any candidate for national office, whether he be a congressional candidate or a senatorial candidate. In that sense, this is not a club amendment, if one wants to call it that. It is not for incumbents; it is for any candidate that the committee may give money to.

Mr. ALLEN. Will the Senator yield?

Mr. JOHNSTON. Yes, I will yield.

Mr. ALLEN. This would cover primaries and run-off primaries as well, would it not?

Mr. JOHNSTON. That is correct. Under the present law, the campaign committee can give $5,000 for the primary, $5,000 in a run-off, and then another $5,000 in the general election, which is a total of $15,000. What this would allow is to give the committee some flexibility. If the Senator's tough race is the general, he could withhold the whole $20,000 until that time.

Mr. ALLEN. How often do either of the committees contribute to a challenger of an incumbent?

Mr. JOHNSTON. In the case of the Democratic Committee that is not done.

Mr. ALLEN. In other words, this, then, is just for the benefit of incumbents; is that not right?

Mr. JOHNSTON. It would also apply to the challengers, I mean in those cases where an incumbent is beaten and a new incumbent is elected.

Mr. ALLEN. That is right; in other words, in general elections. But through the primaries, first and second, it would be the incumbent who was taken care of. I have no objection to taking care of incumbents, but——

Mr. JOHNSTON. Except in cases where you have no incumbents, as in the case of retirees.

Mr. ALLEN. But where there is an incumbent, there would be no impediment to any incumbent receiving funds, in the general election or primary, either one.

Mr. JOHNSTON. The Senator is correct in the point he makes, in the sense that that is the standard operating procedure under which we have operated, and I see no movement to change it. But the Senator is correct in the point he makes.

Mr. ALLEN. I just want us to understand what we are voting on. As long as the incumbent is in the picture, he is the one who gets the benefit of the increased amount.

Mr. JOHNSTON. Not just the incumbent.

Mr. ALLEN. I say, as long as the incumbent is in the picture, though, he would be the one to really benefit.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield to the Senator from Ohio.

Mr. ALLEN. But is that not true?

Mr. JOHNSTON. Yes; the Senator is correct.

Mr. TAFT. Is it not true that that depends upon what the committee involved desired to do? If the committee involved desired to make other rules, it could make other rules as to the distribution of those donations.

Mr. JOHNSTON. That is correct. There is no rule that specifies how a national committee or a senatorial committee is going to spend its money.

Mr. TAFT. Well, the Senator is not entirely correct. The Republican senatorial committee does have certain rules.

Mr. JOHNSTON. Well, yes.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. CLARK. I would like to ask the Senator if his amendment would allow the national committee to give more money to a Presidential campaign. Does it increase the limit that may be given to a Presidential candidate?

Mr. JOHNSTON. I do not believe so. It is not intended to, and I do not believe that the phraseology is subject to that interpretation.

Mr. CLARK. That is the way I would interpret it. Therefore, I wonder if this would not be interpreted, and quite accurately, as an amendment aimed only at helping Senators and Members of Congrees. The Senator seeks to permit those national committees to give us more, but not the President more. We are not raising the amount the national committee can give to a President; that remains the same.

Mr. JOHNSTON. That is correct.

Mr. CLARK. So it seems to me all we are doing is saying we want to funnel a lot more money into Senate and congressional campaigns through giving the national committee a separate contribution limitation, and the same with the campaign committees. I do not see how it could be interpreted except that way, as a means of getting more money into our own congressional campaigns.

I think, as the Senator from Alabama has emphasized, it is merely a means of

getting more money into an incumbent's campaign, because this amendment does favor incumbents. For all those reasons, Mr. President, I hope the Senate will not adopt this amendment, because I think if we open up the flood gates and say this committee ought to go from $5,000 to $20,000, we will have a very difficult time in saying that State committees, county committees, and other committees ought not to be able to do that. Then we will not have a $5,000 limitation on committees, but a $20,000 limitation. After all, how does one justify increasing from $5,000 to $20,000 for national committees and not State committees?

Mr. JOHNSTON. Mr. President, will the Senator yield at that point so that I may ask for the yeas and nays?

Mr. CLARK. Yes.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore (Mr. HANSEN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. I thank the Senator.

Mr. CLARK. Mr. President, I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Louisiana (Mr. JOHNSTON). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), and the Senator from Washington (Mr. JACKSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from North Carolina (Mr. HELMS) and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Vermont (Mr. STAFFORD) is absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina (Mr. HELMS) would vote "yea."

The result was announced—yeas 64, nays 30, as follows:

[Rollcall Vote No. 85 Leg.]

YEAS—64

Baker	Griffin	Pastore
Bartlett	Hansen	Pell
Bayh	Haskell	Percy
Bellmon	Hatfield	Proxmire
Bentsen	Hathaway	Randolph
Buckley	Hruska	Ribicoff
Byrd, Robert C.	Huddleston	Schweiker
Cannon	Humphrey	Scott, Hugh
Case	Inouye	Scott, William L.
Cranston	Johnston	Sparkman
Curtis	Laxalt	Stennis
Dole	Leahy	Stevens
Domenici	Long	Symington
Eagleton	Magnuson	Taft
Eastland	Mansfield	Talmadge
Fannin	McClellan	Thurmond
Fong	McClure	Tower
Ford	McGee	Tunney
Garn	Montoya	Weicker
Glenn	Muskie	Williams
Goldwater	Nelson	
Gravel	Packwood	

NAYS—30

Abourezk	Clark	Metcalf
Allen	Culver	Mondale
Beall	Durkin	Morgan
Biden	Hart, Gary	Moss
Brock	Hart, Philip A.	Nunn
Brooke	Hollings	Pearson
Bumpers	Javits	Roth
Burdick	Kennedy	Stevenson
Byrd, Harry F., Jr.	Mathias	Stone
Chiles	McGovern	
	McIntyre	

NOT VOTING—6

Church	Helms	Stafford
Hartke	Jackson	Young

So Mr. JOHNSTON's amendment was agreed to.

Mr. CANNON. The President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TAFT. I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. TAFT. Mr. President, I send to the desk an amendment to the pending substitute by Mr. GRIFFIN.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. TAFT. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, in subsection (c)(1) after the word "ballot", add the following: "or certifies to the Commission that he will not be an active candidate in the primary".

At the end of subsection (c)(1) add the following new sentence: "The provisions of this section shall apply as of the date of enactment."

Mr. TAFT. This is an amendment that had already passed on the first Griffin substitute and on the bill itself. I am attempting now to put it into the second Griffin substitute. As the Members of the Senate who were here will recall, the amendment relates to a limitation on the payout share to the Presidential candidates. It eliminates candidates who, for two consecutive primaries, have under 10 percent of the vote in those primaries, with the provision that Senator BAYH asked to be included, to the effect that if a candidate wishes to certify that he is not an active candidate, this will not count against him in the primary so far as elimination is concerned. I know of no objection to it. It went through by a voice vote originally.

Mr. CANNON. Mr. President, do I understand correctly that this is the same amendment to decertify Presidential candidates provided that they do not get a certain percent of the votes in the primary, and this is the amendment that was offered before to S. 3065 and also to the previous Griffin substitute?

Mr. TAFT. The Senator is entirely correct.

Mr. CANNON. Mr. President, I am willing to accept the amendment. I think it is a good amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CRANSTON. Certainly.

MODIFICATION OF ORDER TO REPORT SENATE RESOLUTION 400

Mr. MANSFIELD. If I may have the attention of the Senate, I ask unanimous consent that the order of the Senate mandating the Senate Rules Committee to report Senate Resolution 400 establishing a Standing Committee on Intelligence Activities on March 20, 1976, be modified as follows:

Senate Resolution 400 be reported forthwith from the Committee on Rules and immediately be referred simultaneously to the Committee on the Judiciary and to the Committee on Rules;

That the Committee on the Judiciary make its recommendations on Senate Resolution 400 not later than the close of business on March 29, 1976 and that the recommendations of the Committee on the Judiciary be referred without further action by the Senate to the Committee on Rules; and

That the Rules Committee report its final recommendations not later than April 5, 1976.

Mr. JAVITS. Mr. President, may I inquire——

Mr. MANSFIELD. This has been cleared.

Mr. JAVITS. Mr. President, I just wanted to know that, because I happen to be the only ranking member of the Committee on Government Operations here.

Mr. MANSFIELD. I looked for the Senator, but he was not available. He was in a hearing.

Mr. JAVITS. I understand.

Mr. MANSFIELD. I cleared it with Senators CANNON, HATFIELD, EASTLAND, TUNNEY, HART, BYRD, HRUSKA, RIBICOFF, and SCOTT.

Mr. JAVITS. Has it been cleared with Mr. PERCY, the ranking member?

Mr. MANSFIELD. I shall trust the Senator from New York to get him.

Mr. JAVITS. I shall not object. I just wanted to know that.

Mr. MANSFIELD. I thank the Senator.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

Mr. CRANSTON. I yield to the Senator from Oklahoma for a unanimous-consent request.

Mr. BARTLETT. I ask unanimous consent that Don Cogman of my staff be accorded privileges of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. CRANSTON. I ask unanimous consent that reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Pursuant to an order entered later in today's proceedings, Mr. CRANSTON's amendment in the nature of a substitute for Mr. GRIFFIN's amendment, is not printed in the RECORD.)

Mr. CANNON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with. I shall explain it very quickly.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Note: Mr. CANNON's amendment consists of all amendments that have been agreed to with the exception of Mr. PACKWOOD's amendment. Pursuant to an order entered later in today's proceedings, Mr. CANNON's amendment to Mr. CRANSTON's amendment is not printed in the RECORD.)

Mr. CANNON. Mr. President, this amendment now gets back to S. 2065 and includes all of the amendments which have been approved to date except the amendment of Senator PACKWOOD requiring reporting of expenditures by corporations and labor organizations in communication with their stockholders and members. We have discussed this matter very thoroughly up one side and down the other. I am prepared to discuss it further or to vote on it, either one.

Mr. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. We did not hear the reading of Senator CRANSTON's amendment and we have heard but a brief explanation of the amendment of the Senator from Nevada, the chairman of the Committee on Rules. Is it possible to know what the Cranston amendment is before we are asked to vote on an amendment to the Cranston amendment?

Mr. CRANSTON. I shall be glad to explain, Mr. President, that my amendment was the original bill as reported from committee. I offered that. Then the Senator from Nevada offered a substitute. So the substance of the substitute of the Senator from Nevada is the matter now before the Senate.

Mr. HATFIELD. Mr. President, a further parliamentary inquiry. Since we have an amendment to an amendment to an amendment, we are precluded from further amendments, as I understand it, at this time.

The PRESIDING OFFICER. The amendment of the Senator from Nevada is not open to further amendment.

Mr. HATFIELD. Mr. President, a further parliamentary inquiry: If this is brought to a vote and the amendment is passed by the Senate—that is, the amendment of the Senator from Nevada—what is the question before the Senate at that time?

The PRESIDING OFFICER. Then the question is on the amendment of the Senator from California, as amended.

Mr. HATFIELD. Is that amendable, Mr. President?

The PRESIDING OFFICER. It would not be amendable.

Mr. HATFIELD. Then if that passes what is the parliamentary situation, Mr. President?

The PRESIDING OFFICER. Then the question would be on agreeing to the amendment of the Senator from Michigan, as amended.

Mr. HATFIELD. So that by this particular parliamentary action at this time the Senator from Michigan's (Mr. GRIFFIN) amendment is third in line and is not subject to consideration if the first two amendments pass; namely, the amendment by Mr. CRANSTON, as amended by Mr. CANNON; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. I thank the Chair.

Mr. CANNON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry or maybe the chairman can answer this: Would his amendment include all amendments that have been passed or agreed to on the committee bill?

Mr. CANNON. My amendment now pending includes all amendments that have been heretofore passed, adopted by the Senate, on the committee bill, S. 3065, except the Packwood amendment.

Mr. GOLDWATER. The amendment that was agreed to, the one I introduced this morning, would not be affected?

Mr. CANNON. Would not be affected. It is covered in the amendment.

Mr. ALLEN. Mr. President, perhaps I misunderstand the parliamentary maneuver that is being sought to be made at this time. If I understood the distinguished chairman of the committee, he is seeking to amend the amendment offered by the distinguished Senator from California (Mr. CRANSTON). Such amendment of the distinguished Senator from Nevada would embrace all of the amendments that have been adopted up to the present time except, as I understood him to say, the amendment of the distinguished Senators from Oregon (Mr. PACKWOOD) and Tennessee (Mr. BROCK), which has been agreed to here in the Senate.

So if the amendment of the distinguished Senator from Nevada is agreed to not only would it work a reconsideration of the vote by which the amendment of the distinguished Senator from Oregon and the distinguished Senator from Tennessee was agreed to here in the Senate, but it would cut off all further amendments.

Well now, if that is the way we are going to play ball here, I assure you that this amendment is not going to be voted on any time soon.

[Laughter.]

Mr. ALLEN. At the conclusion of my remarks, Mr. President, I am going to move to table the amendment of the distinguished Senator from California, which would carry with it the substitute of the distinguished Senator from Nevada (Mr. CANNON), because I do not believe the Senate on either side of the aisle would agree to this power play.

I have got some amendments over here that I would like to have voted on. One amendment I might comment on right at this time. I would like Senators to turn to page 46; "616" on line 6 would lift the limit on honoraria that Members of Congress can charge for making speeches or writing articles? Who would think that? Here it is very innocent on line 6, page 46. Who would think that "616" means that hereafter there shall be no limit whatsoever on honoraria that Members of Congress can charge?

Well now, we are supposed to be reconstituting the Federal Election Commission to meet the decision of the Supreme Court, and this little power play here, this second power play, I might say, "616," how unwise can we get? We added the Members of Congress, House and Senate, to the pay adjustment plan for Federal employees so that Members of the House and Senate are guaranteed an annual raise in salary.

Let us read what section 616 says. I do not believe the Senate is going to agree to cut off all amendments, but discard one that has already become a part of the pending bill. But 616 is to be repealed under the Senate bill. It allows—it is now just Members of Congress who are covered here it allows—an employee or officer of the Federal Government, elected or appointed, to receive honoraria up to $15,000 a year and up to $1,000 for any one appearance. Well, that is pretty good extra income, it would seem to the Senator from Alabama, an extra $15,000. I question whether a Federal employee ought to use the prestige of his office to charge for his appearances, but that is the custom.

But we have got a limit on it, and why, in repealing or amending the Federal election law to conform to the decision of the Supreme Court, must we reach out in an entirely new field and remove this ceiling so that any Federal employee—a Federal judge, let us say, he is covered, too, so that there shall hereafter be no limitation whatsoever, the sky is the limit, guaranteed annual increase in compensation, as much as the tariff will bear in outside appearances away from this Chamber.

I do not believe the Senate will want to do that. I just mention that as one little imperfection of the bill as it now pends before the Senate.

This substitute was not even read. We are to take that in one swallow, discard an amendment adopted by rollcall vote here in the Senate, lay that aside, reconsider that—that has already been reconsidered here in the Senate, we cannot reconsider it but once—this is doing indirectly what the rules do not permit on a direct vote, because we have already had one vote to reconsider.

I dare say, there are 30 or 40 amendments pending here in the Senate right

now. Under this plan, not a single one of them would be allowed to be offered.

I do not believe that is quite right. That does not comport with my understanding of what is fair. I do not know who was consulted on this matter. The Senator from Alabama was not consulted.

As a matter of fact, the Senator from Alabama was trying to get recognition over there at his seat. I wanted to offer this amendment on honoraria, but I could not get recognized—it seems to be a common failing with the Senator from Alabama, the inability to get recognized.

But this is a little play acting here where the Senator from California offers an amendment and then the Senator from Nevada (Mr. CANNON) offered another amendment, neither of which were read. It would have taken an hour, probably an hour and a half, to have read those two documents. All of that was waived because, as was stated, "an explanation will be given."

Well, an explanation was given, all right, but I did not particularly fancy that explanation.

So, Mr. President, what do the managers of the bill fear in this effort to cut off amendments, in this effort to prevent the Senate from working its will?

I hardly regard it as democratic. I hardly regard it as a democratic move, small "d." I cannot give my sanction to a power play of this sort.

They take the amendments they like. They discard one that the Senate had already voted by some 50 to 46, I believe, somewhere in that range. That is laid aside.

I had an amendment in addition to the honorarium amendment that I had cleared with the distinguished manager of the bill and I was in hope that some time in the next 30 or 40 minutes it might have been adopted.

Under the present effort the Senate would be tied and locked in, if this power play is allowed to take place. Under this bill it is entirely likely that membership corporations, corporations that have members but do not have stockholders, could not set up segregated funds as are permitted to corporations with stockholders and stock.

Mr. CHILES. Will the Senator from Alabama yield for a minute?

Mr. ALLEN. For a question, yes.

Mr. CHILES. It is a question and it is not particularly on the subject the Senator from Alabama is talking about.

I wonder if the Senator from Alabama would just help the Senator from Florida. I am trying to figure where we are now.

Mr. ALLEN. Well, we are behind the eight ball.

[Laughter.]

Mr. CHILES. As I understand it, we have the kind of parliamentary situation set before us in which we sort of have a locked-in vote, do we not, in which any amendment we offer now is in the form of a perfecting amendment which gets automatically wiped out if the Cannon substitute passes?

Mr. ALLEN. That is correct.

Mr. CHILES. So if the Cannon substitute has a majority, then everybody else that might have an amendment or a thought—such as the Senator from Alabama who wishes to address this sleeper that he just found, that has been kind of slipped in here, that the Senate has not had a chance to express itself on yet, and that the Senate did express itself at one time—that would not come up, any other provision that might come up in regard to what the Senator from Florida has labored and perhaps belabored too long for a lot of people, that could not come up?

The Senator would be out on his amendment.

It seems to the Senator from Florida that the only sort of protection one has if he has any kind of feeling that maybe there ought to be some other legitimate vote on an amendment of this, would be that we do not come to a vote right now because we would be wiped out.

If that be the case, I just wanted the Senator from Alabama to know that I am prepared to kind of stand with him for a little while.

I want to be in Florida for the September primary and I want to be down there maybe before that.

Mr. ALLEN. Well, that is fine. The Senator can absent himself all he wants to and he will still be standing with the Senator from Alabama because it takes a definite number of affirmative votes to bring this issue to a vote.

Mr. CHILES. Yes.

Mr. ALLEN. So if the Senator wants to go to Florida, that will be all right, because his absence would be a vote against what is being sought to be done here.

The Senator has been voting along pretty well, as I noticed, with the steamroller here, but he did have a very fine amendment and it came very close to being adopted.

They do not want to run that risk again. They do not want the Senator from Florida to come in again with another amendment, because it might pass this time.

But, of course, if it had passed, I will say to the Senator from Florida, they could have left it outside, outside the Chamber, just like they are seeking to leave the amendment of the Senator from Oregon and the Senator from Tennessee, they are seeking to leave that out.

So the Senator could not win if he had won. He could not have won if he got his amendment adopted, because this ploy would have wiped the Senator out even after the Senate had spoken on the issue.

All is not lost. I feel confident that on a motion to table the Cranston amendment, which would carry with it the substitute of the Senator from Nevada, I feel reasonably confident that such a motion to table would, in all likelihood, carry, because I do not believe Members of the Senate——

Mr. CHILES. Does the Senator feel confident enough that we should have a vote on that this week or——

Mr. ALLEN. On a motion to table?

Mr. CHILES. Yes.

Mr. ALLEN. Well, I am not sure.

Mr. PACKWOOD. Will the Senator from Alabama yield?

Mr. ALLEN. I yield for a question.

Mr. PACKWOOD. It is a position that I agree with. I am going to be here tonight with the Senator from Alabama. I believe there are many things wrong with this bill. We have the situation the Senator raised about the trade associations, as to whether they are in or out, or what can they do.

The Senator from Maryland (Mr. MATHIAS) has increased the Commission to eight, which may be fine.

We have a situation where two people from a political party can veto what was a six-man commission and now we are not sure what the status is with eight.

I would be reluctant to table this too soon until we at least can have discussion on a variety of these other problems.

I agree with the Senator from Alabama and the Senator from Florida, that we should discuss his amendment again, where we are so close.

I think it would be unfortunate for this amendment to pass, which, as the Senator has indicated, would eliminate the major point, which would require unions and corporations to disclose how they spend their money.

I will be here for as many hours as the Senator from Alabama would like to stay tonight.

Mr. STEVENS. Will the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. STEVENS. I do not intend to be here that long. I had a simple amendment which really dealt with something that I think is a terrible thing which has come out of this Election Commission. These reports are prepared for candidates by volunteers who in good faith try to comply with the law. They come in here and they are looked over meticulously by people who are employed to do that. I do not argue with them. That is their job. But I do think there ought to be some good-faith compliance concept to stop this nit-picking that has been going on about these reports.

I know of one instance, for instance, where a person was listed with his business address as an accounting partnership and his occupation was listed as partner by the volunteer who prepared it. Anyone who looks at it knows the man is an accountant or a partner in an accounting firm. It was sent back to have the whole thing typed over, because it did not comply with the law.

I am not being critical of the Secretary of the Senate or of FEC. The law is very, very rigid in that area.

We worked out an amendment on what I call the best effort, the good faith compliance effort, which I have been waiting to offer. I do not see any reason why it should be shut off. This is the time now, before all of these candidates find that they lose their volunteer help, because people who are employed to go over these reports—and again they are doing their job under the law—are given such rigid instructions that they are not permitted to accept good faith compliance with the intent of Congress and the basic law, under which we are operating.

Some of us are leaving on a trip to go talk about a great project, the Alaska pipeline, in our neighboring country this evening. I happen to be going to Canada in about 45 minutes. I want to know if the Senator intends to raise this motion to table tonight. If he is, I will stay, because I want to assist him in some way

to restore the position where I can offer this amendment. But if he is not, I am going to tend to my business for my State which takes me to Canada.

Mr. ALLEN. I will state to the distinguished Senator from Alaska that I do not know at this time. I am rather hopeful that the proponents of this maneuver will see the error of their ways and withdraw this effort to lock in the Senate. I am hopeful that that will take place. Even if the motion to table should lose, it would still be open for further discussion. That would just bring it to a head a little bit quicker.

Mr. STEVENS. Will the Senator yield for a further question?

Mr. ALLEN. Yes.

Mr. STEVENS. It is my understanding that the Senator would see to it that we will have a slightly extended conversation about this bill until we return on Monday so that we might be able to address the matter again next week as far as these perfecting amendment are concerned?

Mr. ALLEN. I have no desire to discuss the bill at length. As a matter of fact, I have been willing to agree on a time limit, because I do think it is essential that we reconstitute this Commission. What I object to is the use of a power play to cut the Senate off, to cut off 100 Members of the Senate from offering amendments.

We have many constructive amendments. I was telling of another amendment that I have, which I think is very constructive. As a matter of fact, I am sure the distinguished floor manager of the bill would not object to my saying that I had cleared this amendment with him and he agreed that the amendment had merit.

What it does is to allow a membership corporation or a corporation without capital stock but with membership, a cooperative, a membership organization, to set up a separate segregated fund. I do not have any group in mind, particularly, that I feel would want to contribute to any particular candidate, but I do feel they ought to have the same right as corporations.

Take, for example, a local REA, which has possibly hundreds or thousands of members but which does not have any capital stock. They could not set up a separate fund and solicit contributions to that separate fund from their members.

The amendment I have would allow cooperatives, nonstock corporations, and membership organizations to set up the same type of segregated fund as a corporation with stock and stockholders or labor organizations.

Why should they be prevented from setting up funds? They are as interested in good government as the corporations with stock and stockholders and labor organizations. The distinguished manager of the bill, the chairman of the Rules Committee, agreed that there was merit in that suggestion. If I had just been given a little more time I would have been able to get that amendment agreed to.

I do not know whether it would have been one of those select amendments, however, that was chosen to go into the final substitute. They picked and chose there. The 50 Senators who voted for the Packwood-Brock amendment were given the cold shoulder. They were not allowed to have their amendment included in the substitute. But everybody else had his amendment agreed to with the door closed to constructive amendments like the amendment of the distinguished Senator from Florida (Mr. CHILES). The Senate ought to be allowed to work its will on this bill.

Who can say that this bill, as it is now contained in this last substitute, is the best bill that the Senate can work out? I do not believe it is. It falls far short.

I will say this: This provision lifting the ceiling on honoraria would be locked in. There is no way in the world to change that as far as this bill is concerned.

What we are doing unquestionably is moving this bill to a veto. I do not see why we are moving headlong down a dead end.

I do not believe the President would approve of these strongarm tactics that are being used to cut off amendments. That is exactly what is being done.

I believe he would see the merit of allowing nonstock corporations, cooperatives and membership organizations to set up segregated political funds and allow solicitations of the members of such organizations for contributions to that fund.

I believe there are many other injustices contained in the bill.

I believe all we are doing is spinning our wheels if we are locked out from offering further amendments when the desks are full of printed amendments, and many Senators have written or unprinted amendments on their desk.

Of course, one amendment begets another amendment, so if we are allowed to work our will here, I think there is a good chance we would be able to move on and finally come up with a bill that the Senate can pretty generally agree upon. But not if 50 Senators are going to be slapped in the face, on an amendment that has been adopted by the Senate, and it is not included in the bill, when that amendment has passed and its reconsideration voted down, and it supposedly was locked into the bill, but here comes an effort to discard that and, in effect, to reconsider the matter.

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ALLEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, after consultation with the——

Mr. ALLEN. Mr. President, I believe the Senator from Alabama has the floor.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. GRIFFIN. Will the Senator from Alabama yield without losing his right to the floor?

Mr. ALLEN. Yes. I ask unanimous consent that I may yield to the distinguished Senator from Michigan without losing my right to the floor, and without the continuation of my remarks constituting a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. I thank the Senator from Alabama.

After a good deal of consultation among the manager of the bill, the ranking member of the Committee on Rules and Administration, the majority leader, the majority whip, and others, we understand that it is going to be impossibile to finish this bill tonight; therefore, it seems to be in the interest of the Senate that I should withdraw the substitute that is now pending and go back to square 1, and it is understood that we will take up this measure again next week, as I understand it.

So because of that and with that understanding, Mr. President, I withdraw the substitute that I offered.

The PRESIDING OFFICER (Mr. STONE). The amendment is withdrawn.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. As I understand it, the two amendments that were offered to it, the Cannon amendment and the Cranston amendment, would fall, because of the withdrawal of the underlying amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. I thank the Chair. I thank the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I am delighted that this solution of this problem and parliamentary situation has been worked out and amicably agreed to.

As I understand the situation, when we next consider this bill we will have before us a clean bill with all of the amendments which the Senator has agreed to add to the bill and that it will be open to further amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. And any Senator would have a right, then, to offer an amendment if he should be able to get recognition from the Chair.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. Very well.

AMENDMENT NO. 1496

Mr. ALLEN. I call up then my amendment No. 1496.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment No. 1496:

On page 37, line 13, before the period insert the following: ", or by a membership organization, cooperative, or corporation without capital stock".

On page 38, line 3, after the period insert the following: "This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.".

Mr. ALLEN. Mr. President, all this amendment does is to cure an omission in the bill. It would allow corporations that do not have stock but have a membership organization, such as a cooperative or other corporations without capital stock and, hence, without stockholders, to set up separate segregated political funds as to which it can solicit contributions from its membership; since it does not have any stockholders to solicit, it should be allowed to solicit its members. That is all that the amendment provides. It does cover an omission in the bill that I believe all agree should be filled.

I have talked to the distinguished manager of the bill and I think I am correct in saying that he agrees to the adoption of the amendment.

I yield to the distinguished Senator from Nevada.

Mr. CANNON. Mr. President, the Senator has discussed that amendment with me. I think it covers a void that is not present in the bill and certainly is proper and should give those organizations the same opportunity that we have given to other organizations in the bill, and I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. Mr. President, I am delighted to have this amendment agreed to. It is an important amendment.

I have other amendments that I am not going to offer tonight, and one is, as I say, to amend the bill so as not to lift the ceilings on honorariums and to eliminate that repeal.

I might state, further, that the mere acceptance of this amendment that I have offered would in no way indicate that if a similar parliamentary situation is presented, whereby amendments are not in order and amendments are cut off, the Senator from Alabama would, of course, feel free to discuss any such effort at length.

Mr. CANNON. Mr. President, will the Senator be willing to yield to me for a unanimous-consent request?

Mr. ALLEN. I am willing to yield the floor.

ORDER TO NOT PRINT AMENDMENTS

Mr. CANNON. Mr. President, I ask unanimous consent that the Cannon substitute, the Cranston amendment, and the Griffin substitute last offered not be required to be printed in the RECORD in accordance with the rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING PRINTING OF H.R. 3065 AS AMENDED

Mr. CANNON. Mr. President, I ask unanimous consent that the bill in its amended form now be printed as a clean copy. Before there is a ruling on that request, I point out that if that is done there are some amendments at the desk and some Senators might want to revise their amendments then to get them fitted in at the proposed proper place.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Of course, the bill as amended and as reprinted would be subject to amendment.

Mr. CANNON. Certainly, of course.

The PRESIDING OFFICER. The Senator is correct.

Without objection, it is so ordered.

ORDER FOR PRINTING OF S. 3065 IN ENGROSSED FORM

Mr. CANNON subsequently said: Mr. President, I ask unanimous consent that the bill S. 3065, as amended, be printed as if it were in engrossed form for the use of the Senate when next it considers the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING SECRETARY OF THE SENATE TO MAKE TECHICAL CHANGES IN H.R. 3065 AS AMENDED

Mr. CANNON. Mr. President, I ask unanimous consent that the Secretary of the Senate be permitted to make technical changes that are necessary to conform the bill in its present form as so amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I address myself to the point that Senator ALLEN raised. The reason that section 616 was stricken in the bill, as it came out, was because the same language was rewritten with some changes elsewhere in the bill. So it was not just a question of eliminating section 616 and doing nothing. When section 616 was eliminated there was a rewriting of that provision with some modifications in the bill as the Committee on Rules and Administration reported it.

Then the distinguished Senator from Arizona (Mr. GOLDWATER) offered amendments this morning that, in effect, resulted in the deletion of section 616.

Mr. ALLEN. Yes. I am glad the distinguished Senator brought that up.

When the Senate knocked out the substitute language earlier today it just left the repealer of the entire section there. So as things now stand both the House of Representatives and the Senate have a provision here in this election bill that does lift the ceiling on the amount of honoraria that Federal officers and officials can receive in the course of a year. What the amendment of the Senator from Alabama would do would be just to knock out this inoffensive looking figure, section 616, which has a whole lot in it; however, that should not be there.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. CANNON. Let me just make one correction. The House, it is true, eliminated 616 in their proposed bill, but they in turn rewrote section 616 precisely as it was. It is now designated as section 327 in the House bill. So the House did not just eliminate 616 and do nothing. They rewrote 616 at a different place in the bill and entitled it section 327.

Mr. ALLEN. The Senator is correct. The trouble is that that is not before the Senate. The way things now stand, all that is present now in the Senate bill is the repealer.

Mr. CANNON. No. In the House proposal, H.R. 12406, there still is the language on honoraria, the same language as in section 616 of the present law.

Mr. ALLEN. That is correct. I readily acknowledge what we are operating on, though, is the Senate bill, which is going to be substituted for the House bill, I assume.

Mr. CANNON. That may be; but the House bill, H.R. 12406, still has that provision in it. That has not been deleted.

Mr. ALLEN. But it also has the repealer of 616; but adds comparable language as section 327.

Mr. CANNON. That is correct.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Nevada yield the floor?

Mr. CANNON. Yes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Has the amendment been agreed to?

Mr. CANNON. The Senator's previous amendment was agreed to. He just talked about the amendment related to 616, and that is controversial. Senator GOLDWATER is opposed to it.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending measure now be set aside until Monday.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following three measures, which have been cleared on both sides of the aisle: Calendar No. 669, Calendar No. 670, and Calendar No. 671.

The PRESIDING OFFICER. Without objection, it is so ordered.

INSTALLATION OF CERTAIN FLAGPOLES ON THE CAPITOL GROUNDS

The bill (S. 3161) to authorize the Secretary of the Interior, with the approval of the Architect of the Capitol, to locate flagpoles on the U.S. Capitol Grounds in order to fly the flag of each of the States of the United States, and its territories and possessions, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to the approval of the Architect of the

artificial flavors or colors. The report of such study shall be transmitted to the President and the Congress simultaneously. Any such report shall assess the need of consumers for such information, the feasibility of requiring all such ingredients to be labeled, any potential beneficial or adverse economic or health consequences of such labeling, and the reasonableness of alternatives to the labeling of all such ingredients.

SEC. 312. The amendments made by this title shall take effect upon the date of enactment of this Act, except that by consumer, industry, and health groups concerned with food labeling) a study of the need for (a) the label declaration of the common or usual name of every spice and flavoring used in the fabrication of a food for human consumption and (b) a symbol or logo indicating the absence of artificial flavors or colors. The report of such study shall be transmitted to the President and the Congress simultaneously. Any such report shall assess the need of consumers for such information, the feasibility of requiring all such ingredients to be labeled, any potential beneficial or adverse economic or health consequences of such labeling, and the reasonableness of alternatives to the labeling of all such ingredients.

SEC. 312. The amendments made by this title shall take effect upon the date of enactment of this Act, except that the effective date for any regulations promulgated pursuant to this title shall be no earlier than 180 days after the date such regulations are published as a final order in the Federal Register with respect to all new or changed labels printed thereafter, and 545 days after the date such regulations are published as a final order in the Federal Register with respect to all other labels. With respect to any requirement of this title for which regulations are necessary for the proper enforcement of this Act, the Secretary shall propose such regulations within 180 days of the date of enactment of this Act, and promulgate final regulations no later than 1 year after the date of enactment. The effective date of any such regulations shall be no later than 2 years after the date such regulations are published as a final order in the Federal Register.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOSS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 641.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I send to the desk an amendment to the title and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Amend the title so as to read:

"A bill to regulate commerce and protect consumers from adulterated food by requiring the establishment of safety assurance procedures and safety assurance standards, to provide for the effective enforcement of the Food, Drug, and Cosmetic Act, to implement registration of food processing establishments, to provide for more informative labeling of food products, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment to amend the title.

The amendment was agreed to.

Mr. MOSS. Mr. President, I thank the following Senators for their assistance in the handling and expedition of this legislation: Mr. PEARSON, Mr. BEALL, Mr. JAVITS, Mr. KENNEDY, Mr. HART of Michigan, Mr. MAGNUSON, Mr. WILLIAMS and Mr. HATHAWAY, for the particular efforts and spirit that he put forth in this debate and in the amendment to the bill.

I would also like to thank the joint leadership for bringing this bill up so expeditiously. It has been passed before, but in passing it this early in the session we well may see it enacted into law during this Congress.

TIME-LIMITATION AGREEMENT—SENATE RESOLUTION 406

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Senate Resolution 406, "The importance of sound relations with the Soviet Union," there be a time limitation of 1 hour, to be equally divided between Mr. CRANSTON and Mr. BAKER.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT—H.R. 9721

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 9721, an act to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes, is called up again and made the pending business before the Senate, there be a time limitation thereon of 2 hours to be equally divided between Mr. HUMPHREY and Mr. HARRY F. BYRD, JR.; that there be a time limitation on any amendment thereto of 30 minutes; that there be a time limitation on any debatable motion, appeal, or point of order if such is submitted to the Senate of 20 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR YEAS AND NAYS ON SENATE RESOLUTION 406

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays at this time on Senate Resolution 406.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER FOR ADJOURNMENT UNTIL MONDAY, MARCH 22, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY C. BYRD, JR. Will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HARRY F. BYRD, JR. Could I ask the Senator from West Virginia if he would communicate with the Senator from Virginia before time agreements are sought on the Foreign Assistance Act? I understand that bill has been reported today. It is not yet on the calendar.

Mr. ROBERT C. BYRD. Yes. The Senator has that assurance.

Mr. HARRY F. BYRD, JR. I have no plans to hold it up in any way at all, but I would like to have adequate opportunity to study the committee report and the report is not yet available.

Mr. ROBERT C. BYRD. Yes, the Senator has that assurance.

Mr. HARRY F. BYRD, JR. I thank the Senator.

ORDER FOR THE RECOGNITION OF SENATOR GOLDWATER AND SENATOR MANSFIELD ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, Mr. GOLDWATER be recognized for not to exceed 15 minutes and that he be followed by Mr. MANSFIELD for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DESIGNATION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. I ask unanimous consent that there then be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 406—SOUND RELATIONS WITH THE SOVIET UNION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business on Monday, the Senate proceed to the consideration of Senate Resolution 406, a resolution entitled "The importance of sound relations with the Soviet Union."

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL ELECTION CAMPAIGN AMENDMENTS—S. 3065

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the lead-

ership be authorized to call up on Monday at such time as it deems appropriate, the Federal elections campaign bill. That bill was set aside temporarily today by unanimous consent until Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GOLDWATER ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday after the two leaders or their designees have been recognized under the standing order, the Senator from Arizona (Mr. GOLDWATER) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE JOINT RESOLUTION 184—AMENDMENT OF THE REGIONAL RAIL ORGANIZATION ACT OF 1973 REORGANIZATION

Mr. ROBERT C. BYRD. Mr. President, I have been asked by the Senator from Indiana (Mr. HARTKE) to ask for the immediate consideration of a joint resolution which, I understand, has been cleared on both sides of the aisle, which I now send to the desk.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative read as follows:

A joint resolution to amend the Regional Rail Reorganization Act of 1973, as amended.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration, and, without objection, the joint resolution will be considered to have been read the second time at length.

Mr. ROBERT C. BYRD. I ask unanimous consent to have printed in the RECORD a statement by Mr. HARTKE in explanation of the joint resolution.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HARTKE

EXPLANATION OF JOINT RESOLUTION

Section 1 would change section 306 (c) of the Regional Rail Reorganization Act by changing the phrase "without regard to" to "adjusted to reflect" in order to accurately describe the process of making adjustments to reflect any stock splits and similar transactions that might occur after the time of the distribution of the securities pursuant to the provisions of the Act.

Section 2 would apply the same adjustment formula to common stock under Section 306 (c) (3) (B) as applies to Series B Preferred Stock under Section 306(c)(3)(A). This amendment would correct an inadvertent omission in the present clause (B).

Section 3 is addressed to the third sentence of Section 301(e)(2) of the Act, which states: "As a condition of its investment in the Corporation, the Association may require that the Corporation adopt limitations consistent with the final system plan on the circumstances under which dividends on the series B preferred stock and common stock are payable so long as any of the debentures or series A preferred stock are outstanding." While this sentence is essentially a "preemption" provision it could be construed to preclude issuance, without an order of the Special Court, of series B preferred stock and common stock in a greater amount than either seemingly authorized or contemplated for issuance in the plan.

Sec. 4. Section 102(3) of the Regional Rail Reorganization Act of 1973, as amended, is amended by inserting between "Act" and "," the phrase "or its successor by merger, consolidation or other form of succession carried out under applicable law for the purpose of changing the State of its incorporation.".

Sec. 5. Section 501(2) of the Regional Rail Reorganization Act of 1973, as amended, is amended by inserting after the words "or to an acquiring railroad", the world "or to a State pursuant to section 208(d)(2) of this Act".

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendments to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution (S.J. Res. 184) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. RES. 184

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(3) of the Regional Rail Reorganization Act of 1973, as amended, is amended by inserting after "Act" the phrase "or its successor by merger, consolidation or other form of succession carried out under applicable law for the purpose of changing the state of its incorporation".

SEC. 2. Subparagraph (A) of paragraph 3 of section 306(c) of the Regional Rail Reorganization Act of 1973, as amended, is amended by striking "without regard to" and by inserting in lieu thereof "adjusted to reflect".

SEC. 3. Subparagraph (B) of paragraph 3 of section 306(c) of the Regional Rail Reorganization Act of 1973, as amended, is amended to read as follows:

"(B) the number of shares of common stock determined by dividing the total number of shares of common stock distributed pursuant to section 303(c)(4) of this Act to the transferor receiving such series of certificates of value (adjusted to reflect any stock splits, stock combinations, reclassifications, or similar transactions affecting the number of shares of outstanding common stock following the date of distribution pursuant to section 303(c)(4) of this title) by the total number of certificates of value in the series so distributed to such transferor.".

SEC. 4. Paragraph (2) of subsection (e) of section 301 of the Regional Rail Reorganization Act of 1973, as amended, is amended by adding thereto the following sentence:

"Notwithstanding anything to the contrary in the final system plan, the initial authorized number of shares of series B preferred stock may be 35,000,000, and the Corporation may issue initially for the purpose of the deposit required under section 303(a)(1) of this Act such numbers of shares of series B preferred and common stock as the Association shall certify to the Special Court pursuant to section 209(c)(1)(3) of this Act, including any modifications in such numbers of shares as may be ordered by the Special Court for the purpose of, and in connection with, such deposit and certification.".

SEC. 5. Section 501(2) of the Regional Rail Reorganization Act of 1973, as amended, is amended by striking "or to an acquiring railroad" and inserting in lieu thereof ", to an acquiring railroad, or to a State pursuant to section 208(d)(2) of this Act".

REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE G, 94TH CONGRESS, 2D SESSION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention on Registration of Objects Launched Into Outer Space, signed by the United States at New York on January 24, 1975—Executive G, 94th Congress, 2d session—transmitted to the Senate today by the President of the United States, and that the treaty with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER (Mr. SPARKMAN). Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention on Registration of Objects Launched Into Outer Space, opened for signature at New York on January 14, 1975. For the information of the Senate the report of the Department of State concerning the Convention is also transmitted.

The Convention is designed to provide the international community with a central and public registry of objects launched into outer space. Pursuant to this Convention launching States would be required to submit certain information to the U.N. Secretary-General regarding objects which they launched into outer space. The Convention builds on the foundation of a voluntary system of notification to the Secretary-General of the United Nations by U.N. Member States of objects they have launched. That voluntary system has now been observed for more than a decade.

The Registration Convention is an appropriate addition to the Outer Space Treaty, the Astronaut Rescue Agreement, and the Liability Convention. The Senate gave its consent to these earlier treaties in the field of space activities by unanimous vote. I hope that, at an early date, the Senate will also give its strong endorsement to this latest Convention.

GERALD R. FORD.

THE WHITE HOUSE, *March 18, 1976.*

ENERGY CONSERVATION IN BUILDINGS ACT OF 1975

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. PROXMIRE, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8650, an act to assist low-income persons in insulating their homes, to facilitate State and local adoption of energy conservation standards for new buildings, and to direct the Secretary of Housing and Urban Development to undertake research and to develop energy conservation performance standards.

The PRESIDING OFFICER (Mr.

SENATE FLOOR DEBATES ON S. 3065

MARCH 22, 1976

may cause the kind of diabetes that attacks youngsters. If so, it may be possible to screen genetically-susceptible children and vaccinate them.

The basic cause of diabetes, however, isn't yet known. Diabetics are unable to properly metabolize the sugar they eat, leading to dangerously high blood-sugar levels, either because they don't produce enough sugar-regulating insulin or because of some other reason. Today, a common treatment is injection of insulin. In the future, pancreas transplants, or transplants of the specific pancreas cells responsible for sugar metabolism, could be more efficient. Current research also is aiming at the development of an artificial insulin-releasing pancreas.

Aging: In 2000, the average life will probably be only a few years longer than at present. But the biological mechanisms of aging will be better understood, and this will make geriatrics more useful as a medical specialty. In fact, geriatrics will be booming, with 28 million Americans over the age of 65 against 22 million today. As a major part of their job, geriatricians will use a wide variety of treatments and procedures, many of which now are available but underemployed, to delay the symptoms of senility.

Mental ailments: The split between those who believe that mental illness reflects chemical abnormalities in the brain and those who believe that mental illness is essentially of non-biochemical origin will still exist in 2000. Whatever the truth, many many drugs today do alleviate the outward symptoms of mental illness to permit psychiatric treatment and encourage "normal" behavior. If mental illness is chemically based, then the illness itself might be treatable by drugs, too.

On the other hand, some mental or emotional disorders may disappear simply because notions of what is normal and abnormal may change. Homosexuality and even certain psychoses have been accepted by some physicians and psychiatrists as natural and healthy, if not always socially acceptable.

Prosthetics: Researchers recently have reported successes with computer-controlled electronic devices, implanted in the brain, that transmit signals allowing totally blind persons to "see" Braille letters and read them. Advanced versions, by 2000, may be able to transmit video-like images of the outside world, perhaps from tiny camera-transmitters in the blind person's eye sockets. And similar audio devices implanted in the inner ear could permit deaf persons to understand normal speech.

An electrode that can detect human nerve impulses already has been developed. With refined engineering, the Harvard medical school scientists who designed it believe, it may be used to link severed nerves and reverse paralysis. It would also make possible direct brain control of electrically driven artificial arms, legs and other prosethetic devices.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—SENATE RESOLUTION 406

Mr. CRANSTON. I ask unanimous consent that both William Jackson and Murray Flander of my staff may have the privileges of the floor throughout the consideration of Senate Resolution 406, and from now until that measure comes up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR MIKE MANSFIELD

Mr. SYMINGTON. Mr. President, much has been said about the character and ability of the gentleman who has guided our destiny on this floor longer than anyone in the history of the United States.

One of our outstanding towns in Missouri, Warrensburg, has a paper, the Daily Star-Journal, which in its editorials consistently hits the nail on the head.

I ask unanimous consent that this editorial about a man we all respect, and to whom we are all devoted, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Warrensburg (Mo.) Daily Star-Journal, Mar. 11, 1976]

SENATOR MIKE MANSFIELD

Since Sen. Mike Mansfield announced his retirement recently, the reaction to it has been noteworthy. It has taken only one direction. Remarks by congressional leaders of both parties and comments by members of the media about the man have been laced with superlatives.

Emphasis has been placed on the manner in which he handled his job as he related personally to those with whom he dealt.

Early in his 15-year tenure as Senate majority leader, longest in the Senate's history, he gained the respect of all members of Congress and of those in the executive branch. It has remained this way, even with his adversaries. And being a man of principle, he has not been without them. In the hard-hitting world of politics sustained respect is the exception, not the rule.

Time magazine called him "easily the Senate's coolest elder statesman," adding, "he is legendary for almost never having lost his temper. . . . He changed the nature of the Senate."

James Reston of the New York Times said, ". . . he got ahead by giving up . . . he never allowed personal differences to overwhelm issues of principle."

Because of the kind of man he is, he became a counselor to many, regardless of party affiliation. Frequently he has been sought out by congressional members and others with personal problems. His humanism toward all people and his evenness of temperament create a magnetism which doesn't require what is typically thought of as the kind of charisma which attracts others.

Widespread regret is felt over Sen. Mansfield's leaving the Washington scene. Probably more so by those who are remaining on it than anyone else. His steadying influence, graciousness and wise ways provide sorely needed attributes among his colleagues.

Yet his decision to retire at the age of 73 is perhaps another indication of his wisdom. Others on Capitol Hill have made the mistake of staying too long.

Senator Mike Mansfield has served the nation exceptionally well. We need more men in government like him.

LAMAR, MO., STUDENTS BUILD SOLAR FURNACE

Mr. SYMINGTON. Mr. President, one positive and promising result of our fuel shortages problems has been the increased effort at the grassroots level to develop alternative energy sources which can reduce our reliance on fossil fuels. We depend on Government and industry to conduct these research and development programs, but private citizens around the country also provide encouraging reports of projects and experiments which may some day supply some of our fuel needs.

Among the most promising of the energy options included in long-range plans is solar power. Today, solar technology is particularly well suited for decentralized application in individual homes and buildings.

The ultimate potential of solar power for large-scale heating and cooling is, as yet, undetermined, but I would like to bring to the attention of the Senate the activities of the Lamar, Mo., High School science students who, with the support of their teacher, have designed and constructed a solar furnace.

Made of such surplus scrap items as an old ice cream storage freezer, part of a hay bin, and crushed glass, the Lamar High School solar furnace is now heating some school rooms which previously were without heat and therefore unused.

Science teacher Ralph Williston and his students are to be commended for an innovative approach to the study of scientific principles while at the same time providing a practical, usable heating system.

I ask unanimous consent that an article from the St. Louis Post-Dispatch describing Lamar High School's new solar furnace be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the St. Louis Post-Dispatch, Mar. 14, 1976]

STUDENTS AT LAMAR, MO., DEVELOP SOLAR FURNACE

LAMAR, Mo., March 13.—Using such things as an old ice cream storage freezer, crushed glass, part of a hay bin and other improvisations, the students in Ralph Williston's science classes at Lamar High School here have created a solar furnace that's become a hot topic.

"They say necessity is the mother of invention," Williston explains, "We had a few vacant school rooms without heat, so we decided to build a solar furnace. Now those romso are warm and usable."

Williston is thinking in terms of a patent for what he and his students have developed because it has a parabolic collector to focus the rays of the sun and he thinks it is more efficient than the flat surfaces used in other solar heating systems.

The collector is not the only oddity on the roof of the high school in this southwest Missouri town of 3760 persons. Williston and

the students in his advanced physics and chemistry classes have also built a wind generator and a celestial observatory. They have a radar scanner to work with.

"This has been our most ambitious project," Williston said of the solar furnace. "We managed to get the public involved because we needed donations. Now we have people coming every day to look at it."

The solar furnace cost $1200. Modifying and perfecting it in future experiments may bring the price tag near $2000.

"We should be able to turn it into an air conditioner during the summer," Williston said, "but that's just one of a hundred experiments we have in mind."

Students cut apart a metal hay bin to make the parabolic collector. They electroplated a mirror-like surface onto sheets of metal to line the concave surface.

The sun's rays are bounced onto a finned coil that runs the 12-foot length of the parabola, and the heat is transferred to a half-and half mixture of water and antifreeze which is pumped through the coil.

The pump also pulls the heated mixture through another coil system that is embedded in two tons of crushed glass inside the old ice cream freezer box, and the glass becomes the depository for the heat.

A blower and another transfer system send warm air through ducts into the previously unheated school rooms.

On recent winter days, the temperature at the focal point of the parabolic reflector had reached 300 degrees. The projected plan is to keep the temperature of the glass about the same on winter days, with the idea that it will go no lower than 200 degrees during the hours of darkness when the circulating pump is shut off.

On cloudy and cold days, the collector is covered with a plexiglass shield that traps an extra ration of the sun's ultraviolet rays.

"It's a hothouse effect, like getting a sunburn on a cloudy day or a closed car that gets much hotter inside than out," Williston explained.

On a hot summer day, Williston estimates that the temperature at the local point may reach 1,000 degrees.

"One student figured out we could use excess steam from the system to generate electricity, so we're going to try it," Williston said.

Lamar has become almost as involved in the solar furnace projects as Williston's students. Individuals, organizations and businesses have supplied the money for the motors, the pumps, the wiring, the switches and the pipes that the youngsters have put together.

"This has been their recreation," Williston said. "The kids come before school, after school, even on weekends. I think this is the best way to teach."

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976—S. 3065

Mr. CANNON. Over the weekend, there have been various reports in the press of statements by the President of the United States that Congress is retreating from its commitment to clean and fair elections, with an accompanying threat to veto any campaign bill that went beyond a simple extension of the major powers of the Federal Election Commission. Such a simple extension of the Commission has been proposed here as a substitute to S. 3065, and the Senate has twice rejected this approach on the first rollcall vote of 46 to 47 and a subsequent roll call vote of 39 to 55.

I would like to take a few moments at this time to clarify the record as to who appears to be retreating from a commitment to clean and fair elections, and to stress the importance of the approval of S 3065, as it has been amended here in the Senate. As we all know, one of the most severe impacts of the Supreme Court's decision on the Federal election laws was the ending of any limitation on expenditures, particularly on independent expenditures made by persons or political committees unconnected or unaffiliated with candidates and their campaigns.

Mr. President, without S. 3065, there will be limited information and disclosure to the public of the independent expenditures which will clearly be made in vast sums of money to elect, and in many cases to defeat, specific candidates for Federal office. S. 3065 will require detailed reporting of these expenditures as well as conspicuous disclosure of the source of expenditures to support or oppose candidates in the public media. These are proposals necessitated by the nature of the Supreme Court's decision and represent another positive step toward fair and clean elections.

It is difficult to understand why the President and his party opposes this type of legislation.

If a simple extension of the Commission is adopted, as proposed by the President and his party, political committees will be able to transfer unlimited sums of money to any other political committee, so long as the funds are not earmarked for any particular candidate, and such concentrated sums of money will then be available to be injected into political campaigns in unlimited amounts as independent expenditures to elect or defeat certain candidates for Federal office. S. 3065 will put reasonable limits on such transfers of money and it is difficult to understand why the President and his party oppose such legislation.

Under existing law, there is an accelerating proliferation of political committees being organized by corporate divisions and subsidiaries as well as by labor unions and locals. The obvious danger to the integrity of our campaign process is the unacceptable possibility that each of these political committees, whether formed by a corporation subsidiary or labor union local, would then each be able to qualify to make the maximum $5,000 contributions per particular candidate per election. This is certainly contrary to the intent of Congress in permitting the formation of political action committees by corporations and labor organizations, and will result in an increase of money into political campaigns, rather than a curtailment which was the purpose of this legislation. S. 3065 would not limit the number of political committees that corporations or labor organizations could set up through their divisions or labor union locals, but it would curtail the proliferation of political committee contributions to candidates, and I emphasize, Mr. President, that this curtailment would apply to unions as well as corporations.

It is difficult to understand why the President and his party oppose such a measure.

Under existing law, only corporations are permitted to provide a checkoff for the voluntary contributions to their political action committees. S. 3065 would make this available to a labor union in a situation where a corporation had decided to institute such a procedure. This is only equitable and it is hard to see why the President and his party oppose this type of legislation.

Existing law has been interpreted to permit corporations to create comprehensive programs to solicit every employee of those corporations for contributions to corporate political action committees over which the employee has no control. This is in addition to the corporation's statutory right to solicit stockholders for their volutary contributions to the same political action committees. Of course, under the statute, labor organizations are permitted to solicit their union members for contributions to labor union political action committees. As has been pointed out here on the floor during the debate on S. 3065, there is an enormous potential for coercion in a situation where a corporation is permitted to solicit all of its employees for such contributions, but in addition to this potential for coercion, it must be remembered and emphasized that stockholders who are being solicited, can vote out the corporate management who is doing the solicitation if they do not agree with it or if they do not agree with the contributions made from the political committees.

By the same token, the union members are in a position to vote out the union management with which it disagrees. However, employees of a corporation have no such resourse and should not be subject to political solicitation by their employers to such an all encompassing extent as has been interpreted under existing law by the Federal Election Commission.

Mr. President, S. 3065 would impose a reasonable limitation on this solicitation, limiting the employees whom a corporation could solicit to the salaried employees who have policymaking or supervisory responsibilities. It is difficult to see why the President and his party oppose such reasonable legislation.

Under existing law, every violation of the Federal election campaign laws is a criminal act and the Federal Election Commission has extremely limited civil enforcement powers at the present time. S. 3065 would provide criminal penalties for willful and knowing violations of the law of a substantive nature, and civil penalties and immediate disclosure of violations for less substantial infractions of the campaign finance laws. At the same time, S. 3065 would give the Commission expanded civil enforcement powers including the power to ask the court for imposition of civil fines for such violations as, for example, the negligent failure to file a particular report, as well as more substantial civil fines for willful and knowing violations of the act. The bill would grant the exclusive civil enforcement of the act to the Commission to avoid confusion and overlapping with the Department of Justice, but at the same time, retain the jurisdiction of the Department of Justice for the criminal

prosecution of any violations of this act. Mr. President, I cannot understand why the President and his party oppose such legislation.

It is clear that there are differences of opinion between the Congress and the President, but I would like to suggest that the President's proposal for a simple extension of the Commission's powers is a totally inappropriate response at this time to the needs which this Congress must address in order to maintain the commitment, not only of the Congress and the President, but of the country to clean and fair elections. Contrary to what appears to be the President's current thinking, I would like to suggest that if the Senate does choose to approve no more than a simple extension of the Commission's powers, we can then be justly accused of retreating from our longstanding commitment to clean and fair elections. We have twice rejected that approach and have worked hard to make S. 3065 a bill which we can all accept. I hope we can continue to work hard to make such further improvements in S. 3065 which will make it a bill we can send to the House in the near future.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. CULVER) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE INVESTIGATION AND STUDY OF THE WAR RISK INSURANCE PROGRAM OF THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. CULVER) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Commerce:

To the Congress of the United States:

In accordance with Section 3 of Public Law 94–90, I am forwarding to the Congress a Report on the Investigation and Study of the War Risk Insurance Program of the Department of Transportation.

This Report states that the existing authority of the Secretary of Transportation under Title XIII of the Federal Aviation Act of 1958 should be expanded in certain respects. This Report will provide the basis for developing remedial legislation. Such legislation should authorize the Secretary of Transportation, after appropriate consultations with other Federal agencies and with the approval of the President, to provide insurance for international U.S. commercial aviation when such insurance is not available commercially and when it is necessary for the continuation of a particular required air service.

I transmit this Report for consideration by the Congress. The Department of Transportation will soon be transmitting implementing legislation.

GERALD R. FORD.

THE WHITE HOUSE, *March 19, 1976.*

ANNUAL REPORT OF THE NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. CULVER) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I am pleased to submit to the Congress the Twenty-Fifth Annual Report of the National Science Foundation, covering fiscal year 1975.

Science and Technology have dramatically benefited our Nation and the world. During the NSF's first 25 years of operation, research supported by the National Science Foundation—particularly basic research in universities—has contributed much to our Nation's progress in science and technology. I expect the Foundation to continue this valuable contribution.

As this Annual Report shows, the programs of the National Science Foundation in 1975 addressed both the important search for new scientific knowledge and its use in solving society's pressing problems. Also, these programs continued to assist in meeting the Nation's need to train tomorrow's scientists and engineers. I commend this report to your attention.

My 1977 Budget now before the Congress recognizes the important role played by the National Science Foundation and assigns high priority to increases in Federal support of basic research. I urge Congressional approval of the proposed budget increases in the National Science Foundation.

GERALD R. FORD.

THE WHITE HOUSE, *March 22, 1976.*

BUDGET REQUESTS FOR RESEARCH AND DEVELOPMENT ACTIVITIES—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. CULVER) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Aeronautical and Space Sciences, the Committee on Agriculture and Forestry, the Committee on Appropriations, the Committee on Armed Services, the Committee on the Budget, the Committee on Interior and Insular Affairs, and the Committee on Labor and Public Welfare:

To the Congress of the United States:

The desire and the ability of the American people to seek and apply new knowledge have been crucial elements of the greatness of our country throughout its 200-year history.

Our Founding Fathers placed high value on the pursuit of knowledge and its application. They supported exploration, new methods of agriculture, the establishment of scientific societies and institutions of higher learning, measures to encourage invention, and means to protect and improve the Nation's health.

In our recent history, the Nation has made major investments in research and development activities to ensure their continued contribution to the growth of our economy, to the quality of our lives and to the strength of our defense. Today there is mounting evidence that science and technology are more important than ever before in meeting the many challenges facing us.

I fully recognize that this country's future—and that of all civilization as well—depends on nurturing and drawing on the creativity of men and women in our scientific and engineering community.

The 1977 Budget which I submitted to the Congress on January 21, 1976, is one measure of the importance I attach to a strong National effort in science and technology. My total budget restrains Federal spending to $395 billion—an increase of 5.5 percent over 1976. But my Budget requests $24.7 billion for the research and development activities of the various Federal agencies, an increase of 11 percent over my 1976 estimates. Included within this total of $24.7 billion is $2.6 billion for the support of basic research, also an increase of 11 percent. Such long-term exploratory research provides the new knowledge on which advances in science and technology depend. I urge the Congress to approve my budget requests.

I also urge the Congress to pass legislation to establish an Office of Science and Technology Policy in the Executive Office of the President. This will permit us to have closer at hand advice on the scientific, engineering and technical aspects of issues and problems that require attention at the highest levels of Government.

On June 9, 1975, I submitted a bill to the Congress that would authorize creation of such an office. The director of this new office would also serve as my adviser on science and technology, separating this responsibility from the many demands of managing an operating agency. On November 6, 1975, the House of Representatives passed an acceptable bill, H.R. 10230, which authorizes the new office. On February 4, 1976, the Senate passed a similar bill which, with some changes, would also be acceptable. Those bills are now awaiting action by a House-Senate Conference Committee. Early agreement by the conferees on a workable bill will permit me to proceed without further delay in establishing the Office of Science and Technology Policy.

In addition to its direct support of research and development, the Federal Government has a responsibility to ensure that its policies and programs stimulate private investments in science and technology and encourage innovation in all sectors of the economy—in industry, the universities, private foundations,

small business, and State and local Governments. We pursue this objective through our tax laws, cooperative R&D projects with industry, and other incentives.

Industry and other elements of the private sector now support nearly 50 percent of the Nation's total research and development efforts and we must avoid displacing these important investments.

The role of industry is particularly important. In our competitive economic system, industry turns new ideas from laboratories into new and improved products and services and brings them to the marketplace for the Nation's consumers. Industry has built successfully on advanced developments of the past and provided new products and services of great economic and social value to the Nation. This can be seen in electronics, computers, aircraft, communications, medical services and many other areas.

My 1977 Budget gives special attention to research and development for energy and defense and to basic research. It also continues or increases support for other important areas such as agriculture, space, and health where research and development can make a significant contribution.

—In *energy*, an accelerated research and development program is vital to our future energy independence. My 1977 Budget proposes $2.6 billion for energy research and development—a 35 percent increase over 1976. These funds, together with the efforts of private industry, provide for a balanced program across the entire range of major energy technologies. Major increases are proposed in energy conservation to achieve greater energy efficiency. Additional funding is provided in fossil fuels to enhance oil and gas recovery, to improve the direct combustion of coal and to produce synthetic oil and gas from coal and oil shale. Expanded efforts are planned in 1977 to assure the safety and reliability of nuclear power and to continue the development of breeder reactors which will make our uranium resources last for centuries. My 1977 Budget also provides for rapid growth in programs to accelerate development of solar and geothermal energy and fusion power.

In *defense*, a strengthened and vigorous program of research and development is absolutely fundamental to maintain peace in the years ahead. Our National survival depends on our continued technological edge. The quality of our military R&D program today—and decisions on its scope and magnitude—will directly influence the balance of power in the 1980's and beyond. Obligations for defense research and development will increase by 13 percent in FY 1977, to almost $11 billion. In the strategic area, the defense R&D program provides for continued development of the Trident submarine and missile system and the B–1 bomber. We are providing increases for cruise missiles and for defining options for a new intercontinental ballistic missile system. For our tactical forces, we will pursue a number of major programs ranging from the F–16 and F–18 fighter aircraft to a new attack helicopter, improved air defense systems, and a new tank. In addition we will strengthen our military-related science and technology effort. The combat potential of new technologies such as high energy lasers will be actively explored.

—Through *basic research*, new knowledge is achieved that underlies all future progress in science and technology. My proposed budget provides an increase of 11 percent over my 1976 estimates to assure that the flow of new scientific discoveries continues. Since much of the Nation's basic research is carried out at colleges and universities, I have given special emphasis to the budget request for the National Science Foundation and other agencies that support research in these institutions. I have requested an increase of 20 percent in NSF's funding for basic research in order to underscore my strong support for such research, particularly in colleges and universities.

—In *agriculture*, improving the efficiency of American food production is vital to our National well-being and to help ease critical worldwide food shortages. My budget provides over $500 million for agricultural research including programs to increase crop yields, improve the nutrition and protein content of crops, and help find new and safer ways to protect crops from the devastating losses which are caused by pests and bad weather. Matching State funds for research at land-grant institutions will contribute an additional $400 million to the national effort. Within the agricultural research program, greater priority will be given to basic agricultural research which is the key to our longer range objectives in food production. Our agricultural research and research undertaken by others around the world can have a major effect on the world food situation for generations to come.

—In *health*, basic and applied medical research provides new knowledge about causes, prevention and cure of diseases. This knowledge will make it possible to reduce the toll of human suffering, reduce expensive medical treatments, and increase the general level of health of our people. For the Department of Health, Education, and Welfare alone my Budget requests over $1.2 billion to pursue new scientific opportunites relating to cancer, heart and lung disease, arthritis, diabetes, and behavioral disturbances. It will also continue research in emerging areas of National importance such as immunology, aging, environmental health, and health services.

—In *space*, the shuttle is the key to improved operational space capabilities for science, defense, and industry. My 1977 Budget provides the necessary funds to continue development of the shuttle and to assure a balanced program in science and space applications. In the future, space technologies can further advance our National and worldwide needs for better communications, better weather forecasting and better assessment and management of our natural resources. Scientific exploration and observation in space an add immeasurably to our understanding of the universe around us.

My Budget also provides funds for continued research and development in environment, natural resources, transportation, urban development, and other fields of social and economic activity where we will support work that shows promise in meeting the problems of society and the new challenges we face as a Nation.

Prompt and favorable action by the Congress on my proposal to create the new Office of Science and Technology Policy and to approve my 1977 Budget requests are vital to ensure that science, engineering and technology will continue to contribute effectively in achieving our Nation's objectives.

GERALD R. FORD.

THE WHITE HOUSE, *March 22, 1976*.

PRESIDENTIAL APPROVAL

A message from the President of the United States stated that on March 19, 1976, he had approved and signed the following act:

S. 2017. An act to amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes.

MESSAGES FROM THE HOUSE

At 12:03 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (H.R. 8532) to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes, in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 3427. An act to provide for the striking of medals in commemoration of the 200th anniversary of the signing of the Declaration of Independence of Charles Carroll of Carrollton.

H.R. 12128. An act to amend section 2 of the act of June 30, 1954, providing for the continuance of civil government for the Trust Territory of the Pacific Islands, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. EASTLAND).

At 4:29 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the joint resolution (S.J. Res. 134)) to amend the Regional Rail Reorganization Act of 1973, as amended, without amendment.

barrels of oil daily; under the proposed agreement the United States is expected to be eligible to receive 200,000 barrels a day (or 2 percent of its daily production). The Soviet Union ranks first among the world's oil producers. In fact, in 1974, for the first time, Russia's crude oil production surpassed United States production. In addition, the U.S.S.R. has an estimated 36 percent of the world's probable oil reserves and is a major natural gas producer.

Reportedly, the U.S.S.R. also has been importing oil from the Middle East at artifically low prices; this has enabled the exportation of petroleum to Eastern Europe to meet its commitments to these countries. This has provided the U.S.S.R. with an advantageous political position. However, demands for Russian petroleum by Eastern Europe are expected to increase during the next few years at a faster rate than increases in energy production.

In order for Russia to meet its commitment to the United States under the proposed energy agreement, it might well be possible that supplies would have to be diverted from Eastern Europe. The Soviet Union thus has expressed interest in the purchase of oil development and natural gas transmission equipment from the United States in order to develop new natural gas and oil supplies for export. At the present time, such energy exports are estimated to comprise over 50 percent of the U.S.S.R.'s hard currency income. In my judgment, the United States should not lightly convey such precious technological know-how and equipment to the U.S.S.R. when the return in petroleum imports is so small.

I believe that the United States should not become reliant on energy-rich U.S.S.R. for a sizeable fraction of our imported oil products. However, the U.S.S.R. does desire to acquire our technological know-how and hard currency. Therefore, the United States appears to be in a position to bargain from the advantageous position when negotiating the amounts and prices for Russian petroleum product imports.

Again I urge you to develop a firm and conditional policy link between the export of U.S. grain and national energy policies governing oil imports. I also suggest that your Department review the possibility of furnishing the Soviet Union with finished grain products rather than grain, itself, where possible. This would enable utilization of American industrial capacity as well as the demonstration of American capitalism in the U.S.S.R.

It is my hope that present negotiations with the Soviet Union on grain export and oil import agreements will produce more than another letter of intent; instead it should result in a binding agreement on sufficient Soviet petroleum supplies at reasonable prices to meet our requirements.

Your attention to these recommendations will be appreciated.

With best wishes, I am,

Truly,

JENNINGS RANDOLPH.

Mr. BAKER. Mr. President, I rise to offer a word of explanation about my vote on the motion to recommit.

As my colleagues know, I was the principal cosponsor of this resolution. I spoke in opposition to several amendments because I felt that there should be a general statement of principle on the foreign and defense policies of the United States uttered as a sense of the Senate resolution in the midst of election time controversy. For that reason, I initially voted against referring this measure to the Committee on Foreign Relations, not because I do not have confidence in the Foreign Relations Committee, because I do. I once served on that committee and hopefully will serve on it again.

Rather, I thought time was of the essence and that if there was real utility and value to this sense-of-the-Senate resolution in expressing America's determination to remain strong, as the resolution stated, unchallengeably strong, and to have the courage to negotiate, as the resolution stated, in the face of our strength, then it needed to be said now.

Mr. President, in view of the determination by the Senate, which I accept in good grace, to refer it to the Foreign Relations Committee, and in view of the obvious controversy that the resolution developed—not upon the fundamental tenets of the resolution but as it devolved into a debate on the component parts of both defense and foreign policies and in view of the direction that it might have gone, to debates about weapons systems, to agricultural policy, and to immigration policy—it was made apparent to this Senator that the Senate today was not in a position to express a unified sense of its sentiment with respect to the fundamental and general tenets of foreign policy.

It was for that reason that I changed my vote on the motion to recommit and voted in favor of the motion to refer to the Committee on Foreign Relations, for I feel that in view of that controversy and in view of the changed nature of the debate to particular questions on special aspects of defense and foreign policy, instead of a timely general statement, the best interests of the Senate and the country would be served by referring it to the Foreign Relations Committee, which has now been done.

With that view, however, I felt it my obligation to report to my colleagues why I made that change and what my views are in that respect.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, inasmuch as there is nothing before the Senate, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE IMPORTANCE OF SOUND RELATIONS WITH THE SOVIET UNION

Mr. ALLEN. Mr. President, I am delighted that there was general agreement in the Senate that the resolution should go to the Committee on Foreign Relations. The sponsors of the resolution should have guaranteed, when the resolution was submitted, that it go to the Committee on Foreign Relations, by merely allowing it to be assigned to the committee. But it seems to me that this vote in the Senate certainly indicates that there is great doubt, great skepticism, on the part of the American people with the policy of detente and with the policy of entering into agreements all the time that are one-sided, which require in many cases unilateral action on the part of the United States.

I believe that this issue, having been debated in the Senate, pointed the way to the referral of the resolution to the Committee on Foreign Relations, where it well could have been all along.

So, Mr. President, it seems to the Senator from Alabama that the people of this Nation want to see Russia take some overt step in their direction of disarmament, in the direction of working toward world peace, some overt action such as cutting back their 5-million-man armed forces, such as allowing on-site inspection of their nuclear installations, such as allowing freedom of the skies, such as pulling out of Africa, such as staying out of the Middle East, such as pulling out the infiltrators from every country in Africa, such as releasing Cuba from economic and political bondage to the Soviet Union.

I feel that the American people are tired of concessions being made by the American people to Russia. They want to see some overt action on the part of Russia looking toward disarmament, looking toward promoting world peace.

I hope that this resolution will gather much dust in the Committee on Foreign Relations, so that it will not come to the floor of the Senate again.

Mr. WILLIAM L. SCOTT. Mr. President, I associate myself with the remarks of the distinguished Senator from Alabama. I suggest that the members of the Committee on Foreign Relations review the various statements that were made on the floor of the Senate.

This resolution purportedly was to stop the rhetoric, but we had quite a bit of rhetoric in the resolution and a considerable amount of rhetoric in the explanations of the resolution.

So if there is a genuine desire on behalf of those who presented the resolution in the first place to limit the amount of rhetoric on foreign relations, I hope that the matter will not be reported to the floor of the Senate.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FORD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1976

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 586.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 586) to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy facility and resource development

which affects the coastal zone, and for other purposes.

(The amendments of the House are printed in the RECORD of March 11, 1976, beginning at page H1857.)

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. MAGNUSON, I move that the Senate disagree with the amendments of the House and request a conference with the House thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. MAGNUSON, Mr. HOLLINGS, Mr. TUNNEY, Mr. STEVENS, and Mr. WEICKER conferees on the part of the Senate.

ORDER FOR RECOGNITION OF SENATOR KENNEDY AND FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after Mr. GOLDWATER has been recognized under the order previously entered, Mr. KENNEDY be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR FILING AMENDMENTS TO S. 3065

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order until midnight tonight to file amendments to S. 3065.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Will the Senator yield to me for 1 minute?

Mr. ROBERT C. BYRD. Yes.

CRISIS IN ARGENTINA

Mr. HELMS. Mr. President, the situation in Argentina is growing more tense by the day—even by the hour, according to many reports that I have been receiving. It was only a little less than a year ago that I was privileged to be a guest in that delightful country, a country of great national resources, both natural and human. I was deeply impressed with the ability of the Argentine people, and with the bounty which God had provided for the people who lived in that land.

Yet, as I pointed out on the Senate floor after my return, the picture was marred by what then appeared to be a slowly disintegrating political and economic situation, exacerbated by Communist and anarchist terrorism.

Indeed, my first sight of that beautiful country was through the bullet-proof glass of the security vehicle provided by our competent and courageous Ambassador to Argentina, Robert Hill. Ambassador Hill himself is forced to live in one of the highest security situations of any diplomatic representative in the world, and it is a tribute to his deep understanding of the Argentine situation that he preferred to gloss over the ever-present danger to his person and to dwell instead upon the positive achievements of Argentine science, industry, and agriculture.

While I was in Argentina, I had the opportunity to speak with a number of Argentine leaders in both the public and private sector, and I have been pleased to return the hospitality when they visited Washington. They have been unanimously agreed that the Argentine people are anxiously searching for a solution to the dangerous quandry they are in.

It is now clear that Argentina is on the verge of financial and social collapse. As an American Senator, I am in no position to comment upon the internal politics of another country; yet over the weekend, there have been many articles in the press of the United States indicating that the constitutional government of that country has broken down in all except the name, and that the only constitutional element that remains to guarantee the liberties and human rights of the people is the Armed Forces of Argentina.

This is a development that will not be easily understood by many elements of American opinion. Yet it is a fact of life in many countries of the world that economic bankruptcy and social disintegration bring on the need for a single authority to restore order. In the United States, we regard free expression of opinion and a freely elected government as the cornerstones of human rights.

Yet in the long run, such rights are only a means to protect more basic human rights—the right for the ordinary person to enjoy life without fear of public disorder, the right to have a job and to earn a living, the right to provide support for one's family and an education for one's children, the right to own one's own property and to engage freely in enterprises of one's own choosing. Even in the United States, with all of our democratic experience and safeguards, we see, day-by-day, basic human freedoms being trod upon by freely elected majorities in this Congress, and the economic security of people on pensions and fixed incomes, to say nothing of ordinary workers, being diminished by inflationary government deficits and inordinate increases in the money supply. We should not be surprised then if the ballot box in other countries also leads to the suppression of human liberties. We saw this happen in Brazil 12 years ago; we saw it happen in Chile under Allende. Today we see a tremendous amount of human suffering in Argentina because of the breakdown in social order, despite the manner in which the government took power.

I will give one example from my personal experience. A year ago when I was in Buenos Aires, the peso was converted into U.S. dollars at the rate of 28 to 1. Two weeks ago, the official rate of conversion was 300 to 1. That is an increase of over 10 times in less than 1 year.

The misery that financial collapse brings is incredible, not only because many industries face bankruptcy, but because basic social services and charities are unable to meet the level of need. Housewives are unable to stretch a dwindling paycheck to cover necessities. Workers do not know how long their jobs will last.

In addition, the wave of terrorism has greatly increased since I was there a year ago. At that time there were isolated bombings and kidnappings of targeted victims. But the strategy of the Montoneros and the ERP terrorist organizations originally was to initiate Communist takeovers through terror in the provinces, and gradually isolate Buenos Aires, where half the people in the nation live. However, the military, under the able leadership of Gen. Jorge Rafael Videla, was given the power to take the necessary steps to eliminate the guerrilla activity.

I must add that the United States, through no fault of our Mission in Buenos Aires, failed to cooperate fully with these efforts to eradicate the terrorist bands. Important pieces of military equipment were not delivered, partly because of unilateral actions taken by the Secretary of State, and partly because of actions taken by Congress to hamper the world-wide fight against Communist infiltration. As more members of Congress become aware of these problems, I am hopeful that congressional opinion will be more understanding of the problems faced by nations under attack from the international Communist movement. Indeed, General Videla has demonstrated that the myth of guerrilla invincibility is just that, namely, a myth, and that terrorists do not command the support of the people they terrorize.

The Communists, therefore, switched strategy. First a unified command was organized among the various revolutionary groups, with a unified plan of action. Tactics were set up for a coordinated effort against military and security forces, to demoralize those forces, and to weaken their credibility among the people. But that has not been accomplished. In recent months, there has been a decided shift of terrorist activity from the outlying provinces to the urban areas, where it is more difficult to attack terrorists because of the concentration of population. But the random terror in the urban areas has done even more to

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U.S. response—I can say this most clearly: That today we have indeed missed virtually every opportunity to improve the prospects of peace; that the Secretary has defined precisely the failures of our current policies, and defined the standard for action that the State Department itself has failed to observe.

Mrs. Goler Butcher, chairwoman, of the Africa study group of the democratic advisory council of elected officials, has eloquently summarized the most compelling reason for the United States to develop sound policies:

The challenge of Africa to the U.S. in the year of our Bicentennial is to redeem the principles proclaimed at our birth: Self-determination, liberty and justice. As the health of our nation in the post World War II era required that the U.S. begin to extend these principles to black people in the U.S., so the present era of global interdependence requires, if we are to continue growth and prosperity and the realization of our potential, that the U.S. begin to function as a partner with Africa and the rest of the developing world, and not as a condescending superpower.

Mr. President, America needs an African policy that clearly relates to the interests and concerns of both Africans and Americans. In this country, we proudly profess allegiance to the ideals of personal freedom and social justice, as the keystone of our Bicentennial celebrations. Then let us bring the spirit of that allegiance to our national policies toward a continent that bears one of the world's most promising hopes for the future of mankind.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 1:30 p.m. today.

There being no objection, the Senate, at 12:34 p.m., recessed until 1:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. DOLE).

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The PRESIDING OFFICER (Mr. DOLE). The hour of 1:30 having arrived, the Chair lays before the Senate the unfinished business, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The Senate proceeded to consider the bill.

PRESIDENT'S MESSAGE REFERRED ALSO TO COMMITTEE ON COMMERCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce be added to the list of committees to which the President's message on budget requests for research and development was referred yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GARY HART). Without objection, it is so ordered.

EXTENSION OF TITLE V OF THE RURAL DEVELOPMENT ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 676.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6346) to extend the authorization of appropriations for carrying out title V of the Rural Development Act of 1972.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment to strike all after the enacting clause and insert the following:

That subsection (a) of section 503 of the Rural Development Act of 1972 (7 U.S.C. 2663(a)) is amended—

(1) by striking out the word "is" and inserting in lieu thereof "are";

(2) by striking out the word "and"; and

(3) by changing the period at the end thereof to a comma, and adding the following: "not to exceed $5,000,000 for the period July 1, 1976, through September 30, 1976, and not to exceed $20,000,000 for each of the three fiscal years during the period beginning October 1, 1976, and ending September 30, 1979.".

Mr. CLARK. Mr. President, this bill would extend for another 3 years the authority for rural development research and extension under title V of the Rural Development Act of 1972. Since the present authorization expires on June 30 of this year, this important title of the act will lapse in the absence of action by the Congress.

The objective of title V is to provide research, extension, and training to insure successful programs of rural development in order that the highest possible level of employment and quality of life in rural America may be achieved.

It was the intent of Congress that programs under title V consist of extension and research with respect to new approaches for the management, agricultural production techniques, farm machinery technology, new products, cooperative agricultural marketing, and distribution suitable to the economic development of family-sized farm operations.

Notwithstanding the unwillingness of the administration to make appropriated funds available for these programs, they are vitally needed and their contributions to the welfare of rural America are proven. Congress recognized that many of those small farms to which this section of the act is addressed are too small to be economically viable in and of themselves. It was recognized that many of these farmers or their wives might have to seek supplemental nonfarm incomes to get by. But the point was that many of these people, even with two incomes, are living at or near the poverty level. They are underemployed. If research and extension can be used to maximize their farm incomes, we will be able to accomplish much improvement of their standard of living, putting more dollars into local rural economies, and thereby accomplishing a great deal of rural development.

In title V, there is a new model of research and extension. The act mandates that Federal agencies work cooperatively with other public and private institutions in the State and provides for the coordination of the total program within the State which is not embodied in the Smith-Lever Act and the Hatch Act.

The advisory committee structure is part of the planning process to get State and community involvement. In addition, the regional rural development centers, of which there are four, provide a creative means for using the limited resources made available under title V.

The largest appropriation for title V thus far has been for $3 million, divided equally between research and extension. This means that no State has received as much as $100,000 per year.

This may seem inefficient in some ways, but title V is the instrument which assures that the cooperative extension service and the cooperative State research service maintain a commitment to rural development.

Many States have added dollars to the title V money from other authorities to strengthen their programs.

Another strength of title V program has been the broad-based input going into identifying statewide and local development objectives. This arises from the direct involvement of State advisory and local citizens advisory councils in title V program direction, representing farmers, business, labor, local government and multicounty planning and development organizations, advisory council members are acquainting title V administrators with needs confronting rural areas of the State and providing significant input into program development.

I feel that this measure to extend the funding of these vital rural development programs through 1979 is very much in keeping with our original intent in pass-

ing the 1972 act and that the funded programs will be used as vehicles to insure that these commitments which we have made to rural Americans are kept in a responsive and responsible manner. I urge favorable consideration of this measure.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert a new section as follows:

SEC. 2. Subsection (b) of section 3 of the Farm Labor Contractor Registration Act of 1963, 78 Stat. 920, as amended (7 U.S.C. 2041–2055), is amended—

(1) by striking the word "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof a new paragraph (8) as follows:

"(8) any custom combine, hay harvesting, or sheep shearing operation.".

Mr. DOLE. Mr. President, the purpose of this amendment is to exempt custom combine operators, hay harvesters, and sheep shearers from the Farm Labor Contractor Registration Act—FLCRA.

This amendment is cosponsored by Mr. ABOUREZK, Mr. BENTSEN, Mr. CURTIS, Mr. MANSFIELD, Mr. BURDICK, Mr. BARTLETT, Mr. BELLMON, Mr. HRUSKA, Mr. MCGEE, Mr. MCGOVERN, Mr. TOWER, Mr. YOUNG, Mr. HELMS, Mr. FANNIN, Mr. HANSEN, Mr. LAXALT, Mr. MCCLURE, and myself.

Mr. President, a major problem for custom combine operators, and for the farmers they serve, developed recently when the Department of Labor made their interpretation that custom cutting and sheep shearing operations should be included under the Farm Labor Contractor Registration Act. Since that time, my office has received a stream of letters, telegrams and telephone calls from custom cutting operators and from farmers indicating that they would have a great deal of difficulty complying with the requirements of this law. Custom hay harvesters are essentially the same as custom cutters and there is concern that they would be included too. It is my understanding that this problem has major proportions in other midwestern and agricultural States.

DIFFERENT SITUATIONS CONFUSED

The Senator from Kansas strongly believes that the extension of this law to include custom combine and sheep shearing operators is a confusion of two entirely different situations. The FLCRA was intended to end abuses against migrant workers and against farmers that use the services of farm labor contractors.

But custom combine and sheepshearing operators have no record of exploiting or abusing their employees or the farmers they contract with. Custom combine and sheepshearing operators do have a record of providing a very important and timely service to farmers and ranchers.

So custom operators and sheepshearers are justifiably upset about a decision by the Department of Labor to extend a large number of requirements to cover them when there is no demonstrated need for such requirements. That is why, in the opinion of this Senator, this amendment is so important.

PROMPT ACTION NEEDED

The Senator from Kansas feels strongly that quick action is needed on this exemption. That is the reason for offering this amendment to a nongermane bill rather than going through the normal legislative process.

It is the hope of this Senator that the exemption contained in this amendment will be adopted by the Senate today. Hopefully, the House will then agree to this bill as amended or to a conference report on it that includes the exemption. This process, if completed, will allow the exemption to be enacted into law much more quickly than going through the normal process of committee hearing and markup.

There is a need for prompt action because the custom harvesting season will begin in the next few weeks. Wheat harvest begins in Texas in the middle of May. At this point, custom combine operators in Kansas and other States are getting their machinery ready to go south to begin the harvest season. From that time on, they will be cutting grain and moving north throughout the summer, into the fall. It is important that the Congress approve this exemption before that time so they will not be burdened by unnecessary and inappropriate regulations.

COMMITTEE APPROVAL

Prompt action on this legislation by the Congress is justifiable. Recently the junior Senator from Wisconsin (Mr. NELSON) who is also the chairman of the Senate Migratory Labor Subcommittee, together with Congressman FORD of Michigan, who is chairman of the House Agricultural Labor Subcommittee sent a letter to the Secretary of Labor indicating that it was never the intent of Congress to include custom combine and sheepshearing operators under the FLCRA.

The Senator from Kansas has been in touch with the Department of Labor and it is my understanding that it is not the need to extend these regulations to custom combine and sheepshearing operators that prompted the Department of Labor interpretation, but simply the technical wording of the definitions of migrant workers and farm labor contractors in the act. So, hopefully, Congress can complete action within the next few days and agree on this exemption.

PROBLEMS CAUSED

The requirements of the FLCRA would cause a large number of problems for custom combine operators. Most of the regulations are either unnecessary or inappropriate for custom cutting operations. But the problems that would be caused for custom combine operators would result in severe hardship and in some cases could result in custom operators simply quitting the business altogether.

In the case of safety and health requirements, custom operators are already meeting the standards necessary to protect their employees, there is no need for the additional safety and health requirements of the FLCRA.

There are many requirements in this act that would cost a great deal of time and money for custom operators.

For example, the Senator from Kansas counts 25 different types of forms and statements that are required for each custom operation. Many of these forms and statements would have to be submitted repeatedly for each employee, for each vehicle, and for each job performed by the operator. The farmer that hires the services of a custom operator would also have additional paperwork requirements. I request unanimous consent that a list of these forms and statements be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FORMS AND STATEMENTS TO BE PROVIDED BY CUSTOM CUTTERS UNDER THE FARM LABOR CONTRACTOR REGISTRATION ACT

1. Form for application for an initial or renewal Certificate of Registration.
2. Certificate of Registration card.
3. Form FD–258—applicant's fingerprints.
4. Statement of any change in membership, officers of directors of a custom operation to be made within 10 days.
5. Statement designating the Secretary of Labor as agent for accepting service of summons.
6. Statement of vehicle insurance or financial responsibility compliance.
7. Statement of vehicle identification.
8. Statement of vehicle compliance with all applicable State safety and health standards.
9. Form for doctor's certification of health adequate for driving purposes.
10. Statement of evidence of operators license for transporting vehicle.
11. Statement identifying facilities to house migrant workers.
12. Statement that housing facilities comply with Federal safety & health standards as prescribed in either 20 CFR 620.4 or 29 CFR 1910.42.
13. Statement of compliance with applicable State standards of safety and health in housing.
14. Form for application for an initial or renewal Farm Labor Contractor Employee Identification Card.
15. Farm Labor Contractor Employee Identification Card.
16. Form for doctors certification of employee health for purpose of transporting workers.
17. Statement of employee's drivers license to operate vehicle for transporting workers.
18. Statement of terms and conditions of occupancy to be posted in each housing facility.
19. Statement of EVERY address change within 10 days after such change of address.
20. Form for providing information to employees on overall wages and working conditions, WH–416.
21. Statement of terms and conditions of

That seems to me a very appropriate amendment. I commend the House for its vote, and it was an overwhelming vote, 229 ayes to 139 noes.

I see no reason why our Nation should continue to give more and more funds to nations which refuse to pay their just obligations to the United States.

Mr. President, at a recent hearing before the Subcommittee on International Finance and Resources of the Finance Committee, the State Department testified that 113 different countries now owe the United States varying sums of money and that many of those countries are delinquent.

The total amount owed the United States by these foreign countries is now, or was this past month, $60 billion.

The effort has been made in the House of Representatives, and the House sustained that view, to prevent additional aid to those countries which refused to pay their just obligations to the United States, and I think that is appropriate.

For that reason, for the reason I have cited, I shall oppose and do oppose the committee amendment and urge that the bill be left as it was when it came to the Senate from the House.

Mr. INOUYE. Mr. President, I yield myself 10 minutes, speaking on behalf of the committee.

Mr. President, according to testimony we have in our files, in the vast majority of instances, debts due the United States are being paid on time.

Of the approximately $64 billion in long-term U.S. Government credits extended since 1940, repayments of over $42 billion, including $12 billion in interest, have been received.

In fiscal years 1974 and 1975, the U.S. Government collected over $5.6 billion in principal and interest on Government long-term credits. Collections on short-term credits have also been very substantial.

The second point, as of June 30, 1975, Mr. President, principal and interest due and unpaid 90 days or more on foreign loans and credits owed U.S. Government agencies totaled $637 million.

A large proportion of this amount relates to a few unique situations where circumstances currently impede our ability to collect these debts. For example: $100 million in outstanding debt is attributable to the Republic of China, and involves a number of issues including the proper allocation of claims between the Republic of China and the People's Republic of China, the correct evaluation of the claims, and the problems of government succession.

This presently is under discussion and negotiation and if we were to apply the Alexander amendment as intended by the House, we would not be able to in any way or fashion assist the Republic of China.

There is an item of $68 million owed the United States by Cuba which the administration advises us will be pursued as soon as the state of our bilateral relations permits.

There is another item of $200 million——

Mr. HARRY F. BYRD, JR. Will the Senator yield at that point?

Mr. INOUYE. Yes.

Mr. HARRY F. BYRD, JR. Is it proposed to give financial assistance, foreign aid, to Cuba?

Mr. INOUYE. Not at all.

Mr. HARRY F. BYRD, JR. Then I do not see the point of the Senator's statement which he just gave.

Mr. INOUYE. This is to advise the Senate that among the amounts which are now in arrears, $68 million is owed to us by Cuba and the administration advises us that at the earliest moment when bilateral relations permit, the United States will very aggressively try to get the loan paid up.

Mr. HARRY F. BYRD, JR. In my experience with the U.S. Government acting through the State Department, there has been no aggressive action on the part of the State Department for years in trying to get loans paid which are owed to the U.S. Government.

Mr. INOUYE. But I would like to suggest to my distinguished colleague from Virginia that according to available records, U.S. Government collection of debts incurred over the last 30 years has been fairly good. In fact, it compares very favorably with private banking institutions in the United States.

Mr. HARRY F. BYRD, JR. I think that would be the case only if one is considering the writing off of huge sums as being in settlement for the loans.

For example, the State Department in 1972 agreed to settle the Russian debt for 3 cents on the dollar, plus another 24 cents if the Russians could borrow the money from the Export-Import Bank to pay the other 24 cents.

I do not call that really paying the just obligations.

In any case, I see no harm in leaving the House provision in the bill so that those countries which refuse to pay the United States can no longer draw aid until such time as the payments are made.

Mr. INOUYE. Mr. President, most of the arrearages are brought about not by a refusal on the part of the country to pay the United States, but because of some differences of opinion.

For example, during the Korean conflict, the U.S. Government provided logistical support to several nations: Colombia, Ethiopia, Greece, the Philippines, Thailand, and Turkey. These were countries who, at our request, participated in this conflict.

In that conflict, we provided the logistical support. Needless to say, the history of debt arising from the provision of this support is complex and presents a unique situation. Should we pursue the Turks to obtain payment of this loan when they, in response to our request, sent their men overseas to Korea to battle the North Koreans?

Then we have another matter of $60 million owed by Pakistan. This relates to the complex negotiations between Pakistan and her creditors that arose from the 1971 war, the so-called independence of Bangladesh, and the desire of the creditor countries to insure full servicing of the prewar Pakistan debt.

This is now being negotiated so that Pakistan will be current on this obligation in addition to these considerations, I would point out that, if we insist upon the Alexander amendment, we would not be able to provide any sort of assistance to Colombia, Ethiopia, Greece, the Philippines, Thailand, and Turkey.

So, if we restore the Alexander amendment, some of the requests submitted by the administration will have to be turned down. For example, among the countries that could be affected by the amendment, we find Syria, which, incidentally, is very important in the strategy of the United States in bringing about a more lasting peace in the Middle East. Egypt, another country which is very important in the quest for peace in the Middle East, would also be an ineligible country.

I would hope that the Senator from Virginia would not insist upon restoring the Alexander language. The administration is very strongly against the Alexander amendment. The administration has expressed the hope that the Senate would delete it and bring this matter into conference with the House. We hope in conference the House will agree to the position of the administration and agree to the deletion the Alexander amendment.

Mr. BROOKE. Will the Senator yield?

Mr. INOUYE. I yield.

Mr. BROOKE. Mr. President, I certainly understand the desire of the distinguished Senator from Virginia who very customarily is interested in both the revenues and the defense of the U.S. Government, and who has performed a great service to this country because of his vigilance. I certainly agree with him that we ought to do everything possible to collect whatever is due the United States from foreign countries to whom we have made loans.

Normally, looking at the language which the Senator suggests, one would think certainly these countries ought to be able to pay up and should pay up if they are to receive any further loans from the United States. But actually, this amendment, and I do not like to characterize in this way, has, in effect, a shotgun approach to a very complex problem when circumstances vary widely from nation to nation.

I think delinquencies should be resolved on a case-by-case basis with all relevant factors concerning our relationship with a delinquent country being taken into account. But this is impossible under the proposed amendment.

The broad scope of this amendment would also affect arrearages on short-term credits which could affect a large number of countries but involve relatively small amounts of money. The amendment would likely make it even more difficult to collect on overdue debts, and it would provide little flexibility in working out the problem with various countries with whom we desired to maintain cordial bilateral relations.

Several of the countries have been mentioned that would be affected by the so-called Alexander amendment, Mr. President, but I think we ought to list them all. I think that even though some may be more important in terms of the peace of the world at this moment, all

of these countries would be affected by this amendment:

Argentina	Mexico
Brazil	Nicaraugua
Bolivia	Pakistan
Chile	Panama
Colombia	Paraguay
Costa Rica	Peru
Ecuador	Philippines
Egypt	Portugal
El Salvador	Senegal
Ethiopia	Somalia
Greece	Syria
Guatemala	Thailand
Guinea	Tunisia
Haiti	Turkey
Honduras	Republic of China
India	Uruguay
Iran	Venezuela
Iraq	Zaire
Liberia	

As I read over those countries, Mr. President, I am sure it is easy to see that we should deal with most of them on an individual basis. Certainly, we are not in a position at this time, with the condition of the world, to cut off economic assistance to many of these countries because some of them are not able, at this time, to make repayments to the United States. In fact, it would be heartless to cut off some of them at this time, for thay are in desperate need now. In many cases we are trying to help them to help themselves and eventually, hopefully, they will be able to pay back our Government.

I again say that I sympathize with the intent of the amendment of the Senator from Virginia and what he is trying to do. We do want to collect from these countries. We want to get them in the habit of paying back. Many are in a position where they cannot pay back. Many are in strategic positions where we just cannot afford to cut off economic assistance at this time.

I have some language which I would like to suggest to the distinguished Senator from Virginia that he might consider because I, too, am concerned, as we all are, about collecting the money but at the same time maintaining some flexibility so that we can avoid any negative effects in our relations with many of these countries.

The language would be as follows:

Beginning 6 months from the date of enactment of this section, no part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of 1 calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act, unless (1) such debt has been disputed by such country prior to the enactment of this legislation or (2) such country has either arranged to make payment of the amount in arrears or otherwise taken appropriate steps which may include renegotiation to cure the existing default.

That is rather lengthy language.

Mr. President, I would like to suggest the absence of a quorum and submit this to my distinguished chairman and the distinguished Senator from Virginia for their consideration as an alternative to the Senator's language.

The PRESIDING OFFICER. Does the Senator suggest the absence of a quorum?

Mr. BROOKE. Yes, I do.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, earlier today the distinguished Senator from Alabama (Mr. ALLEN) inquired whether any of the funds provided in the fiscal year 1976 bill for Eximbank programs can currently be used to authorize credits or guarantees in support of U.S. exports for oil and gas exploration in the Soviet Union.

I have made an inquiry of the Eximbank, and in a memorandum dated March 23, 1976, the Export-Import Bank has submitted a reply which states that none of the funds in the fiscal year 1976 bill can be used by Eximbank to authorize such credits or guarantees. The Bank is prevented from doing business in Russia, because of certain provisions of the Trade Act of 1974.

I ask unanimous consent that the memorandum of the Eximbank be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM TO SENATOR INOUYE

In accordance with your request, this memo confirms our conversation earlier today during which I advised you that none of the program activity in the FY 1976 bill for Eximbank can currently be used to authorize credits or guarantees in support of U.S. exports for oil and gas exploration in the Soviet Union. This is because the Bank is currently prevented from doing business with Russia due to the Trade Act of 1974.

Even if we were permitted to do business with Russia an additional restriction contained in the Export-Import Bank Amendments of 1974 places a limitation of $300 million on new loans and guarantees to the U.S.S.R., none of which amount can be used for equipment and services for the production (including processing and distribution) of fossil fuel energy resources. Not more than $40 million of the $300 million can be used for support of any products or services involving research or exploration (as opposed to production, processing and distribution) of fossil fuel energy resources. The $300 million limitation could be increased, however, if the President determines that it is in the national interest, reports such determination to Congress with the reasons therefore and the amount of such increase which would be available for development for fossil fuel energy resources, and if the Congress adopts a concurrent resolution approving such determination.

JAMES K. HESS,
Deputy Treasurer-Controller.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. ALLEN. The Senator said that the Senator from Alabama raised this point. I certainly was interested in it. However, the Senator from Alabama also expressed the interest of the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.), who last year, when this bill was before the Senate, waged a gallant and heroic fight to keep a limitation on the amount of money the Export-Import Bank could make available for the development of the Russian natural gas fields, with the gas to be produced by Russia and sold to Japan and the American taxpayer paying the bill.

So it was the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) who was primarily interested in this matter, and waged the fight last year.

Mr. INOUYE. Mr. President, I apologize for not including the name of the distinguished Senator from Virginia. Let me add that it was not only a spectacular fight, but a very successful one.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

AMENDMENT NO. 1516

Mr. CANNON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. INOUYE. I yield to the Senator from Nevada.

Mr. CANNON. Mr. President, on behalf of myself, Mr. HATFIELD, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. ROBERT C. BYRD, and Mr. GRIFFIN I send to the desk an amendment in the nature of a substitute for S. 3065, a bill to amend the Federal Election Campaign Act of 1971 and for other purposes, and I ask unanimous consent that the amendment be printed in the RECORD as well as having the normal printing.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table, and without objection, in accordance with the Senator's request, the amendment will be printed in the RECORD.

The amendment (No. 1516) is as follows:

AMENDMENT NO. 1516

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC 101. (a)(1) The second sentence of section 309(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)), as redesignated by section 105 (hereinafter in this Act referred to as the "Act") is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and eight members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as redesignated by section 105, is amended to read as follows: "No more than three members of the Commission appointed under this paragraph may be affiliated with the same political party, and at least two members appointed under this paragraph shall not be affiliated with any political party.".

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of eight years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979,

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981, and

"(iv) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1983.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c)(1) Section 309(b) of the Act (2 U.S.C. 437c(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive and primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(2) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: ", except that the affirmative vote of five members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates".

(e)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until a majority of the members of the Commission are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section. Until a majority of the members of the Commission are appointed and qualified under the amendments made by this Act, members serving on such Commission on the date of enactment of this Act may exercise only such powers and functions as are consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75-436, 75-437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

(g)(1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Federal Election Campaign Act of 1971 as such title existed on January 1, 1976, or under any other provision of law are transferred to the Federal Election Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2)(A) Except as provided in subparagraph (B) of this paragraph, personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remain in full force and effect. All orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1) shall continue in effect to the same extent as if such transfer had not occurred.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission at the time this section takes effect.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within twelve months after the date of enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract".

(c) Section 301(c)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting after "purpose" the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

(d) Section 301(e)(5) is amended—

(1) by striking out "or" at the end of clause (E),

(2) by inserting "or" at the end of clause (F), and

(3) by inserting after clause (F) the following new clause:

"(G) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loans—

"(i) shall be reported in accordance with the requirements of section 304(b); and

"(ii) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors;"

(e) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended by striking out "individual" where it appears after clause (G) and inserting in lieu thereof "person". D23srdffcaemdocne2"

(f) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by inserting before the semicolon in clause (B), the following: ", or partisan activity designed to encourage individuals to register to vote, or to vote, conducted by the national committee of a political party, or a subordinate committee thereof, or the State committee of a national party, but such partisan activity shall be reported in accordance with the requirements of section 304".

(2) by striking out "or" at the end of clause (F) and at the end of clause (G); and

(3) by inserting immediately after clause (H) the following new clauses:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304(b);

"(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services), other than services at-

tributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provision of this title or of chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b); or

"(K) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loan shall be reported in accordance with section 304(b);".

(g) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out "and" at the end of paragraph (m);

(2) by striking out the period at the end of paragraph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraph:

"(o) 'Act' means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 302(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(b) Section 302(c)(2) of such Act (2 U.S.C. 432(c)(2)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(c) Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following: "In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceeds $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of expenditures in excess of $100 by a political committee other than an authorized committee of a candidate expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9), stated in a manner which indicates whether the expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and"

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) A corporation, labor organization, or other membership organization which explicitly advocates the election or defeat of a clearly identified candidate through a communication with its stockholders or members or their families shall, notwithstanding the provisions of section 301(f)(4)(C), report such expenditures under paragraph (1) to the extent that they are directly attributable to such communications.

"(3) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any expenditure, including but not limited to those described in subsection (b)(13), of $1,000 or more made after the fifteenth day but more than forty-eight hours, before any election shall be reported within forty-eight hours of such expenditure.

"(4) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including but not limited to those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely pre-election basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431–441) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

POWERS OF COMMISSION

SEC. 106. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a)(9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(c) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ENFORCEMENT

SEC. 107. Section 313 of the Act (2 U.S.C. 437g), as redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) The Commission, upon receiving a complaint under paragraph (1), or if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

"(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate. Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reason to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute an absolute bar to any further action by the Commission with respect to the violation which is the subject of the agreement, including bringing a civil proceeding under paragraph (B) of this section.

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred

or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under paragraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation under section 328(a), or a knowing and willful violation of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to the limitations set forth in subparagraph (A) of this paragraph.

"(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or Chapter 95 or 96 of the Internal Revenue Code of 1954 has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $10,000; or (ii) an amount equal to 300 percent of the amount of any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(7) The Commission shall make available to the public the results of any conciliation attempt, including any conciliation agreement entered into by the Commission, and any determination by the Commission that no violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

"(8) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 300 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(9) In any action brought under paragraph (5) or paragraph (8) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any district.

"(10)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within ninety days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any action under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than sixty days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than sixty days after the ninety-day period specified in subparagraph (A).

"(C) In such proceeding the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with that declaration within thirty days, failing which the complainant may bring in his own name a civil action to remedy the violation complained of.

"(11) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(12) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(13) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5), it may petition the court for an order to adjudicate that person in civil contempt, or, if it believes the violation to be knowing and willful, it may instead petition the court for an order to adjudicate that person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than sixty days after the date the Commission refers any apparent violation, and at the close of every thirty-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.".

DUTIES OF COMMISSION

SEC. 108. (a) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320, and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(b) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)), as redesignated by section 105, is amended by striking out "30 legislative days" in the first sentence and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 109. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS; OTHER LIMITATIONS

SEC. 110. Title III of the Act (2 U.S.C. 431–441) is amended—

(1) by inserting "(a)" before "No" in section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act;

(2) by adding the following new subsection at the end of section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act:

"(b) Notwithstanding any other provision of law, no Senator, Representative, Resident Commissioner, or Delegate shall mail as franked mail under section 3210 of title 39, United States Code, any general mass mailing when such mailing is mailed at or delivered to any postal facility less than sixty days prior to the date of any primary or general election in which such Senator, Representative, Resident Commissioner, or Delegate is a candidate for Federal office. For purposes of this subsection the term 'general mass mailing' means newsletters and similar mailings of more than five hundred pieces the content of which is substantially identical and which are mailed to or delivered to any postal facility at the same time or several different times.";

(3) by striking out section 320 (2 U.S.C. 441), as redesignated by section 105 of this Act; and

(4) by inserting after section 319 (2 U.S.C. 439c), as redesignated by such section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a)(1) No person shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized political committee of any candidate, in any calendar year which, in the aggregate, exceed $25,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

"(2) No multi-candidate political committee shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized committee of any candidate in any calendar year, which, in the aggregate, exceed $25,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $10,000.

The limitations on contributions contained in paragraph (2) do not apply to transfers between and among political committees which are National, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of this paragraph, the term 'multi-candidate political committee' means a political committee which has been registered under section 303 for a period of not less than six months, which has received contributions from more than fifty persons, and, except for any State political party organization, has made contributions to five or more candidates for Federal office.

"(3) For purposes of the limitations under paragraphs (1) and (2), all contributions made by political committees established, financed, maintained, or controlled by any person or persons, including any parent, subsidiary, branch, division, department, affiliate, or local unit of such person, or by any group of persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund-raising efforts; (B) this sentence shall not apply so that contributions made by a political party through a single national committee and contributions by that party through a single State committee in each State are treated as having been made by a single political committee; and (C) a political committee of a national organization shall not be precluded from contributing to a candidate or committee merely because of its affiliation with a national multicandidate political committee which has made the maximum contribution it is permitted to make to a candidate or a committee.

"(4) No individual shall maek contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

"(5) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B) (i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(6) The limitations imposed by paragraphs (1) and (2) of this subsection (other than the annual limitation on contributions to a political committee under paragraph (2)(B)) shall apply separately with respect to each election, except that all elections held in any aclendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(7) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b) (1) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c) (1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the twelve months preceding the beginning of such calendar year and price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) The term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d) (1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any exepnditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal camapign committee of a candidate for the office of the President of the United States.

"(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or a Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January, 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, eighteen years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"(h) Notwithstanding any other provision of this Act, amounts totaling not more than $20,000 may be contributed to a candidate for nomination for election, or for election, to the United States Senate or House of Representatives, during the year in which an election is held in which he is such a candidate by the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, the National Republican Congressional Committee, or the national committee of a political party, or any combination of such committees.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political commitee, or other person to accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contributions or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"(b) (1) For the purposes of this section 'labor organization' means any organization of any kind, or any agency or employee rep-

resentation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. As used in this section and in section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 791 (h)), the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; or the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization, or by a membership organization, cooperative, or corporation without capital stock.

"(2) It shall be unlawful—

"(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

"(B) for an employee to solicit a subordinate employee;

"(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

"(D) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

"(3)(A) Except as provided in subparagraphs (B) and (C), it shall be unlawful—

"(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

"(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

"(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by a corporation or a labor organization, to solicit in writing one contribution during the calendar year for use in connection with primary election campaigns, and one contribution during the calendar year for use in connection with general election campaigns, from any stockholder, officer, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to the stockholder, officer, or employee at his residence, and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution as a result of such solicitation and who does not.

"(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

"(4) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations.

"(5) Any corporation that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, that method to a labor organization representing any members working for that corporation.

"(6) For purposes of this section, the term 'executive or administrative personnel' means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking or supervisory responsibilities.

"(7) For purposes of this section, the term 'stockholder' includes any individual who has a legal or vested beneficial interest in stock, including, but not limited to, an employee of a corporation who participates in a stock bonus, stock option, or employee stock ownership plan.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"SEC. 322. (a) It shall be unlawful for any person—

"(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 321 applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails, and other similar types of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized, or

"(2) if not authorized by a candidate, his authorized, political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303(b)(2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

"(b) As used in this section, the term 'foreign national' means—

"(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTIONS OF CURRENCY

"SEC. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 327. No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) willfully and knowingly to participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

"PENALTY FOR VIOLATIONS

"SEC. 328. (a) Any person, following the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both. A willful and knowing violation of section 321(b)(2), including such a violation of the provisions of such section as applicable through section 322(b), is punishable by a fine of not more than $50,000, imprisonment for not more than 2 years, or both. In the case of a knowing and willful violation of section 325 or 326, the penalties set forth in this section shall apply to a violation involving an amount having a value in the aggregate of $250 or more during a calendar year. In the case of a knowing and willful violation of section 327, the penalties set forth in this section shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more was involved.

"(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect.

"(c) In any criminal action brought for a violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the offense and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

"(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313,

"(2) the conciliation agreement is in effect, and

"(3) the defendant is, with respect to the violation for which the defense is being asserted, in compliance with the conciliation agreement.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: "There are authorized to be appropriated to the Federal Election Commission $8,000,000 for the fiscal year ending June 30, 1976, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for the fiscal year ending September 30, 1977.".

SAVING PROVISION

SEC. 112. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 113. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out "315" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(d)(1) Section 301(e)(5)(F) of the Act (2 U.S.C. 431(e)(5)(F)) is amended by striking out 'the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(2) Section 301(f)(4)(H) of the Act (2 U.S.C. 431(f)(4)(H)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(e) Section 314(a) of the Act (2 U.S.C. 437h(a)), as redesignated by section 105, is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code" in the first sentence of such section and by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code," in the second sentence of such subsection.

(f)(1) Section 406(a) of the Act (2 U.S.C. 455(a)) is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code".

(2) Section 406(b) of the Act (2 U.S.C. 455(b)) is amended by striking out "or section 608, 610, 611, or 613 of title 18, United States Code,".

(g) Section 591 of title 18, United States Code, is amended—

(1) by striking out "608(c) of this title" in subsection (f)(4)(XI) and inserting in lieu thereof "section 320(b) of the Federal Election Campaign Act of 1971";

(2) by striking out "by section 608(b) (3) of this title" in subsection (f)(4)(I) and inserting in lieu thereof "under section 320(a)(2) of the Federal Election Campaign Act of 1971"; and

(3) by striking out "310(a)" in subsection (k), and inserting in lieu thereof "309(a)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES FOR PAYMENTS

SEC. 301. (a) Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) For purposes of applying section 9004(d) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

PAYMENTS TO ELIGIBLE CANDIDATES

SEC. 302. Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

REVIEW OF REGULATIONS

SEC. 303. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

(b) Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

ELIGIBILITY FOR PAYMENTS

SEC. 304. Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "LIMITATION" and inserting in lieu thereof "LIMITATIONS";

(2) by inserting "(a) EXPENDITURE LIMITATIONS.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations.".

(c) For purposes of applying section 9035(a) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT

SEC. 306. Section 9037 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates in primary campaigns) is amended by adding at the end thereof the following new subsection:

"(c) TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, no payment

shall be made under this chapter to any candidate more than 30 days after the date of the second consecutive primary election in which such candidate receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election if the candidate permitted or authorized the appearance of his name on the ballot or certifies to the Commission that he will not be an active candidate in the primary. If the primary elections are held in more than one State on the same date, a candidate shall, for purposes of this subsection, be treated as receiving that percentage of the votes on that date which he received in the primary election conducted on such date in which he received the greatest percentage vote. The provisions of this section shall apply as of the date of enactment of the Federal Election Campaign Act Amendments of 1976.

"(2) REINSTATEMENT OF PAYMENTS.—Notwithstanding the provisions of paragraph (1), a candidate whose payments have been terminated under paragraph (1) may again receive payments (including amounts he would have received but for paragraph (1) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 307. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISIONS OF LEGAL AND ACCOUNTING SERVICES.—For purposes of this section, the payment by any person, including the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services, of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on Presidential nominating convention expenses.".

(c) Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(d) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(e) Section 9004(a)(1) of the Internal Revenue Code of 1954 (relating to entitlements of eligible candidates to payments) is amended by striking out "608(c)(1)(B) of title 18, United States Code" and inserting in lieu thereof "320(b)(1)(B) of the Federal Election Campaign Act of 1971".

(f) Section 9007(b)(3) of the Internal Revenue Code of 1964 (relating to repayments) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

(g) Section 9012(b)(1) of the Internal Revenue Code of 1954 (relating to contributions) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

TITLE IV—COMMISSION TO STUDY PRESIDENTIAL NOMINATING PROCESS

DECLARATION OF POLICY

SEC. 401. It is hereby declared to be the policy of the United States to improve the system of nominating candidates for election to the office of the President of the United States by studying such system in a broad manner never before attempted in the two-hundred-year history of this Nation.

ESTABLISHMENT OF COMMISSION

SEC. 402. (a) There is established the Bicentennial Commission on Presidential Nominations (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members to be appointed as follows:

(1) six members shall be appointed by the President pro tempore of the Senate, on the recommendation of the majority and minority leaders, of whom at least two shall be Members of the Senate and at least two shall be elected or appointed State officials;

(2) six members shall be appointed by the Speaker of the House of Representatives, of whom at least two shall be Members of the House and at least two shall be elected or appointed State officials;

(3) six members shall be appointed by the President; and

(4) two members shall be the chairman of the two national political parties and shall serve as ex officio members.

(c) At no time shall more than three members appointed under paragraph (1), (2), or (3) of subsection (b) be individuals who are of the same political affiliation.

(d) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made, subject to the same limitations with respect to party affiliations as the original appointment.

(e) Twelve members shall constitute a quorum, but a lesser number may conduct hearings. The Chairman of the Commission shall be seletced by the members from among the members, other than ex officio members.

FUNCTIONS OF THE COMMISSION

SEC. 403. (a) The Commission shall make a full and complete investigation with respect to the Presidential nominating process. Such investigation shall include but not be limited to a consideration of—

(1) the manner in which States conduct primaries for the expression of a preference for the nomination of candidates for election to the office of President of the United States and caucuses for the selection of delegates to the national nominating conventions of political parties;

(2) State laws and the rules of national political parties which govern the participation of voters and candidates in such primaries and caucuses;

(3) the financing of campaigns for the nomination of candidates for election to the office of the President of the United States;

(4) the relationship between candidates for election to the office of the President of the United States and the news media, including how candidates achieve public recognition and whether such candidates should be guaranteed access to the television media;

(5) the interrelationship of the elements described in paragraphs (1) through (4) of this section;

(6) alternative nominating systems, including but not limited to a national or regional primary system for the expression of a preference for the nomination of candidates for election to the office of President of the United States and variations on the present nominating system;

(7) the manner in which candidates are nominated for election to the office of Vice President of the United States; and

(8) the extent to which State laws and the Federal Election Campaign Act of 1971 promote or retard independent candidacies for election to the office of President.

(b) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than one year after the enactment of this title, a final report of its study and investigation based upon a full consideration of alternatives to our current Presidential nominating system, including an analysis of the strengths and weaknesses of all such alternatives studied, together with its recommendations as to the best system to which for the 1980 Presidential elections. The Commission shall cease to exist sixty days after its final report is submitted.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 404. (a) The Commission may, in carrying out the provisions of this title, sit and act at such times and places, hold such hearings, take such testimony, request the attendance of such witnesses, administer oaths, have such printing and binding done, and commission studies by any Federal agency or executive department, as the Commission deems advisable.

(b) Per diem and mileage allowances for witnesses requested to appear under the authority conferred by this section shall be paid from funds appropriated to the Commisison.

(c) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without reagrd to the provisions of title 5, United States Code, governing apopintments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification in General Schedule pay rates, but at such rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSATION OF MEMBERS

SEC. 405. (a) Members of the Commission who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(b) Members of the Commission not otherwise employed by the Federal Government shall receive per diem at the maximum daily rate for GS-18 of the General Schedule when they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

TIMELINESS OF APPOINTMENTS

SEC. 406. It is the sense of the Congress that the appointments of individuals to serve as members of the Commission be completed within ninety days after the enactment of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 407. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE V—MISCELLANEOUS PROVISIONS

USE OF FRANKED MAIL BEFORE ELECTIONS

SEC. 501. Section 3210(a)(5)(D) of title 39, United States Code, is amended by striking out "28" and inserting in lieu thereof "60".

Mr. CANNON. Mr. President, I would simply say that we have tried to work out a substitute for the Federal election bill, which has been under consideration for several days. The printing of the proposed substitute in the RECORD and the printed amendment itself will be available here for Senators to review in the morning.

There are certain amendments still outstanding, including one of the distinguished Senator from Alabama (Mr. ALLEN) and others which we anticipate will be offered, but we are hopeful that in light of the substitute as it is now drafted, we can move to a speedy conclusion of S. 3065 within the next day or two.

I thank the distinguished Senator from Hawaii for yielding.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS, 1976

The Senate continued with the consideration of the bill (H.R. 12203) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1976, and for the Transition Quarter.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROOKE. Mr. President, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) had offered an amendment, and I wish to offer a substitute for that amendment. Is it in order to move to accept the committee amendment, and then to introduce, at the appropriate place in the bill, an amendment?

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield, before the ruling on that parliamentary inquiry?

Mr. BROOKE. Before the Chair rules?

Mr. HARRY F. BYRD, JR. Yes.

Mr. BROOKE. Mr. President, I withhold the inquiry.

Mr. HARRY F. BYRD, JR. The Senator from Virginia, I might say, did not offer an amendment. The Senator from Virginia opposed the committee amendment.

Mr. BROOKE. That is correct.

Mr. HARRY F. BYRD, JR. The Senator from Virginia has no amendment at this time.

Mr. BROOKE. I thank the Senator. Let me restate that inquiry.

The Senator from Virginia has opposed the committee amendment. Is it now in order to move to accept the committee action, and then offer an amendment at the end of the bill?

The PRESIDING OFFICER. The Chair would say that it is his understanding that the Senator from Virginia was opposing excepted committee amendment No. 2, which was to strike and insert new language.

The inquiry now is whether, after the disposition of excepted committee amendment No. 2, an amendment adding a new section be in order?

Mr. BROOKE. That is correct.

The PRESIDING OFFICER. The ruling of the Chair is that it would be in order.

Mr. BROOKE. Mr. President, I move to accept the committee action.

The PRESIDING OFFICER. Is all time on the committee amendment No. 2 yielded back?

Mr. BROOKE. I yield back all of my time.

Mr. INOUYE. I yield back all of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to excepted committee amendment No. 2.

The committee amendment No. 2 was agreed to.

Mr. BROOKE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) (for himself and Mr. INOUYE and Mr. HARRY F. BYRD, JR.) proposes an amendment:

At the appropriate place in the bill insert the following:

Beginning three months from the date of enactment of this Act, no part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act unless (1) such debt has been disputed by such country prior to the enactment of this section or (2) such country has either arranged to make payment of the amount in arrears or otherwise taken appropriate steps, which may include renegotiation, to cure the existing default.

The PRESIDING OFFICER. Under the previous unanimous-consent order, there is 1 hour of debate.

Mr. BROOKE. I yield back all time.

Mr. INOUYE. I yield back all time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I ask unanimous consent that Mr. Chuck Warren and Mr. Frank Ballance of Senator JAVITS' staff be accorded the privileges of the floor during the consideration of this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an amendment: On page 11, line 22, delete the figure "$25,000,000" and insert in lieu thereof: "$200,000,000".

Mr. JOHNSTON. Mr. President, the President of the United States in his budget request submitted a budget request for $323,913,000 under section 506 of the Foreign Assistance Act of 1961 to replenish ammunition stocks of the Armed Forces which had been used by the Armed Forces in Cambodia in 1974–75.

The House of Representatives passed this provision granting the full $323,913,000. When this provision got to our Subcommittee on Foreign Operations, we reduced that amount to $25 million. The feeling of the committee was that frankly the President was incorrect and the Armed Forces were incorrect in giving that much money to Cambodia at a time when Congress and the Senate, particularly, had made it very plain that this body did not believe that that much aid should go to Cambodia when the story had already been told and it was too late for money to do any good.

However, Mr. President, since that time we further checked into the matter and found this: First, section 506 of the Foreign Assistance Act of 1961 authorizes the President to transfer these defense articles to countries requiring military assistance if he determines it to be in the security interest of the United States to do so.

Furthermore, this section of the law authorizes the Department of Defense to incur obligations or to let contracts in anticipation of reimbursements to the Defense Department of the amount.

Pursuant to this authority, the President did transfer these stocks of ammunition, valued at $324 million, and pursuant to that transfer the Armed Forces subsequently contracted in anticipation of this authority to restore these amounts. The Army has let these contracts. That is the Army in particular. Because the Army has $276 million of the $324 million, they have let those contracts, and those contracts are now in the course of being fulfilled. The action of the Subcommittee on Foreign Operations in cutting this amount to $25 million would cause not only the failure to replenish these stocks of ammunition, but it would cause the cancellation of these contracts as well. It would have an impact of 2,000 people being immediately laid off jobs and another 900 jobs lost down the pipeline.

So the ultimate question is whether or not we need the ammunition and whether or not the stocks should be replenished, because they were, in fact, depleted and transferred to Cambodia pursuant to act of Congress. It was all done totally within the ambit of the authority previously given by this body.

My amendment does not give the full $324 million. It does not for one very practical reason, and that is the subcommittee disagrees with me and the subcommittee feels that it would not be proper to go the full route but that $200 million would be sufficient.

While I believe that we should go the full replenishment, in a spirit of compromise I have put in this amendment which would authorize $200 million out of $324 million and would, for the most

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than representatives of the American people.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 411) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas, in the case of Common Cause, et al. v. Benjamin Bailar, et al. (Civil Action No. 1887–73), pending in the United States District Court for the District of Columbia, subpenas have been issued and served upon employees of the Senate serving in the office of a Senator directing them to appear and give testimony and produce documents, papers, or records in the office files of that Senator; and

Whereas, the dissemination of information by a Senator to his constituency concerning legislation proposed or effected by the Congress, the administration of such legislation by the Executive Branch and the review of such matters by the courts is a part of the official business of a Senator under the Constitution of the United States: Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States, information secured by employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate.

SEC. 2. When it appears that testimony of an employee of the Senate is needful for use in any court for the promotion of justice, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate.

SEC. 3. (a) The Sergeant at Arms of the Senate shall have produced a computer printout showing separately by each Senator the codes used by Senators on work orders processed by the Senate Service Department for mailings under the frank made during the period July 1, 1973, through December 31, 1975. Such printout shall be produced in a manner consistent with the provisions of a protective order previously agreed to by the plaintiff in the case of Common Cause et al. v. Benjamin Bailar, et al.

(b) In response to a subpena issued by the United States District Court for the District of Columbia in the case of Common Cause et al. v. Benjamin Bailar, et al, and served upon any employee in the office of a Senator directing him to appear and give testimony and to produce documents, papers, or records with respect to such case, that employee is authorized to give testimony by affidavit setting out the meaning assigned to each of the codes as contained in the computer printout for that Senator produced pursuant to subsection (a). Any such affidavit shall be executed in a manner consistent with the provisions of the protective order previously agreed to by the plaintiff in such case.

SEC. 4. The Secretary of the Senate shall transmit a copy of this resolution to the United States District Court for the District of Columbia.

SENATE RESOLUTION 412—TO RECOGNIZE THE INTERNATIONAL ASTRONAUTICAL FEDERATION'S "IAF '76" CONGRESS TO BE HELD OCTOBER 10 THROUGH OCTOBER 16, 1976, IN THE UNITED STATES OF AMERICA

Mr. MOSS. Mr. President, by direction of the Committee on Aeronautical and Space Sciences, I report favorably an original Senate resolution to recognize the International Astronautical Federation's "IAF '76" Congress to be held October 10 through October 16, 1976, in the United States of America and ask unanimous consent for its immediate consideration.

Mr. HATFIELD. Will the Senator yield?

Mr. MOSS. Yes.

Mr. HATFIELD. I would like to ask if this has been cleared with the minority?

Mr. MOSS. It has been cleared with the minority.

Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 412) to recognize the International Astronautical Federation's "IAF '76" Congress to be held October 10 through October 16, 1976, in the United States of America.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MOSS. Mr. President, this Senate resolution was sponsored by the Senator from Arizona (Mr. GOLDWATER) and me.

The purpose of the resolution is for the Senate to recognize the 27th Congress of the International Astronautical Federation which will be held in Anaheim, Calif., from October 10 through October 16, 1976.

The International Astronautical Federation is a nongovernmental association of scientific and technical organizations from throughout the world. The president of the International Astronautical Federation for 1976 is Mr. Leonard Jaffe, NASA's Deputy Associate Administrator for Space Applications.

The federation has two affiliated organizations—the International Academy of Astronautics and the International Institute of Space Law. Together, they selected the United States for their 1976 Congress in recognition of our Bicentennial and named it "IAF '76".

This "IAF '76" Congress will be chaired by Dr. George E. Mueller, former NASA Associate Administrator for Manned Space Flight.

The International Astronautical Federation and its affiliated organizations represent about 65,000 scientists, engineers, and lawyers including many of the world's leading authorities in astronautics, the space sciences, and space law. Hundreds of these will attend this 27th congress to exchange information and views on space science, technology, and law.

The American Revolution Bicentennial Administration has recognized this Congress as a significant contribution to the Horizon '76 theme of our national Bicentennial commemoration.

Mr. President, this resolution was prompted by our belief that we should acknowledge the "IAF '76" Congress and its sponsors for bringing the Congress to the United States not only because of its technical, scientific, and legal merit but also because of the genuine international cooperation that is realized when individuals from differing backgrounds and social systems come together to interact with each other on the common ground of scientific, technical, and legal development.

The motivating spirit behind the "IAF '76" Congress should remind us that the quest for world peace takes many paths. One of the most important paths leading to that objective is the international cooperation that has developed in the U.S. space program—a program that has offered the world untold benefits, opportunities, and solutions to growing problems on Earth. I believe that the proper use of the environment of space is the next great frontier that man must penetrate in his search for a better and more fulfilling existence.

Mr. President, because the International Astronautical Federation has selected the United States as the location for its 27th Congress in recognition of our Bicentennial, I believe it is fitting that the Senate formally recognize this work of the IAF. In so doing, we are offering our encouragement and best wishes to the "IAF '76" delegates for a successful Congress.

Mr. GOLDWATER. Mr. President, the International Astronautical Federation, known as the IAF, is a nongovernmental organization created in 1950 by national societies concerned with the development of rockets and space exploration. Thus, it was in existence 7 years prior to the launching of the first artificial Earth satellite. It was a small organization during its early days but greatly expanded in importance as space activities caught the attention of the nations of the world.

Today the IAF, through its member associations and societies, represents nearly 65,000 engineers, scientists, and technicians from 35 nations around the globe.

The International Astronautical Federation chose the United States as the location of their 27th congress in recognition of our Bicentennial. The IAF '76 Congress which will meet in Anaheim, Calif., during the second week in October will bring together the world's this resolution and to have it reported leading authorities in astronautics and space law. I was, therefore, glad to join my colleague from Utah in sponsoring this resolution and to have it reported from the Committee on Aeronautical and Space Sciences.

Mr. President, I believe it is entirely fitting for the U.S. Senate to recognize this IAF '76 Congress of the International Astronautical Federation. Moreover, the federation and its affiliated organizations are to be commended for selecting the United States as the location for this congress in recognition of our Bicentennial and to further commend the host organizations of the United States for sponsoring this congress.

Mr. President, I move that the resolution be adopted.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 412) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas the International Astronautical Federation is a unique, international, nongovernmental, interdisciplinary federation of

societies devoted to fostering the exploration of space through space science and the development of space technology and space law; and

Whereas the International Astronautical Federation and its affiliated organizations, the International Academy of Astronautics and the International Institute of Space Law, represent the world's leading authorities in astronautics, the space sciences and space law; and

Whereas the International Astronautical Federation will hold its 27th Congress in Anaheim, California, during 1976, the Bicentennial Year of our Nation, in recognition of the vital contributions made by the United States to the scientific, technical and legal wealth of our civilization; and

Whereas the host organizations for this 27th Congress, to be called the "IAF '76" Congress, are the American Institute of Aeronautics and Astronautics, the American Astronautical Society, the Aerospace Medical Association, the New York Cardiological Society and the Rocket Research Institute, Inc.; and

Whereas the "IAF '76" Congress will be attended by hundreds of people who belong to the International Astronautical Federation's affiliated organizations and member societies from many nations; and

Whereas the "IAF '76" Congress will conduct sessions and present papers in all areas of astronautics, and the space sciences, and space law thereby advancing and strengthening international cooperation and understanding in these critical areas of science, technology, and law; and

Whereas the American Revolution Bicentennial Administration recognizes the "IAF '76" Congress as a significant contribution to the Horizon '76 theme of the national Bicentennial commemoration; and

Whereas the International Astronautical Federation, its affiliated organizations, and its member societies represent considerable hope and promise to the world for the continued advancement of man's accomplishments in the fields of astronautics, the space sciences, and space law, such accomplishments having brought a better life to all humanity; and

Whereas the International Astronautical Federation strongly supports man's exploration of space and the proper use of the environment of space in order to help fulfill man's greatest aspirations and meet his vital needs on earth: Now, therefore, be it

Resolved, That the Senate of the United States recognizes the importance of the 27th Congress of the International Astronautical Federation to be held in Anaheim, California, from October 10 through October 16, 1976; commends the International Astronautical Federation and its affiliated organizations for selecting the United States as the location for its 27th Congress in recognition of the Bicentennial of the United States; and commends the host organizations of the United States for sponsoring the Congress.

SEC. 2. The Secretary of the Senate shall transmit a suitably enscribed copy of this resolution to the International Astronautical Federation.

Mr. MOSS. I thank the Senator from Nevada for his kindness.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

Mr. CANNON. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending business is S. 3065.

AMENDMENT NO. 1516

Mr. CANNON. Mr. President, I call up my amendment in the form of a substitute to S. 3065.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) for himself, Mr. HATFIELD, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. ROBERT C. BYRD and Mr. GRIFFIN proposes an amendment in the nature of a substitute numbered 1516.

Mr. CANNON. Mr. President, I ask unanimous consent that the reading of the substitute be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in the RECORD of March 23, 1976, pages S4060 through S4074.)

Mr. CANNON. Mr. President, yesterday afternoon an amendment in the form of a substitute to S. 3065 was introduced by myself, Senator HATFIELD, Senator MANSFIELD, Senator HUGH SCOTT, Senator ROBERT C. BYRD, and Senator GRIFFIN. This substitute represents an attempt by both sides of the aisles to set forth a reasonable compromise proposal which we can discuss and hopefully reach agreement on in the near future.

It is understood that there are a number of amendments to this substitute which will be proposed and considered by the Senate. At this time, however, I would like to set forth the changes and modifications which this substitute amendment would make to S. 3065 as it had been amended on the floor prior to yesterday.

The essential structure, and in many important respects, the substance of S. 3065 remains intact with the following modifications:

First of all, section 102 of S. 3065, creating an eight-member commission—the number of commissioners was expanded from six to eight by Senator MATHIAS's amendment which was approved by the Senate—remains the same, with the deletion of the provision prohibiting outside business activities of commissioners and the deletion of the provision requiring in a majority vote of the commission that no less than two of the five-member majority be affiliated with the same political party.

In the definitional section 102 a provision was added excluding from the definition of expenditure for limitation purposes partisan activity designed to encourage individuals to register to vote, or to vote, conducted by the national committee of a political party, or a subordinate committee thereof, or the State committee of a national party. Such partisan activity would, however, be required to be reported. This addition had been approved by the Senate as an amendment to an earlier substitute but had not been proposed as an amendment to S. 3065. In addition, the substitute would delete a surplus definition of independent expenditure which is not used in the bill or the substitute as a defined term.

Section 104 of S. 3065 contained some provisions related to reports by political committees and candidates, in particular the reporting requirement for independent expenditures. Here the substitute has include the reporting requirement proposed by Senator PACKWOOD for expenditures made by corporations' and labor organizations' communications to their stockholders or members expressly advocating the election or defeat of a clearly identified candidate. This reporting requirement has been expanded to equitably apply to all membership organizations requiring them to report expenditures directly attributable to such communications and for that reason has been transferred to the reporting sections of the act from the section which dealt only with corporations and labor organizations.

I might add here that I understand that there will be an amendment proposed to set forth a reasonable floor on such reports to the Commission to relieve the burden of such reporting on small businesses and membership organizations, as well as to clarify the nature of the expenditures which must be reported. I personally feel such an amendment would be an equitable and clarifying addition to this disclosure provision and intend to give it my strong support.

The portions of S. 3065 which relate to the general enforcement powers of the Commission which have been previously discussed on the floor remain intact. These are sections 106 and 108 of S. 3065 and the only change is a minor one to clarify that where a conciliation agreement, unless violated, constitutes an absolute bar to any further action by the Commission, it is a bar to further action with respect to the violation which is the subject of the agreement.

The substitute amendment deletes all the advisory opinion provisions of S. 3065. The effect of this is to retain existing law in section 437f of title 2, United States Code, exactly as it now it.

The substitute also would delete those provisions in S. 3065 relating to the House of Representatives procedure for considering the Commission's proposed rules and regulations, leaving this as a matter for the House to act upon at a later time.

The substitute does not make any changes in the section of S. 3065 relating to limitations on contributions and expenditures, as amended to date by the Senate, except in the following specific respects. First, a provision is added to provide for an unlimited transfer of funds between and among political committees of the same political party together with a provision to assure that the antiproliferation rule of S. 3065 would not apply to contributions by a political party through a national committee and to contributions by that party through a single State committee in each State. Second, the amendment to S. 3065 proposed by Senator JOHNSTON and previously adopted by the Senate is modified to clarify that contributions by the specified party committees do not aggregate more than $20,000 in an election year.

This substitute also modifies the section of S. 3065 related to the solicitation

of contributions by corporations and labor organizations to segregated political funds to allow, in addition to what is in S. 3065, corporations and labor unions and their segregated funds, to solicit in writing one contribution during the calendar year for use in connection with primary election campaigns and one contribution during the calendar year for use in connection with general election campaigns from any stockholder, officer, or employee of a corporation or the families of such persons provided, however, that such solicitation is made only by mail addressed to the stockholder, officer, or employee at his residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution as a result of such solicitation and who does not. This restriction is a valuable protection against person-to-person coercion, and provides a degree of anonymity so corporations or unions cannot set up elaborate systems to monitor who contributes and who does not.

This same section was further modified to expand the provision prohibiting coercion by corporations and labor organizations by adding three specific prohibitions to protect employees during the solicitation process. In addition, the penalty provisions of S. 3065 were amended to provide up to a 2-year imprisonment or a fine of not more than $50,000, or both, for violation of the coercion prohibition portion of this section.

The substitute also makes a modification of the section permitting solicitation to segregated funds by government contractors so that it conforms to and is governed by the revised provisions which relate to corporations and labor organizations.

Mr. President, the final change which the substitute would make to S. 3065, as amended, is a modification of the provision amending section 3210(a) (5) (D) of title 39, United States Code, regulating the use of franked mail before elections. This modification would alter existing law only to the extent of changing the 28-day period prior to an election during which certain franked mass mail may not be sent out by a Member of Congress up for election to a 60-day period.

I should expand a little on that, it is not a prohibition on franked mail, it is on the franked mass mailing.

I would like to commend my Republican colleagues for their support of this substitute amendment. Although there are provisions in or omissions from the bill with which we all may not be completely satisfied, this substitute to S. 3065 does represent a significant coming together of many of the divergent views which have been expressed in the past weeks. It represents a number of necessary and constructive changes in the Federal election campaign laws and I recommend it to the Senate for its consideration and approval.

At this time I would like to yield to any of my colleagues who may wish to speak on this substitute or to offer amendments which they would like to have considered by the Senate.

Mr. HATFIELD. Mr. President, I am very happy to join with the chairman of the Rules Committee (Mr. CANNON) and my colleagues Senator HUGH SCOTT and Senator GRIFFIN, who are also on the Rules Committee as well as the minority leaders, along with Senator MANSFIELD and Senator ROBERT C. BYRD, the majority leadership, in introducing this compromise bill.

Mr. President, I signed the minority views on the later substitute to S. 3065, the Federal Election Commission Amendments of 1976, with the understanding that there were five areas of disagreement with the original majority bill.

First, the original version seriously crippled an independent election commission. In the compromise version we bring to the floor today, I believe that most of the crippling provisions have been removed.

The provisions which would have curtailed the advisory opinion method of enforcement and statutory construction have also been removed. Advisory opinion power is left as it was under the 1974 Act, and I believe this is a definite improvement.

The bill is still more favorable to incumbents than the previous bill, but the more obvious favoritism is no longer included in this compromise version.

The third objection we found was that the original bill placed restrictions on national party organizations and their associated and subsidiary committees. One will find the compromise bill does take out most of those more objectionable features. I am particularly pleased that the transfer between committees can be made so that it is possible to pay debts of party committees that might otherwise face virtual bankruptcy.

The original compromise draft we approved on Monday night was essentially a fair compromise along many lines suggested by the majority.

I must say that two proposals to seriously limit the political solicitation of the separate, segregated funds have been accepted by the minority as a price for a reconstituted Federal Election Commission and removal of other objectionable features.

As the chairman of the committee has stated, we, too, accept, with some degree of reluctance, these compromises. As with any compromise, this bill doesn't represent the druthers of either side, but we join in the sponsorship of this substitute S. 3065.

I think we will have an opportunity later to discuss some of the matters which we have found less desirable in accepting this compromise, but I only want to emphasize at this time that, true to any compromise, one does not achieve all that he or she would like to achieve.

All of us, both the majority and the minority, have seen that we have a public responsibility to move this bill into some kind of form that we can accept and, hopefully, get the President of the United States to sign.

Obviously, in that sequence I just gave, I omitted one of the most important of all the steps, and that is to find agreement with the House of Representatives. None of us can predict what the House will do at this time. Hopefully, it can be in some general area of similarity to the Senate version. Hopefully, the Senate will accept our compromise proposal, the Cameron-Hatfield bill, and we would then go to conference.

Mr. President, I believe it is very obvious that since this expiration of the commission has occurred, we are again under a certain degree of pressure, particularly from the candidates for President. Since the Democrats have more candidates than the Republicans, I assume that they feel the pressure even more keenly than we. But I think that this original bill was enacted in good faith, although I did not personally subscribe to the public funding section of the bill. Therefore, we led the candidates to believe that they could count upon a certain contribution based upon the formula in the act as their campaigns progressed.

A rather sizable amount of money already has been disbursed under the original act. Of course, we find ourselves in an accelerated situation following each primary that has occurred, and the acceleration carries with it, no doubt, additional costs and expenditures.

So we have here a situation in which many candidates are out on the road, no doubt with great question as to where their future support is going to come from. They are making commitments and make those commitments in good faith, based upon their expectation of this act being sustained or revised, but at least being carried out through this particular election.

With the intervention of the Supreme Court in knocking down certain provisions of the act we are, therefore, confronted with the responsibility of reconstituting the Commission and attempting to maintain the continuity of the act, including the disbursement of funds.

I must say in all candor, that, from the constituents with whom I have discussed this matter, there has not been any great enthusiasm about the disbursement of funds from the Treasury to the candidates, but that is neither here nor there. The act was passed, however, and there developed an expectation, an honest expectation, from the candidates regarding the financing sections.

I am not here this morning pleading for the candidates, because that is only one part of the act. There are many other sections that, of course, concern all of us in this body and in the House. Therefore, I feel that the sooner we can take action on this substitute measure and maintain the continuity of the campaign funding as well as the rules under the general act that was enacted earlier, the better it will be for the Nation.

I want to also say, Mr. President, I think it is very obvious that whatever we develop we are going to find, through the experience and exercise we are now engaged in, of primaries, and later in the general election, certain bugs and certain problems that will necessitate our addressing this issue following the election. I think out of the experience of this election we will no doubt find the inadequacies of this measure that we cannot fore-

see in every instance when we are in the process of drafting such a precedent-setting act.

Again, I commend the majority for compromising, as they did, because there was strong sentiment on the part of the majority to address some of what they believed to be deficiencies already experienced during this campaign in the existing act, and to attempt to perhaps reorganize the act through such a bill now in the midst of the campaign.

The minority objected to this procedure. I speak now on general behalf of the minority; it is not unanimous. The minority felt very strongly that we had committed ourselves to a particular bill that was enacted into law. We were embarked upon this campaign, we were in the midst of this campaign, and to change the rules of the game at this particular juncture short of meeting the objections of the Supreme Court was not timely.

We felt this strongly and we pursued that particular viewpoint throughout the committee review and on the floor of the Senate.

Again I emphasize the point that this is not to assume that the act is perfect nor that there are not already requirements that we could identify that will have to be reviewed, discussed and debated. But I think we will be in a far stronger position to take the right action at the time we have concluded a presidential year election, and the various other elections that would be affected by this law. Then, in the next session of the Congress, we can come back with that data in hand and make a very careful review of what changes might be proper.

Mr. President, we also have in the substitute the Mondale amendment, which is very important because of the fact that it sets up a review commission to consider the review of presidential primaries. The way this is worded in the bill makes it very obvious that we are not locked into one narrow interpretation of what this commission can do.

It is very obvious that this commission can address itself to many things that occur, or review many aspects of the nominating system, during this election year. I do not think it is locked in necessarily just to a projected future idea of presidential primaries. I believe they will have to make judgments based upon this present system of primaries that are occurring now throughout the country.

So if there are current and immediate problems that may arise, we have in the Mondale provisions another vehicle to review those incidents and those concerns, as well as the presentation of such problems to the election commission once it is reconstituted.

For those who have felt keenly about certain amendments that they have authored and have proposed during the debate here in the Chamber during the last few weeks, I would say to them that even though the compromise may not incorporate all such amendments, those ideas certainly are not dead nor are they cast aside. Those ideas can be reviewed and can be studied by such a Commission if that part of this substitute proposal is sustained through the conference committee and a Presidential signature.

Mr. President, we are hopeful that both sides of the aisle will show some unusual restraint as to the offering of amendments to this particular substitute. We in no way are trying to close out or shut out the freedom and the right of any Senator to offer an amendment. But we discussed this matter very thoroughly in our conferences, the majority and the minority, and we both committed ourselves to the simple fact that we would try to dissuade our colleagues from offering copious and numerous amendments. I believe that if we can keep this substitute as clear of such amendments and as simple as it is now constituted, we will have not only a far better chance of passing this substitute on the floor but perhaps sustaining it in conference. I cannot speak for the President directly, but I do feel, after conferences at the White House yesterday morning, there are provisions in this bill now that the President can accept, and hopefully will sign.

I stress the point I do not commit the President nor attempt to be presumptuous enough to speak for the President at this point. The President has not yet had the chance to even read the substitute proposal, which has just been printed this morning.

In general discussions with the President and minority leaders at the White House yesterday, though, I am at least persuaded that the bill is within the scope of possibility of obtaining the President's signature.

This is very significant, because our labors could be totally in vain if we face an automatic or a promised veto. With our Cannon-Hatfield substitute I think we have removed that particular cloud hanging over the actions of the Senate.

I am again very grateful for the openness, the flexibility, and the obvious expressed desire on the majority side of the aisle for reaching some kind of an understanding and resolving this problem. Particularly I commend the leadership, Senator MANSFIELD, Senator HUGH SCOTT, Senator ROBERT C. BYRD, and Senator GRIFFIN for their intervention at a time when I think it was most appropriate to try to get this whole matter off dead center. Chairman CANNON has demonstrated many times in the committee and here on the floor his profound understanding of the details of this bill and of the previous bill, and also expressed strong philosophical commitments and viewpoints.

I again emphasize that none of us individually are looking at a bill we would personally sit down and draft, but because of our concern over getting this action moving and getting results, the chairman and all of the members have made sacrifices for that common objective of action and solution.

So I join with the majority, even with reservations on some portions of the bill, in asking my colleagues on the minority side of the aisle to support this bill and to exercise restraint in not voting it down, nor in raising up a lot of issues that could possibly be better undertaken at a later date. We still will have the legislative process itself at a future time, or, in the interim, by the Elections Commission, or by the primary review commission created in this compromise bill.

Mr. PACKWOOD. Mr. President, I, too, wish to rise and compliment the chairman and the ranking Republican member and the others who were involved in this compromise. I think if I had to vote up or down right now, I would support it.

I agree with my colleague that I have never yet voted for a bill that was 100 percent the way I wanted it, and I suspect that if I stay here 30 years I would never get a bill completely to my satisfaction. I am not quite sure how certain features of this bill work, and I think some debate would be helpful on those. I think we are both aiming in the same general direction, particularly in connection with soliciting that middle group, nonunion, nonsupervisory employees.

I do not quite understand how the bill works without the solicitors knowing who they are, or without someone knowing who they are. I do not know how they can get a gage, or get some kind of identifiable, qualifiable instrument that can be turned in. I do not know how we can do that without violating the terms of the limitation of $100 on a national campaign.

I believe we want to go the same route. I do not want pressure brought on members and employees who may be recalcitrant. I am concerned about the question of primaries; does a convention count as a primary? Does the money have to be spent in a primary, or can it be spent in a general election?

Mr. CANNON. Mr. President, will the Senator yield?

Mr. PACKWOOD. I am happy to yield, so I can figure out what some of the answers are.

Mr. CANNON. First, with respect to a primary, there is no limitation on spending other than the limitations that exist with respect to the separate, segregated funds; so it does not matter whether it is primary or general, we have limited it to two solicitations, and while it is true that it is not clear in the bill, I would assume that if a State does not have a primary, but has a convention, it would be my intention, at least, that the one solicitation could apply to the convention in lieu of the primary, and the other apply to the general election.

That was arrived at solely to fix the numbers, so that you could not have solicitation after solicitation.

Mr. PACKWOOD. I agree with the Senator. In other words, we are talking about two solicitations a year, period.

Mr. CANNON. That is correct.

Mr. PACKWOOD. But this could also be in a nonelection year; not just two to a campaign.

Mr. CANNON. Yes.

Mr. PACKWOOD. And the money raised in the primary does not have to be spent on the primary?

Mr. CANNON. No limitation on the expenditures, other than the limitations on contributions by the separate segregated funds.

Mr. PACKWOOD. Right.

Mr. CANNON. But that relates to another provision of the bill.

Mr. PACKWOOD. I think that before we are done here we can probably redraft that language a bit to make sure it reflects what the Senator and I anticipate—two solicitations a year, be it a campaign year or not, that is, with no continual dunning of employees month after month about "do you want to give?"

Mr. CANNON. But, mind you, that is only with respect to that particular solicitation alternative.

Mr. PACKWOOD. That middle group.

Mr. CANNON. That middle group.

Mr. PACKWOOD. Right. The unions do not——

Mr. CANNON. But the middle group is expanded through the definition of the term, so that that solicitation can go to nonunion members or to union members. It can be a solicitation by the corporation or the separate segregated fund of the corporation, or a solicitation by the union.

Mr. PACKWOOD. Correct.

Mr. CANNON. So it gets at the principal group that was excluded, let us say, in the nonunion shop.

Mr. PACKWOOD. So, in other words, a corporation can solicit all of its employees twice.

Mr. CANNON. In that fashion.

Mr. PACKWOOD. Union or nonunion; they can solicit shareholders and executive officers as much as they want. The unions can solicit all employees twice, and their officers and shareholders and members as much as they want.

Mr. CANNON. That is correct.

Mr. PACKWOOD. We are in perfect agreement on that. Now, to get down to the second part, about the union or no union; how does this physically work?

Mr. HATFIELD. Mr. President, will the Senator from Oregon yield before he leaves the first point he made?

Mr. PACKWOOD. Yes.

Mr. HATFIELD. I think there is real confusion here in this language, and I would only ask the indulgence of the chairman at this moment to suggest that on page 39, in this language that starts with line 9, we are talking here about one contribution when actually we should be talking about one solicitation. I think changing that word would clarify this a little bit further.

I offer this only as a possible suggestion: to make this two written solicitations during a calendar year from any stockholder, and so on. We can go ahead and define it as both primary and general, or leave it in general terms to cover both a primary and a convention situation. But the bill now puts the emphasis on one contribution for the primary and one contribution for the general. Actually our emphasis was intended to be on the communication, the solicitation, which might involve contributions over a period of time rather than a single-shot contribution.

Mr. PACKWOOD. I think the chairman is right, because we always talk about the possibility of a checkoff. That should not be 12 contributions a year, with only a single solicitation.

Mr. HATFIELD. That is right. So I think it was a matter of semantics rather than policy that it came out with the emphasis on the contribution rather than the solicitation. The whole emphasis during our discussion, and I think the chairman will agree, was on the question of communications and solicitations. Again, this may not be the exact wording to correct it, but I think it could be clarified and perhaps be something of an answer to the Senator's question.

Mr. PACKWOOD. I think the way it reads, in addition, the corporation would be prohibited from soliciting even their own shareholders more than twice, and the union would be prohibited from soliciting its members more than twice. I think that is fine. This way, we would have two solicitations during a year, and I think that is enough.

Mr. CANNON. If the Senator will yield, we could even spell that our further by saying "any election." So it would not be interpreted as two solicitations for the general or the primary, or even the convention. The general idea we wanted to get over in the compromise was that they would not be solicited more than one time in the nominating procedure, and once in the general election.

Mr. PACKWOOD. But they could also be solicited twice in the preceding nonelection year.

Mr. CANNON. Because that is on a calendar year basis.

Mr. PACKWOOD. Yes, twice in a calendar year.

Mr. CANNON. Yes, the Senator is correct. But the theme we were trying to strike was in an election year, particularly.

Mr. PACKWOOD. Yes.

Mr. CANNON. Although we did use the language "in a calendar year," which would give them the opportunity to solicit in a year prior to the election.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GARY HART). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an amendment to amendment No. 1516. On page 39, strike lines 12 through 15 and insert in lieu thereof the following: "to make two written solicitations for contributions during the calendar year from any stockholder,"

Mr. HATFIELD. Mr. President, now we pick up with the same language that is in the bill. I will explain this briefly. I think it has been pretty well brought out in the colloquy up to this point.

In order to clarify the situation in those States where there are primaries, versus the States where there are no primaries, this new language would be broad enough to incorporate both situations.

Second, during the discussions that we held in the conferences leading up to this substitute proposal, it was very clear that our emphasis was upon the communication, the solicitation, for contributions. The language here—inadvertently, I think—tends to convey that the emphasis is on the contribution itself. Therefore, I think that the amendment is really more technical and perfecting than it is anything else.

So I suggest that it might strengthen the understanding of the intent of those who drafted the substitute and provide a more inclusive situation for those States with primaries or States without primaries.

Also, it provides for the emphasis upon the calendar year, which means that solicitations could be made in nonelection year, a year before an election, for example.

Mr. PACKWOOD. And the money collected does not have to be spent in the primary if it is collected before the primary?

Mr. HATFIELD. The Senator is correct, in that this removes any question as to whether or not such funds collected for a primary or for a convention situation have to be expended.

Mr. PACKWOOD. We have taken that language out altogether.

Mr. HATFIELD. That is right.

Mr. PACKWOOD. The only other question I have is this: I ask the Senator to look at page 38, line 25, through line 8 on page 39. That is the language that allows unlimited solicitation by corporations of shareholders and employees of unions and union members. With that language, you can solicit them as often as you wish. Is that language limited by what we have added, or are these people still exempt from the two times a year contribution by the appropriate organization?

Mr. HATFIELD. We go back to page 38, line 23, which says, "except as provided in paragraphs (b) and (c)".

Mr. PACKWOOD. That is fine. I want to make sure that our legislative history is correct on that.

Mr. HATFIELD. I think that is the qualifying language there.

Mr. CANNON. I interpret it to mean that that does not make a limitation on the prior provisions.

Mr. PACKWOOD. It does not?

Mr. CANNON. It does not make a limitation. So that a corporation, for example, or a separate segregated fund established by a corporation could solicit its stockholders and their families and its executive and administrative personnel and their families at any time and in any fashion they saw fit.

Mr. PACKWOOD. And as many times as they want, to their hearts content?

Mr. CANNON. That is right. The same applies to a labor organization and its members and their families. However, while this limitation does permit the solicitation of the same persons, it really gets the body of people who cannot be solicited by either the separate segre-

gated fund of the corporation or the separate segregated fund of the union.

Mr. PACKWOOD. I agree with that interpretation.

Mr. HATFIELD. Mr. President, are there any other questions on the amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

Mr. PACKWOOD. Mr. President, I am curious about the second part of the paragraph and how literally the anonymity is protected. Let us use Sun Oil, which is the example everybody uses. Say we have a union pact fund and an employer pact fund, and they send out written solicitation to all the employeees of the company. The union says, "Please contribute." To what—"to our pact fund?" Is that the form of the solicitation?

Mr. CANNON. They can make it in whatever form they see fit. I assume that they would do it to their political action fund, whatever that is. I am not going to try to spell out on the floor of the Senate what they would do. If it requires spelling out, I think the Federal Election Commission is the one to do it.

The intent here is that they cannot send out a form and have it returned to them to indicate who the contributor is. There are many ways they could do it. They could establish that fund in a trust account in the bank and say, "Send your contribution in care of so and so at the bank." Obviously, many contributors would send in their contribution by check. That certainly would not be a violation, even though they could not protect their anonymity if they sent it in by check.

Mr. PACKWOOD. What I want to make sure of is this: Are we saying that this is going to be a specially carved out exception for recordkeeping? We are not talking about a separate segregated fund. This is really a second generation separate segregated fund run by a trustee in a bank, for lack of a better descriptive term. That trustee is prohibited from reporting the names of the people. I imagine that most of the money will come in by check, and he will have a record. If he is a good trustee, he should keep a record. Is he prohibited from disclosing that to anybody? He would not file anything with the FEC, and the FEC would have no right to look at his records in order to see where his money came from?

Mr. CANNON. We have considered a provision elsewhere that says—if the Senator is worried about the more than $100 issue—that the contributor, himself, must report if he has given, in the aggregate, more than $100.

Mr. PACKWOOD. But that destroys his anonymity.

Mr. CANNON. If the contributor wants to give up his anonymity, then he can do it. This provision is to protect the contributor.

Mr. PACKWOOD. The Senator says that the person we are concerned with is the contributor, and if he does not care, we do not care, if he wants to report it. Is that correct?

Mr. CANNON. That is correct.

Mr. PACKWOOD. As I understand the law, a contributor of more than $100 does not report. It is the independent organization of the candidate to whom the $100 is given who does the reporting.

Mr. CANNON. That is correct.

Mr. PACKWOOD. A person gives $100 to this trustee. That contributor does not have to report. Does the trustee have to report that?

Mr. CANNON. Obviously, he would. Whoever controls the fund, in amounts more than $100, would have to make the reporting, under the provisions of the law elsewhere.

Mr. PACKWOOD. The trustee, then, will have to keep track of everybody who gives, because we have this aggregation rule that if you give $25 five times, you have to report.

Mr. CANNON. We also provide that burden on the contributor, so that if he contributes more than a hundred dollars in the aggregate, he does it.

Mr. PACKWOOD. We do not require the contributor to report anyplace, unless it is an independent expenditure, and then we require it as an expenditure.

Mr. CANNON. Let me correct that. Counsel tells me that we did not adopt that particular amendment. We were considering it.

Mr. PACKWOOD. Unless it is an independent expenditure, to the extent it is given to a committee, it is up to the committee.

I take it that this means that the trustee must keep records of everybody who gives, so that when this aggregation problem comes up, the trustee can say yes or no: "John Jones did not give over a hundred dollars," or, "Yes, he did give over a hundred dollars."

Mr. CANNON. I suppose he would want to keep them. I assume that the FEC would set up some rules to govern this precise thing.

Mr. PACKWOOD. They have rules now on this aggregation of money, in the present law. It talks about aggregation.

All those who ran in the last campaign, in terms of keeping track of our contributors, recall what we had to do to make sure that we caught a situation in which someone gave us more than a hundred dollars in two or three sums.

In order to protect himself, the trustee will have to keep these records. Who has access to those records? Can the FEC come in before the election and demand to see those records?

Mr. CANNON. Certainly, the FEC could. These separate segregated funds are a political committee, within the definition of the act.

Mr. PACKWOOD. But this is a trustee account. We are designing this, really, for a different purpose than our normal political committee.

Mr. CANNON. One will not be able to go through a dodge by setting up a trustee and saying, "We do not want to report under the provisions of the act.'

Mr. PACKWOOD. I do not want to go through a dodge, either, but I do understand how it works.

Apparently, we are talking about a second generation political fund, an unrelated fund, not the first separate segregated fund that a SUNPAC sets up or that the union sets up as a COPE. I do not understand, on the one hand, how we protect the anonymity and you do not have access to it period, and on the other hand we say, "However, reporting is going to be required for certain circumstanees."

Mr. CANNON. There is no question as to the reporting that will be required under certain circumstances, though I can assure the Senator that he is not going to have to worry very much about the $100 contributions under these circumstances.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GARY HART). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABOUREZK). Without objection, it is so ordered.

Mr. CANNON. Mr. President, there has been a question raised on page 39, subparagraph (b), where the language reads that it shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by a corporation or a labor organization, and then going on to the two written solicitations per year. The question has been raised as to whether that language might permit the corporation and the separate segregated funds of the corporation, both to solicit twice a year, and the same thing with respect to a labor organization and its separate segregated fund, to permit each organization to solicit twice a year.

That is not the intent. The total solicitation of the corporation and/or its separate segregated fund and the total solicitation of the labor organization and/or its separate segregated fund should only amount to two in a year.

Therefore, to eliminate any question on this issue, I propose an amendment on line 11, to strike the letter "a" where it appears in two places in that line, and insert in lieu thereof the word "such," and I propose that in the form of an amendment, Mr. President.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. Will the Senator from Nevada send the amendment to the desk?

Mr. CANNON. I ask the clerk to state the amendment. I think the clerk has the essence of it.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 39, line 11, strike "a" wherever it occurs and insert in lieu thereof "such".

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. CANNON. I yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I agree with the intent and I support the amendment. At some stage later, I have another question about the constitutionality of limiting these separate segregated funds.

I hope that this is constitutional. I

support it, and when we have this discussion later on the constitutional issue, I will raise that issue. It is not appropriate here.

But I do agree, it was not our intention to allow four solicitations, two by the fund and two by the corporation that creates it, two by the union, two by the fund.

Mr. ALLEN. Will the Senator yield for a question?

Mr. CANNON. Yes.

Mr. ALLEN. This all occurs to me, even though these expenditures by these organizations are permitted under this statute. What about the possible stockholder suit by a stockholder who feels that this might be a misuse of corporate funds or funds of an organization, a labor organization, or otherwise?

Mr. CANNON. I think the court has already held that it is proper to establish a separate segregated fund and proper to communicate with a limited number of people. I believe that is adequate to cover it.

But, certainly, I would assume if the corporation did not have advice from its lawyers that they could do so safely, and they would not run any risk, they would not attempt to solicit the use of any corporate funds.

Mr. ALLEN. The separate segregated fund might do the soliciting and that would not be the use of corporate funds, is that correct?

Mr. CANNON. That is correct.

I would take it, in most instances it would be the separate segregated fund that would do the soliciting.

Mr. ALLEN. I believe that would be the answer.

Mr. PACKWOOD. Is the Senator from Alabama asking or talking about the initial solicitation by the corporation using corporate funds of its shareholders, saying that we want to set up a separate fund, please contribute to it? Is the Senator suggesting the shareholder, just because of that initial instance, might have a course of action against them?

Mr. ALLEN. I suggest that possibility and, right at that point, would that be one of the two solicitations permitted, when they announce the setting up of a separate fund?

Mr. PACKWOOD. No. The setting up of the fund is permissible under present law. The setting up of the fund is not a solicitation for contribution to the fund.

Is that the chairman's understanding?

Mr. ALLEN. When they announce setting up the fund, obviously, that is a solicitation right there. There is a need to cover that, it would seem, in some language.

Mr. PACKWOOD. If they are only soliciting their shareholders, we have already agreed on this, there is no limit to the number of times they can do that.

Mr. CANNON. There is no limitation with respect to shareholders. The only limitation applies with respect to what someone described as the unreachable group included in this amendment, and this amendment as it is now in the bill simply says that it shall not be unlawful for the corporation to solicit these people twice in a year in the fashion we prescribed, in writing by mailing.

Mr. ALLEN. I would not think setting up this fund, the original announcement would be limited to the stockholders; because they need also to advise the employees, I would think.

Mr. PACKWOOD. The initial setting up of the fund—that is a good question, asking could they solicit everybody when setting up the fund.

Mr. ALLEN. And they are to send that same notice, I assume, to the employees. They would be left in the dark about the setting up of the fund. That would be the solicitation unless it is covered in the language. It could be considered.

Mr. PACKWOOD. I guess, what I think mine would be, although in my estimation, a corporation can do two initial solicitations in setting up the fund, and to the group it can solicit as often as it wants, administration and friend, is not that expensive.

I would say a union or corporation solicited everybody and how we are going to set up a fund that would properly count as one of the two solicitations they are entitled to——

Mr. ALLEN. That is the point of the Senator from Alabama. The Senator from Oregon has come around to the view of the Senator from Alabama. That would constitute a solicitation.

Mr. PACKWOOD. The reason I think it is not an overwhelming problem is twofold.

First, one sets it up, and the stockholders or shareholders, as often as one wants. Second, once it is set up, I presume it is not going to be set up every year, it will be a continuing fund, and after first creation, an initial cost at least for the creation——

Mr. ALLEN. Would it or would it not constitute one of the two solicitations?

Mr. PACKWOOD. My interpretation, I do not want to be bound by it, if one solicited everybody——

Mr. ALLEN. By everybody, the Senator means employees, not the public generally?

Mr. PACKWOOD. I mean all corporate employees and shareholders. The union sends out a mailing, the corporation does, and says, "Please join our political action committee," that that would fit it as one of the two solicitations they are entitled to make in a year.

Mr. CANNON. If that is sent out in writing, in accordance with this provision of the act, that certainly would constitute one of the two solicitations.

Mr. ALLEN. And after that is set up, they have one more solicitation?

Mr. PACKWOOD. For that year.

Mr. CANNON. The Senator is correct.

Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CANNON. Mr. President, the question has been under discussion as to the problem of the $100 and over and the less than $100 contribution. If a person contributes more than $100, obviously it is required to be reported under the provisions of the law. To further define that matter in connection with the language in subparagraph (b) on page 39, which permits the written solicitations of two per year to the so-called unreachables, I have an amendment I want to propose on page 15, between lines 18 and 19.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. Cannon) proposes an amendment:

On page 15, between lines 18 and 19, insert the following:

"(3) Any person who makes a contribution in response to a solicitation under section 321(b)(3)(B) which, when added to all other contributions made by him to the same recipient during the calendar year, exceeds $100 shall report to the recipient the total amount of such contributions made to such recipient for that year. Paragraph (4) does not apply to reports under this paragraph.".

On page 15, line 19, strike out "(3)" and insert "(4)".

On page 16, line 8, strike out "(4)" and insert "(5)".

Mr. CANNON. Mr. President, the purpose of this amendment is to make it clear that if a solicitation is made under the provisions of subparagraph (b) on page 39, and an individual sends in contributions that, in the aggregate, total more than $100 to a particular recipient, whether it be a trustee or a separate segregated fund, or whatever the designee may be, he must notify the recipient so that the recipient, to meet the requirements of a political committee under the other provisions of the act, can make that report in accordance with the law.

This is solely so that the person who maintains the fund would have that information available to make his reports.

Mr. PACKWOOD. Will the Senator yield?

Mr. CANNON. I yield.

Mr. PACKWOOD. I agree with the amendment so long as what we are doing is clear. We are not requiring every person who gives over $100 to any recipient not in this section, but the Republican Election Committee, the Packwood or Cannon election committees. It is up to us to report that, and that contributor does not have to make a further identification of himself.

Mr. CANNON. The Senator is correct.

Mr. PACKWOOD. But because we are trying to avoid somebody lying under this particular section trying to guarantee an anonymity, if that person gives over $100 in aggregated sums, that person reports it to the recipient committee and that recipient committee reports it to the Federal Election Commission.

Mr. CANNON. The limitation is spelled out in the amendment if it is a limitation under the provisions of this section.

Mr. PACKWOOD. Right.

Mr. ALLEN. I do have a point I want to bring up as soon as the amendment is acted upon.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ALLEN. Will the Senator yield?

Mr. CANNON. I yield.

Mr. ALLEN. I would like to direct the

chairman's attention also to page 39, starting on line 19, where it says that this solicitation shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution as a result of such solicitation and who does not.

I would like to inquire as to how in the world that will be implemented when they send out a letter asking people to make contributions and the mail comes in. Are they going to throw the mail away? What are they going to do? How could they keep from knowing who contributes, unless the contribution is made in cash? Then one would have to know who brought it in, I assume.

Mr. CANNON. Mr. President, we have had considerable discussion on that very point. This, I believe, is a proper area for the Federal Election Commission to design how an organization should meet this particular provision. We were talking earlier in our colloquy in terms of a trustee. They may say, "Send this to" such and such "trust account at the First National Bank. Send your contribution there."

The point we are trying to get to is that they cannot, in the designation of that form that they use, maintain a file of information as to who did and who did not contribute, because, as soon as we do that, we open the matter wide up to the pressure interests.

Mr. ALLEN. This duty of the segregated fund to file reports should not be delegated to a trustee, would be my judgment. In other words, somebody has to make a report of these receipts.

Mr. CANNON. Yes, but in the reporting provision we have spelled that out, if it is less than $100, the information concerning the contributor need not be reported.

Mr. ALLEN. Still, records have to be kept of what is contributed, whether the report is made or not.

Mr. CANNON. The Senator is correct. The records have to be kept as to the moneys received, yes.

Mr. ALLEN. Could the committee delegate that responsibility and clear itself of liability under the statute?

Mr. CANNON. I am not trying to say that a trustee is the method to use. I would prefer to let the Federal Election Commission solve this problem as to the mechanics of it. But if a trustee is used and the trustee makes that reporting as a political committee, I would say that that certainly would satisfy the obligation. But the obligation is not in the amounts of less than $100. It is in the contributions of $100 or more. We have just now spelled out that the contributor must let him know. This is to take care of the type of situation where a contributor, maybe, makes a contribution of $50 at one particular time as a result of a solicitation and then, maybe, makes a contribution of $75 another time. Now he has gone over the $100 and, therefore, his anonymity is not protected and that must be reported.

Mr. PACKWOOD. If I might respond to the Senator from Alabama, I raised the same question awhile ago and I still have misgivings about how it works—and I will vote for this provision—if there is a separate segregated fund. Taking COPE, for example, the national president of the AFL–CIO is Mr. George Meany. The secretary-treasurer is Mr. Lane Kirkland.

If all of these little contributions come in to COPE, I think we are fooling ourselves if we think that somebody who maybe we would not want to see them is not going to see them. I do not know how to get around that. With the corporation fund, probably the officers of the separate corporation fund are going to be the president of the corporation and the treasurer of the corporation. So we have this balancing act. We are going to require everybody over $100 to be reported but we have this difficult balancing act, and we are giving in to the Federal Election Commission to try to draw a rule that on the one hand protects the anonymity and on the other hand says, "But you better keep records good enough so that if we want to come in and see if there has been a miscarriage of justice, you have the records for us to examine."

Mr. ALLEN. The bill had a provision saying that if a corporation had a method for collection of these contributions, they would have to make the same method available to the unions. I am thinking about a checkoff contribution. If that was reported, too, that would disclose the names, it seems to the Senator from Alabama.

Mr. PACKWOOD. We had just about reached that point. The Senator from Nevada and I have a disagreement. He says that an employee cannot authorize a checkoff. The fact that the employee does not care if he is known, he is happy to have his name listed on Senator ALLEN's reelection committee, the Senator from Nevada says you cannot use a checkoff.

Mr. ALLEN. Under this you cannot.

Mr. CANNON. Under this provision that is correct. That was the intent. This does not get at the stockholders. It does not get at the supervisory and executive officers of a corporation. It does not get to the members of a labor union, insofar as their union is concerned.

The Senator was referring to COPE. Obviously COPE is going to have records as to who contributes, I would assume, but they are members of the union and they are not in this untouchable group which is the one we are limiting.

Mr. PACKWOOD. Except that when COPE, which will be entitled to make solicitations at the homes or residences of these middle group employees, says "Please contribute," they can say, "Please contribute to COPE," and here comes through the check of this nonunion, nonsupervisory employee to COPE, and then COPE will certainly have his name and address there on the check.

Mr. CANNON. This will not affect the individual who may elect to do away with his anonymity. If he elects to send in a check he is free to do so. What we are trying to do is eliminate the pressures on the part of either the labor organization or the management organization, to be able to put pressure on the individual by knowing who he is and keeping a record of whether or not he contributes. Obviously if he wants to contribute by check he can do so, and if he does that they are certainly going to know who made the contribution, but then they will not be in violation of this provision of the law.

Mr. PACKWOOD. Certainly most people are going to make contributions by check. They are not going to run down with cash some place. If that employee can make a contribution by check, why not allow a checkoff? What difference does it make? What do you accomplish by saying, "You can make a contribution by check, but not through a checkoff"?

Mr. CANNON. What you gain is eliminating the pressures that would be applied to enter into a checkoff provision. This in itself is a form of pressure.

Mr. PACKWOOD. But that is another matter. We are concerned about the anonymity. The reason for eliminating a checkoff is because people's names shall not be known; but their names will certainly be known if they give a check. The Senator is saying the reason for eliminating a checkoff, be it by the union or company, is what?

Mr. CANNON. I am sorry; I missed that.

Mr. PACKWOOD. If the purpose of eliminating the checkoff is to make sure that nobody can be unduly pressured by an employer looking at this payroll records and saying, "Jones has agreed to a $2 checkoff, or has not agreed to it; if, on the other hand, Jones gives a check for $20, is not the same fact revealed?

Mr. CANNON. The same fact is revealed, but the check was given voluntarily by the contributor, and not as a result of pressure from someone else, either through a checkoff or any other system. It was just for the purpose of giving, so that a man who wants to say "I gave at the office" can do so.

Mr. PACKWOOD. That is what I am getting at. If the guy wants his identity to be known, he can be protected if he does not want it known under this provision, but if the man wants it to be known, why not let him use a checkoff?

Mr. CANNON. Because once you permit the use of the checkoff, you put the people in a position to maintain a list, and to be able to say, "Here are the people who have contributed by a checkoff; we better see about the people who did not."

Mr. PACKWOOD. But if they have a check, they are going to be able to keep track of the people who gave.

Mr. CANNON. Not if it is not over $100. The problem is not that great.

Mr. PACKWOOD. I am not worrying about the $100; we can take care of that. But I am talking about the recipient committee that gets a check for $50, and that is all you give this year. That committee, to protect itself, is surely going to keep track of that person's name and what he gave, so that if the FEC comes to that committee and says, "Let us see your records," they are not going to say, "We shredded them all under $100."

Mr. CANNON. They are not required to keep that record.

Mr. PACKWOOD. Are they not required to keep a record of and report

contributions of over $100, or list? As I understand the law, they must keep the record of who gave.

Mr. CANNON. They are not required to keep such records. They have to keep the aggregate of sums they receive, but they are not required to keep the record of the man, address, and occupation of the particular contributor.

Mr. PACKWOOD. Say that again?

Mr. CANNON. They are not required to keep the name and address and occupation of the particular contributor.

Mr. PACKWOOD. I just wanted to make sure. This is where we raised it from $10 to $100 in the bill. So now anybody who gives a check for $50, the committee is not required to keep a record of who that donor was, that donor's address, or anything to do with that donor?

Mr. CANNON. This is the way the law would then read:

Every person who receives a contribution in excess of $100 for a political committee shall, on demand of the treasurer, and in any event within 5 days after receipt of such contribution, render to the treasurer a detailed account thereof, including the amount of the contribution and the identification of the person making such contribution, and the date on which received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee. . . It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of all contributions made to or for such committee; the identification of every person making a contribution in excess of $100, and the date and amount thereof; and, if a person's contributions aggregate more than $100, the account shall include occupation, and the principal place of business (if any); . . .

Mr. PACKWOOD. All right. What do you have to keep if a contribution is under $100? We are not talking about contributions which never aggregate $100. Does the treasurer have to keep his name, his address, or anything else?

Mr. CANNON. He has to keep the amount of contributions made to such committee.

Mr. PACKWOOD. But not the identity of the person?

Mr. CANNON. But not the identity of the person.

Mr. PACKWOOD. Here is a contribution that comes in from John Jones to the committee. It does not have to keep a record of who gave it that money?

Mr. CANNON. The Senator is correct.

Mr. PACKWOOD. All right.

Mr. CANNON. Under the old law it was under $10, and the recordkeeping requirement proved to be so onerous on people who have had expeirence with it that we made the determination that that ought to be raised from $10 to $100.

Mr. PACKWOOD. I just want it to be understood what it is, so that the treasurers, this year, may realize they do not have to worry about that person's residence, address, or occupation, or whatever it is, or name.

Mr. CANNON. Wait; do not say they do not have to keep track of it. They have to keep track of the money.

Mr. PACKWOOD. But not the donor. What you would have, at the end of the campaign, even if the average is substantially under $100, you could have a tremendous amount of money given for which you would have no identification, because it came in amounts under $100.

Mr. CANNON. The Senator is correct.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. CANNON. Yes.

Mr. ALLEN. This method of solicitation under (b), is this cumulative as to any other method permitted under the bill?

Mr. CANNON. Yes. The answer is yes. In other words, a stockholder—the definition is such that it includes everybody—but a stockholder can be solicited without any limit. So really, what it in essence means is that people who are not otherwise reachable, whom we referred to a while ago as the unreachables because they are not stockholders, they are not supervisory personnel or executive officers of the corporation, or members of the labor union—those people can be solicited by their parent body unlimited in any fashion, so this is not a limitation on them.

Mr. ALLEN. Yes; that is the point the Senator from Alabama is making. In other words, a labor organization can solicit orally and in public meetings or union meetings without limit?

Mr. CANNON. The Senator is correct, its labor union members.

Mr. ALLEN. So really this method here just says it shall not be unlawful for this to happen; actually, there would be no necessity of the labor organization using (b) here, would there? In other words, they could solicit by word of mouth?

Mr. CANNON. Oh, I should say because under this provision they could solicit the stockholders of the corporation, if they wanted to do it; and under this provision they could solicit the nonunion people if they wanted to do it. Absent this provision, the only people they could solicit are their members.

Mr. ALLEN. But there would be no need of using method (b) then. Possibly I was not precise enough. There would be no need of using section (b) then to solicit their own members. That can be done at any time by anyone.

Mr. CANNON. In any fashion.

Mr. ALLEN. In any amount.

Mr. CANNON. The Senator is correct.

Mr. ALLEN. I see. Really then, the new ground that it produces, so to speak, is to allow a corporation or segregated fund to solicit in writing twice a year contributions, is that right, from the employees, whether union or otherwise?

Mr. CANNON. The Senator is correct.

Mr. ALLEN. Yes.

Mr. CANNON. The Senator is correct.

Mr. ALLEN. Really this gives corporations certain benefits and labor organizations certain benefits that they do not have under the rest of the bill.

Mr. CANNON. The Senator is correct.

Mr. ALLEN. I see.

Mr. CANNON. And it gives them the identical benefits with respect to from whom they can solicit.

Mr. ALLEN. I believe it is a good section, I say to the distinguished Senator.

Mr. CANNON. Mr. President, if no one has any questions at this time, I am prepared to yield the floor. I understand there will be other amendments offered and we will deal with them as we get to them.

The PRESIDING OFFICER (Mr. NELSON). Who yields time?

Mr. HATFIELD. Mr. President, is it true that we are not under controlled time?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

Mr. ALLEN. Mr. President, will the Senator withhold that request?

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I send an amendment to the desk and ask for it to be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment:

On page 45, between lines 13 and 14, insert the following new section:

"ACCEPTANCE OF EXCESSIVE HONORARIA

"SEC. 328. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

"(1) any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

"(2) honoraria (not prohibited by paragraph (1) of this section) aggregating more than $15,000 in any calendar year.

On page 45, line 14, strike out "Sec. 328." and insert in lieu thereof "Sec. 329.".

On page 21, line 1, strike out "section 328 (a)" and insert in lieu thereof "section 329 (a)".

Mr. CANNON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Is there a time limit on this particular amendment?

The PRESIDING OFFICER. There is a time limit of 30 minutes on this amendment.

Mr. CANNON. Mr. President, I would suggest the absence of a quorum for the purpose of letting Senators know that this amendment is now pending. I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Parliamentarian advises the Chair that there is no time limit on this particular amendment.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that, at the hour of 2 p.m., we start consideration of the amendment that has been offered by the Senator from Alabama relating to honoraria.

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, the purpose of the Senator's re-

quest is to allow Senators who oppose this amendment to be notified so they can be present; is that correct?

Mr. PACKWOOD. That is correct.

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair in his capacity as the Senator from Wisconsin suggests the absence of a quorum, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NELSON). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 35, line 18, strike the words "or House of Representatives,"

On page 35, beginning with line 21, strike the words "the Democratic National Congressional Committee, the National Republican Congressional Committee,".

Mr. JOHNSTON. Mr. President, a few days ago, I offered an amendment on behalf of myself, Senator STEVENS, and Senator BENTSEN, the effect of which would be to increase the amount which senatorial campaign committees and the House campaign committees could give to a candidate from $5,000 per election to $20,000 per year. After that amendment had passed—of course, we have intervened with this substitute bill, but, in the meantime, we have heard from our colleagues in the House, who tell us that making this applicable to the House committees would have the untoward and unwanted effect of raising expectations of House Members way beyond reality. They tell us that, whereas they may be able to give $1,000 or $2,000 per Member of Congress, with this kind of language, Members of Congress would come in expecting their $20,000.

I do not know whether we are going to be able to approach anything close to those kinds of numbers on the Senate campaign committees. We shall have to wait to see how our respective fund-raising events come out to determine how successful we are in that respect. But the House people assure us that it is way beyond reality and it would have the very mischievous effect of disappointing many Members of the House. Accordingly, they asked to be deleted from the special treatment which our amendment of last week gave. All this amendment, therefore, does is excise the words "Congress" or "Democratic Congressional Committee" or "Republic Congressional Committee" from the amendment, which, in turn, makes the amendment, the $20,000 limit, applicable only to the Senate committees and not to the House committees.

Mr. CANNON. Mr. President, that amendment is acceptable to me as the manager of the bill, on the basis that the Senator has stated it. I am willing to accept the amendment.

Mr. JOHNSTON. I thank my colleague. I ask for its consideration, Mr. President.

Mr. PACKWOOD. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I send to the desk an unprinted amendment and ask that it be read.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

On page 25, between lines 4 and 5, insert the following:

PROHIBITION ON CONVERSION OF CONTRIBUTIONS TO PERSONAL USE

SEC. 107A. Section 317 of the Act (2 U.S.C. 439a), as redesignated by section 105, is amended by striking out "or may be used for any other lawful purpose." and inserting in lieu thereof the following: "may be contributed to him to the National committee or State committee of a political party, or returned by him to his contributors on a pro rata basis (as determined by the Commission), or contributed by him to another candidate."

Mr. CLARK. Mr. President, the purpose of this amendment clearly is simply to correct a flaw in the present law which could, under certain circumstances, result in the conversion of excess campaign funds to personal use. This amendment would simply add a section whereby we would correct that.

I might say this amendment was suggested by Congressman BERKLEY BEDELL. I think it is a good one. We have talked to the manager of the bill and to other parties interested in this bill. What it would do, frankly, is to say that, in addition, if one has campaign contribution money left over, in addition to the two present ways in which that money can be disposed of—namely, to defray office expenses or to contribute to a charity—we are now providing three additional ways that the money can be disposed of without converting to personal use. Those are to contribute it to a State or National party committee, to contribute it to another candidate's committee, or to return it on a pro rata basis to the contributors.

We think this is important because be know historically that money has been converted from political committees to personal use if income tax is paid on it, and we would like to prevent that, and that is the purpose of the amendment, and I urge its adoption.

Mr. PACKWOOD. Mr. President, will the Senator from Iowa yield?

Mr. CLARK. I yield.

Mr. PACKWOOD. Do I understand from the Senator's amendment that at the moment a candidate would be prohibited from giving this surplus to the National committee or a State committee?

Mr. CLARK. It is not clear whether they would be prevented under present law, but we would like to make it very clear, at any rate, that that would be permissible under the law.

Mr. PACKWOOD. Well, in that case, why strike out "for any other lawful purpose"? Why not add the Senator's amendment indicating this is a lawful purpose?

Mr. CLARK. Well, the reason we are striking "for any other lawful purpose" even though that phrase seems to us rather clearly to allow State and National committees to take funds is that we would like to make it possible in addition for them to return the money to their contributors as an alternative way of disposing of the money and to allow them to contribute to another candidate.

In other words, it is not at all clear that those other two methods we are now adding are permissible under the law presently.

Mr. PACKWOOD. I have no objection to the Senator's amendment, but I come back again why not simply leave in "for any other lawful purpose" and put in the Senator's definitions of lawful purpose, what that would include. What are we striking out when we strike out "or for any other lawful purpose"? What can a candidate now do with money that a candidate could not do with that stricken out?

Mr. CLARK. The point is under the present law it seems quite clear that a person can convert campaign funds to personal use if he pays income tax on it lawfully, and that is why we are striking that section and specifying the exact ways in which the money can be converted. In other words, it would leave the bill as it is under present law if we leave this phrase in, that candidates can indeed convert campaign funds for personal use.

Mr. PACKWOOD. What bothers me—and I agree with the Senator that they should not be converted to personal use—is what might be any other lawful purpose we are thinking of that is not conversion to personal use that we are striking out by striking out that phrase?

Mr. CLARK. Well, we are not aware of any other purpose for which campaign funds, in our judgment, ought to be used.

Mr. PACKWOOD. Mr. President, will the Senator withhold his amendment then and let me try to draft an amendment because I agree with the Senator about conversion, but I would like to make sure that we limit it to that purpose.

When we legislate on the floor, things come up that we do not think about, and I would not want us to trap a member, unconsciously trap a member, of the House or of the Senate who is now spending it for a lawful conversion and which that amendment might strike out.

Mr. CLARK. I would be happy to consult with the Senator.

Mr. President, I request that my amendment be withdrawn.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment, and it is withdrawn.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I send an unprinted amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

On page 25, between lines 4 and 5, insert the following:

PROHIBITION ON CONVERSION OF CONTRIBUTIONS TO PERSONAL USE

SEC. 107A. Section 317 of the Act (2 U.S.C. 439a) is amended by inserting after "other lawful purpose" the following: ", except that no such amount may be converted to any personal use".

Mr. CLARK. Mr. President, the amendment which was just read, we are convinced, comes closer to achieving the purpose that we had in mind than the original amendment that was offered because the problem that we face and that we want to try to correct is the problem of a candidate's converting campaign contributions to personal use. It is quite clear, based on present law, that that is being done or has been done. So we think by simply leaving the bill as it is but inserting an additional line which simply says "except that no such amount may be converted to any personal use" is quite clear and achieves the purpose which we want to achieve.

I urge its adoption.

Mr. PACKWOOD. Mr. President, I agree with the Senator from Iowa. I think we should have it clear in this colloquy, we should make it clear, that just because the Senator's previous amendment was withdrawn, it is still our assumption that money can be given to a State political or the national committee or any other political organization, subject to the limits that are now in the law as to how much you can give.

Mr. CLARK. That is correct.

Mr. PACKWOOD. The specific type of thing we are aiming at is literally converting it to personal use in almost an Internal Revenue definition because if you pay a tax on it you can take a trip to Europe because you are converting funds at the moment, and this is legal as long as you pay a tax on it. This will prohibit you from doing that. You can still use it for any purpose other than personal use, which is prohibited by law. By this amendment you cannot convert it to your own personal use just because you pay a tax on it.

Mr. CLARK. The Senator is absolutely right. That is the intention and that is the purpose. We think it would be a good amendment to this bill because it corrects a very, very serious problem, conversion of campaign contributions to personal funds.

I yield, Mr. President.

Mr. CANNON. Mr. President, the amendment is acceptable to the manager of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

Mr. CLARK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an amendment:

On page 40, line 13, after "request" insert the following: "and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby,".

Mr. PACKWOOD. Mr. President, this amendment has been worked up with the chairman and I think is agreed upon.

What we are simply trying to do here is that if the corporation uses a checkoff to collect political funds, if it is legal, that they must make that available to the union.

This simply says that if the union chooses to exercise its privilege to use that checkoff, they shall have to pay the cost incurred in making the lists available to them and using the checkoff.

Mr. CANNON. Mr. President, I think that is a reasonable amendment.

We already have in the bill the provision that same system has to be made available to a labor organization representing any members working for the corporation. This would simply say they pay the cost attributable to making that method available.

I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CANNON. Mr. President, if there are no other amendments to come up now, we have an amendment pending at 2 o'clock.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an amendment:

Page 54, line 9, strike "or" and insert "unless the candidate".

Mr. PACKWOOD. Mr. President, this is designed to clarify the amendment offered by Senator TAFT a few days ago, and again I think there is unanimous agreement on it. Senator TAFT's amendment would restrict and limit the amount of funds a candidate could get unless he got a certain percentage of votes in two successive primaries. However, with now 30 primaries and who knows how many we will have, most candidates do not participate in all primaries. They just do not have the money and they choose to skip some primaries. By this language, we would allow a candidate to be exempted from this two-primary 10-percent rule if the candidate says, "I am not a candidate in that primary."

The Chair knows well what I am talking about because Florida and Oregon place candidates on the ballot. A candidate is on the ballot even if he does not want to be on the ballot. He may not want to campaign in that State, not spend his money there, but he cannot get off the ballot. He cannot sign a certification that says, "I am not a candidate."

This would make it clear that if a candidate notifies the commission that he is not a candidate in that particular primary, whatever the finish, the order of finish, or percentage of votes that the candidate received in that State would not be a factor in determining whether or not in two successive primaries he had received less than 10 percent of the vote.

Mr. CANNON. Mr. President, the amendment is a good amendment. I think it makes clear the intent that was desired, at least, in the discussion of the Taft amendment a couple of days ago. I am prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

RECESS UNTIL 2 P.M.

Mr. CANNON. Mr. President, if there are no further amendments to come up at this time, I move that the Senate stand in recess until 2 p.m., at which time the one Allen amendment would be the pending amendment under the previous agreement.

The motion was agreed to, and at 1:08 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GARN).

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Alabama.

Mr. ALLEN. Mr. President, this matter probably should not be before the Senate at this time because, certainly, it was not necessary to make any different provision about honoraria that Federal employees and Members of the Congress can receive in order to meet the objections of the Supreme Court to the provisions of the Federal election law. But an amendment was passed in the Senate knocking out a provision in the bill which did place a limit on honoraria.

Up until last year, there was no limit whatsoever on the amount of honoraria, that is, payments for speeches or appearances, that might be received by Federal employees or Members of the House or Senate, or the judiciary, for that matter.

Congress in its wisdom then, feeling that some limitation should be placed on the amount of honoraria that Federal employees and Members of Congress might charge for appearances and speeches that they might make outside the line and scope of their official duties, placed that limitation at $1,000 per appearance with a limit in any one year of $15,000.

That was made a part of the Federal election law. But when the Supreme Court said that the Federal Election Commission was not so constituted that it could carry out executive function, it was necessary for the Congress, if it wanted the Federal Election Commission to continue in any meaningful fashion, to amend the law to reconstitute the commission by making the six members—or whatever number of members the Congress wanted to provide—appointed by the President.

It certainly was not necessary to lift the limitation that Congress made in 1974 in the Federal election law.

Mr. President, I do not speak only with reference to Members of Congress; as I say, it includes members of the Federal Judiciary and other Federal employees. They are adequately compensated without having some method whereby they gain additional compensation by making appearances before various groups, and—I am somewhat hesistant to say this—many times appearing before groups that have an interest in legislation that might come before the Congress and, unquestionably, the desirability of their speech and their appearance is springing somewhat from their official position.

I wonder how much in honoraria might be drawn by some member of the Federal establishment if he did not have that particular position with the Federal establishment.

Mr. ABOUREZK. Will my friend yield?

Mr. PACKWOOD. Will the Senator yield?

Mr. ALLEN. Well, two want to ask questions, and rather than favor one over another, I will just continue for a while and then I will yield to one or the other.

So what was done was to lift this ban? That was done some several days ago, but now, the substitute is pending.

What the present amendment provides is that we will return to the limitation that was written into the law when this Federal Election Commission was set up.

I believe, actually, it was in 1971. I believe that it was actually set up then. So this limitation has been in force for several years.

Why is it necessary at this time to lift that limit and to pave the way for payments of any amount that the Federal official might care to charge and that his listeners might be willing to pay, and no limitation whatsoever on the amount that an official could receive in a year's time?

Mr. President, just last year Congress over my objection and the objection of a number of Senators here, put the compensation of the Members of Congress on the same basis as Federal employees generally and this guaranteed the Members of Congress an annual increase in salary.

I believe last year it was some $2,100 based on the increase in cost of living. It would probably be considerably more this year. And each year the salary of not only Members of Congress, but every Federal judge, every Cabinet officer, every head of a Federal agency or a member of a Federal agency board, is going to get an annual salary increase.

Why, then, would we want to provide for no limitation whatsoever on honoraria that Federal employees, Federal judges, Members of the Congress might receive?

I believe a $15,000 outside income by Members of Congress should be adequate.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. ALLEN. Just a moment, let me finish this thought.

Added to the present compensation of a Member of Congress, that would permit earnings of some $60,000 a year, and, of course, the Supreme Court is over $60,000 already and that would enable them to go up to $75,000.

I am delighted to yield to the Senator.

Mr. ABOUREZK. I tend to agree with what the Senator is saying. I have no problem in leaving a limitation of $15,000 per year, per Congressman, for honoraria.

The Senator made a statement that he thinks $15,000 outside income is adequate for any Senator. I probably would agree with that, as well.

I am curious to know if the Senator would accept the amendment I intend to offer which would limit any outside income, not just honoraria, but law practice income, stocks and bonds, dividend income, savings account income, rental income, business income of any kind?

Mr. ALLEN. The Senator is getting pretty far afield.

Mr. ABOUREZK. It is no more far afield than the Senator's amendment is.

Mr. ALLEN. That is the Senator's view and he will have a right to vote against the amendment, as I anticipate that he will.

I think the Senator certainly is going pretty far afield in suggesting that a person's income from investments he might possibly have should be limited.

I do not see any justification for that. If he would like to put in a separate amendment, I would have no objection to the Senator doing so. But I would have for him to burden down the amendment the Senator from Alabama is offering.

Mr. ABOUREZK. My desire is not to burden down the amendment, but to do as the Senator said; if it is far afield, it is only following his lead. He said $15,000 outside income is sufficient. I think he is right.

Mr. ALLEN. The Senator does not quite understand the connection. The Senator from Alabama said that many of these appearances are based on the fact not, for instance, the Senator from South Dakota might be a great speaker, a great orator——

Mr. ABOUREZK. I will accept that.

Mr. ALLEN. And people would like to mirror his forensic ability. I would think that his listeners might be more interested in the fact that he is a U.S. Senator with an opportunity to vote in this body.

Mr. PACKWOOD. Will the Senator yield at that juncture?

I am curious now. I recall a specific appearance that Senator RIBICOFF and I had—in fact, it is the first time I met David Mathews—at the University of Alabama, in 1970. Senator RIBICOFF and I were both paid. The students wanted a Republican and a Democrat to come and speak specifically on the war. Is the Senator suggesting that the covert purpose was really to get Senator RIBICOFF and I there to lobby us on something that the University of Alabama had, some kind of secret purpose in this appearance?

Mr. ALLEN. The Senator can state what his motive was. I do not attribute anything to it. I said that many times the listeners were more interested in the fact that a person serving in the Senate or serving in the House might have influence in this body, and not necessarily on account of the forensic skill that the various speakers might possibly have.

Mr. ABOUREZK. Will the Senator yield on that point? Is that same statement true for someone who has a law practice and is serving in the Congress?

Mr. ALLEN. I do not know about a law practice. The Senator from Alabama does not practice law even though he is a lawyer. He does not have outside income from that source.

Mr. GARY HART. But if one were looking for a law firm to represent him, it might be nice to have a firm in which there is a U.S. Senator.

Mr. ALLEN. If the Senator will offer that amendment, the Senator from Alabama would be glad to vote for it.

Mr. ABOUREZK. I would like to offer it as an amendment to the Senator's amendment.

Mr. ALLEN. Wait a minute. That is assuming that the Senator would then vote for the amendment.

Mr. ABOUREZK. I would like to offer, at this time, an amendment to the Allen amendment.

Mr. President, I send an amendment to the desk.

Mr. ALLEN. I have not yielded for that purpose. I yielded for a question only.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. ALLEN. I yield for a question.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator yielding. I arrived in the Chamber during the dis-

cussion of his amendment, so I am not familiar with all of its provisions. I heard the Senator from Alabama refer to the congressional pay raise and also to a $15,000 limitation upon honorariums. I would be glad to support the distinguished Senator on the $15,000 limitation on honorariums.

However, I believe that oftentimes Members of Congress are unduly made whipping boys on pay raises. I believe it is fair to say—and I believe the Senator from Alabama is fully aware—that the only pay raise that a Member of the U.S. Senate has received since 1969 is one 5-percent raise.

There are some of us in this body who are wholly dependent or substantially dependent upon the salaries we receive as Senators. Moreover, the pay of members of the legislative branch of Government is below the executive and judicial branches. Both Cabinet officers and Supreme Court Justices are receiving more than $65,000, $22,000 more per year for Cabinet officers and for members of the Supreme Court.

I am not speaking in favor of a pay raise for Members of Congress, but I do believe, in fairness to ourselves, we ought to put this into proper perspective. I like to think of the legislative branch as a coequal branch of the Government. We live in the type of society where the salary a person earns does have something to do with his standing. We are making ourselves, through our own actions, second to, rather than coequal to the Cabinet officers, and members of the Supreme Court.

Perhaps the other branches are overpaid. However, we cannot do it to the Supreme Court for constitutional reasons and I rise merely to suggest the unfairness of continuing to criticize Congress without reference being made to the other branches of Government.

I have the greatest respect for my friend from Alabama, but I just sort of hate to see this done. I will add that I have accepted few or no honorariums during my service in Congress. So, $15,000 is $15,000 more than this Senator will make in honorariums.

Mr. ALLEN. I thank the Senator. I assure the Senator that the amendment of the Senator from Alabama takes into account that we are three coequal branches, because the limitation applies alike to the executive branch, the legislative branch, and the judicial branch. So all three branches of the Government are, under the Senator's amendment, being treated as coequal branches.

Mr. President, the general practice in the Senate is to take this amendment limiting honoraria that might be charged by any person in the Federal Establishment and weighting it down with other amendments to the point where it will be absolutely absurd. The Senator from South Dakota is talking about limiting what a person might draw in U.S. Government bonds or E bonds that he might receive on a payroll deduction plan. He is seeking to limit all sorts of things such as that and not facing the issue about how much it is proper for a Federal employee or a Federal official to earn in speaking appearances that would result in his receiving an honoraria or a payment for an appearance or a speech.

Mr. ABOUREZK. Will the Senator yield again?

Mr. ALLEN. I yield for a question, yes.

Mr. ABOUREZK. Would the same thing hold true for law practice income? Would the same thing hold true for dividend income from stocks and bonds in some private industry over which we, as Members of the Senate and Members of the House, have some sort of jurisdiction? The Senator is talking about a conflict of interest. That is what he is talking about.

Mr. ALLEN. The Senator misses the point in talking about limiting a person's income from other sources. What I am seeking to limit is the compensation he gets for his personal services of an official nature. If a person might happen to have a Government bond, the income from that should not be proscribed; it should not be prohibited, as the Senator would seek to do.

I will say to the Senator if he feels so strongly about investments in Government bonds, or the like, he might offer a subsequent amendment.

Mr. ABOUREZK. I would like to, if the Senator will let me.

Mr. ALLEN. I say a subsequent amendment. Let us act on this now.

Mr. ABOUREZK. I think, to be fair, it ought to be considered with the Senator's amendment. That is all we are trying to do, to be fair. The Senator is singling out one kind of income. I think all income ought to be proscribed.

Mr. ALLEN. I just wonder if the Senator is interested in that or in killing this amendment by weighting it down with somewhat unrealistic proposals.

Mr. ABOUREZK. I have never been very good at putting anchors on other amendments or other bills. It has never worked very well for me. I am interested, as I stated before, in some kind of equality and fairness in this matter. I think if the Senator from Alabama, who is generally very fair in his treatment of everything, would continue that attitude of fairness, he would accept my amendment to his amendment. Because that would proscribe everybody's income. Why would the Senator want to discriminate against anyone's income?

Mr. ALLEN. I think the Senator understands when I say to him that investment income is somewhat different. Say, for example, that Senator PELL, who is reputed to be a man of great wealth, would not be able to stay in the Senate because he has investment income that would bring in more than $15,000. I do not believe the distinguished Senator from South Dakota would want to do that.

Mr. ABOUREZK. What was that again? I would not want to do what?

Mr. ALLEN. I do not think the Senator would want to see the Senate and the country lose the services of the distinguished Senator from Rhode Island because his investment income would run far beyond the $15,000.

Mr. ABOUREZK. I feel the same way about some of the other Senators in this body whom, if they do not earn over $15,000 in honorariums, we might lose. I do not earn that much any more.

Mr. ALLEN. Oh; any more?

Mr. ABOUREZK. I did not come anywhere near that last year.

Mr. ALLEN. I wonder if the Senator's use of the words "any more" has any significance?

Mr. ABOUREZK. It does, yes; because at one time I made considerably more than $15,000.

Mr. ALLEN. I see. I do not yield any more. Mr. President; I wish to conclude my remarks, and ask other distinguished Senators to seek the floor in their own right if they want to torpedo this amendment, which would place a restriction back on the amount of income that members of the Federal establishment—not just Members of Congress—can receive for personal appearances and for speeches.

I am wondering, as to the distinguished Senator from South Dakota, whether his services might be in such demand if he were not a Member of the U.S. Senate. I think therein lies the difference between investment income received by one Senator—not the Senator from Alabama, I am sorry to say—but therein lies the difference, in the playing upon one's official position. A limit ought to be placed on the ability to do that.

Mr. ABOUREZK. Would the Senator like me to answer that?

Mr. ALLEN. Take a member of the Supreme Court appearing before some body of some sort. The fact that he is a member of the Supreme Court would naturally allow his honorarium to go up from what he might receive if he were merely a practicing attorney and not a member of the Supreme Court.

Mr. President, the House bill has this limitation in it, the limitation that the Senator from Alabama is seeking to attach to this bill. In other words, it restates the present law. It puts the limitation at $1,000 per appearance, and a maximum of $15,000 in any 1 year. That is outside income, in addition to the $44,600 that is paid to a Member of Congress.

I believe that that should be sufficient. The House of Representatives thought so, and in the conference, no matter what the Senate does, the House bill will have that limitation in it; and if the Senate lifts the ban, that will not be the end of the battle, because it will have to be battled out also in conference, with the House taking the side of a reasonable limit and the Senate, up to now, being in favor of no limit.

I do not believe that Senators are that much more interested in obtaining outside income than Members of the House of Representatives, but maybe they are.

Mr. President, I have a modification of my amendment at the desk. I modify the amendment by substituting for it the modification which I have at the desk.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

Amend amendment in the Nature of a substitute to 3065 as follows:

On page 50 lines 10 and 14 strikes the following "616."

The PRESIDING OFFICER. The amendment is so modified.

Mr. ALLEN and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator Alabama has the floor.

Mr. ALLEN. Mr. President, this modification has exactly the same thrust as the original amendment. It approaches it in a little different fashion.

Let us start with the House bill, where the bill originated. The House bill has a provision repealing section 616 of title 18 of the United States Code. That is a section which makes it a criminal offense for a member of the Federal establishment—legislative, executive or judicial—to receive more than the limits that I have stated for appearances and speeches, that is, $1,000 per speech or appearance and a total of $15,000 in any 1 year.

The House bill repealed that section, but they put in another section carrying out the same thrust. That is, they provided for the exact same limitation in another section of this bill. Then when the bill came to the Senate, the Senate went along with the repeal of section 616, and the committee amended the amount that could be received, and made it a limit of $2.000 per appearance, or a total of $24,000 in any one year.

When that alternate amendment came to the Senate floor, the limitation was stricken out here on the floor by a voice vote. So the House bill still has the repeal of section 616 and the substitution of the $1,000 and $15,000 limits, putting that under the control of the Federal election law, but now here in the Senate, the alternate provision, which was as the House had it, and the Senate had it all the way through committee action, has been stricken out, leaving section 616 repealed and no provision in its place.

Instead of inserting or seeking to insert an amendment reimposing the limitation, the thrust of the modification is merely to strike out section 616 from the repealed provision.

So if this amendment is adopted it will accomplish the same thing as the original amendment, by leaving section 616 still the law in the Senate bill.

So the effect of agreeing to the amendment of the Senator from Alabama, as modified, would be to place this limitation back in the Senate bill, the limitation of $1,000 per appearance or speech, with a maximum of $15,000.

I hope the Senate will go along with this amendment in order that the two bills will coincide and will mesh. In any event, as the Senator from Alabama said, the House bill, no matter what we do here in the Senate, will still have the limitation in the bill.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. ALLEN. Yes; I yield for a question.

Mr. GOLDWATER. I am wondering if the Senator is aware of exactly how this language got into the bill, and to bring him up to date, although I know——

Mr. ALLEN. Yes; I am aware of how it got in the bill. I was on the conference committee where it was put in.

Mr. GOLDWATER. May I have permission to read only a few sentences as to how this came about?

Mr. ALLEN. As long as that is treated as a question, yes.

Mr. GOLDWATER. It is a question.

It was originally added to a Senate-passed campaign finance bill by Members of the House of Representatives, not as a reform measure, but to openly punish and pressure Members of the Senate who had not gone along with the idea of steep pay raises for Members of Congress. The House author of the honorarians limitation, Congressman ANNUNZIO, vocally announced his purpose in proposing the provision. During what brief discussion there was of the section in the House, the author of this restriction stated that:

"In the main, it is aimed at the members of the other body who have been so piously proclaiming from time to time that Members of Congress do not need any pay raises."

He repeated this purpose when discussing the conference report which became law, adding the hope that we Senators, in his words, "will now come along to acting more wisely when the measure of a pay raise comes up."

Surely, Mr. President, there is no room in Federal law for provisions such as this, which are run through by one House of Congress out of pique with the other body, and as a self-serving tool for pressuring that other body to approve congressional pay raises. Mr. President, this bit of background on the origin of what is now section 327 highlights what is wrong with it. It is a narrow and badly worded limitation on outside income of Members of Congress and other Government officials. When an amendment was offered during debate on the Campaign Finance Law which called for a far-reaching restriction of outside payments and fees to Members of Congress, it was beaten down by a vote of 61 to 31. That proposed amendment had been offered by Senator ALLEN and it would have prohibited the receipt by Members of Congress and Government officials of nearly all payments other than their official salaries. This is the kind of honest amendment I can vote for and, although I did cast my vote against tabling the Allen amendment, it was badly beaten.

I just wanted to have it a part of the record that this provision received absolutely no consideration by either body of Congress; it was capriciously put on by a man who wanted to get even with the Senate or in some way pressure the Senate into going along with the pay raises that the House of Representatives wanted.

There has been far more discussion on this matter on March 18 and today than there appeared during the whole time we were considering this bill in the past.

I think we should express our gratitude to the Senator from Alabama for having allowed us to tell of our feelings relative to this matter.

I personally think it is unconstitutional to tell any Member of Congress whether he can or cannot make an outside income, and if we ever get to the point of having to live on the exact income that we make, after paying taxes here, in Arizona, and every other place they can get ahold of you, the business of being a Senator is not going to be monetarily attractive.

Mr. ALLEN. I thank the Senator for his explanation of the origin of the bill.

Of course, the Senator also pointed out this same issue has been debated here in the Chamber, and there was an amendment by the Senator from Alabama that would have sought to place a limit on honoraria that could be paid to members of the Federal establishment.

The Senator from Alabama is not concerned with what may have motivated the Members of the House of Representatives to introduce such an amendment, but when the election bill got to conference, the House provision was for a limitation of $10,000 per annum, and the conferees, apparently feeling that the Senate might want a somewhat higher figure, did arrive at the $15,000 limitation. So that is how it came about. I do not know the motives that prompted Members of the House of Representatives to offer that amendment. Whatever motivated it, it is a good provision, and it is a provision that was accepted by the conferees and that was agreed to here in the Senate by the acceptance of the conference report.

It has been the law of the land and has been working fairly well, I assume, for some years; and now, when we are trying to amend the campaign law to meet the Supreme Court's objections and criticisms, why, it is necessary to bring up the honoraria question. I am sure the Members of the Senate and the Senator from Alabama had no idea whatsoever of going into the honoraria question again until action was taken here in the Chamber lifting the ceiling. Once that that was done, it left the Senator from Alabama, feeling as a matter of principle that this limit should be placed on such income, no recourse but to seek to restore that amendment.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. ALLEN. That is the purpose of this amendment.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. ALLEN. I will not only yield but I will yield the floor and give the Senator from Oregon an opportunity to speak in his own right.

Mr. PACKWOOD. Mr. President, first let me respond——

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. PACKWOOD. Yes, I yield.

Mr. ABOUREZK. I wonder if I might be able to offer my amendment at this time and then if the Senator wants to——

Mr. PACKWOOD. Yes.

Mr. ABOUREZK. I have an amendment at the desk to the Allen amendment which I would like to offer. Mr. President, first of all——

The PRESIDING OFFICER. As drafted the amendment of the Senator from South Dakota would not be in order unless the amendment of the Senator from Alabama is divided.

Mr. ABOUREZK. I ask for a division of the Allen amendment.

The PRESIDING OFFICER. The amendment will be so divided. The amendment will be stated.

The legislative clerk read as follows:

On page 50, line 10 strike "616" and insert the following: § 616 of title 18, U.S.C. is amended to read as follows:

"§ 616. Acceptance of outside income.

"No elected or appointed officer or employee of any branch of the Federal Government may receive any salary, wage, or other income of any nature in excess of $15,000 per annum, other than Federal Government compensation established by law while serving as such an officer or employee. Violation of this section is punishable by a fine of $5,000."

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ABOUREZK. Simply by brief way of explanation, as I said in the colloquy that Senator ALLEN and I had a few minutes ago, I can very easily live within any limitation that the Senate wishes to impose on outside income, including the $15,000 limitation. That does not bother me.

What bothers me is that one source of outside income is singled out for limitation while all other sources are allowed to remain limitless, and that includes income from law practices, business interests, ownership of stocks and bonds and their dividends that are received thereby, and income of all other sources.

I simply think it is unfair for this Congress to do such a thing, so I think all income ought to be limited. If we are going to limit one, let us limit them all.

I yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I wonder if the Senator from Alabama would yield for a question.

Mr. President, will the Senator from Alabama yield for a question?

Mr. ALLEN. The Senator has the floor.

Mr. ABOUREZK. I had the floor.

Mr. PACKWOOD. I thought I had the floor.

Mr. ALLEN. The Senator from Oregon had the floor. He yielded to the Senator from South Dakota for purposes of submitting the amendment, and he still maintains the floor.

Mr. PACKWOOD. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. If the Senator wants to yield the floor, the Senator from Alabama will be glad then to yield to the Senator from Oregon.

Mr. PACKWOOD. No; I do not want to yield the floor. But will the Senator yield for a question while I have the floor?

Mr. ALLEN. No; that would hardly be in order. I will yield if I have the floor. Not having the floor, I have nothing to yield.

Mr. PACKWOOD. I am intrigued with the theory of the Senator from Alabama. He has alluded to Senators and Congressmen being bought, that they go to appear before groups that are not interested in hearing our oratorical ability or thoughts upon legislation but really want to pay us off in exchange, apparently, for a vote or favorable consideration because they have invited us to speak; or, at least, I judge that is what he is driving at. Although, he said that does not apply to all groups. I certainly do not think he would indicate that it applied to the University of Alabama when Senator RIBICOFF and I spoke there.

But we are well aware of the rumors—I cannot verify this; I think the rumors probably are true—of lawyers in Congress—and I am a lawyer—who take partnership shares from a law firm. They do no work for the law firm. The law firm has clients that have interests before Federal agencies or before Congress.

We are all aware that there are Members—or at least rumors of such—who have interests in farming operations, interests in brokerage houses, who are still receiving money from those operations, although they do not put in any significant time in the running of those operations.

We do not have time. If we are going to be responsible Congressmen, we have to spend the bulk of our time in Washington, attending to public business.

When I was elected to the Senate in 1968, I sold all my interests in the law firm and have received no interest from it at all from the time I started serving.

However, it seems to me that if the Senator is talking about conflicts of interest here, if he means to allude to the fact that perhaps we are invited to speak before groups who want us to come or to write articles for groups or publications put out by special interest groups because they are interested in incurring our favor, then his amendment is drawn too narrowly. We should require public disclosure of all income, from whatever source derived, of whatever amount, and then let the public make up their minds as to whether or not there is a conflict of interest, based upon that disclosure.

If the Senator is not really alluding to the fact that we are being bought or that our favor is being incurred but that it takes too much time away from Congress, I point out that I cited the other day the earnings of the top money earners on the speaking circuit; and their attendance is above that of the average in the Senate. They are not missing business because of that. Others who do not make much money from speaking are missing more votes than that group.

The thing that intrigues me about the Senator's proposal is that we cannot be paid more than $1,000 to write an article or to make a speech, or more than $15,000 a year, but there is no limit on what we can be paid to write a book.

I was approached by a publishing company to write a book. I am no good at writing. I thought of taking a whirl at it. But writing is a painfully slow process. I admire journalists. I admire people who are glib of pen. I chose not to do it.

If the Senator is opposed to somebody being paid a thousand dollars to write a book, I would think he would be opposed to a Senator or a Member of the House being guaranteed $25,000 or $50,000 by a publishing house to write a book.

The Senator says it is only because we are Senators that we are asked to make these appearances.

Mr. President, apparently, it is only because we are Senators that we are asked to write a book. Nobody ever asked me, when I served in the State legislature, to write a book. Nobody ever asked me, when I was practicing law privately, to write a book. When I came to the Senate, I was asked to write one. Yet, the Senator's limitation would say that it is perfectly all right. Instead of writing one article and calling it an article and being paid, it is all right, in essence, to write 20 articles, string them together, call it a book, have it published, and be paid $20,000. To me, that kind of distinction is nonsense.

In this bill, we are talking about disclosure. The very reason why we are talking about honorariums in this bill is that the Rules Committee made a change in the law regarding honorariums. This was not sprung on the floor for the first time. The Rules Committee made a change when the matter came out of the Rules Committee. It is germane to this bill. A limitation was put in 2 years ago, when the bill was passed initially.

We are all familiar with the fact that the House has very strict rules of germaneness, and there are very few bills that are relevant and germane and under consideration by the House to which this proposal can be attached.

So it is relevant to this bill; it is germane to this bill.

In all fairness, if we are going to talk about either full disclosure or limiting our outside income, it should be all income which, by any conceivable stretch of the imagination, might be tainted, because we receive it because we are Senators. To draw this artificial distinction and say that it refers only to that income from speeches, only that income from writing little articles, not big books, which is going to be limited, that, to me, is unfair and is artificial.

Again I say that if the Senator or others are alluding to the fact that special interest groups are trying to buy us, we have taken care of that problem in the Senate. It was taken care of before I came to the Senate, by requiring that these honorariums be listed. A Member has to tell where he went, to whom he spoke, on what date, and how much he was paid. That information is filed every May 15. They are public documents and normally are published every year in the newspapers, including our home papers.

We all have to run for reelection. We have to answer to our voters in connection with whom we spoke to, where, and when. It seems to me that that is a much better body to be responsive to than to set an artificial limitation, an artificial amount for a very narrow spectrum of activities, and not attempt in any other way to limit any other outside income that might allegedly come to us solely because we are Members of the U.S. Senate.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. GOLDWATER. Mr. President, I think this matter has been discussed thoroughly. It was debated thoroughly the other day, and I move that——

Mr. President, I withhold my motion.

Mr. PACKWOOD. Mr. President, I yield the floor.

Mr. GOLDWATER. Mr. President, while the Senator from Oregon is mak-

ing a call for a Senator who is not in the Chamber, I will try to explain to my colleagues and those citizens who may not understand the genesis or the source of the so-called honorarium.

To begin with, "honorarium" is not even explained in the proposed legislation. I looked it up in a dictionary, and it reads:

An honorary payment or reward, usually in recognition of gratuitous or professional services on which custom or propriety forbids any price to be set.

There is not even that simple explanation in the proposed legislation.

Mr. President, I never have figured out how much money is available through colleges alone in this country, to pay for a series of lectures. I do not know of many colleges in this country that do not have annual sessions of speakers. They range all the way from prominent businessmen to professional this, professional that, and certainly included would be the attitudes and the thinking of Members of Congress or men in politics. I do not know all the sources of these funds. But I think they come mostly—as I know with respect to colleges in Arizona—from local people who have sufficient sums of money to see that the school is provided with enough money to bring in speakers.

In the colleges I know of in Arizona, the student's fee to attend these lectures is included in the student union dues. Then additional tickets are sold to citizens of the community or citizens of the State. I know of two such programs that earn a considerable sum of money on top of the money that they pay to the person who is speaking.

I know that these honorariums, so-called, sound like a devastatingly large amount of money, and it is a large amount of money. But when you take one-third off the reported fee, which goes to the man or the company that has arranged a date, and then you have travel arrangements, which are not always included, you are lucky if you wind up with half the money that was reportedly paid to the person who is accepting the so-called honorarium.

That is as brief an explanation as I can give of these amounts that are available to public speakers all over the country. I might say, Mr. President, having been in this business for many, many years, that the agencies are always looking for new speakers. They never have enough to fill the bill, or even take the invitations that are offered.

I think this is a service that can be offered the universities of the country. I think it would probably be very nice if each one of us felt that we could afford to travel across this country. One night next week I am going out to Brigham Young University in Utah. I shall get my expenses paid and I shall spend all night getting back. Last night I was in Wichita, Kans., as we say in Spanish, "por nada," or for nothing.

I enjoy doing it, but I like to feel that once in a while, when one organization that I know can afford it says to me, "Look, we would like to have you be the principal speaker at our convention, and we will pay you, give you $3,000," I should like to think that I could take that.

I do not think I am any different from the average person in this body. I am reportedly a wealthy man. I think that is the most costly reputation I have ever had come about. When a grandfather of 10 is supporting 7 of them and 2 children who have broken families, it is not easy. When I look at what I have to spend—and, as I say, I am no different from any other Member of this body—when I look at what I have to spend on the first of January, before I even buy a loaf of bread, every penny I make in this body is gone.

People might say, "Well, why don't you get out of it and go back to something that you can do better at?" I am too old for that. Nevertheless, on this business of the grass is always greener on the other side—$44,000 is a lot of money. I remember when I was president of my corporation, I finally got the board to raise my annual salary to $6,500. That was the third biggest salary paid in the State of Arizona. The same corporation has not a salary now within $3,000 of being that low.

This being on the Government payroll, trying to keep a home at home and a home here, even though we are allowed some tax benefit, having an automobile at home and an automobile here, double expenses—I can tell my colleagues, I can tell the American public that it is not all it is piped up to be. It is costly.

I think it is perfectly all right, perfectly legal for us to be able to accept honorariums whenever they are offered. My good friend from Oregon has mentioned books. I had my first book published in 1941; and you know who published it? BARRY GOLDWATER, all by himself. I made some money on it, so it was all right. But now, lo and behold, I am a U.S. Senator. Like my friend from Oregon, I find writing very difficult, but I do enjoy it. I do it mostly because I have staff members who can put my English into understandable English. Most of my English, I will admit, could not be printed. But after my staff gets through with it, it reads in a rather nice way.

I am on a radio program. Nobody is going to ask Mr. GOLDWATER of Arizona to go on a radio program. I go on television shows once in a while. I am a union member of the Television Actors Guild, a dues-paying member, and very proud of it. And I do pretty well with it. But that is not prohibited.

So here I stand, able to make far more money than most Members of this body only because the bill we are talking about was so narrowly drawn, it has such a vicious, mean purpose behind it, that we did not have time, really, to think it out. I think that if we really want to go the whole way, I would favor the amendment offered by my friend from Alabama last year and the effecting amendment now being offered to his amendment to say, you are going to get—whatever it is, $42,000, $42,350 a year—and that is it. Although I keep remembering that probably the best legislators we ever had were not paid anything, I do not propose that we go back to that.

I just wanted to say these few words because I do not think this amendment of the Senator from Alabama and the amendment that is proposed to it by the Senator from South Dakota are necessary. Therefore, Mr. President, I move that we lay——

Mr. PACKWOOD. Mr. President, will the Senator withhold?

Mr. GOLDWATER. For the same purpose we discussed before?

Mr. PACKWOOD. Yes, I should like to suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, has a motion been made to lay the amendment on the table?

The PRESIDING OFFICER. Does the Senator withdraw the motion?

Mr. GOLDWATER. I did not make that motion.

Mr. MANSFIELD. I thought I heard the Senator make it.

Mr. GOLDWATER. I was in the motion of making a motion, and I stopped the motion of making the motion.

Mr. MANSFIELD. Mr. President, did the Senator from Arizona make a motion or not?

The PRESIDING OFFICER. He was in the middle of making a motion.

Mr. GOLDWATER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I understand to accommodate absent Senators a request is going to be made that the motion to table soon to be made by the distinguished Senator from Arizona (Mr. GOLDWWATER), whom I admire so very much, after that motion is made the matter will be passed over in order that another amendment can be offered and discussed, and then have a back-to-back vote on the amendment or motion to table, whatever might be pending.

I would like to comment a little bit though on what the distinguished Senator from Arizona has said about the general subject of honorariums and writing books and one thing and another.

He spoke of his writing books and then his staff would brush up what he had written. Well, I assumed he was talking about his publishing staff rather than his Senate staff making those changes because I do not believe he would have his Senate staff working on a book he is about to publish. But, in any event, the staff would brush up the Senator's draft of his book and then send it to the publisher. I, of course, would be delighted to purchase any of Senator GOLDWATER's books because I know they would be well worth reading.

I was—it is hard to say amused—somewhat chagrined would be a better word, to hear the distinguished Senator speaking of this business of——

Mr. MANSFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. Will the Senator withhold? We will have order in the Senate so the Senator from Alabama can be heard.

Mr. ALLEN. I was somewhat chagrined, possibly even disappointed, at the remarks about the sad state of those members of the Federal Establishment who are on the lecture circuit. They have to pay a third of their honorariums to booking agents. They apparently would book a U.S. Senator just like they might book a talking dog act or some sort of a sideshow, and I would think it a little bit beneath the position of a U.S. Senator to have booking agents to book him into towns and to pander his services to various people who might want to hear from a Senator.

So I am not too outraged at the plight that such members of the Federal Establishment might find themselves in. The high cost of booking agents would seem to have entered into the discussions on this bill, and that is real bad, and I guess we ought to condemn by passing in the Senate a sense-of-the-Senate resolution, Mr. President, like we do about these SALT agreements, SALT I and SALT II—pass a sense-of-the-Senate resolution decrying the high rates of compensation of booking agents for speeches by Senators.

I might say I would vote for such a sense of the Senate resolution because they should not treat our Senators that way. They should not charge them a third of the take. They should not charge them that. That is too high a compensation for a booking agent to get, to get one-third as much as the U.S. Senator who has to leave these hallowed Halls to rush to the place where he is to make a speech and spend 30 minutes making a speech, and pick up his check and then come back to these hallowed Halls and for that the booking agent gets one-third. [Laughter.]

I would be willing to join in the introduction of a resolution that would decry this high cost of booking agents or the high fees of booking agents for Senators' speeches because that is what apparently makes this limitation so confining.

One thousand dollars is not enough when you take into consideration that you have to pay your booking agent—and I guess every self-respecting Senator has got him a booking agent. I am not very self-respecting because I do not have such a booking agent. [Laughter.]

But I am certainly willing to accommodate the wishes of those who are seeking to defeat this amendment, and if it is the wish of the leadership to make unanimous-consent request I have no objection to that.

Mr. MANSFIELD. I thank the Senator from Alabama.

Mr. GOLDWATER. Mr. President, I move to table division one of the Allen amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent—and I do this because I understand there are about 10 Members down at the White House at the present time for the signing of the Marianas covenant bill which passed both Houses and which is on the President's desk—that the vote on the motion to table the Allen amendment be set aside; that the Senate proceed to the Allen amendment No. 1517 on which there is a time limit of 30 minutes equally divided; that upon the disposition of the Allen amendment No. 1517 the Senate vote on the motion to table the original Allen amendment.

Mr. GOLDWATER. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER (Mr. TOWER). Is there objection to the unanimous-consent request of the Senator from Montana? The Chair hears none, and it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, if the Senator will yield, what is the pending business?

The PRESIDING OFFICER. Is the Senator from Alabama offering his amendment?

AMENDMENT NO. 1517

Mr. ALLEN. I call up my amendment No. 1517, and inasmuch as it was offered prior to the introduction of the substitute amendment, I modify my amendment to conform to the wording of the substitute amendment.

The PRESIDING OFFICER. Without objection, it will be so modified.

The clerk will report the amendment of the Senator from Alabama.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) offers a proposed amendment 1517, as modified to amendment No. 1516.

SEC. . (a) Each person referred to in subparagraph (b) herein shall file annually with the Comptroller General of the United States on or before February 15 of each year a full and complete report of net worth as of the end of the preceding calendar year, such report to consist of a statement of assets (and of their reasonable market value) owned by him, or jointly by him and his spouse, and of liabilities owed by him, or jointly by him and his spouse, together with a full and complete statement of income for the preceding calendar year, such statement of income to consist of a list of the identity of each source of income and a list of the amount paid by each source of income to him, or jointly to him and his spouse, during the preceding calendar year, except that in lieu of such statement of income, each individual referred to in subparagraph (b) may file with the Comptroller General of the United States a copy of such person's Federal income tax report for such calendar year.

(b) The provisions of this section shall apply to any person who as an officer or employee of the United States within the executive, legislative, or judicial branch of the Government of the United States received compensation at a gross annual rate in excess of $25,000 during the year 1976 or any subsequent year.

(c) The report required by this section shall be in such form and shall contain such information as the Comptroller General may prescribe in order to meet the provisions of this section. Notwithstanding any provision of law to the contrary, all reports filed under this section shall be maintained by the Comptroller General as public records, open to inspection by members of the public, and copies of such records shall be furnished upon request at a reasonable fee. Any report filed under this section shall be retained by the Comptroller General for a period of five years.

(d) All reports required hereunder shall be certified as being correct by the person filing the same and shall be duly sworn to and properly notarized.

Mr. ALLEN. Mr. President, I yield myself such time as I may need.

Mr. President, this is a very simple amendment. In this age where disclosure is not only sought but demanded by the public and we require disclosure of information in many areas, I think it might be well for the entire Federal Establishment to make a disclosure of their assets, of their income, the sources of that income each year, and that this disclosure be made a matter of public record.

That is all that the amendment does. It provides that any Federal employee, including Members of the House and Senate, including members of the judiciary, including members of the executive department, each year shall file a financial statement giving a listing of his assets, the value of such assets, and the liabilities, nature of such liabilities and amount of liabilities, and, subtracting one from the other, giving his net worth.

And then not only give a statement giving their assets and liabilities and net worth, but also give a statement of their income for the preceding year and the sources of that income.

In lieu of making the second half of the disclosure, that is, the nature of income, the sources of income and the amount of the income, they might file, if they saw fit, a copy of their Federal income tax for the preceding calendar year which would, of course, contain all of this information required.

This information would be kept by the Comptroller General, filed as an official record open to the public.

I feel that this amendment is in line with the desire and demand of the public generally, that those who serve the public should advise the public of how they are profiting from such public service and from income outside such public service, and also give a statement of their assets and liabilities so that the comparison can be made of their financial status at any given time and in comparison with any previous year.

Such a report would not be required under the amendment of anyone making $25,000 or less, but as to any person in the Federal employ making in excess of $25,000 per year, this statement would be required.

Many such bills have been introduced in the Senate. I have been a cosponsor of such a bill. I believe the distinguished Senator from New Jersey (Mr. CASE) has been a pioneer in this effort. But for some reason or another, these bills do not seem to get out of the committee. They do not seem to get on the Senate floor for consideration.

So this is an opportunity to vote on this measure which I think is very definitely in the public interest and is well within the right of the public to demand to know.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I yield myself 5 minutes.

I simply wish to respond to the Senator and say that his statement a moment ago, that these proposals never get out of committee, is in error.

Right now, there is pending, of course, a number of proposals on this particular point that are referred to committee, but a predecessor bill that I introduced (S. 366) was passed by the Senate. That was part of an election bill, that had a similar provision in it. S. 372 in 1973 and again in 1974, as a part of the bill S. 3044, had a very similar provision in it, although some of them were a little broader than the precise proposal of the Senator at this time.

Accordingly, I am going to attempt to broaden it right now.

Mr. ALLEN. Will the Senator yield just a moment for a question?

Mr. CANNON. Yes.

Mr. ALLEN. I heard the Senator's recital of the bills that had gotten out on the floor. I did not seem to hear him say that was an independent bill of this sort. It was always part of another bill, such as we are trying to do right here.

Is that correct?

Mr. CANNON. The Senator is correct.

Mr. ALLEN. I thank the Senator.

Mr. CANNON. S. 366, S. 372, and, again in 1974, as part of S. 3044.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator from Nevada that the amendment is not in order. This is an amendment to the Allen amendment?

Mr. CANNON. This is an amendment to the Allen amendment.

The PRESIDING OFFICER. The amendment will not be in order until the time has been used or yielded back on the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that it be in order to offer this amendment now. I think it will probably be acceptable.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 15, after the period insert the following: "The provisions of this section also apply to any individual not described in the preceding sentence who is a candidate within the meaning of section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)), except that the report required by subsection (a) shall be filed within 30 days after the date on which he becomes a candidate within the meaning of such section, and on each February 15th thereafter so long as he is such a candidate."

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, the essence of the amendment has been stated now. It would apply to any person who was a candidate for Federal office, and require him to comply with the reporting provisions of the bill, and to file a reporting within 30 days after they become a candidate.

Mr. ALLEN. I think it is a fine amendment. I am delighted to accept it. I think it improves the thrust of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Will the Senator yield me a minute?

Mr. CANNON. I yield to the Senator.

Mr. MAGNUSON. Mr. President, I am not opposed to this amendment. We have a State law in my State which requires this anyway. But we are, as in some other States—though not too many—a community property State. This raises serious legal questions because a spouse owns half of the property. Also, agreements can be made where a spouse can have separate property which would belong only to her. I am wondering how this amendment would apply under the community property law. Suppose the spouse said, "Well, I am not responsible for this because I had the bad judgment to marry a Senator. I should not be made a second-class citizen. I have my own property and I should be no different than anyone else."

How would this apply to that situation?

Mr. ALLEN. The amendment provides for the person and his spouse. It would not only cover men and their wives but women and their husbands.

Mr. MAGNUSON. Yes, it would work both ways.

Mr. ALLEN. It would apply. That is one of the burdens he would assume on becoming a Federal employee.

Mr. MAGNUSON. If it applied, it would apply to community property that was acquired during the time of the marriage. But there is some legal doubt about whether the separate property is put on the table. If there is a divorce or a separation suit, the judge puts it all on the table and makes a decision.

It seems to me it might be a little bit harsh on a spouse who has a separate income, not from politics, that he or she should be subject to this ruling. The problem only arises in what we call community-property States, of which I believe there are seven or eight.

There might be a spouse who would say, "I am not going to tell anybody. I am not a public official. I will not tell anybody unless I want to." As far as the Senator from Washington is concerned, I have voluntarily complied with this provision in accordance with Washington State law. This provision poses a real legal problem when applied to community property.

Mr. ALLEN. I imagine that anyone objecting to the filing of this could make a legal point of it. The law is probably going back to the Supreme Court.

Mr. MAGNUSON. It would not be the public official herself or himself who would object, but it would be the spouse who says, "I am not a public official."

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. ALLEN. I think there would be more reason for requiring this in a community property State than there would be where there was separate image. At least the husband would have community property with his wife's property as well. If anyone objects to doing this, they could make a legal point of it.

Mr. MAGNUSON. I will probably get popular with the women's lib. Legally, there have been some cases where the husband is supposed to be the breadwinner and there are court decisions, where the wife became the breadwinner for the family and he happened to be a public official. This poses some problems.

As the Senator says, I suppose this matter will be taken to the court.

The PRESIDING OFICER. Who yields time?

Do the Senators yield back their time?

Mr. ALLEN. Mr. President, I yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

Mr. CANNON. Will the Senator withhold? This is on my amendment to the Allen amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada to the amendment of the Senator from Alabama.

The amendment to the amendment was agreed to.

Mr. CANNON. Mr. President, I yield myself 5 minutes on the amendment of the Senator from Alabama.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

NAVAL PETROLEUM RESERVES PRODUCTION ACT OF 1976—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a report of the committee of conference on H.R. 49 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. TOWER). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 49 to authorize the Secretary of the Interior to establish on certain public lands of the U.S. national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of March 23, 1976 beginning at page H2266.)

Mr. CANNON. Mr. President, I move the adoption of the conference report on the Naval Petroleum Reserves Produc-

tion Act of 1976—H.R. 49—and in connection therewith I have a brief statement.

The report was signed by all the conferees of the House and the Senate. The Senate will act first on the report.

The bill, as reported by the conferees, represents what I consider to be an excellent compromise between two substantially different pieces of legislation—H.R. 49 on the part of the House and S. 2173 on the part of the Senate.

H.R. 49, as passed by the House, authorized the establishment of national petroleum reserves under the administration of the Interior Department and directed that the naval petroleum reserves become a part of the national petroleum reserves. The national petroleum reserves were then to be produced at the maximum rate with the oil going into the Nation's pipelines to ease the energy crisis.

S. 2173, on the other hand, retained Navy jurisdiction over the existing reserves, but directed that they be produced with the oil being sold on the open market and the proceeds used to help defray the costs to complete the development of the naval reserves and to fill a strategic storage system.

Mr. President, there were 26 conferees on this bill from the Armed Services and Interior and Insular Affairs Committees of both the House and the Senate. The conference met in formal, open session seven different times to reach agreement on the many issues.

The bill as it is presented in this report accomplishes the objectives of both pieces of legislation as originally passed by the respective House. Navy jurisdiction is retained over Naval Petroleum Reserves 1, 2, and 3 and immediate production is directed. The oil produced is to be sold on the open market with adequate protection provided for small, independent refiners. Initial production is for a 6-year period and there is a mechanism to extend that period providing the Congress does not object. The proceeds from the sale of the oil are to go into a special account where they will be available as offsetting receipts to reduce outlay requirements, not only for continued exploration and development of the naval reserves, but also for the construction and filling of a strategic storage system as authorized in the Energy Policy and Conservation Act and for operations in the Alaska reserve which I shall discuss next.

The huge, largely unexplored reserve in Alaska presented a different case than the three naval reserves in the continental United States. The outlay of capital that will be required to explore and develop the Alaskan reserve and the extremely difficult environmental problems that can be expected, strongly suggested that retention of Navy jurisdiction was inappropriate. Therefore, the conferees agreed to transfer jurisdiction of Naval Petroleum Reserve 4 in Alaska to the Interior Department on June 1, 1977. It is made very clear that the ongoing program of petroleum exploration is not to be jeopardized, but any development leading to production is specifically prohibited until the President directs a study on production alternatives and gets congressional approval before proceeding.

Mr. President, this bill accomplishes several things:

First, it puts domestic oil in the Nation's pipelines, thereby reducing import requirements;

Second, it puts dollars in the Treasury as a result of the sale of oil. These dollars are earmarked to pay for further development of the naval reserves and for a strategic storage system that more adequately protects this country from energy blackmail; and

Third, it maintains necessary congressional oversight of these important national resources.

I know of no opposition to the conference report. The Departments of Interior and the Navy and the Federal Energy Administration have been consulted during the course of our deliberations and, as far as I know, support the concepts we have reported.

I move the immediate adoption of the conference report.

Mr. CRANSTON. Mr. President, after nearly 3 years of congressional effort—impeded alternately by stalemate and inertia—I am delighted that we are at long last on the threshold of opening up the oil-rich Elk Hills Naval Petroleum Reserve to full production.

Today the Senate has before it the conference report on H.R. 49, the Naval Petroleum Reserves Production Act of 1976. Title I provides for a transfer of authority for administering the vast Petroleum Reserve No. 4 in Alaska from the Secretary of the Navy to the Secretary of the Interior, effective June 1, 1977. A major exploration program is authorized, but development and production are precluded at this time.

Title II amends title 10 of the United States Code which previously prohibited any production from the naval petroleum reserves except for national defense purposes and only after a recommendation by the President and an act of Congress. The new provision maintains Navy jurisdiction over reserves numbered 1, 2, and 3, but authorizes and directs that within 90 days of enactment, the Secretary shall commence oil production for 6 years at the maximum efficient rate—MER. For Elk Hills, the MER is now estimated to be approximately 350,000 barrels a day.

The Secretary is also authorized to construct, acquire or contract for the use of storage or shipping facilities. If necessary, the Secretary may condemn any pipeline not operated as a common carrier if the owner refused to carry, without discrimination and at a reasonable rate, any petroleum produced at the reserve. In addition, if new pipelines are required, rights-of-way may be acquired by the use of condemnation under Federal statutory authority, but such pipelines must be operated as common carriers. At Elk Hills, pipelines and associated facilities capable of handling 350,000 barrels of oil a day are required to be in place not later than 3 years after enactment in order to assure the availability of the necessary facilities to transport petroleum from the reserve and to maintain production at the maximum efficient rate.

While this production is authorized for only 6 years, the bill also provides a mechanism whereby additional 3-year extensions of the production authority can be accomplished. If, at the end of the first 6 years of production, or a subsequent 3-year extension, the President determines the necessity for continued production, he must submit a recommendation to the Congress, together with a certification that the continued production is in the national interest. If neither the House nor the Senate affirmatively disapproves this Presidential recommendation, production is then authorized for another 3-year period.

SMALL REFINERS

The Secretary is required to structure bids for the sale of the Government's share of the oil in such a manner as to insure a full and equal opportunity for the acquisition of petroleum from the reserves. In no event may more than 20 percent of the Federal share of petroleum produced from Elk Hills be acquired by a single purchaser.

In addition, the Secretary has the authority, if he finds it to be in the public interest, to set aside up to 25 percent of the estimated Federal production for small refiners not having an adequate source of petroleum of their own.

COMMON CARRIER PIPELINES

When the Senate considered its version of H.R. 49 last summer, I offered an amendment to conform to the committee bill to that passed by the House on the issue of requiring that pipelines serving the reserves be common carriers. This was necessary to insure that successful bidders on the U.S. share of oil from any of the reserves not face any risk of being unable to transport it from the reserve to the refinery through discrimination by private carriers. I am thus pleased that the conferees have fashioned common carrier language which requires that any pipeline used to carry any petroleum from the reserves must accept such petroleum produced from them without discrimination and at reasonable rates.

Mr. President, I wish to commend the distinguished chairman of the Armed Services Committee's Subcommittee on Naval Petroleum Reserves (Mr. CANNON) for his diligent efforts to bring this long-stalled issue to fruition. It was nearly 3 years ago—during the critical fuel shortages in the winter of 1973—that Senator TUNNEY and I first called upon the Congress to authorize production from these reserves. It was especially ironic during those dark days of fuel shortages—when Californians faced the spectre of rolling blackouts, long gasoline lines, and temporary industrial shut-downs—to know that 1 billion barrels of crude oil lay in the ground untapped just a few miles away in Kern County, Calif.

Today, the Senate takes its final step toward finally opening up these reserves to production. While we are fortunately not facing severe and immediate fuel shortages such as those created by the

Arab oil embargo, the production of oil from Elk Hills and other reserves is an important insurance policy against suffering such shortages again. Furthermore, the 350,000 barrels a day that can eventually be produced from Elk Hills will displace 350,000 barrels a day of oil we are now importing. That can have a positive economic impact by curbing the current outflow of oil dollars.

Mr. President, I strongly urge the Senate to approve this conference report so that we can get on with the business of assuring our citizens that we will have adequate domestic sources of energy for our future needs. The authorization of production from the naval petroleum reserves, together with the exploration program planned for the huge reserve in Alaska, is an important spoke in the wheel that may move us toward a measure of energy self-sufficiency.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. CANNON. I yield 1 minute to the Senator from California.

Mr. CRANSTON. Mr. President, I am delighted that the Senator from Nevada has brought this measure to the floor in the form it is in. I commend him for his work on it. It is a very significant piece of legislation which I believe will mean a great deal in making more oil available on this continent.

Mr. CANNON. I yield 1 minute to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I commend the Senator from Nevada on the resolution the conference committee has made to the problems we may have had initially in the consideration of this measure. It is my understanding that they have been resolved to the satisfaction of all conferees. I share with him his satisfaction with the bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Alabama (Mr. ALLEN). Who yields time?

Mr. CANNON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Alabama has 9 minutes. The Senator from Nevada has 8 minutes. Who yields time?

Mr. CANNON. I yield the Senator from California such time as he may require.

Mr. CRANSTON. Mr. President, there may be only one other amendment to be offered. That is one I would like to offer. Since apparently there is no more to be said at this time on the Allen amendment, I ask unanimous consent that I may submit my amendment at this time.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, reserving the right to object, what is the amendment?

Mr. CRANSTON. It is the amendment the Senator's staff has seen regarding the amendment suggesting the $1,000 threshold.

Mr. PACKWOOD. $1,000 for organizational limits, or $1,000 per candidate per year?

Mr. CRANSTON. $1,000 for each communication. I am seeking permission to send it up now, that is all I am asking, so that we can discuss it.

Mr. PACKWOOD. I thought the Senator was moving its adoption.

Mr. CRANSTON. No, I am asking unanimous consent to call it up.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The question recurs on agreeing to the amendment of the Senator from Alabama.

ADDITIONAL STATEMENT SUBMITTED ON AMENDMENT NO. 1517

Mr. ROTH. Mr. President, I am voting in favor of the Allen amendment, not because I believe that it is a complete or the best means of preventing corruption by public officials, but because the Senate has so far failed to make any meaningful reforms in this area.

My reservations to the approach embodied in the Allen amendment are basicly two in number. First, it would strip some public officials of their rights to financial privacy without any evidence that these individuals are involved in criminal activity. Second, I fear that it might actually prove to be counterproductive to the prevention of corruption by public officials by lulling the press and public into the belief that public disclosure is an effective check where in reality, it may not be much of a check at all. Those who would abuse the public trust would also not hesitate to lie about their personal finances, just as they would on their tax returns. The only way to check would be through a complete and exhaustive audit.

A better approach to this problem, in my judgment, lies in Senate Resolution 175 which I introduced last summer. This resolution would require that the very extensive confidential financial disclosure statements now filed by Senators, Senate officers, and staff aides who are paid at the rate of $15,000 annually or higher would automatically be made available on request to any competent Federal or State court in any case involving alleged criminal misconduct by that Senator, officer, or employee. The resolution would also require that the financial disclosure statements would be provided to a grand jury investigating allegations of criminal misconduct by a Member of the Senate.

I believe that this approach would preserve the privacy rights of public officials while insuring that they would be fully accountable for their financial records in the event that there were suspicion of crime.

Mr. ALLEN. Mr. President, I am prepared to yield back the remainder of my time.

Mr. CANNON, I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment (No. 1517, as amended) of the Senator from Alabama (Mr. ALLEN). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARY HART. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The clerk will suspend until Senators take their seats. The Senate will be in order.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 76, nays 13, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—76

Abourezk	Goldwater	Muskie
Allen	Griffin	Nelson
Baker	Hart, Gary	Nunn
Bartlett	Hart, Philip A.	Packwood
Beall	Haskell	Pastore
Bellmon	Hatfield	Pearson
Bentsen	Hathaway	Pell
Brooke	Helms	Proxmire
Bumpers	Hollings	Randolph
Burdick	Huddleston	Roth
Byrd, Robert C.	Humphrey	Schweiker
Cannon	Javits	Scott, Hugh
Case	Johnston	Sparkman
Chiles	Kennedy	Stafford
Clark	Laxalt	Stevens
Cranston	Magnuson	Stevenson
Culver	Mansfield	Stone
Dole	Mathias	Symington
Domenici	McClure	Taft
Durkin	McGovern	Thurmond
Eagleton	McIntyre	Tower
Fannin	Metcalf	Tunney
Fong	Mondale	Weicker
Ford	Montoya	Williams
Garn	Morgan	
Glenn	Moss	

NAYS—13

Buckley	Hansen	Scott, William L.
Byrd, Harry F., Jr.	Hruska	Stennis
Curtis	Long	Talmadge
Eastland	McClellan	Young
	Ribicoff	

NOT VOTING—11

Bayh	Gravel	Leahy
Biden	Hartke	McGee
Brock	Inouye	Percy
Church	Jackson	

So Mr. ALLEN's amendment was agreed to.

Mr. CANNON. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The question now recurs on the motion to table division 1 of the amendment of the Senator from Alabama. On this question the yeas and nays have been ordered.

Mr. CANNON. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CANNON. Mr. President, if the motion to table is agreed to, does that carry the Allen amendment and the amendment to the Allen amendment that is pending?

The PRESIDING OFFICER. Division 1 of the Allen amendment and the Abourezk amendment thereto would fall.

CHILD DAY CARE SERVICES UNDER TITLE XX OF THE SOCIAL SECURITY ACT—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on H.R. 9803 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HANSEN). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9803) to postpone for six months the effective date of the requirement that a child day care center meet specified staffing standards (for children between six weeks and six years old) in order to qualify for Federal payments for the services involved under title XX of the Social Security Act, so long as the standards actually being applied comply with State law and are no lower than those in effect in September 1975, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of March 9, 1976, beginning at page H1711.)

Mr. LONG. Mr. President, under the Social Services Amendments of 1974, child care operators receiving funds under the social services program are required to meet certain Federal standards including standards with respect to the number of staff in relation to the number of children served. The 1974 legislation would have required child care facilities to come into compliance with the standards by October of last year or face a denial of Federal funds. Because these standards would have increased substantially the cost of operation for many child care operators, possibly resulting in a cutback in the amount of care provided, Congress deferred the effective date of these staffing standards insofar as they apply to preschool children to February 1, 1976. This was intended to allow time for the development of legislation which would make it possible to implement the standards without curtailing services.

In January, the Senate passed the bill H.R. 9803, which would have provided the necessary funding to enable States to come into compliance by raising the annual limit on social services funding by $250 million starting with $125 million in fiscal year 1976. This bill would have also provided substantial incentives for States to meet the new staffing standards by employing welfare recipients. It would have modified the child care requirements somewhat in the case of family day care homes and would have allowed State rather than Federal standards to apply in facilities serving only a few federally funded children.

Because the House conferees could not reach an accommodation with the House Budget Committee over certain technical matters, action on this measure was delayed and the House ultimately was unable to accept the Senate provisions on a permanent basis although the House conferees did not, I believe, have any substantive disagreement with the Senate provisions. However, agreement was reached to adopt the provisions temporarily through September 30 of this year, and I feel confident that it will be possible to further extend them at a later date. Thus, the conference agreement largely follows the Senate provisions although on a somewhat limited and temporary basis. A more detailed description of the agreement is presented in the statement of the conferees, and I ask unanimous consent that the statement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LONG. Mr. President, since the time the conferees reached agreement on H.R. 9803, the lawyers of the Department of Health, Education, and Welfare have discovered that, by a contorted reading of the language in the legislation, they can find a way to interpret it to defeat its purposes. While I do not see how any reasonable reading of the bill could reach that conclusion, I want to make the legislative history on this point completely explicit. The provisions of section 3(d)(2) of the bill as agreed to by the conferees are intended to operate only as a limitation on the provisions of section 3(d)(1). Thus, these two paragraphs taken together have the effect of increasing the Federal matching rate for child care services from 75 to 80 percent but making that increased matching applicable only to the additional $125 million in funding provided by this bill. There is no intent to in any way limit, restrict, or reduce the social services funding otherwise available to States under existing law.

EXHIBIT 1

DESCRIPTION OF CHILD CARE CONFERENCE REPORT—(H.R. 9803)

The House bill provided for the suspension until April 1, 1976, of Federal staffing standards for the care of preschool children in child care facilities receiving funding under the Social Security Act. The Senate amendment provided that these standards will be suspended until July 1, 1976. The conference substitute suspends the standards until July 1, 1976.

The Senate amendment added a statement of findings and purpose to the effect that the new child care standards will require increased expenditures and that the purpose of the bill is to provide funding to meet these added costs. The conference substitute includes this statement.

The Senate amendment added a provision which would increase the $2.5 billion limit on Federal funding for social services programs by $250 million annually beginning with fiscal year 1977 (with $125 million in fiscal year 1976 and $62.5 million for the July-September 1976 transition quarter). The additional funds would be available only for matching State child care expenditures and 80 percent of the funds (prior to the fiscal year beginning October 1, 1977) would be allocated among the States on the basis of State population. The Senate amendment required that the new funds be used in such a way as to increase the employment of welfare recipients and other low-income persons in child care related jobs to the maximum extent feasible as determined by the States. The conference substitute provides that $62.5 million in additional Federal child care funding will be available for fiscal 1976 and $62.5 million for the July-September transition quarter. No funding is provided beyond September 30, 1976.

The Senate amendment permitted States to use a part of the additional funding to reimburse providers of child care for the costs of employing welfare recipients. Under the Senate provisions, the amount payable to a qualified provider could not exceed $4,000 (an additional $1,000 in Federal funding would be available as a tax credit or, in the case of public and nonprofit providers, as a Treasury Department payment in lieu of tax credit). These payments could be made only to child care providers having a clientele at least 20% of which is composed of children receiving child care funded under the Social Security Act. The conference substitute generally follows the Senate provision except that payments to public and nonprofit providers could be made up to amounts equal to $5,000 per year per employee. (Such providers would not be eligible for a payment in lieu of the tax credit.)

The Senate amendment provided that the additional social services money available for child care would be eligible for matching State expenditures at an 80% rate rather than the curent-law rate of 75%. The conference substitute accepts this Senate provision.

The Senate amendment provided that 20% of the additional funding available in fiscal year 1976, the July-September 1976 transition quarter, and fiscal year 1977 would be allocated by the Secretary of Health, Education, and Welfare to States which he determines to need additional funds because of special difficulty in meeting the child care standards. Funds set aside for special needs but not used would be reallocated on the basis of State population. The conference substitute includes this provision with respect to the additional funding provided for fiscal 1976 and the transition quarter.

The Senate amendment extended the work incentive program expense credit allowed by section 40 of the Internal Revenue Code of 1954 to permit a credit for a portion of the wages paid to an individual who is a Federal welfare recipient who is employed in connection with a child day care services program, and made several other changes in the rules applicable to the computation of the credit allowable for expenses of employing such an individual. Specifically—

(1) the limitation on the amount of the credit allowable for work incentive program expenses under section 50A(a)(2) of the Code, which limits the maximum credit to $25,000 plus 50 percent of tax liability in

excess of $25,000, would not apply to so much of the credit as is attributable to Federal welfare recipients employed in connection with a child day care services program;

(2) the amount of the credit allowable for wages paid to any particular Federal welfare recipient could not exceed $1,000;

(3) the credit would be allowed to a State, a political subdivision of a State, or a tax-exempt organization;

(4) the credit is allowed for wages paid to such a Federal welfare recipient after September 30, 1975, and before January 1, 1981; and

(5) the full credit would be refunded to the taxpayer even if the amount of the credit allowed exceeded his tax liability (in the case of a State, a political subdivision of a State, or a taxexempt organization, the entire amount of the credit would be refunded).

The conference substitute is the same as the Senate amendment with the following exceptions:

(1) Under the conference substitute, States, political subdivisions of States, and tax-exempt organizations are not eligible for the credit against tax allowed by section 40 of the Internal Revenue Code of 1954 (relating to expenses of work incentive programs).

(2) Under the conference substitute the credit is not refundable in excess of the taxpayer's liability for tax.

(3) Under the conference substtiute, the credit is allowed only with respect to wages paid after the date of enactment of the conference substitute and before October 1, 1976.

A taxpayer who intends to claim the credit allowed by section 40 of the Internal Revenue Code of 1954 for the taxable year can, of course, adjust his quarterly payments of estimated tax, or his withholding (in the case of an individual), to take account of the amount of the credit he expects to claim.

The Senate amendment would permit State welfare agencies to waive the Federal staffing requirements in the case of child care centers and group day care homes which meet State standards if the children receiving federally funded care represent no more than 20 percent of the total number of children served (or, in the case of a center, there are no more than 5 such children), provided that it is infeasible to place the children receiving Federally funded care in a facility which does meet the Federal requirements. The amendment would also modify the limitations on the number of children who may be cared for in a family day care home by providing that the family day care mother's own children not be counted unless they are under age 6. This change would apply retroactive to October 1, 1975. The conference substitute accepts the Senate amendment on a temporary basis effective through September 30, 1976.

The Senate amendment added a provision making permanent certain modifications provided under P.L. 94–120 governing funding of services for addicts and alcoholics. The provisions involved (which expired January 31, 1966) require that special confidentiality requirements of the Comprehensive Alcohol Abuse Act be observed with regard to addicts and alcoholics, clarify that the entire rehabilitative process must be considered in determining whether medical services provided to addicts and alcoholics can be funded as an integral part of a State social services program, and provide for funding of a 7-day detoxification period even though social services funding is generally not available to persons in institutions. The conference substitute accepts the Senate amendment.

Mr. CURTIS. Mr. President, I oppose this legislation and urge my colleagues to reject the conference report.

In all fairness, I must state that my objections go principally to the bill itself rather than to the specific action of the conference committee. The distinguished chairman of the Committee on Finance has handled the conference in a manner to which I have no objection. As our chairman has explained, the conference committee accepted most of the provisions of the Senate bill. The duration of these provisions was limited, however, to accommodate the objections of the House Budget Committee.

Thus, from the Senate's standpoint this was a "successful" conference. Nevertheless, this is still ill-advised legislation and I urge its rejection. As the Senate is aware, this legislation continues for a brief period the suspension of the day care staffing ratios imposed under title XX of the Social Security Act. Once this brief suspension expires on July 1, 1976, the staffing ratios will go into effect. This bill also provides that States will receive additional title XX funds to comply with these requirements.

The fallacy of this bill is that it continues the assumption that Congress has such a monopoly on wisdom and sensitivity that only we can be trusted to decide how many children can be adequately cared for by one adult in a day care center. I cannot accept this notion as a matter of principle.

Moreover, in this particular case, we must candidly admit that the standards we now impose and fund are ones which may not even be appropriate. The standards continue to be controversial even among day care professionals and the administration is even now engaged in a study that we directed to determine what standards are appropriate. Even if a case for mandatory Federal staffing ratios could be made, it has not been made yet.

Given these facts, I cannot accept the argument that we should let the standards go into effect and then provide additional money to enable States to comply with these standards. At the very least, I would like to obtain the facts first. As our colleague, Senator PACKWOOD, noted earlier when we debated this bill, when we make a mistake, it is imposed nationwide. In my view, we are continuing a serious mistake here and seeking to bury it in an avalanche of Federal dollars.

Thus, while I commend our chairman for our "successful" conference, I must oppose this bill. We should reject this conference report and then pass legislation simply postponing these staffing ratios. This will give us time both to ascertain the facts and to consider other alternatives such as the President's social services block grant proposal.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Under Secretary Marjorie Lynch of HEW.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

MARCH 15, 1976.

Hon. HUGH SCOTT,
Minority Leader, U.S. Senate,
Washington, D.C.

DEAR MR. SCOTT: This letter is to express to you the Department's strong opposition to the conference report on H.R. 9803 and to ask you to bring our concerns over the report to the attention of other Members of the Senate.

The conference report would authorize an additional $125 million over and above the $2.5 billion ceiling on funding under title XX of the Social Security Act to assist States in meeting the costs of full enforcement of the Federal interagency day care requirements (FIDCR) as modified under title XX. Favorable congressional action on this new entitlement—to be available to the States for the balance of the current fiscal year and for the July 1–September 30, 1976 transition quarter—would effectively commit the Congress to perpetuation of the controversial FIDCR staffing standards and later authorization of $250 million annually in order to help States meet the costs of their full implementation.

As you know, the President has recommended, as part of his social services block grant proposal introduced as S. 3061 and H.R. 12175, that FIDCR, and particularly the costly and controversial staffing standards, be deleted from Federal law. Under the President's proposal, each State would be required to have in effect its own appropriate mandatory standards, including requirements relating to safety, sanitation, and protection of civil rights, for day care services provided under title XX. We strongly believe that the formulation of staff-to-children ratios and related standards for day care services is most appropriately left to State discretion just as the formulation of teacher-pupil ratios and related standards is left to the States under Federal education assistance programs.

Also, enactment of the conference report would violate the spirit and intent of both title XX as it exists and the President's block grant proposal by earmarking a specific amount of title XX services funds for a specific purpose. The States fought long and hard in the years preceding enactment of title XX to win the flexibility to make their own decisions on the best uses of Federal services funding.

Thus, should the Congress act favorably on the conference report, it would signal a retreat from the historic steps toward a more productive Federal-State partnership taken in title XX just a year ago.

Moreover, the conference report contains a substantial technical defect. We are advised that section 3(d)(2) of the report is intended to integrate the report's provision for 100 percent Federal payment of "Federal welfare recipient employment incentive expenses (*i.e.*, the salaries of welfare recipients employed to provide child day care services in child day care facilities) with the report's provision to establish an 80 percent Federal share for other child day care services under title XX. Because this intent is so imperfectly rendered by the section, the report instead appears to limit the "total amount of the Federal payments which may be paid to any State" for fiscal year 1976 and the transition quarter to a small fraction of the amount that would be paid under current law.

In lieu of the conference report, we urge that the Congress extended to October 1, 1976, the moratorium on imposition of the child day care staffing standards enacted by Public Law 94–120 last October. This will give the Congress time to pass the President's title XX block grant proposal.

We are advised by the Office of Management and Budget that enactment of H.R. 9803 would not be consistent with the Administration's objectives.

Sincerely,

MARJORIE LYNCH,
Under Secretary.

Mr. CURTIS. Frankly, Mr. President, the objection to this legislation is that the States should be allowed to decide how many children an adult in charge of a day care center can look after. The idea

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON) and the Senator from Wyoming (Mr. MCGEE) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK) and Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 59, nays 30, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—59

Abourezk	Haskell	Muskie
Baker	Hatfield	Nelson
Beall	Hathaway	Pastore
Bentsen	Hollings	Pearson
Brooke	Huddleston	Pell
Bumpers	Humphrey	Randolph
Burdick	Javits	Ribicoff
Byrd, Robert C.	Johnston	Schweiker
Cannon	Kennedy	Scott, Hugh
Case	Laxalt	Sparkman
Clark	Long	Stafford
Cranston	Magnuson	Stennis
Culver	Mansfield	Stevens
Durkin	Mathias	Stevenson
Eagleton	McGovern	Stone
Eastland	McIntyre	Symington
Fong	Metcalf	Tunney
Glenn	Mondale	Weicker
Hart, Gary	Montoya	Williams
Hart, Philip A.	Moss	

NAYS—30

Allen	Ford	Packwood
Bartlett	Garn	Proxmire
Bellmon	Goldwater	Roth
Buckley	Griffin	Scott, William L.
Byrd, Harry F., Jr.	Hansen	Taft
Chiles	Helms	Talmadge
Curtis	Hruska	Thurmond
Dole	McClellan	Tower
Domenici	McClure	Young
Fannin	Morgan	
	Nunn	

NOT VOTING—11

Bayh	Gravel	Leahy
Biden	Hartke	McGee
Brock	Inouye	Percy
Church	Jackson	

So the conference report was agreed to.

Mr. MONDALE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The Senate continued with the consideration of the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The PRESIDING OFFICER. The question recurs on the motion by the Senator from Arizona (Mr. GOLDWATER) to table the Allen amendment, division No. 1.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 57, nays 31, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—57

Abourezk	Griffin	Muskie
Baker	Hansen	Nunn
Bentsen	Hatfield	Packwood
Brooke	Hollings	Pearson
Buckley	Hruska	Pell
Burdick	Huddleston	Schweiker
Byrd, Harry F., Jr.	Humphrey	Scott, Hugh
Cannon	Javits	Sparkman
Case	Johnston	Stevens
Chiles	Laxalt	Stevenson
Cranston	Long	Stone
Curtis	Magnuson	Symington
Dole	Mathias	Talmadge
Eastland	McClellan	Tower
Fannin	McClure	Tunney
Ford	McGovern	Weicker
Garn	Metcalf	Williams
Glenn	Mondale	Young
Goldwater	Montoya	
	Moss	

NAYS—31

Allen	Fong	Proxmire
Bartlett	Hart, Gary	Randolph
Beall	Hart, Philip A.	Ribicoff
Bellmon	Haskell	Roth
Bumpers	Hathaway	Scott, William L.
Byrd, Robert C.	Helms	Stafford
Clark	Kennedy	Stennis
Culver	Mansfield	Taft
Domenici	McIntyre	Thurmond
Durkin	Morgan	
Eagleton	Nelson	

NOT VOTING—12

Bayh	Gravel	Leahy
Biden	Hartke	McGee
Brock	Inouye	Pastore
Church	Jackson	Percy

So the motion to lay on the table Division 1 of Mr. ALLEN's amendment was agreed to.

The PRESIDING OFFICER (Mr. BUCKLEY). The question recurs on division 2 of the Allen amendment.

Mr. ABOUREZK. Mr. President, I have an amendment to division 2 of the Allen amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) proposes an amendment:

On page 50, line 14, strike "616" and insert the following: Section 616 is amended to read as follows:

"§ 616. Acceptance of outside income.

"No elected or appointed officer or employee of any branch of the Federal Government may receive any salary, wage, or other income of any nature in excess of $15,000.00 per annum, other than Federal Government compensation established by law while serving as such an officer or employee. Violation of this section is punishable by a fine of $5,000.00.".

Mr. ABOUREZK addressed the Chair.

Mr. PACKWOOD. Will the Senator yield?

Mr. ABOUREZK. I yield.

Mr. PACKWOOD. As I understood, the amendment just offered is identical to the amendment upon which we just voted. It was a decisive vote. I plan to move to table this amendment. I do not want to cut anyone off, and I will withhold the motion for a moment.

I will make the motion to table. As I understand it, the amendment is identical to the amendment upon which we just voted.

Mr. ABOUREZK. As I understand, the Allen amendment had to be divided into two parts, and I offered my amendment to the second part similarly to the way I offered my amendment on the first part. If the Senator is going to move to table, the only reason this is being done is because of procedural limitations. It is the same thing as we had before.

Mr. PACKWOOD. I do not plan to ask for the yeas and nays unless some other Senator wants them.

Mr. ABOUREZK. I do not need a rollcall vote.

Mr. PACKWOOD. I do not want to cut anybody off, but if there is no discussion, I would move to table the amendment. I understand the motion to table would carry with it both division 2 of the Allen amendment and the amendment of the Senator from South Dakota to division 2 of the Allen amendment.

The PRESIDING OFFICER. The motion to table the Allen amendment would carry with it the Abourezk amendment.

Mr. PACKWOOD. I so move to table.

The PRESIDING OFFICER. The motion is to lay on the table.

The motion to lay on the table division 2 of the Allen amendment was agreed to.

Mr. PACKWOOD. I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, is it in order to move to reconsider the previous vote by which the motion to lay on the table division 1 of the Allen amendment was agreed to?

The PRESIDING OFFICER. It is in order.

Mr. PACKWOOD. I move to reconsider that vote.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 15, line 16, after the word "expenditures", insert the following language: "in excess of $1,000".

Mr. CRANSTON. Mr. President, unless this amendment is adopted, the following would occur under the bill as it is now before us:

If a local chamber of commerce invited a candidate for Congress to speak on behalf of his candidacy at its regular meeting, the chamber of commerce—local, State, or whatever—would have to attribute a portion of the cost of the meeting, rental of the hall, and the cost of the meal based on the number of minutes the candidate spoke, and then fill out a Federal form and file that in Washington.

If a local union business agent, going from job site to job site to settle grievances, took several minutes at each job site to urge union members to vote for a candidate, he would have to keep track of the actual number of minutes spent, figure the total cost of his time and transportation, and come up with a cost per minute figure, all of which he would have to report in writing with the Federal Elections Commission.

If the president of a small business, at a meeting of his management officers, urged them to work for the defeat of an antibusiness candidate, he would have to keep a record of his time and costs, and report the whole affair to the Federal Government.

The amendment I have offered would place a $1,000 threshold on this reporting requirement. It would remedy this intrusion into the normal activities of organizations and the enormous volume of paperwork involved, by assuring that the reporting requirement is confined to significant activities whose fundamental purpose is to influence the election of a candidate.

We have set up a Federal Commission on Paperwork to do away with needless paperwork, but if we do not watch carefully what we are doing here, we are going to create the most amazing proliferation of paperwork that one could imagine.

The language now in the bill has no threshold above which reports must be filed about efforts that may relate in only a very minor way or an insignificant way to an election. Every requirement in the bill except the particular requirement my amendment addresses itself to has a threshold. Without a reasonable threshold, every minute of an employee's time, every minute spent at a stockholders' meeting, every speech before a Rotary Club advocating the election or defeat of a candidate would have to be translated into dollars and cents and reported to the Federal Government. Every sentence in a letter from a union agent to union members, every line in an industry trade publication, every word in a political club's monthly newsletter which urged the election of a candidate would necessitate the filling out of a Federal form to be filed in Washington.

I think these consequences are intolerable, for three simple reasons:

First. This reporting requirement is a totally unnecessary intrusion of the Federal Government into the routine political activities of individuals and organizations.

Second. The amount of paperwork required to make these reports would be staggering and would particularly discourage the activities of volunteer political clubs and organizations, which are usually the only way the average citizen can be active in politics. I think that this time, when there is so much cynicism and despair about politics, is the very worst time to do anything more to discourage individuals from working together in political activities.

Third. The average small business, individual union local, or voluntary membership organization would find it technically very difficult and very troublesome to allocate costs so as to come up with an accurate dollars and cents figure for relatively insignificant communications and activities.

So I propose this amendment, in summary, to put a $1,000 threshold on the reporting requirement of the amendment offered to this bill by the Senator from Oregon (Mr. PACKWOOD). This would enable us to distinguish between significant political efforts by an organization and the routine expression by an organization of its political opinions.

We have a responsibility, I think, in all cases, to temper any Federal reporting requirements which could serve to harass or intimidate reasonable and legal private activities by individuals and groups, whether in political activities or any other type of activities. Particularly in the area of political expression, we want to be very sure we do not intimidate or discourage people from getting organized or involved in politics. This amendment is aimed at protecting the little company, the union local, the membership group, or whatever it may be. I think this amendment is important because there would be reporting of activities by such groups, and I urge the adoption of the amendment.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. NELSON. I would like to have the Senator respond to some questions for clarification in my own mind.

Do I correctly understand that the pending legislation requires that a businessman or a union member keep track of time spent supporting a candidate, or is that a regulation of the Federal Election Commission?

Mr. CRANSTON. Let me read to the Senator from line 11, page 15 of the pending bill, which will stand if the bill is passed without my amendment or some similar language:

A corporation, labor organization, or other membership organization which explicitly advocates the election or defeat of a clearly identified candidate through a communication with its stockholders or members or their families shall, notwithstanding the provisions of section 301(f)(4)(C), report such expenditures under paragraph (1) to the extent that they are directly attributable to such communications.

That means that someone working on union time or business time, putting out a communication to stockholders, a communication to members of a labor union, communications to members of any organization, business, labor, or private, would be required to count whatever time or money was spent. If they put out a mailing, a newspaper to union members, or a bulletin to stockholders—and this would include verbal communications—advocating the election of a candidate, they would have to figure out that cost and report it.

Mr. NELSON. This applies to corporations and businesses of all kinds?

Mr. CRANSTON. It applies to a corporation, labor organization, or other membership organization. That could be the members of Sierra Club or other organization?

Mr. NELSON. Does it apply to all of the members of Sierra Club or other organization?

Mr. CRANSTON. It would apply to a communication made to the members, so that if a member speaks as an individual to the group advocating a candidate or if the organization sends out a mailing to its members, that would count. Certainly if an official, particularly a party official, communicates in any way in behalf of a candidate, that would count.

Mr. NELSON. So the Senator is saying that his interpretation of this provision in the bill is that a member of the Sierra Club or any other association who went out on his own time, in the evening, to speak in behalf of a specific candidate, would have to do this?

Mr. CRANSTON. I think it is unclear as to an individual member working on his own time. But any official of the business group or the organization as well as anyone paid by a union, the chamber of commerce, and so forth, who spoke or who says in an official publication representing the organization, a publication which may consist of 99 percent of something else, but in 1 point "Reelect Senator NELSON," that would count.

Mr. NELSON. Then is it the Senator's interpretation that it has to be a paid employee or owner?

Mr. CRANSTON. It is not clear. I suspect that might be the way that it would be interpreted, but the language is not clear in the bill as written.

Mr. NELSON. Simply for my own information and clarification I shall ask: If there is a small business which is incorporated, with two owners, who are husband and wife, and they run a little business operation of some kind, are they covered by that?

Mr. CRANSTON. Yes; if it is a publication of a corporation or small business, a communication to their members or stockholders.

Mr. NELSON. I understood the Senator to say if they spoke in behalf of the candidate.

Mr. CRANSTON. If an official speaks, or if a labor union member speaks on union time.

Mr. NELSON. No; I start out with a case of a small corporation, say a little business incorporated with two or three owners.

Mr. CRANSTON. All right.

Mr. NELSON. They do not have any publication, but the owners decide to take time off, go out and peddle literature, go to meetings, and speak in behalf of the candidate. Are they required to report that as a contribution?

Mr. CRANSTON. To members of his group, yes; to the general public, no. Let me add this point. Even a volunteer, after he came to a meeting and spoke, would have to figure out the cost of the meeting, the hall, food served, and so forth, and allocate that. If 5 minutes were taken by someone who was allowed a platform to advocate some candidate, then the cost of 5 minutes' worth of that meeting becomes an attributable, reportable cost.

Mr. NELSON. So if the League of Women Voters has a meeting, and they invite candidates, as is their practice, to invite candidates to come and respond to questions expressing their views——

Mr. CRANSTON. They have provided a platform for the advocacy of the election of a particular candidate. The cost of that meeting to that extent would have to be allocated under this bill as written.

Mr. NELSON. In the course of the activities of the league, they are not endorsing, but it is the practice to invite candidates for Congress, from both parties, candidates for State legislatures, from both parties, mayors, city councilmen, aldermen. Now they have a league meeting, and all of these candidates come. Does the league then have to report that they provided the facilities, and so forth, for a candidate to speak in his own behalf or someone else in his behalf?

Mr. CRANSTON. The interpretation of the counsel of the Committee on Rules and Administration of this language, as written, is yes, that would have to be reported. It is similar to providing a billboard so a candidate's name can be blared forth. That is obviously a campaign expense. This is the same. It is a meeting provided as a platform for advocacy of an election of a particular candidate.

Mr. NELSON. It sounds like an act of insanity on our part to include such a provision in legislation. What are we trying to do?

Mr. CRANSTON. I do not think that it was intended to be that broad, but that is as broad as it appears to be. That is why I am offering an amendment in a moment of sanity on my part.

Mr. NELSON. Let me pursue this a little further. So the league is going to have to report, and if the amendment of the Senator from California is adopted, then, in this particular case, the league would have to keep track of all time. At such stage as they shall have computed the cost for the contribution to reach $1,000, then they have to report even under the Senator's amendment. Is that correct?

Mr. CRANSTON. No; under my amendment if there was one meeting or one communication that could be interpreted as having a value of $1,000 that would have to be reported. But there would not be an accumulative aggregate building up.

Mr. NELSON. How is the value of the meeting determined?

Mr. CRANSTON. They have to compute the cost. Any rent for the hall, any cost of the utilities that had to be paid, any expense for food and alcoholic beverages served.

Mr. NELSON. Then if a member, let us say an employee of the union, a union officer, goes to a meeting of another union, or goes to a meeting forum of any kind——

Mr. CRANSTON. A meeting of his union. Forget about another union, because that apparently would not count. But a meeting of his union members on his union time, that would be reportable.

Mr. NELSON. So if the president, secretary-treasurer, business agent, or anyone who is employed by the union, makes a speech at a union meeting, saying, "I, president of this union, believe that we ought to elect so and so," that is chargeable?

Mr. CRANSTON. Right.

Mr. NELSON. How do we compute the cost there? Do we have to take the value of the hall?

Mr. CRANSTON. We have to find out the value of the hall any utility bills they have to pay, the lighting for the particular moment he is speaking, his salary, and how much time out of his 8-hour or 12-hour day he took for this particular purpose. If he gave a 30-minute speech for one candidate, then that much is charged. If he mentioned his name and took a couple minutes, he still would have to calculate the value of that.

Mr. NELSON. That is something.

Then, if he gives a half-hour speech, he has to compute what his hourly rate of pay would be if he translated his salary into an hourly rate; is that what the Senator is saying?

Mr. CRANSTON. Right.

Mr. NELSON. This union official in this case goes to a meeting at night. There is a rally, say, called in the labor temple. A thousand people come. They are having the candidate there, and the union official is there. It is in the union hall, and the union official gives a speech. Even though it is in the evening and everyone comes on his own time, he has to compute that as a contribution?

Mr. CRANSTON. I would assume that it would be considered part of his official work. He might have his travel expenses paid, and he might be paid for whatever he spent on parking and for his meals, and so forth. The union, presumably, would pay something for the use of that hall. Therefore, all of that would have to be computed and reported.

Mr. NELSON. Then, when a corporate president, such as Mr. Geneen, whose salary the last time I knew it was $750,000 a year, gives a brief speech to his executives, he would have to compute out the 8 hours a day and divide it into this $750,000 and compute his computation that way; is that right?

Mr. CRANSTON. Yes; if that were a $250,000 board room or some meeting in the Bahamas or some convention in Bermuda, he would have to calculate all the costs of the very expensive board room, or the cost of the trip to Bermuda, or wherever the pitch was made, for a candidate.

Mr. NELSON. This does not apply to lawyers, I take it, who represent corporations or represent unions, or does it? Suppose a lawyer has a retainer from General Motors and another one has a retainer for the AFL–CIO, as a lawyer, but he goes out and does some campaigning. Is he covered?

Mr. CRANSTON. That is not clear. If a lawyer made a communication to a 40-member law firm saying, "I think we all ought to support so and so," that would count.

Mr. NELSON. Even though the law firm is not incorporated?

Mr. CRANSTON. It would not matter whether it was incorporated or not.

Mr. NELSON. So if one of the members of the law firm had a strong conviction about a candidate and decided to send a letter to members of the law firm, the secretaries, manager of the office, and so forth, writing it on his own time and saying this, "I think you ought to vote for so and so and here is the reason," that counts?

Mr. CRANSTON. He would have to tell Uncle Sam how much all of that cost in writing, filing it here in Washington.

Mr. NELSON. Then under the amendment that the Senator from California has offered, the provisions of this section would not be triggered, so to speak, until such time as this individual or this organization had made a contribution equivalent to $1,000 or more?

Mr. CRANSTON. An expenditure, an effort, or an endorsement that costs $1,000.

I should like to add that anybody who did not manage to comply with this law as it is now written would be subject to a $5,000 fine, even if they did not report some very penny-ante expenditure which was covered under this law.

Mr. NELSON. Nevertheless, even under the amendment of the Senator from California, all these thousands and thousands and thousands of people in the country will have to start keeping a personal written record, so that they will know when they get to a thousand dollars.

Mr. CRANSTON. Most people do not spend a thousand dollars on a particular event. Most groups do not. But if they do, they will be pretty conscious of it, I think.

If I spent $30 today, $40 tomorrow, and $50 the day following, I would not have to add all that up. Under my amendment, it would have to be an action, a meeting, a communication that cost at least $1,000 before it would have to be reported.

Mr. NELSON. I am curious. Why does the Senator not offer an amendment to knock out the entire section? It strikes me as a preposterous, bureaucratic interference with the activities of people. It is totally unmanageable. I think we should have the paperwork commission that is now studying Federal paperwork study this matter and give us a report before we put such stuff in the statutes, with criminal penalties.

Mr. CRANSTON. I say to my colleague that this section was originally offered as an amendment by the Senator from Oregon. I voted against the amendment, but it prevailed by a fairly reasonable margin, not overwhelming. It is, therefore, the will of the Senate. I do not think the Senate understands exactly the consequences of this section. We analyzed it and found that these were the real implications. Maybe the Senate would reverse itself. But since the Senate adopted it, I offered an amendment which I thought was a reasonable compromise with the will of the Senate as expressed in the vote the other day.

Mr. NELSON. I must say that the matter puzzles me. I may have some more questions, but I will be happy to step aside momentarily, while the Senator from Louisiana makes whatever inquiries or observations he desires.

Mr. JOHNSTON. Mr. President, I have one question, if the Senator will yield.

Mr. CRANSTON. I yield.

Mr. JOHNSTON. The section sought to be amended speaks of a communication, and therefore the thousand-dollar limit would define or limit the cost of a communication. The Senator means, I take it, to make the duty to report a cumulative duty; so that if an organization or a corporation sent a series of mailings of which the individual cost was less than a thousand dollars but the cumulative cost was more than a thousand dollars, there would be a duty to report.

Mr. CRANSTON. The answer is "No." We felt that for the reasons developed pretty well by the Senator from Wisconsin in his questions, it would be an intolerable burden to keep track of a number of actions that would be very minor, communications that might be very insignificant in size and in cost, but which eventually could add up to a thousand dollars over the course of a year-long political campaign. Those of us who drafted the amendment I have offered felt that we should just limit it to a single action which cost $1,000 and have that as the threshold.

Mr. JOHNSTON. Suppose someone puts out a mailing on Monday to the A's which cost $999, and did that for 26 days in a row, at a total cost of $25,000——

Mr. CRANSTON. Very plainly, that would be a deliberate evasion of the law, and that would count as one communication.

Mr. JOHNSTON. By what test does the Senator determine one communication or a series?

Mr. CRANSTON. I should think that it would be the test of reason. If you start with the letter "A" and mail the letter "B" the next day, that might be because you do not have the capacity to mail the entire alphabet in 1 day.

Mr. PACKWOOD. Mr. President, will the Senator yield? I could not hear the Senator.

Mr. CRANSTON. The Senator from Louisiana was asking about somebody trying to get around this by just mailing the letter "A" one day, costing $900, and the letter "B" the next day, costing $800, as to whether that would have to be reported. I say that it would have to be reported. That obviously would be a single communication, even though it were done on different days.

Mr. PACKWOOD. Suppose it is the letter "A" today and a telephone solicitation tomorrow?

Mr. CRANSTON. I am not certain. Perhaps the Senator from Wisconsin has a wiser idea: We should eliminate the entire section and not be faced with such knotty questions.

Mr. PACKWOOD. Do I correctly understand the Senator's initial presentation to be—in looking at his sheet, I see reference to the chamber of commerce—that he contends we are imposing this intolerable burden of reporting on little organizations that communicate with their members and that that is unfair? Is that the thrust of the Senator's amendment?

Mr. CRANSTON. Will the Senator repeat the question?

Mr. PACKWOOD. As I read the Senator's examples—the chamber of commerce, the local union, the president of a small business—we are imposing upon them an intalerable recordkeeping burden, to see that they do not make communications that are valued at more than a hundred dollars.

Mr. CRANSTON. Yes, I think that is an intolerable recordkeeping burden.

Mr. PACKWOOD. I am curious. Is it not true that under the present law, the law that was in effect before 1974, every organization that communicated with its members specifically advocating the election or defeat of a candidate had to report it as a contribution, with the exception of corporations and unions, which were exempt by the law? That has been the law, that is the law, and we have made no change, and this has existed in the past.

Mr. CRANSTON. Perhaps we have to look at that, too. I am concerned with this particular provision in this amendment, which plainly—on page 15, line 11, section 2—does what I stated it does.

Mr. PACKWOOD. The present law is that any organization that communicates with its members, advocating the specific election or defeat of a candidate, must report that as a contribution now—and that has been the law for years, with the exception of unions and corporations communicating with their members or with their shareholders. We then added this amendment last week, the so-called Packwood amendment, imposing upon unions and corporations the same thing we have imposed upon every other organization in this country for years.

Mr. CRANSTON. May I say that I believe the Senator is wrong. The present law does not include—this is section (c)—any communication by any membership, organization, or corporation to its members or stockholders, if such membership, organization, or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to office.

Mr. PACKWOOD. Read the section about contributions—specifically, paragraph (f).

Mr. CRANSTON. I did not hear the Senator.

Mr. PACKWOOD. Specifically, paragraph (f), the definition of "contribution."

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Do I correctly understand that the Cranston amendment is a perfecting amendment to the Cannon substitute?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Would a substitute to the perfecting amendment of the Senator from California be in order?

The PRESIDING OFFICER. In the second degree, the amendment would be in order.

Mr. BUMPERS. Mr. President, I send such substitute to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment in the nature of a substitute to the Cranston amendment:

Substitute for the language of the Cranston amendment the following:

On page 15, line 18 of Amendment 1516, strike the period and add the following: "*Provided, however,* That such expenditures need not be reported with respect to any candidate unless they exceed $1,000 with respect to that candidate."

The PRESIDING OFFICER. The Chair advises the Senator that since the amendment adresses itself to a line other than that of the pending amendment, it would not be in order as a substitute.

Mr. BUMPERS. The Senator understands. I will attempt a redrafting.

Mr. JOHNSTON. Mr. President, will the Senator from California yield for a question?

Mr. CRANSTON. I yield.

Mr. JOHNSTON. Suppose someone had a phone bank situation in which, for a period of 30 days, let us say, he hired a building, rented telephones, paid employees on a weekly basis, and had utility expenses and other incidental expenses—coffee, all those things that go with the operation of a phone bank. All of these bills would come in separately, the payroll checks would be paid separately. Would we aggregate those expenses and treat them as a one-time expense for the purpose of the $1,000 limitation? Would it be on a daily basis? Would we characterize the expenditures? Just how would we handle that?

Mr. CRANSTON. I am not certain. That is one of the problems. I think we would just have to make a reasonable effort to calculate what were the costs involved in the particular action at the particular time it was taken.

Mr. JOHNSTON. I am inclined to agree with the Senator from Wisconsin that, rather than making this more simple, I think it might create an even greater burden. Maybe we ought to just do away with the whole provision—either that or get one we can interpret and not get into trouble every time we try to make a decision as to what it is all about.

Mr. CRANSTON. If the Senator wishes to offer an amendment to that effect,

I shall certainly not be unhappy with the Senator. I explained why I offered my approach, because the Senate did vote for this section the other day. I think it is increasingly clear that the Senate did not understand all the implications. Certainly, I did not at the time even though I voted against it. I did not realize it was quite as bad as I now find it to be.

Mr. DURKIN. Will the Senator yield?

Mr. CRANSTON. Yes.

Mr. DURKIN. With the Senator's amendment, he relieves anyone of the reporting requirements?

Mr. CRANSTON. Up to $1,000.

Mr. DURKIN. Up to $1,000?

Mr. CRANSTON. Yes.

Mr. DURKIN. It seems to me, and this is a question, does that not still impose on each and every group the requirement to keep records and to set up some sort of compliance system so that they can establish the facts, if accused by the FEC in a criminal proceeding of exceeding $1,000?

Mr. CRANSTON. I should think most small groups—a local union, a small chamber of commerce, a small business—would seldom engage in a single activity that would be likely to cost $1,000. Therefore, I should not think they would have to be keeping such records. But any fairly large organization whose efforts reach any substantial number of people and whose expenditures might be in the proximity of $1,000 would have to keep records to make sure they are not in violation of the law.

Mr. DURKIN. Again, I think I agree with the thrust of the amendment, but I still think it falls short to where we are imposing a nightmare situation on an awful lot of small groups who want to express their rights and their feelings under the first amendment.

Mr. CRANSTON. Three Senators have now suggested that I do not totally cure the problem. If one of those Senators wishes to offer an amendment to strike the whole section that I am seeking to amend, that might be an appropriate procedure.

Mr. PACKWOOD. Mr. President, back to the point I made again, for the purpose of the definition of a contribution to a political campaign, I am quoting from section 431(d) "political committee," and then (e) "contribution means." Those are the definitions of contribution. "Contribution means a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing the nomination for election or elections"—then it goes on. "Anything of value." That means that if the Red Cross or the Boy Scouts send out to their membership organization a statement that says, "Vote for Packwood," or "Vote for Culver," under the present law—and the law was in effect before 1974—that is a contribution and that must be reported. Except, under the present law, subsection (F) says "any payment made or obligation incurred by a corporation or a labor organization in communicating with their members or shareholders."

We have lived with this law for years. It has not caused intolerable burdens on little organizations. We have not seen the Boy Scouts or the Red Cross prosecuted yet under the existing law. I ask the Senator from California, if there has been no intolerable burden in the past in terms of what a contribution is, why is this Packwood amendment, offered last week to apply the same standard to unions and businesses, suddenly causing an intolerable burden on these organizations that have never felt burdened before?

Mr. CRANSTON. Do they have to report that now?

Mr. PACKWOOD. Under the present law, that is correct.

Mr. CRANSTON. The Senator did not read the whole paragraph. I am looking at the same paragraph, which reads:

(F) Any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 601 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization;

I repeat, "would not constitute an expenditure."

Mr. PACKWOOD. All that section does is exempt labor organizations and corporations from the other limitations in the definition of section (e) "contribution."

Mr. CRANSTON. If it is the Senator's judgment that they have to report under present law, why is his amendment required?

Mr. PACKWOOD. Because my amendment applies to corporations or unions, that are exempt from the present law when they communicate with their members. I am simply trying to apply the same law to them that has applied to every other organization from time immemorial.

Mr. CRANSTON. Presently, a political club that makes an endorsement to its members does not have to report to the Federal Government.

Mr. PACKWOOD. It is a contribution. It has to be reported.

Mr. CRANSTON. It is not a contribution. Where is the definition in the present law that makes that a contribution?

Mr. PACKWOOD. All right. Is the Senator looking at a yellow book?

Mr. CRANSTON. Yes.

Mr. PACKWOOD. On page 10, start at the top "(e) contribtuion" means, and it lists what contributions are. Now, if a political club makes a $1,000 contribution to a Packwood for Re-Election Committee, that is certainly a gift, subscription, loan, advance, or deposit of money or anything of value and that is certainly a contribution within the present law.

Mr. CRANSTON. Where is a communication by a political organization to its members covered by page 10 language?

Mr. PACKWOOD. Under (A). It is a contribution in kind, something of value.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. For what purpose does the Senator rise?

Mr. BUMPERS. I am trying to help both the Senators on the floor now by offering another substitute.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. BUMPERS. Will the Senator yield for the purpose of my offering a substitute?

Mr. PACKWOOD. I shall yield for the purpose of hearing what it is. I am not sure I shall yield for the purpose of the Senator's offering it. If he will tell me first what it is, maybe then I shall yield.

Mr. BUMPERS. This would be a substitute to the Cranston perfecting amendment which would, after the words "in excess of $1,000," add the following: "In the aggregate, during the calendar year, with respect to a particular candidate." That would not eliminate all of the problems in this. I am not sure it would make this even palatable to me, but I will say that it eliminates what I perceive to be loopholes wide enough to drive a wagon and team through. This would at least limit the amount of support any of these organizations could give a candidate in a year to $1,000; that is, without reporting.

Mr. STONE. Will the Senator yield for a very brief observation?

Mr. BUMPERS. I still do not have the floor.

Mr. PACKWOOD. I shall yield in a minute. Let me respond to the Senator from Arkansas first.

I frankly prefer his amendment to that of the Senator from California, because at least it is talking about an aggregate amount for a year. I want to make sure that it does not read "per candidate per year" so that an organization—let us take New York with 38 Congressmen. A corporation or a union could say, $1,000 a year per candidate; that is $38,000; we do not have to report it. And off they go with $38,000 for a year.

I want to come back to the definition of "contribution" as "gift, subscription, loan advance, or deposit, of money or anything of value" and make the point that this is all presently in the law. It is being imposed on all kinds of organizations except unions and businesses today. They have lived with it, they have survived. The country has not collapsed; music is still written, symphonies are still played.

I yield to the Senator from Florida.

Mr. STONE. The Senator from Florida wanted to comment about all these amendments and about the bill in general from the point of view of the experience of the Senator from Florida as chief election officer of our State for some 3½ years prior to service here. The Senator from Florida is disturbed that this body may be seeking to require the kinds of disclosures that are almost impossible accurately, fully, and appropriately to require be disclosed. If we go too far in requiring the kinds of disclosures of intangible in kind support, we are going to end up getting a total avoidance and ignoring of the law and its requirements. It will be a bootleg situation. It will be just like prohibition, as well as making it almost an offense—ethical, moral, and legal—to support anyone who wants to run for office.

I think we really have to take a hard look and aim toward a "who-gave-it" and "who-got-it" approach of the tan-

gibles, of the measurables, of the things that traditionally are reported and need to be reported because if we go very much farther in terms of Sam comes up to Joe and say, "I would like you to support our friend Bill," and then he has to file a report we are just going to wreck the entire election reform trends in the country. That is what disturbs me about all of these provisions.

Mr. PACKWOOD. There are a number of things that the Senator and I know about. In the Oregon Legislature I served on the election committee for 6 years, and I know the problems the Senator is talking about. If you drive your friend running for the State legislature around the State in your own car, is that a contribution?

Mr. STONE. That is right. If you stop at a parking meter, do you have to stuff a voucher in the meter? You can carry this thing too far.

What we need is the kind of disclosure of the money expenses, of the money contributions, of the kind of inkind contribution that would be a billboard or something measurable in a reasonable way.

When we go so far as to require reporting of just oral presentations, I think we are going to—well, you know, there used to be a device in our legislature for killing a bill. It is called sweetening it up. If you sweeten it up too much and it gets impossible to swallow, that is what worries this Senator.

Mr. PACKWOOD. I am very happy with the compromise agreement the leadership worked out, and I would be happy to take it with no amendments. But I am curious—and I frankly say to the Senator from California—as to why it is offered. This applies not only to individuals but it applies to corporations. If we are worried about the poor little individuals, they still have to report if they give $100 or more, and if they give it to two or three candidates in terms of time we have to evaluate it. We do not seem to worry about the little, tiny contributor in this amendment. What we worry about are the organizations and, specifically, the unions and the business organizations which will now be required to allocate up to $1,000.

If they do not allocate that much, they do not have to report it when, in years past, we required all other membership organizations to report contributions of up to $100. I frankly think the amendment is being offered to make a gigantic loophole in the amendment the Senate accepted last week, and what is it worth for a union business agent as he goes around his normal duties to also at the same time pass out perhaps a bit of literature; what is it worth to have a corporate vice president who, in the course of his vice presidency visiting around the State, is doing a little politicking on the side.

Mr. STONE. Will the Senator answer how it is worded so as to be able to allocate the time and prorate it in his report, the same thing as a business executive going around?

Mr. PACKWOOD. I can tell the Senator what the Federal Election Commission did in a ruling that was filed January 19. Thirty legislative days have passed, and it is now in effect, and here is what it says:

> General Rule. Expenditures made on behalf of more than one candidate shall be attributed to each candidate in proportion to the benefit each can be reasonably expected to receive.

The Senator asked about the Federal Election Commission. This ruling was set before the Senate on January 19 and none of us has done anything about it.

Mr. STONE. The Senator does not want to ask the Election Commission what the value of that benefit would be and that is almost impossible to ascertain. What the Senator from Florida is looking for here is the "who-gave-it" and "who-got-it" kind of reporting that makes sense, that can be enforced, that will not impose a totally speculative burden on the ordinary citizen who happens to be a member of an organization and wants to support someone for office. We all want to support someone for office.

Mr. PACKWOOD. We all knew specifically when we voted on this amendment last week and it passed 50 to 42 what we were directing ourselves at. We were not directing ourselves at the Boy Scouts or the Red Cross, which have lived with this apparent problem for years successfully. We were aiming it at corporations who use corporate money to solicit stockholders or their corporate officers to vote for or against people, or union telephone banks, union mailings by the hundreds of thousands to their members.

Mr. STONE. The Senator would completely agree with the Senator from Oregon on that, and I think the Senator from California's proposal is directed at that kind of an operation, phone banks, massive mailings.

But what the Senator from Florida gets a little bit disturbed about is the reach of a provision that might require an estimated reporting of the value of somebody's time while he is doing something else.

Mr. PACKWOOD. And my fear also is when you get——

Mr. STONE. Why can we not tailor this provision to avoid that?

Mr. PACKWOOD. When you get to the telephone bank, and it is set up and frankly, I have had some experience—when I was Republican chairman in Oregon in Multnomah County I had been involved in some union telephone banks when they were supporting some of the Republican candidates, and I sat in the basement of the Labor Temple and watched the banks work all day long, banks of telephones put in there, paid for by the union, calling up their members, and if this is not a contribution, I do not know what is.

Mr. STONE. Surely it is, but is that not worth $1,000 or more?

Mr. PACKWOOD. It depends. What I am curious about, because up until this time it has been exempt, it does not have to be reported at all, but I am a little worried about the answer of the Senator from California when, in response to the Senator from Louisiana "What about a mailing done on Monday, you can figure its value worth $900; and another mailing on Tuesday worth $900," he answered that is one communication.

Well, I can find a great number of ways to get under this $1,000, and I can find all kinds of subcommittees to set up at $900 a day and call it a continual communication and subvert the intention of this amendment.

Mr. STONE. No question that there are ways to round and "loophole in" any provision, and I think if the Senator from California seriously presses his amendment—which, I think he is doing—he should make it clear that the $1,000 he refers to is cumulative as opposed to—cumulative for any candidate as opposed to—a ceiling on any one communication. Obviously that would be a loophole big enough to drive a number of elephants through.

Mr. PACKWOOD. What the Senator is saying is that this amendment should indicate the $1,000 is cumulative for any Federal election that year not per candidate per year.

Mr. STONE. Well, I am not writing his amendment, but certainly——

Mr. PACKWOOD. No, but the Senator——

Mr. STONE. But what I think we should be doing, what the Senator from Florida thinks we should be doing, is requiring disclosure that is disclosable, that is readily disclosable, that is enforceable, that is reasonable, but we should not be so loading this bill down, and certainly not by floor amendments or by hastily drawn unreviewed provisions with the kind of required disclosure that it is impossible to do or very unlikely to do, and that all we would thereby accomplish would be to create the likelihood of abuse by the enforcement of it.

Mr. PACKWOOD. What I am intrigued with is why this amendment is offered. I come back to the original point I made which is how we have been able to live with this law for years.

Mr. STONE. Probably by not observing it.

Mr. PACKWOOD. No, probably by virtue of the fact that all of these organizations found a way to observe it, and we exempted unions and business so they do not have to observe it. Now we are saying we are going to make them observe the same law that the Boy Scouts have to observe, and you would think we were bringing the skies down.

Mr. STONE. Does the Senator know of any endorsement of political candidates by the Boy Scouts?

Mr. PACKWOOD. No, nor by the Red Cross or most other such associations.

Mr. STONE. That is why such associations were able to live with it. They did not have to do anything about it.

Mr. PACKWOOD. Here is an example that the Senator from California uses. The local chamber of commerce invites a candidate for Congress to speak on behalf of his candidacy. Well, the amendment that I had offered specifically says this: "Except that expenditures for any such communication which expressly advocates the election or de-

feat of a clearly identified candidate must be reported."

The chamber of commerce at its annual, monthly, or weekly meeting——

Mr. STONE. It is not advocating the election or defeat of that candidate.

Mr. PACKWOOD. It is not advocating the eleotion or defeat of a candidate, and yet this is the example of things he uses to be reported.

If the local union business agent going from job site to job site settling grievances talks to several members about candidates both of those within the Federal Election Commission opinion are de minimis and they would not be reported now.

I just do not understand what the overwhelming concern is of the Senator from California at this late moment.

Mr. STONE. What the Senator from Florida is concerned about are exactly those two words that the Senator from Oregon has just referred to, de minimis. Let us monitor what we are putting into this compromise bill to make sure that you do not load it down with de minimis reporting and, thereby, ruin the whole thing, and set up a wave or a backlash of protest that will have us coming in here after this election, this current election, and repealing all the disclosure requirements that have been built into the reform legislation now on the books.

That is the only concern of the Senator from Florida.

Mr. CURTIS. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. CURTIS. I disagree with the approach of the Senator from California and the Senator from Florida.

The amendment offered by the distinguished Senator from Oregon is understandable, it is reasonable, it is specific.

If a labor organization or a corporation directly and overtly spends money to promote the candidacy of a candidate, they have got to report it, is that not all that is involved?

Mr. PACKWOOD. All that is involved.

Forget the other small organizations for a moment. All we are imposing, when it is not a straight-out cash contribution, is to have the same kind of allocation we impose on individual citizens in Poughkeepsie, Tulsa, and anywhere else. If they give $100, they have to do it. But we are told it is an insurmountable burden for a corporation or union to figure out.

Mr. CURTIS. I hope no one will be misled by that sort of smoke screen.

The individual who is against disclosure has a right to his position and would be more forthright to oppose this on the ground that one does not want disclosure than it is on the ground that it is going to harm some innocent organizations that are not in the business of promoting a candidate.

I think the Senator is to be commended.

The Supreme Court in the *Buckley* case made a great deal of the fact of the virtue of disclosure, that there should be complete disclosure, and that that was the only way one could bring about complete and accurate reporting.

It also made mention of the principle that through disclosure the problems would solve themselves because the general public would insist upon proper actions.

I believe that the efforts of the Senator from California and those who support him are very detrimental because they are tearing down the requirement of reporting what one spends in a direct effort to elect or defeat a candidate.

I support the Senator's amendment. I commend him for it.

Mr. PACKWOOD. Trying to enlarge the loophole a bit to get more in without reporting.

Mr. CURTIS. Correct.

Mr. PACKWOOD. I do not think corporations ought to have that privilege. The Boy Scouts do not have it, and I do not think the unions should have it.

The PRESIDING OFFICER (Mr. CULVER). Who yields time?

Mr. CANNON. Mr. President, is the time controlled?

The PRESIDING OFFICER. No; the time is not controlled.

Does any Senator seek recognition?

Mr. CANNON. Mr. President, I just wish to comment on this issue.

I think the Packwood proposal as it is now is completely unreasonable in that lem. There ought to be some kind of a triggering provision to require reporting.

We have that in all of the other exemption provisions.

The Senator says that we do not provide any other exemptions. He is relating now to the communication of the corporations and the labor organizations. But let us take a look and see what we have done with triggering with respect to other matters.

Consider for example the definition of expenditure. An expenditure means a purchase, payment, distribution, loan, advance, deposit, or gift of money, or anything of value, made for the purpose of influencing the election, and so on. But does not include—then we have the exemption provision:

(A) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(B) nonpartisan activity designed to encourage individuals to register to vote, or to vote;

(C) any communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office;

(D) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities if the cumulative value of such activities by such individual on behalf of any candidate do not exceed $500 with respect to any election;

We have a triggering figure there, of $500 in that exemption.

The next is:

(E) any unreimbursed payment for travel expenses made by an individual who, on his own behalf, volunteers his personal services to a candidate if the cumulative amount for such individual incurred with respect to such candidate does not exceed $500 with respect to any election;

We have a triggering provision there.

We have a triggering provision back in the definition of contributions itself where we exclude the value of the services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee.

We also have an exclusion:

(B) the use of real or personal property and the cost of invitations, food, and bevages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

So that is excluded from the term of a contribution.

Also, the exclusion:

(C) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

We have all kinds of exclusions, both with respect to a contribution and on expenditure—what is deemed an expenditure.

I think it is reasonable that we have—and we do have—some kind of a triggering provision.

The $500 limit was the area that was used in these other exemptions. Maybe that is a reasonable triggering figure rather than the $1,000 of the Senator from California. I do not have a strong feeling there.

Mr. PACKWOOD. Will the Senator yield?

Mr. CANNON. Just let me finish this to get it all at one point.

Then we have a blanket exclusion where we say:

to the extent that the cumulative value of activities by an individual on behalf of any candidate under each of clauses (B), (C), and (D) does not exceed $500 with respect to any election;

We have all those triggering provisions and every one of them is based on a floor of some sort, and those are $500.

I do not know whether it is reasonable here to say $1,000 or $500. But I certainly believe that we should not have to allocate every single item that we do, that the court has already said that corporations or unions can do in communication with their membership, to try to allocate a value to it and report that value when it is an item of a de minimis nature and an undue burden, certainly, on small organizations.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Is the chairman suggesting that the limit, the threshold on individuals is $500 and that they can go up to that amount without reporting?

Mr. CANNON. No, not at all.

I was suggesting exactly what the law says here, and I think the Senator is familiar with that.

This defines the extent to which certain types of services can be contributed without being considered a contribution.

Mr. PACKWOOD. Travel, cocktail parties in one's home?

Mr. CANNON. Certain types of services that can be expended for without being considered an expenditure if they do not exceed $500.

Mr. PACKWOOD. But apart from those very limited exceptions, even under the bill it is $500 and beyond that one has to report it?

Mr. CANNON. Right.

Mr. PACKWOOD. If one goes out and spends on behalf of a number of candidates, according to the ruling I read a moment ago, filed January 19, one has to apportion that and figure out how one spent one's time.

Mr. CANNON. The contributor does not have to report it; the recipient does.

Mr. PACKWOOD. There is no way he can report it unless the contributor says he did it.

I go out, using my own time as an individual, and I do $150 worth of activities that are genuinely reportable. There is no way the recipient will know it unless I tell him.

That is the $100 threshold.

Second, the chairman makes reference to the fact that my amendment has no threshold. It has a $100 threshold. It is the same threshold we apply to everybody else. I do not know why it is any harder for a corporation to understand than it is an individual. It is probably easier for a corporation and easier for a union than an individual.

I come back again to the point I have made consistently: Every other organization with the exception of unions and corporations have had to comply with this communication to their members concept for years. That is not a new provision in the law. It has not caused hardship. They have figured out a way to live with it. I do not understand why it is going to cause such a hardship with corporations and such a hardship with unions.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California.

Mr. PACKWOOD. I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered and the clerk will call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Rhode Island (Mr. PASTORE), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), and the Senator from Rhode Island (Mr. PASTORE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The result was announced—yeas 36, nays 49, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—36

Allen	Garn	Ribicoff
Baker	Griffin	Roth
Bartlett	Hansen	Scott, Hugh
Beall	Hatfield	Scott, William L.
Bellmon	Helms	Stevens
Buckley	Hruska	Taft
Bumpers	Laxalt	Talmadge
Chiles	McClellan	Thurmond
Curtis	McClure	Tower
Dole	Morgan	Weicker
Domenici	Packwood	
Fannin	Pearson	
Fong	Percy	

NAYS—49

Abourezk	Hart, Gary	Moss
Bentsen	Hart, Philip A.	Muskie
Brooke	Haskell	Nelson
Burdick	Hathaway	Nunn
Byrd, Harry F., Jr.	Huddleston	Pell
	Humphrey	Proxmire
Byrd, Robert C.	Javits	Randolph
Cannon	Johnston	Schweiker
Case	Kennedy	Sparkman
Clark	Long	Stafford
Cranston	Magnuson	Stennis
Culver	Mansfield	Stevenson
Durkin	Mathias	Stone
Eagleton	McGovern	Symington
Eastland	Metcalf	Tunney
Ford	Mondale	Williams
Glenn	Montoya	

NOT VOTING—15

Bayh	Gravel	Leahy
Biden	Hartke	McGee
Brock	Hollings	McIntyre
Church	Inouye	Pastore
Goldwater	Jackson	Young

So the motion to lay on the table was rejected.

Mr. BUMPERS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DURKIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I send to the desk an amendment.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUMPERS. Mr. President, I send to the desk an amendment to the amendment proposed by Mr. CRANSTON to S. 3065.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an amendment:

After "$1,000" in the matter proposed to be inserted insert the following: "per candidate per election".

Mr. BUMPERS. Mr. President, this amendment simply provides that instead of only allowing a contribution of $1,000 on separate days or per communication as that section now reads, a communication could mean any number of things. As I stated earlier in a colloquy with the Senator from California, I felt that this left a loophole big enough to drive a wagon and team through. My amendment simply states that these organizations need not report contributions up to $1,000 as long as they are limited to $1,000 per candidate per election.

In the Cranston amendment as it now stands, if we leave it per communication, that would mean, for example, that an organization could have a small banquet some evening and, as long as the cost did not exceed $600 or $800 for a candidate, it would not be reportable. They could hold another banquet the next night for the same candidate at the same cost and that would not be reportable. I simply think there ought to be some limit.

The Senator from California has raised a question of accounting. How do these organizations account for what they spend? He wanted to avoid that, and it is a laudable thing to try to avoid. But as I understand it, if his amendment now stands, and they are not required to report anything unless the expenditure is over $1,000 on a given occasion or a particular communication, they would still be under an obligation to account for it to prove that they had not exceeded the $1,000 limitation.

This one would not impose any greater burden on them to account for what they spent or what they gave in kind, but it would limit the amount they could give to one candidate in any one election to $1,000.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. BUMPERS. I am happy to yield.

Mr. FORD. When the Senator says "any one election," does that include the primary or general, or does he say the primary election would be one and the general election would be another?

Mr. BUMPERS. The latter.

Mr. FORD. The latter.

Mr. BUMPERS. It would be two separate elections.

Mr. FORD. Two separate, so it would be limited to $1,000 in the primary and then $1,000 in the general election?

Mr. BUMPERS. The Senator is correct. That would be my interpretation of it.

Mr. CRANSTON. Mr. President, I shall speak very briefly against the amendment of the Senator from Arkansas. I understand his reasons for proposing it. I sympathize fully with the problem that we all face and that he is seeking to correct. It would correct one aspect of it, but it would not solve the problem that caused me to offer the amendment in the first place.

There would be a cumulative, aggregate total which some person or some organization might reach, where they crossed the $1,000 threshold and then would have to report, and, thus, keep track of every expenditure.

If a labor leader called a union member and talked for 10 minutes on one matter and for 1 minute said, "I hope you will vote for so and so in the election," that would have to be calculated as to cost. It would have to be kept track of. When all such expenditures added up to

$1,000, the union would have to file a report.

The same would apply to a corporation officer, on business time, talking with members of the firm about sales or whatever. He would have to keep track of any time he spent, and the cost of it, if he mentioned a candidate.

The same would apply with respect to a corporation head communicating with stockholders. They would have to keep these terribly painstaking records, and for that reason I oppose the amendment.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. I yield.

Mr. BUMPERS. How would the Senator propose that SUNPAC or any labor organization, or any of the organizations we are talking about, prove that they had not spent more than $1,000?

Mr. CRANSTON. In any given venture, whether it is a mailing or a mass meeting or communication in some such fashion, if only a small number of people were involved, it would approach $1,000.

If it were a massive mailing to 100,000 stockholders of a company or 100,000 members of a union, then it might well be in the $1,000 class, and the burden would be upon that union to report; and it would be in violation of the law if it did not. An opposition candidate would have cause to ask the Federal Election Commission to see whether there had been a violation of the statute.

Mr. BUMPERS. If the candidate against whom this communication was made raised the question as to whether or not they had spent in excess of $1,000 and the Election Commission decided to investigate, how would that organization prove to the Election Commission that they were within the law?

Mr. CRANSTON. They would then have the responsibility of adding up the costs of that particular operation. Without the amendment I have offered, they would have that responsibility in every penny ante thing they did if it was worth $1,000. It would inhibit the active political participation of Americans.

Mr. BUMPERS. I think the Senator has a certain point. It is in those questionable cases where the expenditure is very close to a thousand dollars that they would be jeopardizing themselves if they did not keep an account of it.

Mr. CRANSTON. Yes, they would.

Mr. BUMPERS. The second part, the heart, of the perfecting amendment I have offered is that under the amendment of the Senator from California, they can do this as many times as they wish, as long as they do not exceed $1,000 on any one communication or at any one time. That would mean that a corporation or a labor union could send out a communication every week and expend $900 and be well within the law, and they could do that on behalf of any number of candidates. I think that goes against what we are talking about here in the form of election reform. There is no reform if we allow that kind of loophole to remain in this law.

Mr. CRANSTON. I grant that I do not like that situation at all, but I like less the situation in which a citizens' group, or a corporation, or a small business, or a union, or an advocacy group, or whatever, has to report everything they do, regardless of how penny ante, and file a report in Washington on that action.

Mr. BUMPERS. Mr. President, I think that almost everyone here understands the nature of the amendment. I know that everyone is anxious to go home, and I am ready to vote on the matter. I am perfectly willing to accept a voice vote.

Mr. PACKWOOD. Mr. President, will the Senator from Arkansas yield? I have had trouble hearing him.

Mr. BUMPERS. I yield.

Mr. PACKWOOD. I think I support the Senator's amendment. His amendment simply says that you must aggregate, that you have to keep records of what you spend; that once you have reached $1,000 for a candidate, you have to start reporting, including the other expenditures, and whatever else you spend afterward.

That is an amendment in the right direction, and I am prepared to accept it, if it is accepted.

I have a bit more debate remaining on the substance of the Cranston amendment, as amended. I think it is a step in the right direction.

Mr. CRANSTON. It is the difficulty in allocating the cost of an operation for some totally different purpose that creates the real difficulty. If one were just doing an operation specifically to support a group of candidates or a candidate and nothing else was going on, it would be very easy to know the cost. But, when it is a little item in a newsletter or a few remarks in a phone call or a few words in a speech on another topic, that is when you get into difficulty in trying to allocate and to keep all those records.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment.

All those in favor, signify by saying "aye."

All those opposed, signify by saying "nay."

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Rhode Island (Mr. PASTORE), would each vote "yea".

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

The result was announced—yeas 75, nays 9, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—75

Allen	Hansen	Nunn
Baker	Hart, Gary	Packwood
Bartlett	Hart, Philip A.	Pearson
Beall	Haskell	Pell
Bellmon	Hatfield	Percy
Bentsen	Hathaway	Proxmire
Buckley	Helms	Randolph
Bumpers	Hruska	Ribicoff
Burdick	Huddleston	Roth
Byrd, Harry F., Jr.	Humphrey	Schweiker
	Javits	Scott, Hugh
Byrd, Robert C.	Johnston	Scott, William L.
Cannon	Laxalt	Sparkman
Case	Long	Stafford
Chiles	Magnuson	Stennis
Culver	Mansfield	Stevens
Dole	Mathias	Stevenson
Domenici	McClellan	Symington
Durkin	McClure	Taft
Eagleton	Metcalf	Talmadge
Eastland	Mondale	Thurmond
Fannin	Montoya	Tower
Fong	Morgan	Weicker
Ford	Moss	Williams
Garn	Muskie	
Glenn	Nelson	

NAYS—9

Abourezk	Cranston	McGovern
Brooke	Griffin	Stone
Clark	Kennedy	Tunney

NOT VOTING—16

Bayh	Gravel	McGee
Biden	Hartke	McIntyre
Brock	Hollings	Pastore
Church	Inouye	Young
Curtis	Jackson	
Goldwater	Leahy	

So Mr. BUMPERS' amendment was agreed to.

Mr. GRIFFIN subsequently said: Mr. President, I ask unanimous consent that on vote No. 95, which was the Bumpers unprinted amendment to the Cranston amendment, I be recorded as having voted "nay."

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing rollcall vote reflects the above order.)

Mr. CRANSTON. Mr. President, it seems to me that the Senate has reached an overwhelming degree of unanimity on the issue we have been laboring on. There was a motion made to table my amendment that was rejected by a reasonable margin. There was an overwhelming vote now on the Bumpers amendment to my amendment. I suggest now since we have that degree of unanimity that we proceed to a vote and wrap up this bill.

As far as I am concerned, I do not ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California, as amended.

Mr. PACKWOOD. I do not want to ask for the yeas and nays on the Cranston amendment, as amended, either. I think the amendment of the Senator from Arkansas was an immense improvement. I still have some misgivings about making this distinction. I am going to go along

with it and support the amendment, but I have some misgivings about saying to the small $100 contributor, "You are stuck, you have to keep your records, and you will allocate."

We are saying to the others, to the corporations and unions, "We will let you have a $1,000 exemption."

If the purpose of this law was disclosure, and if the purpose of this law was not to make it a burden on the small donor, why, we have simply reversed it, and we have made it a greater burden on the smaller donor than on the large corporation, and we have made the smaller donor disclose his smaller dollar contributions, and we have said to the larger corporation, "You do not have to report it."

It flies in the face of logic.

I will not say anything further on it. I think the Senate has worked its will and I will support the Cranston amendment, as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California, as amended.

The amendment, as amended, was agreed to.

Mr. CANNON. Mr. President, as far as I know, there is only one other amendment. If it is offered I am willing to accept it. I know there will be some talk against it, but I do not intend to ask for a rollcall vote on that, but I do ask for a rollcall vote on final passage, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. That amendment is on its way over now. I believe it is the Stevens amendment, is it not, and I can offer it on his behalf.

AMENDMENT NO. 1515

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration and that the clerk read it.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) on, behalf of Mr. STEVENS proposes an amendment:

On page 14, after line 14, add the following:

(4) Section 304(b) of the Act (2 U.S.C. 434(b) is further amended by inserting immediately after paragraph (14) the following new paragraph:

"(15) When committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, they shall be deemed to be in compliance with this subsection.".

Mr. PACKWOOD. This is the anti-nit-picking amendment which indicates that if the treasurer or the candidate are in good faith, and they have tried to comply—and the good Lord knows they are going to have enough trouble complying, and everybody I have run across in this election year I have advised not to be a political treasurer, and that they are out of their minds if they undertake that task in the midst of this political campaign—but this merely says that if a finding is made that they have tried in good faith to try to comply with the law they shall not be harassed and they will be regarded as having made a good faith effort, and the Federal Election Commission shall take that into account.

That is all I have to say. I have nothing more to say. I hate to preclude the Senator from Alaska before he gets here.

SEVERAL SENATORS. Vote! Vote!

Mr. CLARK. Mr. President, I will not take more than 30 seconds. It seems to me—and I am certainly not going to ask for a vote, but it seems to me—as candidates or treasurers that to set up a separate standard, if we say we did it in good faith and with good intentions and made a good faith effort that we ought not to be subjected to the same prosecution—it seems to me——

Mr. PACKWOOD. That is not quite enough. You cannot close your eyes and say, "Don't tell me anything and, therefore, I am in good faith," the amendment does not allow that. I do not want to give anybody any misimpression. You cannot use the standard, "I did not know because I did not ask."

Mr. CANNON. I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a letter dated March 24, addressed to the minority leader, Senator HUGH SCOTT, and myself from Ruth C. Clusen, president of the League of Women Voters of the United States which endorses the pending substitute be printed in the CONGRESSIONAL RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE LEAGUE OF WOMEN VOTERS OF THE UNITED STATES,
Washington, D.C., March 24, 1976.

Hon. Senator MIKE MANSFIELD and Senator HUGH SCOTT,
U.S. Senate, Washington, D.C.

DEAR SENATORS MANSFIELD and SCOTT: The League of Women Voters of the United States applauds the wise leadership you have exercised in developing a compromise on the amendments to the Federal Election Campaign Act of 1971. We support the change in direction, as evidenced in your substitute bill, away from provisions that would seriously undermine the independence of the Federal Election Commission. Specifically, we are pleased to see the deletion of the section circumscribing the advisory opinion process.

In conclusion, the League of Women Voters of the United States endorses the "Mansfield-Scott" substitute and urges all members of the United States Senate to act speedily to pass this vital piece of legislation.

Sincerely,

RUTH C. CLUSEN,
President.

TERMINATING PAYMENTS TO UNSUCCESSFUL PRESIDENTIAL CANDIDATES

Mr. BENTSEN. Mr. President, yesterday there was introduced a compromise amendment as a substitute for S. 3065, the Federal Election Campaign Act amendments. I applaud my colleagues for their diligent effort in attempting to resolve the very serious questions presented by this debate, and I am hopeful that we will be able to dispose of this bill expeditiously.

I am especially pleased with section 306 of the substitute which deals with the termination of payments to unsuccessful Presidential candidates. What the provision says is that Federal payments will be stopped for any candidate who receives less than 10 percent of the vote in two consecutive primaries unless he or she is able to acquire 20 percent of a primary vote subsequent to the disqualification.

The campaign reform law permits those taxpayers who wish to participate more fully in this country's political process to earmark $1 of their taxes for use in Presidential campaigns. It is far better, Mr. President, to have millions of Americans contribute $1 to a campaign than to rely on the million-dollar contributors, as was done in past years.

But, I have been quite concerned about the basic fairness in using this money from the tax checkoff to finance campaigns of candidates who are no longer serious contenders for the Presidential nomination. In the case of my own campaign, when I decided to run only in Texas, I immediately stopped all requests for additional funding and even turned $74,000 back to the Treasury. This is only fair, Mr. President, and I urge my colleagues to adopt the section 306 formula as a statutory requirement.

Mr. BUCKLEY. Mr. President, I wish to speak very briefly on my reasons for opposing passage of this bill.

I appreciate the efforts of my colleagues on both sides of the aisle in their attempts to achieve a difficult compromise on the fundamental issues which separate them. And I believe that the compromise substitute is preferable to the special interest legislation which it replaced.

Nevertheless, the proposal before us still fails to deal with most of the underlying problems left in the wake of the Supreme Court's decision. Nothing has been done to redress the enormous advantages enjoyed by incumbents, or wealthy candidates, or those having the support of well-financed political action committees, at the expense of relatively unknown candidates of average means whose access to funding remains constricted by the limitations on contributions in the existing law.

As such candidates face enormous difficulties in raising the seed money required to launch viable campaigns, we can expect to see the advantages of incumbency magnified, and challengers restricted increasingly to the ranks of the very wealthy or of individuals who have the support of powerful special interest groups.

I predict the situation will only get worse until the Supreme Court finally rules that the current contributions limits are unconstitutional in their application. Then the political process will once again open up to allow anyone able to develop the independent financial backing necessary to challenge the wealthy and the entrenched.

In the meantime, I must underscore my opposition to the underlying law by opposing the bill even as amended.

Mr. DOLE. Mr. President, I recognize that it probably represents the best bill on which we can reach agreement in the Senate, I must nevertheless vote against

S. 3065 as amended by the compromise substitute.

I can appreciate the fact that many of the amendments now included do have considerable redeeming features, but would still prefer a simple reconstitution of the Commission. I am pleased however that the amendment relating to termination of matching funds payments for lack of demonstrable support—and that requiring both corporations and unions to report the costs of campaign communications with their members and stockholders—have been retained.

Two other provisions—which I sponsored—are in the compromise version and will have the very desirable effect of strengthening and making more effective the national political party structure. These are the ones eliminating the candidate allocation requirement for voter registration drive expenses and removing the ceiling on transfers of contributions between and among various levels of the committee organization.

Although the compromise reached with respect to solicitation of funds from employees may not be totally consistent with the SUNPAC decision, it probably also represents a fair settlement of the issue. Similarly, the congressional control over the Federal Election Commission—which I continue to believe should be strong and independent—has, I think, been modified to a near acceptable level.

My greatest disappointment in this legislation, Mr. President, is that we have not seized upon it as an opportunity to do away with the public financing experiment. I have already spoken on this matter during consideration of the Weicker amendment, but would just like to reiterate that the time has clearly arrived for a new assessment of this concept.

Again, Mr. President, notwithstanding the positive aspects of the compromise reached by the party and committee leadership and the fact that it may be a fairly reasonable solution to the impasse which had developed with respect to consideration of this measure, I do not agree with its overall thrust to the extent that I can give it my support. Accordingly, without speculating as to the likelihood of a veto, I only hope that we can dispose of the matter without consuming any more of the Senate's time.

Mr. MONTOYA. Third reading.

The PRESIDING OFFICER (Mr. DURKIN). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrosment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. CANNON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical changes in the bill to reflect the amendments adopted by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Shall the bill pass?

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from Wyoming (Mr. McGEE), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Rhode Island (Mr. PASTORE) are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. McINTYRE), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from South Caroline (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Nebraska (Mr. CURTIS) would each vote "nay."

The result was announced—yeas 55, nays 28, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—55

Abourezk	Hatfield	Pearson
Beall	Hathaway	Pell
Bentsen	Huddleston	Percy
Brooke	Humphrey	Proxmire
Bumpers	Javits	Randolph
Burdick	Johnston	Ribicoff
Byrd, Robert C.	Kennedy	Schweiker
Cannon	Long	Scott, Hugh
Case	Magnuson	Stafford
Chiles	Mathias	Stevens
Clark	McGovern	Stevenson
Cranston	Mondale	Stone
Culver	Montoya	Symington
Eagleton	Morgan	Taft
Ford	Moss	Talmadge
Glenn	Muskie	Tunney
Hart, Gary	Nelson	Williams
Hart, Philip A.	Nunn	
Haskell	Packwood	

NAYS—28

Allen	Eastland	McClellan
Baker	Fannin	McClure
Bartlett	Fong	Metcalf
Bellmon	Garn	Roth
Buckley	Griffin	Scott, William L.
Byrd, Harry F., Jr.	Hansen	Sparkman
Dole	Helms	Stennis
Domenici	Hruska	Tower
Durkin	Laxalt	Weicker
	Mansfield	

NOT VOTING—17

Bayh	Gravel	McGee
Biden	Hartke	McIntyre
Brock	Hollings	Pastore
Church	Inouye	Thurmond
Curtis	Jackson	Young
Goldwater	Leahy	

So the bill (S. 3065) was passed, as follows:

S. 3065

An act to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a)(1) The second sentence of section 309(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)), as redesignated by section 105 (hereinafter in this Act referred to as the "Act"), is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and eight members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as redesignated by section 105, is amended to read as follows: "No more than three members of the Commission appointed under this paragraph may be affiliated with the same political party, and at least two members appointed under this paragraph shall not be affiliated with any political party.".

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of eight years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979,

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981, and

"(iv) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1983.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c)(1) Section 309(b) of the Act (2 U.S.C. 437c(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive and primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(2) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as redesignated by section 105, is amended by inserting im-

mediately before the period at the end thereof the following: ", except that the affirmative vote of five members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates".

(e)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until a majority of the members of the Commission are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section. Until a majority of the members of the Commission are appointed and qualified under the amendments made by this Act, members serving on such Commission on the date of enactment of this Act may exercise only such powers and functions as are consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75-436, 75-437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

(g)(1) All personel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Federal Election Campaign Act of 1971 as such title existed on January 1, 1976, or under any other provision of law are transferred to the Federal Election Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2)(A) Except as provided in subparagraph (B) of this paragraph, personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remains in full force and effect. All orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1) shall continue in effect to the same extent as if such transfer had not occurred.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission at the time this section takes effect.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within twelve months after the date of enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract".

(c) Section 301(e)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting after "purpose" the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services) other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

(d) Section 301(e)(5) is amended—

(1) by striking out "or" at the end of clause (E),

(2) by inserting "or" at the end of clause (F), and

(3) by inserting after clause (F) the following new clause:

"(G) a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loans—

"(i) shall be reported in accordance with the requirements of section 304(b); and

"(ii) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors;".

(e) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended by striking out "individual" where it appears after clause (G) and inserting in lieu thereof "person".

(f) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by inserting before the semicolon in clause (B) the following: ", or partisan activity designed to encourage individuals to register to vote, or to vote, conducted by the national committee of a political party, or a subordinate committee thereof, or the State committee of a national party, but such partisan activity shall be reported in accordance with the requirements of section 304".

(2) by striking out "or" at the end of clause (F) and at the end of clause (G); and

(3) by inserting immediately after clause (H) the following new clauses:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304(b);

"(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provision of this title or of chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b); or

"(K) a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loan shall be reported in accordance with section 304(b);".

(g) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out "and" at the end of paragraph (m);

(2) by striking out the period at the end of paragraph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraph:

"(o) 'Act' means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 302(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(b) Section 302(c)(2) of such Act (2 U.S.C. 432(c)(2)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(c) Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e)

and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following: "In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceeds $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of expenditures in excess of $100 by a political committee other than an authorized committee of a candidate expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9), stated in a manner which indicates whether the expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and".

(d) Section 304(b) of the Act (2 U.S.C. 434(b)) is further amended by inserting immediately after paragraph (14) the following new paragraph:

"(15) When committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, they shall be deemed to be in compliance with this subsection.".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) A corporation, labor organization, or other membership organization which explicitly advocates the election or defeat of a clearly identified candidate through a communication with its stockholders or members or their families shall, notwithstanding the provisions of section 301(f)(4)(C), report such expenditures in excess of $1,000 per candidate per election under paragraph (1) to the extent that they are directly attributable to such communications.

"(3) Any person who makes a contribution in response to a solicitation under section 521(b)(3)(B) which, when added to all other contributions made by him to the same recipient during the calendar year, exceeds $100 shall report to the recipient the total amount of such contributions made to such recipient for that year. Paragraph (4) does not apply to reports under this paragraph.

"(4) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggesting of, any candidate or any authorized committee or agent of such candidate. Any expenditure, including but not limited to those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than forty-eight hours, before any election shall be reported within forty-eight hours of such expenditure.

"(5) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including but not limited to those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely pre-election basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431-441) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

POWERS OF COMMISSION

SEC. 106. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a)(9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ENFORCEMENT

SEC. 107. Section 313 of the Act (2 U.S.C. 437g), as redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) The Commission, upon receiving a complaint under paragraph (1), or if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

"(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate. Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reason to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute an absolute bar to any further action by the Commission with respect to the violation which is the subject of the agreement, including bringing a civil proceeding under paragraph (B) of this section.

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under paragraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation under section

328(a), or a knowing and willful violation of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to the limitations set forth in subparagraph (A) of this paragraph.

"(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $10,000; or (ii) an amount equal to 300 percent of the amount of any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(7) The Commission shall make available to the public the results of any conciliation attempt, including any conciliation agreement entered into by the Commission, and any determination by the Commission that no violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

"(8) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 300 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(9) In any action brought under paragraph (5) or paragraph (8) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(10)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within ninety days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any action under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than sixty days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than sixty days after the ninety-day period specified in subparagraph (A).

"(C) In such proceeding the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with that declaration within thirty days, failing which the complainant may bring in his own name a civil action to remedy the violation complained of.

"(11) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(12) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(13) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5), it may petition the court for an order to adjudicate that person in civil contempt, or, if it believes the violation to be knowing and willful, it may instead petition the court for an order to adjudicate that person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than sixty days after the date the Commission refers any apparent violation, and at the close of every thirty-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.".

PROHIBITION ON CONVERSION OF CONTRIBUTIONS TO PERSONAL USE

SEC. 107A. Section 317 of the Act (2 U.S.C. 439a) is amended by inserting after "other lawful purpose" the following: ", except that no such amount may be converted to any personal use".

DUTIES OF COMMISSION

SEC. 108. (a) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320, and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(b) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)), as redesignated by section 105, is amended by striking out "30 legislative days" in the first sentence and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 109. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS; OTHER LIMITATIONS

SEC. 110. Title III of the Act (2 U.S.C. 431-441) is amended—

(1) by inserting "(a)" before "No" in section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act;

(2) by adding the following new subsection at the end of section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act:

"(b) Notwithstanding any other provision of law, no Senator, Representative, Resident Commissioner, or Delegate shall mail as franked mail under section 3210 of title 39, United States Code, any general mass mailing when such mailing is mailed at or delivered to any postal facility less than sixty days prior to the date of any primary or general election in which such Senator, Representative, Resident Commissioner, or Delegate is a candidate for Federal office. For purposes of this subsection in term 'general mass mailing' means newsletters and similar mailings of more than five hundred pieces the content of which is substantially identical and which are mailed to or delivered to any postal facility at the same time or several different times.";

(3) by striking out section 320 (2 U.S.C. 441), as redesignated by section 105 of this Act; and

(4) by inserting after section 319 (2 U.S.C. 439c), as redesignated by such section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a)(1) No person shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized political committee of any candidate, in any calendar year which, in the aggregate, exceed $25,000; or

"(C) to any other political committee on any calendar year which, in the aggregate, exceed $5,000.

"(2) No multi-candidate political committee shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized committee of any candidate in any calendar year, which, in the aggregate, exceed $25,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $10,000.

The limitations on contributions contained in paragraph (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of this paragraph, the term 'multi-candidate political committee' means a political committee which has been registered under section 303 for a period of not less than six months, which has received contributions from more than fifty persons, and, except for any State political party organization, has made contributions to five or more candidates for Federal office.

"(3) For purposes of the limitations under paragraphs (1) and (2), all contributions made by political committees established, financed, maintained, or controlled by any person or persons, including any parent, subsidiary, branch, division, department, affiliate, or local unit of such person, or by any group of persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fundraising efforts; (B) this sentence shall not apply so that contributions made by a political party through a single national committee and contributions by that party through a single State committee in each State are treated as having been made by a single political committee; and (C) a political committee of a national organization shall not be precluded from contributing to

a candidate or committee merely because of its affiliation with a national multicandidate political committee which has made the maximum contribution it is permitted to make to a candidate or a committee.

"(4) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

"(5) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(6) The limitations imposed by paragraphs (1) and (2) of this subsection (other than the annual limitation on contributions to a political committee under paragraph (2)(B)) shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(7) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b)(1) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c)(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

"(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multipled by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, eighteen years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"(h) Notwithstanding any other provision of this Act, amounts totaling not more than $20,000 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political commitee, or other person to accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"(b)(1) For the purposes of this section 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. As used in this section and in section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 791(h)), the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; nonpartisan

registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; or the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization, or by a membership organization, cooperative, or corporation without capital stock.

"(2) It shall be unlawful—

"(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

"(B) for an employee to solicit a subordinate employee;

"(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

"(D) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

"(3)(A) Except as provided in subparagraphs (B) and (C), it shall be unlawful—

"(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

"(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

"(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make two written solicitations for contributions during the calendar year from any stockholder, officer, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to the stockholder, officer, or employee at his residence, and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution as a result of such solicitation and who does not.

"(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

"(4) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations.

"(5) Any corporation that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall made available, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, that method, to a labor organization representing any members working for that corporation.

"(6) For purposes of this section, the term 'executive or administrative personnel' means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking or supervisory responsibilities.

"(7) For purposes of this section, the term 'stockholder' includes any individual who has a legal or vested beneficial interest in stock, including, but not limited to, an employee of a corporation who participates in a stock bonus, stock option, or employee stock ownership plan.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"SEC. 322. (a) It shall be unlawful for any person—

"(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of materials, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 321 applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails, and other similar types of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or

"(2) if not authorized by a candidate, his authorized, political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303(b)(2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign nation directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

"(b) As used in this section, the term 'foreign national' means—

"(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTION OF CURRENCY

"SEC. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 327. No person who is a candidate for Federal office or an employee or agent of such candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) willfully and knowingly to participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

"PENALTY FOR VIOLATIONS

"SEC. 328. (a) Any person, following the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both. A willful and knowing violation of section 321(b)(2), including such a violation of the provisions of such section as applicable through section 322(b), is punishable by a fine of not more than $50,000, imprisonment for not more than 2 years, or both. In the case of a knowing and willful violation of section 325 or 326, the penalties set forth in this section shall apply to a violation involving an amount having a value in the aggregate of $250 or more during a calendar year. In the case of a knowing and willful violation of section 327, the penalties set forth in this section shall apply without

regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more was involved.

"(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chatper 95 or 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect.

"(c) In any criminal action brought for a violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the offense and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

"(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313,

"(2) the conciliation agreement is in effect, and

"(3) the defendant is, with respect to the violation for which the defense is being asserted, in compliance with the conciliation agreement.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: "There are authorized to be appropriated to the Federal Election Commission $8,000,000 for the fiscal year ending June 30, 1976, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for the fiscal year ending September 30, 1977.".

SAVINGS PROVISION

SEC. 112. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 113. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(d)(1) Section 301(e)(5)(F) of the Act (2 U.S.C. 431(e)(5)(F)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(2) Section 301(f)(4)(H) of the Act (2 U.S.C. 431(f)(4)(H)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(e) Section 314(a) of the Act (2 U.S.C. 467h(a)), as redesignated by section 105, is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code" in the first sentence of such section and by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code," in the second sentence of such subsection.

(f)(1) Section 406(a) of the Act (2 U.S.C. 455(a)) is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code".

(2) Section 406(b) of the Act (2 U.S.C. 455(b)) is amended by striking out "or section 608, 610, 611, or 613 of title 18, United States Code,".

(g) Section 591 of title 18, United States Code, is amended—

(1) by striking out "608(c) of this title" in subsection (f)(4)(H) and inserting in lieu thereof "section 320(b) of the Federal Election Campaign Act of 1971";

(2) by striking out "by section 608(b)(2) of this title" in subsection (f)(4)(I) and inserting in lieu thereof "under section 320(a)(2) of the Federal Election Campaign Act of 1971"; and

(3) by striking out "310(a)" in subsection (k) and inserting in lieu thereof "309(a)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES FOR PAYMENTS

SEC. 301. (a) Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) For purposes of applying section 9004(d) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

PAYMENTS TO ELIGIBLE CANDIDATES

SEC. 302. Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

REVIEW OF REGULATIONS

SEC. 303. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

(b) Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

ELIGIBILITY FOR PAYMENTS

SEC. 304. Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "LIMITATION" and inserting in lieu thereof "LIMITATIONS";

(2) by inserting "(a) Expenditure Limitations.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immeidate family, in connection with his campagin for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations.".

(c) For purposes of applying section 9035(a) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT

SEC. 306. Section 9037 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates in primary campaigns) is amended by adding at the end thereof the following new subsection:

"(c) TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, no payment shall be made under this chapter to any candidate more than 30 days after the date of the second consecutive primary election in which such candidate receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election if the candidate permitted or authorized the appearance of his name on the ballot unless the candidate certifies to the Commission that he will not be an active candidate in the primary. If the primary elections are held in more than one State on the same date, a candidate shall, for purposes of this subsection, be treated as receiving that percentage of the votes on that date which he received in the primary election conducted on such date in which he received the greatest percentage vote. The provisions of this section shall apply as of the date of enactment of the Federal Election Campaign Act Amendments of 1976.

"(2) REINSTATEMENT OF PAYMENTS.—Notwithstanding the provisions of paragraph (1), a candidate whose payments have been terminated under paragraph (1) may again receive payments (including amounts he would have received but for paragraph (1))

if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 307. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISION OF LEGAL AND ACCOUNTING SERVICES.—For purposes of this section, the payment by any person, including the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services), of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on Presidential nominating convention expenses.".

(c) Section 9034(b) of the Internal Revenue Code of 1943 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(d) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(e) Section 9004(a)(1) of the Internal Revenue Code of 1954 (relating to entitlements of eligible candidates to payments) is amended by striking out "608(c)(1)(B) of title 18, United States Code" and inserting in lieu thereof "320(b)(1)(B) of the Federal Election Campaign Act of 1971".

(f) Section 9007(b)(3) of the Internal Revenue Code of 1964 (relating to repayments) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

(g) Section 9012(b)(1) of the Internal Revenue Code of 1954 (relating to contributions) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

TITLE IV—COMMISSION TO STUDY PRESIDENTIAL NOMINATING PROCESS

DECLARATION OF POLICY

SEC. 401. It is hereby declared to be the policy of the United States to improve the system of nominating candidates for election to the office of the President of the United States by studying such system in a broad manner never before attempted in the two-hundred-year history of this Nation.

ESTABLISHMENT OF COMMISSION

SEC. 402. (a) There is established the Bicentennial Commission on Presidential Nominations (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members to be appointed as follows:

(1) six members shall be appointed by the President pro tempore of the Senate, on the recommendation of the majority and minority leaders, of whom at least two shall be Members of the Senate and at least two shall be elected or appointed State officials;

(2) six members shall be appointed by the Speaker of the House of Representatives, of whom at least two shall be Members of the House and at least two shall be elected or appointed State officials;

(3) six members shall be appointed by the President; and

(4) two members shall be the chairmen of the two national political parties and shall serve as ex officio members.

(c) At no time shall more than three members appointed under paragraph (1), (2), or (3) of subsection (b) be individuals who are of the same political affiliation.

(d) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made, subject to the same limitations with respect to party affiliations as the original appointment.

(e) Twelve members shall constitute a quorum, but a lesser number may conduct hearings. The Chairman of the Commission shall be selected by the members from among the members, other than ex officio members.

FUNCTIONS OF THE COMMISSION

SEC. 403. (a) The Commission shall make a full and complete investigation with respect to the Presidential nominating process. Such investigation shall include but not be limited to a consideration of—

(1) the manner in which States conduct primaries for the expression of a preference for the nomination of candidates for election to the office of President of the United States and caucuses for the selection of delegates to the national nominating conventions of political parties;

(2) State laws and the rules of national political parties which govern the participation of voters and candidates in such primaries and caucuses;

(3) the financing of campaigns for the nomination of candidates for election to the office of the President of the United States;

(4) the relationship between candidates for election to the office of the President of the United States and the news media, including how candidates achieve public recognition and whether such candidates should be guaranteed access to the television media;

(5) the interrelationship of the elements described in paragraphs (1) through (4) of this section;

(6) alternative nominating systems, including but not limited to a national or regional primary system for the expression of a preference for the nomination of candidates for election to the office of President of the United States and variations on the present nominating system;

(7) the manner in which candidates are nominated for election to the office of Vice President of the United States; and

(8) the extent to which the State laws and the Federal Election Campaign Act of 1971 promote or retard independent candidacies for election to the office of President.

(b) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than one year after the enactment of this title, a final report of its study and investigation based upon a full consideration of alternatives to our current Presidential nominating system, including an analysis of the strengths and weaknesses of all such alternatives studied, together with its recommendations as to the best system to establish for the 1980 Presidential elections. The Commission shall cease to exist sixty days after it final report is submitted.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 404. (a) The Commission may, in carrying out the provisions of this title, sit and act at such times and places, hold such hearings, take such testimony, request the attendance of such witnesses, administer oaths, have such printing and binding done, and commission studies by any Federal agency or executive department, as the Commission deems advisable.

(b) Per diem and mileage allowances for witnesses requested to appear under the authority conferred by this section shall be paid from funds appropriated to the Commission.

(c) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification in General Schedule pay rates, but at such rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSATION OF MEMBERS

SEC. 405. (a) Members of the Commission who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(b) Members of the Commission not otherwise employed by the Federal Government shall receive per diem at the maximum daily rate for GS-18 of the General Schedule when they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

TIMELINESS OF APPOINTMENTS

SEC. 406. It is the sense of the Congress that the appointments of individuals to serve as members of the Commission be completed within ninety days after the enactment of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 407. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE V—MISCELLANEOUS PROVISIONS

USE OF FRANKED MAIL BEFORE ELECTIONS

SEC. 501. Section 3210(a)(5)(D) of title 39, United States Code, is amended by striking out "28" and inserting in lieu thereof "60".

FINANCIAL DISCLOSURE OF FEDERAL OFFICERS AND EMPLOYEES

SEC. 502. (a) Each person referred to in subparagraph (b) herein shall file annually with the Comptroller General of the United States on or before February 15 of each year a full and complete report of net worth as of the end of the preceding calendar year, such report to consist of a statement of assets (and of their reasonable market value) owned by him, or jointly by him and his spouse, and of liabilities owed by him, or jointly by him and his spouse, together with a full and complete statement of income for the preceding calendar year, such statement of income to consist of a list of the identity of each source of income and a list of the amount paid by each source of income to him, or jointly to him and his spouse during the preceding calendar year, except that in lieu of such statement of income, each individual referred to in subparagraph (b) may file with the Comptroller General of the

United States a copy of such person's Federal income tax report for such calendar year.

(b) The provisions of this section shall apply to any person who as an officer or employee of the United States within the executive, legislative, or judicial branch of the Government of the United States received compensation at a gross annual rate in excess of $25,000 during the year 1976 or any subsequent year. The provisions of this section also apply to any individual not described in the preceding sentence who is a candidate within the meaning of section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)), except that the report required by subsection (a) shall be filed within thirty days after the date on which he becomes a candidate within the meaning of such section, and on each February 15 thereafter so long as he is such a candidate.

(c) The report required by this section shall be in such form and shall contain such information as the Comptroller General may prescribe in order to meet the provisions of this section. Notwithstanding any provision of law to the contrary, all reports filed under this section shall be maintained by the Comptroller General as public records, open to inspection by members of the public, and copies of such records shall be furnished upon request at a reasonable fee. Any report filed under this section shall be retained by the Comptroller General for a period of five years.

(d) All reports required hereunder shall be certified as being correct by the person filing the same and shall be duly sworn to and properly notarized.

AUTHORIZING SUPPLEMENTAL APPROPRIATIONS TO THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION FOR FISCAL YEAR 1976 AND THE TRANSITION PERIOD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 677, S. 3108.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3108) to amend Public Law 94–187 to increase the authorization for appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1976

That section 101(a)(5) of Public Law 93–187 is hereby amended by striking therefrom the figure "$3,158,970,000" and substituting the figure "$3,188,970,00."

SEC. 2. Section 101(b) of Public Law 94–187 is hereby amended by striking from subsection (15)(G), capital equipment, the figure "$237,502,000" and substituting the figure "$241,502,000".

TITLE II—AUTHORIZATION OF APPROPRIATIONS FOR THE PERIOD JULY 1, 1976, THROUGH SEPTEMBER 30, 1976

That section 201(a)(5) of Public Law 94–187 is hereby amended by striking therefrom the figure "$914,849,000" and substituting the figure "$937,849,000".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 94–707), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

This bill authorizes supplemental appropriations of $34,000,000 to the Energy Research and Development Administration for fiscal year 1976 and $23,000,000 for the transition period in budget authority and $26,500,000 and $17,500,000 in budget outlays for the respective periods. The supplemental request is needed primarily to provide a balanced nuclear weapons research, development, and testing program, a capability to verify the peaceful nuclear explosive agreement now being negotiated with the Soviet Union as part of the Threshold Test Ban Treaty, and to purchase at reduced cost a needed computer now being leased for the Lawrence Livermore Laboratory.

BACKGROUND

On October 22, 1975, the President submitted to Congress amendments to the Energy Research and Development Administration's Weapons program for fiscal year 1976 and the transition period. Due to the lateness of the request, the Congress was unable to initiate action prior to adjournment of the 1st Session of the 94th Congress. As a result, Public Law 94–187, Authorization of Appropriations for Fiscal Year 1976 and Transition Period for the Energy Research and Development Administration dated December 31, 1975, did not provide this increased funding.

On January 13, 1976, the Energy Research and Development Administration transmitted to the Congress a request for increase in appropriations for fiscal year 1976 of $34,000,000 and for the transition period of $23,000,000 (see Appendix). On March 9, 1976 Senator John O. Pastore, Chairman of the Joint Committee on Atomic Energy, introduced, by request, S. 3108, to amend Public Law 94–187 to increase the authorization for appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes. The bill was referred to the Joint Committee on Atomic Energy.

On March 9, 1976, Representative Melvin Price, Vice Chairman of the Joint Committee, introduced an identical bill, H.R. 12388, by request, which was referred to the Joint Committee on Atomic Energy.

The Joint Committee met in executive session on March 12, 1976, and voted without dissent to report the bill favorably to the Senate. The Joint Committee met in executive session on March 18, 1976, and voted without dissent to file this report.

HEARINGS

On February 3, 1976, the Subcommittee on Legislation of the Joint Committee on Atomic Energy held an executive hearing on the request for authorization of supplemental appropriations for fiscal year 1976 and the transitional period as well as for fiscal year 1977. Testimony was presented on behalf of the Energy Research and Development Administration by Dr. Robert C. Seamans, Jr., Administrator; Alfred D. Starbird, Assistant Administrator for National Security; and Major General Joseph K. Bratton, U.S. Army, Director of Military Application.

Testimony was also heard from Dr. Harold M. Agnew, Director of Los Alamos Scientific Laboratory; Dr. Roger M. Batzel, Director of Lawrence Livemore Laboratory; and Dr. Morgan Sparks, President of Sandia Laboratories. Brigadier General William B. Maxson, USAF, Deputy Assistant to the Secretary of Defense (Atomic Energy), was present and expressed Department of Defense support for the ERDA request for supplemental appropriations.

COMMITTEE COMMENTS

The ERDA request was for an increase of $34,000,000 for fiscal year 1976 and $23,000,000 for the transition period in budget authority and $26,500,000 and $17,500,000 in budget outlays for the respective periods. ERDA states this supplemental would provide amounts for the following purposes:

(1) *Research and Development.* The level of scientific manpower in the ERDA laboratories for nuclear weapon activities has declined from about 9,800 man-years in fiscal year 1970 to about 7,900 man-years in fiscal year 1975. Since the Department of Defense requirements for engineering development of current weapons has not diminished over this period, the major impact of this reduction has been particularly serious in advanced development for future weapons where the level of effort has reduced from about 2,150 man-years in fiscal year 1970 to about 1,450 in fiscal year 1975. Without the supplemental the total laboratories' effort will reduce to 7,600 man-years and advanced development to 1,250 in fiscal year 1976, whereas the supplemental will permit holding to approximately the fiscal year 1975 levels.

(2) *Nuclear Testing.* To accomplish all required high yield nuclear testing prior to the proposed March 31, 1976, effective date of the Threshold Test Ban Treaty, ERDA deferred all advanced development tests for over a year. Funds, which remain for the fourth quarter of fiscal year 1976 and fiscal year 1976T, will support only a few low yield tests, only 60 percent of that for recent years. Without this supplement ERDA would be unable to restore testing to a minimum required level. In addition, ERDA would have to make a force reduction of approximately 800 test personnel, an area where there had already been a reduction in strength of about 50 percent during the past five years.

(3) *Special Test Detection.* Negotiations between the United States and the Soviet Union are going on and are directed toward reaching a Peaceful Nuclear Explosion (PNE) agreement by March 31, 1976. The supplemental would provide the necessary funds for development of equipment techniques, and data analysis needed for accomplishing verification that the Soviet PNE experiments are consistent with the agreement. Without these requested amounts, the United States could find itself unprepared to take the necessary Treaty verification actions for U.S.S.R. nuclear explosions. This would be an important element in completing the Threshold Test Ban Treaty signed in July 1974 between the United States and the Soviet Union.

(4) *Capital Equipment.* Because the new Control Data Corporation Star computers installed at the Lawrence Livermore Laboratory (LLL) have not yet reached anticipated capability, it has been necessary for the laboratory to hold a leased CDC 7600 computer longer than expected. Purchase rather than further leasing of that computer offers substantial financial advantages to the Government. Without this computer there would be a severe shortage of weapons program computing capacity in LLL.

The Joint Committee concurs with the request of the Energy Research and Development Administration.

TIME LIMITATION AGREEMENT—S. 3149

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as the bill S. 3149, a bill to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes, is made the pending business before the Senate, there be a time limitation thereon of 2 hours to be equally divided between Mr. TUNNEY and Mr. PEARSON; that there be a time limitation on any amendment, debatable motion, appeal or point of order if submitted to the Senate of 30 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS ON TOMORROW AND CONSIDERATION OF HOUSE JOINT RESOLUTION 857

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order tomorrow, Mr. BROOKE, Mr. GRIFFIN, Mr. BARTLETT, and Mr. TALMADGE each be recognized for not to exceed 15 minutes, and that the Senate then proceed to the consideration of House Joint Resolution 857, a joint resolution making further continuing appropriations for the fiscal year 1976, and the period ending September 30, 1976, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 3015, S. 3149, AND H.R. 9721

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of House Joint Resolution 857, the continuing appropriation resolution on tomorrow, the Senate proceed to the consideration of S. 3015, a bill to provide for the continued expansion and improvement of the Nation's airport and airway system, to streamline the airport grant in aid process and strengthen national airport systems planning, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the airport and airway bill, S. 3015, the Senate proceed to the consideration of S. 3149, concerning restrictions on certain toxic substances.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of S. 3149, the Senate proceed to the consideration of H.R. 9721, to provide for increased U.S. participation in the Inter-American Development Bank.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR TALMADGE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from Georgia (Mr. TALMADGE) be recognized first among the four Senators to be recognized under the special orders tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, the Senator from Georgia (Mr. TALMADGE) will be recognized for not to exceed 15 minutes, to be followed by Mr. BROOKE to be followed by Mr. GRIFFIN, to be followed by Mr. BARTLETT, each to be recognized for not to exceed 15 minutes.

Upon the disposition of those special orders, the Senate will proceed to the consideration of Senate Joint Resolution 857, a joint resolution making further continuing appropriations for the fiscal year 1976 and the period ending September 30, 1976. At least one rollcall vote is anticipated on that joint resolution or on amendments thereto, or both; and upon the disposition of that joint resolution the Senate will proceed to take up the Airport and Airway Act, S. 3015, on which there is a time limitation agreement. Hopefully the Senate may dispose of that measure tomorrow. In any event, if it does not, it will resume action thereon on Friday.

Upon the disposition of S. 3015 either tomorrow or Friday, the Senate will move to the toxic substance bill, S. 3149 on which there is a time limitation agreement, and upon the disposition of S. 3149—and there will be rollcall votes on that measure and on motions and amendments in relation to the same—the Senate will then take up H.R. 9721, an act to provide for increased participation by the United States in the Inter-American Development Bank. There is a time limitation agreement on that measure.

So it is rather clear that the Senate will be in session on Friday and there will be rollcall votes, because we have time agreements on these measures. The leadership would like to state that upon the disposition of the Inter-American Development Bank bill, it is the hope that the Senate can proceed to S. 3168, the authorization bill for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting.

Then next week, upon the disposition of all those measures, the leadership would expect to move to the no-fault insurance bill, S. 354. Also waiting in the wings is the food stamp bill, S. 3136, and the other measures that were outlined in my statement of the program previously.

ADJOURNMENT UNTIL 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 7:07 p.m. the Senate adjourned until tomorrow, Thursday, March 25, 1976, at 10 a.m.

NOMINATIONS

Executive nomination received by the Senate March 24, 1976:

DEPARTMENT OF JUSTICE

Ermen J. Pallanck, of Connecticut, to be U.S. marshal for the district of Connecticut for the term of 4 years (reappointment).

CONFIRMATIONS

Executive nominations confirmed by the Senate March 24, 1976:

CORPORATION FOR PUBLIC BROADCASTING

Diana Lady Dougan, of Utah, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1980.

DEPARTMENT OF STATE

Frederick Irving, of Rhode Island, a Foreign Service officer of class 1, to be an Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE DIPLOMATIC AND FOREIGN SERVICE

Diplomatic and Foreign Service nominations beginning William R. Brew, for reappointment in the Foreign Service as a Foreign Service officer of class 4, a consular officer, and a secretary in the Diplomatic Service of the United States of America, and ending Janet Petronis, to be a consular officer of the United States of America, which nominations were received by the Senate and appeared in the Congressional Record on Mar. 1, 1976

SENATE AMENDMENTS ON S. 3065

Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

IN THE SENATE OF THE UNITED STATES

MARCH 4, 1976

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by MR. SCHWEIKER to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

Strike out the language beginning on line 19 on page 11, and continuing through line 5 on page 12.

On page 12, line 6, strike out "(C)," and insert in lieu thereof "Section 103.".

Strike out the language beginning on page 13, line 10, and continuing through page 13, line 20.

On page 13, line 21, redesignate "(5)" as "(1)"; on page 13, line 23, redesignate "(6)" as "(2)"; and on page 14, line 1, redesignate "(7)" as "(3)".

Amdt. No. 1429

Amdt. No. 1429 Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

AMENDMENTS

Intended to be proposed by Mr. SCHWEIKER to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

MARCH 4, 1976

Ordered to lie on the table and to be printed

Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

IN THE SENATE OF THE UNITED STATES

MARCH 9, 1976

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. BUCKLEY to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 27, line 9, strike out "$1,000." and insert in lieu thereof the following: "$5,000.".

On page 27, line 23, strike out "$5,000;" and insert in lieu thereof the following: "$25,000, except in the case of a candidate for election to the office of representative, the contribution shall not exceed $10,000;".

Amdt. No. 1430

Amdt. No. 1430 Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

AMENDMENTS

Intended to be proposed by Mr. BUCKLEY to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

MARCH 9, 1976

Ordered to lie on the table and to be printed

Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. MONDALE (for himself, Mr. PACKWOOD, Mr. STEVENSON, and Mr. BAKER) to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: At the end of the bill, insert the following new title:

TITLE IV—COMMISSION TO STUDY PRESIDENTIAL NOMINATING PROCESS

DECLARATION OF POLICY

SEC. 401. It is hereby declared to be the policy of the United States to improve the system of nominating candidates for election to the office of the President of the United States by studying such system in a broad manner never before attempted in the two-hundred-year history of this Nation.

Amdt. No. 1436

ESTABLISHMENT OF COMMISSION

SEC. 402. (a) There is established the Bicentennial Commission on Presidential Nominations (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members to be appointed as follows:

(1) six members shall be appointed by the President pro tempore of the Senate, of whom at least two shall be Members of the Senate and at least two shall be elected or appointed State officials;

(2) six members shall be appointed by the Speaker of the House of Representatives, of whom at least two shall be Members of the House and at least two shall be elected or appointed State officials;

(3) six members shall be appointed by the President; and

(4) two members shall be the chairman of the two national political parties and shall serve as ex officio members.

(c) At no time shall more than three members appointed under paragraph (1), (2), or (3) of subsection (b) be individuals who are of the same political affiliation.

(d) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made, subject to the same limita-

tions with respect to party affiliations as the original appointment.

(e) Twelve members shall constitute a quorum, but a lesser number may conduct hearings. The Chairman of the Commission shall be selected by the members from among the members, other than ex officio members.

FUNCTIONS OF THE COMMISSION

SEC. 403. (a) The Commission shall make a full and complete investigation with respect to the Presidential nominating process. Such investigation shall include but not be limited to a consideration of—

(1) the manner in which States conduct primaries for the expression of a preference for the nomination of candidates for election to the office of President of the United States and caucuses for the selection of delegates to the national nominating conventions of political parties;

(2) State laws and the rules of national political parties which govern the participation of voters and candidates in such primaries and caucuses;

(3) the financing of campaigns for the nomination of candidates for election to the office of the President of the United States;

(4) the relationship between candidates for election to the office of the President of the United States

and the news media, including how candidates achieve public recognition and whether such candidates should be guaranteed access to the television media;

(5) the interrelationship of the elements described in paragraphs (1) through (4) of this section;

(6) alternative nominating systems, including but not limited to a national or regional primary system for the expression of a preference for the nomination of candidates for election to the office of President of the United States and variations on the present nominating system; and

(7) the manner in which candidates are nominated for election to the office of Vice President of the United States.

(b) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than one year after the enactment of this resolution, a final report of its study and investigation based upon a full consideration of alternatives to our current Presidential nominating system, including an analysis of the strengths and weaknesses of all such alternatives studied, together with its recommendations as to the best system to establish for the 1980 Presidential elections. The Commission shall cease to exist sixty days after its final report is submitted.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 404. (a) The Commission may, in carrying out the provisions of this joint resolution, sit and act at such times and places, hold such hearings, take such testimony, request the ttendance of such witnesses, administer oaths, have such printing and binding done, and commission studies by any Federal agency or executive department, as the Commission deems advisable.

(b) Per diem and mileage allowances for witnesses requested to appear under the authority conferred by this section shall be paid from funds appropriated to the Commission.

(c) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification in General Schedule pay rates, but at such rates not in excess of the maximum rate for GS–18 of

the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSATION OF MEMBERS

SEC. 405. (a) Members of the Commission who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(b) Members of the Commission not otherwise employed by the Federal Government shall receive per diem at the maximum daily rate for GS-18 of the General Schedule when they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

TIMELINESS OF APPOINTMENTS

SEC. 406. It is the sense of the Congress that the appointments of individuals to serve as members of the Commission be completed within ninety days after the enactment of this resolution.

AUTHORIZATION OF APPROPRIATIONS

SEC. 407. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this resolution.

Amdt. No. 1436 Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

AMENDMENT

Intended to be proposed by Mr. MONDALE (for himself, Mr. PACKWOOD, Mr. STEVENSON, and Mr. BAKER) to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

MARCH 10, 1976

Ordered to lie on the table and to be printed

Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. WEICKER to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: On page 51, after line 16, insert the following:

TERMINATION OF PUBLIC FINANCING

SEC. 307. (a) Subtitle H of the Internal Revenue Code of 1954 (relating to financing of Presidential election campaigns) is repealed.

(b) (1) Part VIII of subchapter A of chapter 61 of such Code (relating to designation of income tax payments to Presidential election campaign fund) is repealed.

(2) The table of parts for such subchapter is amended by striking out the item relating to part VIII.

Amdt. No. 1437

(c) (1) The repeal made by subsection (a) takes effect on January 1, 1977, except that such repeal shall not affect the authority of the Federal Election Commission or of the Secretary of the Treasury to require repayments from candidates under section 9007(b) of the Internal Revenue Code of 1954 (relating to repayments).

(2) The repeal and amendment made by subsection (b) apply to taxable years beginning after December 31, 1975.

Amdt. No. 1437 Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

AMENDMENT

Intended to be proposed by Mr. WEICKER to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

MARCH 10, 1976

Ordered to lie on the table and to be printed

Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

IN THE SENATE OF THE UNITED STATES

MARCH 15, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. GRIFFIN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: Strike all after line 5, page 1 and substitute the following:

SEC. 2. (a) The text of paragraph 1 of section 310 (a) of the Federal Election Campaign Act of 1971 (hereinafter the "Act") (2 U.S.C. 437c (a)) is amended to read as follows: "There is established a Commission to be known as the Federal Election Commission. The Commission is composed of six members, appointed by the President, by and with the advice and consent of the Senate. No more than three of the members shall be affiliated with the same political party.".

Amdt. No. 1442

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c (a)(2)), as redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of six years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979, and

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c) The provision of section 310(a)(3) of the Act (2 U.S.C. 437c(a)(3)), forbidding appointment to the Federal

Election Commission of any person currently elected or appointed as an officer or employee in the executive, legislative, or judicial branch of the Government of the United States, shall not apply to any person appointed under the amendments made by the first section of this Act solely because such person is a member of the Commission on the date of enactment of this Act.

(d) Section 310(a)(4) of the Act (2 U.S.C. 437c(a)(4)) is amended by striking out "(other than the Secretary of the Senate and the Clerk of the House of Representatives)".

(e) Section 310(a)(5) of the Act (2 U.S.C. 437c(a)(5)) is amended by striking out "(other than the Secretary of the Senate and the Clerk of the House of Representatives)".

SEC. 4. All actions heretofore taken by the Commission shall remain in effect until modified, superseded, or repealed according to law.

SEC. 5. The provisions of chapter 14 of title 2, the United States Code, of section 608 of title 18, and of chapters 95 and 96 of title 26 shall not apply to any election, as defined in section 301 of the Act (2 U.S.C. 431(a)), that occurs after December 31, 1976, except runoffs relating to elections occurring before such date.

Amdt. No. 1442 Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

AMENDMENT

Intended to be proposed by Mr. GRIFFIN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

MARCH 15, 1976

Ordered to lie on the table and to be printed

Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

IN THE SENATE OF THE UNITED STATES

MARCH 15, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. GRIFFIN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: Strike all after line 5, page 1, and substitute the following:

SEC. 2. (a) The text of paragraph 1 of section 310(a) of the Federal Election Campaign Act of 1971 (hereinafter the "Act") (2 U.S.C. 437c(a)) is amended to read as follows: "There is established a Commission to be known as the Federal Election Commission. The Commission is composed of six members, appointed by the President, by and with the advice and consent of the Senate. No more than three of the members shall be affiliated with the same political party.".

Amdt. No. 1443

(b) Section 309 (a) (2) of the Act (2 U.S.C. 437c (a) (2)), as redesignated by section 105, is amended to read as follows:

"(2) (A) Members of the Commission shall serve for terms of six years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979, and

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c) The provision of section 310 (a) (3) of the Act (2 U.S.C. 437c (a) (3)), forbidding appointment to the Federal Election Commission of any person currently elected or ap-

pointed as an officer or employee in the executive, legislative or judicial branch of the Government of the United States shall not apply to any person appointed under the amendments made by the first section of this Act solely because such person is a member of the Commission on the date of enactment of this Act.

(d) Section 310 (a) (4) of the Act (2 U.S.C. 437c (a) (4)) is amended by striking out "(other than the Secretary of the Senate and the Clerk of the House of Representatives)".

(e) Section 310 (a) (5) of the Act (2 U.S.C. 437c (a) (5)) is amended by striking out "(other than the Secretary of the Senate and the Clerk of the House of Representatives)".

SEC. 4. All actions heretofore taken by the Commission shall remain in effect until modified, superseded, or repealed according to law.

Amdt. No. 1443 Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

AMENDMENT

Intended to be proposed by Mr. GRIFFIN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

MARCH 15, 1976

Ordered to lie on the table and to be printed

Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

IN THE SENATE OF THE UNITED STATES

MARCH 16, 1976
Ordered to be printed

AMENDMENT

Proposed by Mr. PACKWOOD to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 37, line 6, after "subject" insert the following: ", except that expenditures for any such communications which expressly advocate the election or defeat of a clearly identified candidate must be reported to the Commission in accordance with section 304 (e)".

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AMENDMENT

Proposed by Mr. PACKWOOD to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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AMENDMENT

Intended to be proposed by Mr. ALLEN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: On page 27, between lines 5 and 6, insert the following new section:

USE OF REGULATIONS, ADVISORY OPINIONS, AND SO FORTH IN CIVIL AND CRIMINAL ENFORCEMENT

SEC. 109A. Section 315 of the Act (2 U.S.C. 438), as redesignated by section 105 of this Act, is amended by adding at the end thereof the following new subsection:

"(e) In any proceeding, including any civil or criminal enforcement proceeding against any person charged with violating any provision of this title or of title 18, no rule, regulation, guideline, advisory opinion, opinion of counsel,

Amdt. No. 1446

or any other pronouncement by the Commission or any member, officer, or employee thereof shall be used against any person, either as having the force of law, as creating any presumption of violation or of criminal intent, or as admissible in evidence against such person, or in any other manner whatsoever.".

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AMENDMENT

Intended to be proposed by Mr. ALLEN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. BELLMON to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: On page 51, after line 16, add the following:

TITLE IV—AMENDMENTS TO THE VOTING RIGHTS ACT OF 1965

SEC. 401. Section 14(c) of the Voting Rights Act of 1965 is amended by striking paragraph (3) and inserting the following new paragraph in lieu thereof:

"(3) The term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English.".

Amdt. No. 1447

SEC. 402. Section 203 of the Voting Rights Act of 1965 is amended by striking subsection (e) and inserting the following new subsection in lieu thereof:

"(e) For purposes of this section, the term 'language minorities' or 'language minority group' means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage, and whose dominant language is other than English.".

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AMENDMENT

Intended to be proposed by Mr. BELLMON to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 26, beginning with line 14, strike out through line 5 on page 27 and insert in lieu thereof the following:

"(b) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)), as redesignated by section 105, is amended by striking out "thirty legislative days" in the first sentence and inserting in lieu thereof "thirty calendar days or fifteen legislative days, whichever is later,".

On page 47, beginning with line 15, strike out through line 24 on page 48 and insert in lieu thereof the following:

Amdt. No. 1448

"SEC. 303. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

"(b) Section 9039(c)(2) of such Code (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,"

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S. 3065

AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 37, lines 3 and 4, strike out "executive or administrative personnel" and insert in lieu thereof "nonunion employees".

On page 37, lines 7 and 8, strike out "executive or administrative personnel" and insert in lieu thereof "nonunion employees".

On page 37, lines 24 and 25, strike out "executive or administrative personnel" and insert in lieu thereof "nonunion employees".

Amdt. No. 1449

On page 38, strike out lines 14 through 18 and insert in lieu thereof the following:

"(6) For purposes of this section, the term 'nonunion employees' means individuals employed by a corporation who are not members of the labor organization which represents such individuals in matters affecting pay, work standards, or benefits with the corporation.".

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 3, line 19, strike out "engage" and insert in lieu thereof the following: "participate in the active management of, or practice,".

On page 3, in lines 20 and 21, after "vocation," in each such line, insert "profession,".

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S. 3065

AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 28, line 3, strike out "Contributions" and insert in lieu thereof the following: "The limitations on contributions contained in the preceding sentence do not apply to transfers between and among political committees which are National, State, district, or local committees (including any subordinate committee thereof) of the same political party, but contributions".

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S. 3065

AMENDMENT

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 18, line 13, strike out "(2) (A)" and insert in lieu thereof "(2)".

On page 18, beginning with "The" in line 17, strike out through line 16 on page 19.

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 2, lines 8 through 10, strike out the following: "The Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and".

On page 2, between lines 17 and 18, insert the following:

"(3) Section 309(a)(4) of the Act (2 U.S.C. 437c(a)(4)), as redesignated by section 105, is amended by striking out '(other than the Secretary of the Senate and the Clerk of the House of Representatives)'.

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"(4) Section 309(a)(5) of the Act (2 U.S.C. 437c (a)(5)), as redesignated by section 105, is amended by striking out '(other than the Secretary of the Senate and the Clerk of the House of Representatives)'.".

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 37, line 12, strike out "or" and insert in lieu thereof the following: ", an incorporated trade association of which a corporation is a member or a membership corporation, or a".

On page 37, line 25, after "families" insert the following: ", for an incorporated trade association or a separate segregated fund created by an incorporated trade association to solicit contributions from any person other than its individual members and their families and the stockholders and

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executive and administrative personnel of its member corporations and their families,".

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S. 3065

AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: On page 37, beginning with line 22, strike out through line 3 on page 38 and insert the following in lieu thereof:

(3) It shall be unlawful for a corporation or a separate segregated fund established or administered by a corporation to solicit contributions from employees of that corporation who are not stockholders or executive or administrative personnel or from the families of such employees, or for a labor organization or a separate segregated fund established or administered by a labor organization to solicit contributions from employees of a corporation who are not members of

such labor organization or from the families of such employees.

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S. 3065

AMENDMENT

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 9, between lines 18 and 19, insert the following:

"(1) by inserting ', or partisan activity designed to encourage individuals to register to vote, or to vote, conducted by the national committee of a political party, or a subordinate committee thereof, or the State committee of a national party, except that such partisan activity shall be considered an expenditure for the purposes of the reporting requirements under section 304'

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immediately before the semicolon at the end of clause (B).".

On page 9, line 19, strike out "(1)" and insert in lieu thereof "(2)".

On page 9, line 21, strike out "(2)" and insert in lieu thereof "(3)".

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S. 3065

AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 4, lines 20 and 21, strike out "(no less than two of whom are affiliated with the same political party)".

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S. 3065

AMENDMENT

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 44, line 15, strike out the quotation marks and the final period.

On page 44, between lines 15 and 16, insert the following:

"VOTING FRAUD

"SEC. 330. (a) No person shall—

"(1) cast, or attempt to cast, a ballot in the name of another person,

"(2) cast, or attempt to cast, a ballot if he is not qualified to vote,

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"(3) forge or alter a ballot,

"(4) miscount votes,

"(5) tamper with a voting machine, or

"(6) commit any act (or fail to do anything required of him by law), with the intent of causing an inaccurate account of lawfully cast votes in any election.

"(b) A violation of the provisions of subsection (a) is punishable by a fine of not more than $100,000 or imprisonment for not more than ten years, or both.".

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 38, line 12, insert "and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby" immediately after "request".

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S. 3065

AMENDMENT

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 9, line 20, strike out "and".

On page 9, between lines 20 and 21, insert the following:

"(2) by inserting ', except, for the purposes of the reporting requirements under section 304, a communication expressly advocating the election or defeat of a clearly identified candidate made by a corporation and made to its stockholders or its executive and administrative personnel, or their families, or made by a labor organization and made to its members or their families shall

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be considered an expenditure' immediately before the semicolon at the end of clause (H) ; and".

On page 9, line 21, strike out "(2)" and insert in lieu thereof "(3)".

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S. 3065

AMENDMENTS

Intended to be proposed by Mr. BROCK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. Moss to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 4, delete lines 20 and 21.

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S. 3065

AMENDMENT

Intended to be proposed by Mr. Moss to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. MOSS to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 49, between lines 5 and 6, insert the following new section 305:

"SEC. 305. Section 9033 (b) (3) of the Internal Revenue Code of 1954 is amended as follows: 'the candidate has received matching contributions which in the aggregate, exceed $10,000 in contributions from residents of each of at least 30 States.' ".

Renumber the following sections accordingly.

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AMENDMENTS

Intended to be proposed by Mr. Moss to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. PACKWOOD to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 37, in lines 22 and 23, strike out "or a separate segregated fund created by a corporation".

On page 38, lines 1 and 2, strike out "or a separate segregated funds created by a labor organization".

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S. 3065

AMENDMENTS

Intended to be proposed by Mr. PACKWOOD to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. PACKWOOD to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 38, line 12, after "request" insert the following: "and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby,".

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AMENDMENT

Intended to be proposed by Mr. PACKWOOD to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. PACKWOOD to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 37, lines 24 and 25, strike out "executive or administrative personnel" and insert in lieu thereof the following: "nonunion employees".

On page 38, lines 14 through 18, strike out subparagraph 6 and insert in lieu thereof the following:

"(6) For purposes of this section, the term 'nonunion employees' means individuals employed by a corporation who are not members of a labor organization.".

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AMENDMENTS

Intended to be proposed by Mr. PACKWOOD to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. PACKWOOD to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 37, line 12, strike out "or" and insert in lieu thereof the following: ", an incorporated trade association of which a corporation is a member or a membership corporation, or a".

On page 37, line 25, after "families" insert the following: ", for an incorporated trade association or a separate segregated fund created by an incorporated trade association to solicit contributions from any person other than its individual members and their families and the stockholders and ex-

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ecutive and administrative personnel of its member corporations and their families,".

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S. 3065

AMENDMENTS

Intended to be proposed by Mr. PACKWOOD to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. MATHIAS to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 2, line 11, strike out "six" and insert in lieu thereof "eight".

On page 2, line 17, after "party" insert the following: ", and at least two members appointed under this paragraph shall not be affiliated with any political party".

On page 2, line 17, after "party" insert the following: ", and at least two members appointed under this paragraph shall not be affiliated with any political party".

On page 2, line 22, strike out "six" and insert in lieu thereof "eight".

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On page 3, line 5, strike out "and".

On page 3, line 8, strike out the period and insert in lieu thereof a comma and the word "and".

On page 3, between lines 8 and 9, insert the following:

"(iv) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1983.".

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AMENDMENTS

Intended to be proposed by Mr. MATHIAS to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. STEVENS to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 14, after line 14, add the following:

"(15) when committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, they shall be deemed to be in compliance with this subsection.".

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AMENDMENT

Intended to be proposed by Mr. STEVENS to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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Ordered to lie on the table and to be printed

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94TH CONGRESS
2D SESSION

S. 3065

IN THE SENATE OF THE UNITED STATES

MARCH 17, 1976
Ordered to be printed

AMENDMENT
(IN THE NATURE OF A SUBSTITUTE)

Proposed by Mr. GRIFFIN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

SEC. 2. (a) The text of paragraph 1 of section 310(a) of the Federal Election Campaign Act of 1971 (hereinafter the "Act") (2 U.S.C. 437c(a)) is amended to read as follows: "There is established a Commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of

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the House of Representatives, ex officio, and without the right to vote, and six members appointed by the President of the United States, by and with the advice and consent of the Senate. No more than three of the members shall be affiliated with the same political party.".

(b) Section 310(a)(2) of the Act (2 U.S.C. 437c (a)(2)), is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of six years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979, and

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of

the Commission shall be filled in the same manner as in the case of the original appointment.".

SEC. 3. (1) The President shall appoint members of the Federal Election Commission under section 310(a) of the Act (2 U.S.C. 437c(a)), as amended by this Act, as soon as practicable after the date of the enactment.

(2) The first appointments made by the President under section 310(a) of the Act (2 U.S.C. 437c(a)), as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until all six of the members of the Commission are appointed and qualified under section 310(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section. Until all six of the members of the Commission are appointed and qualified under the amendments made by this Act, members serving on such Commission on the date of enactment of this Act may exercise only such powers and functions as are consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary

of the United States Senate, et al. (numbered 75–436, 75–437) January 30, 1976.

SEC. 4. The provisions of section 310 (a) (3) of the Act (2 U.S.C. 437c (a) (3)), which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

SEC. 5. (1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Federal Election Campaign Act of 1971 as such title existed on January 1, 1976, or under any other provision of law are transferred to the Federal Election Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2) (A) Except as provided in subparagraph (B) of this paragraph, personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with

applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remain in full force and effect. All orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1) shall continue in effect to the same extent as if such transfer had not occurred.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission at the time this section takes effect.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within twelve months after the date of enactment of

this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

SEC. 6. By addition to section 610 of title 18, United States Code, at the end thereof ", except that expenditures for any such communications which expressly advocate the election or defeat of a clearly identified candidate must be reported to the Commission in accordance with section 434 (e)".

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AMENDMENT

(IN THE NATURE OF A SUBSTITUTE)

Proposed by Mr. GRIFFIN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 17, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. CHILES (for himself, Mr. NUNN, Mr. PACKWOOD, Mr. BROCK, Mr. GARY HART, Mr. DOMENICI, and Mr. HANSEN) to amendment numbered 1491 (in the nature of a substitute) to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: At the appropriate place insert the following section:

CONTRIBUTIONS BY ARTIFICIAL LEGAL ENTITIES

SEC. (a) No person, other than an individual, may make a contribution.

(b) Notwithstanding the provisions of subsection (a), a political committee established and maintained by a political party may make contributions if the amounts contrib-

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uted are derived exclusively from individual contributions. For purposes of this subsection, the term "political party" means a political party the candidates of which for President and Vice President in the most recent Presidential election were on the ballot in at least one State.

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AMENDMENT

Intended to be proposed by Mr. CHILES (for himself, Mr. NUNN, Mr. PACKWOOD, Mr. BROCK, Mr. GARY HART, Mr. DOMENICI, and Mr. HANSEN) to amendment numbered 1491 (in the nature of a substitute) to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. MATHIAS to amendment numbered 1491 (in the nature of a substitute) to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

In section 2 (a) of the amendment, strike out "six members" and insert "eight members".

In section 2 (a) of the amendment, after "the same political party" insert the following: ", and at least two of the members shall not be affiliated with any political party".

In section 2 (b) of the amendment strike out "six years" and insert "eight years".

In section 2 (b), strike out "1981." and insert "1981, and".

Amdt. No. 1493

In section 2 (b) of the amendment before subparagraph (B) of section 310 (a) (2) of the Act as amended by section 2 (b), insert the following:

"(iv) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1983.".

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S. 3065

AMENDMENTS

Intended to be proposed by Mr. MATHIAS to amendment numbered 1491 (in the nature of a substitute) to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. CANNON to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: On page 50, before line 7, insert the following:

PAYMENTS TO INACTIVE CANDIDATES

SEC. 306. (a) Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by adding at the end thereof the following new subsection:

"(e) TERMINATION OF PAYMENTS TO INACTIVE CANDIDATES.—Notwithstanding any other provision of this chapter, the Secretary or his delegate shall not make any payment to a candidate under this chapter after the date on

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which the Secretary or his delegate receives a determination by the Commission that such candidate is no longer an active candidate. For purposes of this subsection, the Commission shall continuously review the campaigns of candidates receiving payments under this chapter, and in making its determination with respect to whether a candidate has ceased to be an active candidate, the Commission shall take into account the frequency and type of public appearances and speeches by the candidate, the activities of his principal campaign committee with respect to soliciting or purchasing campaign materials, the continued payment and employment of personnel of such committee and the use of volunteers, and such other factors as the Commission determines are appropriate.".

(b) Section 9037 of such Code (relating to payments to eligible candidates in primary campaigns) is amended by adding at the end thereof the following new subsection:

"(c) TERMINATION OF PAYMENTS TO INACTIVE CANDIDATES.—Notwithstanding any other provision of this chapter, the Secretary or his delegate shall not make any payment to a candidate under this chapter after the date on which the Secretary or his delegate receives a determination by the Commission that such candidate is no longer an active candidate. For purposes of this subsection, the Commission shall continuously review the campaigns of candi-

dates receiving payments under this chapter, and in making its determination with respect to whether a candidate has ceased to be an active candidate, the Commission shall take into account the frequency and type of public appearances and speeches by the candidate, the activities of his principal campaign committee with respect to soliciting or purchasing campaign materials, the continued payment and employment of personnel of such committee and the use of volunteers, and such other factors as the Commission determines are appropriate.".

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S. 3065

AMENDMENT

Intended to be proposed by Mr. CANNON to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. ALLEN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 37, line 13, before the period insert the following: ", or by a membership organization, cooperative, or corporation without capital stock".

On page 38, line 3, after the period insert the following: "This paragraph shall not prevent a memberhsip organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock,

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from soliciting contributions to such a fund from members of such organization, cooperative, or corporation wihout capital stock.".

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AMENDMENTS

Intended to be proposed by Mr. ALLEN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. ALLEN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 42, line 22, strike "$2,000" and insert in lieu thereof "$1,000".

On page 43, line 1, strike "$24,000" and insert in lieu thereof "$15,000".

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S. 3065

AMENDMENTS

Intended to be proposed by Mr. ALLEN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. CLARK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: On page 44, strike out lines 3 through 15 and insert in lieu thereof the following:

(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect.

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S. 3065

AMENDMENT

Intended to be proposed by Mr. CLARK to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes

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AMENDMENTS

Intended to be proposed by Mr. SCHWEIKER (for himself and Mr. CLARK) to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 11, line 21, strike out "$100" and insert in lieu thereof "$50".

On page 11, beginning with line 22, strike out through line 5 on page 12, and insert in lieu thereof the following:

"(b) Section 302(c)(2) of such Act (2 U.S.C. 432 (c)(2)) is amended by striking out '$10' and inserting in lieu thereof '$50'.".

On page 13, beginning with line 10, strike out through line 20.

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On page 13, line 21, strike out "(5)" and insert in lieu thereof "(1)".

On page 13, line 23, strike out "(6)" and insert in lieu thereof "(2)".

On page 14, line 1, strike out "(7)" and insert in lieu thereof "(3)".

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S. 3065

AMENDMENTS

Intended to be proposed by Mr. SCHWEIKER (for himself and Mr. CLARK) to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. TOWER to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 38, line 17, delete the following: "and who have policymaking or supervisory responsibilities".

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S. 3065

AMENDMENT

Intended to be proposed by Mr. TOWER to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. TOWER to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: On page 37, beginning with line 22, strike out through line 3 on page 38 and insert in lieu thereof the following:

(3) It shall not be unlawful under this section for a corporation or a separate segregated fund established by a corporation to solicit contributions from any employee of the corporation whether or not he is a member of a labor organization. It shall not be unlawful under this section for a labor organization or a separate segregated fund established by a labor organization to solicit contributions from any stockholder or employee of a corporation if that organization

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is the labor representative of some employees of that corporation in dealing with that corporation as to matters of pay, working conditions, and other benefits.

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S. 3065

AMENDMENT

Intended to be proposed by Mr. TOWER to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. ALLEN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 46, line 6, strike the following: "616".

On page 46, line 10, strike the following: "616".

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AMENDMENTS

Intended to be proposed by Mr. ALLEN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENT

Intended to be proposed by Mr. BUCKLEY to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 17, line 13, strike all through line 16 on page 19.

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S. 3065

AMENDMENT

Intended to be proposed by Mr. BUCKLEY to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. BUCKLEY to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 5, line 24, strike the words "a majority" and substitute the words "all six" in lieu thereof.

On page 6, line 3, strike the words "a majority" and substitute the words "all six".

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AMENDMENTS

Intended to be proposed by Mr. BUCKLEY to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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AMENDMENTS

Intended to be proposed by Mr. DURKIN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz:

On page 13, line 7, before the closing quotation mark insert the following: "Each candidate shall file in a single consolidated report the reports of his principal campaign committee, his candidate report, and the reports of other authorized committees required under this section.".

On page 15, after line 24, insert the following:

"(e) (1) Section 304(a) of the Act (2 U.S.C. 434 (a)) is amended as follows:

"(A) by striking out paragraph (A) (i) and inserting in lieu thereof the following:

Amdt. No. 1506

"'(i) In any calendar year in which an individual is a candidate for Federal office and an election for such Federal office is held in such year, such reports shall be filed not later than the fifth and fifteenth days before the date on which such election is held and shall be complete as of the tenth and twentieth days before the date of such election; except that any such report filed by registered or certified mail must be postmarked not later than the close of the seventh and seventeenth days before the date of such election;';

"(B) by striking the last sentence in section 304(a) and inserting in lieu thereof the following: 'Any contribution of $1,000 or more received after the tenth day but more than twenty-four hours before any election shall be reported within twenty-four hours after its receipt.'.

"(2) Section 304(c) of the Act (2 U.S.C. 434(c)) is amended by striking the section and inserting in lieu thereof the following:

"'(c) CUMULATIVE REPORTING AMOUNTS FOR UNCHANGED ITEMS CARRIED FORWARD; STATEMENT OF INACTIVE STATUS.—The reports required to be filed by subsection (a) of this section shall be cumulative for the period beginning on the day on which a person becomes a candidate within the meaning of section 301(b) or, in the

case of a political committee, the period beginning on the first date on which it becomes a political committee within the meaning of section 301(d), but where there has been no change in an item reported in a previous report during such period, only the amount need be carried forward. If no contribution or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect.' ".

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S. 3065

AMENDMENTS

Intended to be proposed by Mr. DURKIN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

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Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. DURKIN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: On page 51, after line 16, add the following new title:

TITLE IV—ASSISTANCE FOR CONGRESSIONAL CAMPAIGN COMMUNICATIONS AMENDMENT OF 1971 ACT

SEC. 401. (a) The Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new title:

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"TITLE V—CONGRESSIONAL CAMPAIGN COMMUNICATIONS ASSISTANCE BROADCAST TIME

"SEC. 501. (a) Each station licensee shall make available to eligible congressional candidates without charge for campaign broadcasts—

"(1) in the case of a primary, general, or special election, an amount of broadcast time equal in value to the amount of such time a candidate could purchase at the rate required by section 315 (b) (1) of the Communications Act of 1934 (determined without regard to the date of the broadcast), for the lesser of—

"(A) $200,000, or

"(B) 5 cents multiplied by the number of qualified voters in the district in which the candidate seeks election, and

"(2) in the case of a runoff election, an amount euqal to one-half of the amount which would be determined under paragraph (1).

"(b) In any broadcast area served by more than one television station licensee, or more than one radio station licensee, or both, the obligation imposed on licensees by subsection (a) shall be allocated among the television station licensees and among the radio station licensees on an equitable basis so that a candidate is entitled to the same total amount of broadcast time by radio and by television in such

area as that to which he would be entitled if such area were served only by one radio station or only by one television station.

"(c) (1) A television station licensee shall make the use of its facilities available to candidates under this section for broadcast during the period beginning at 6 o'clock postmeridian local time and ending at 11 o'clock postmeridian local time on any day on which the use of such facilities is made available and a radio station licensee shall make the use of its facilities available to candidates under this section for broadcast at prime listening times as determined under regulations promulgated by the Federal Communications Commission.

"(2) No broadcast time during which a candidate appears on any regularly scheduled news report or regularly scheduled public affairs program broadcast by a station licensee shall be deducted from the broadcast time to which that candidate is entitled under this section.

"(d) The Federal Communications Commission, after consultation with the Federal Elections Commissions shall prescribe such regulations as may be necessary to carry out the provisions of this section, and may grant variances from the requirements of this section whenever it determines that any requested variance is not inconsistent with the purposes of this section.

"TELEPHONE SERVICE

"SEC. 502. (a) Any telephone company regulated by the Federal Communications Commission under title II of the Communications Act of 1934, or any telephone company with lines or facilities interconnected with the lines or facilities of such a regulated telephone company, shall make available to eligible congressional candidates without charge, fee, or deposit the use of its facilities and services to the extent that the value of the facilities and services furnished to such candidate under this section does not exceed an amount equal to 1 cent multiplied by the number of qualified voters in the district in which the candidate seeks election, or $100,000, whichever is less.

"(b) The Federal Communications Commission, after consultation with the Federal Elections Commission, shall prescribe such regulations as may be necessary to carry out the provisions of this section, and may grant variances from the requirements of this section whenever it determines that any requested variance is not inconsistent with the purposes of this section.

"CAMPAIGN MAIL

"SEC. 503. (a) Each eligible congressional candidate in a primary, general, or special election is authorized to make mailings of his campaign material free of postage.

"(b) The provisions of subsection (a) apply to only

so much free postage as does not exceed an amount equal to 1 cent multiplied by the number of qualified voters in the district in which the candidate seeks election, or $100,000, whichever is less.

"(c) In the case of a runoff election, an eligible candidate shall receive an amount equal to one-half of the amount which would be determined under paragraph (b).

"(d) The United States Postal Service, after consultation with the Federal Election Commission, shall prescribe such regulations as may be necessary to carry out the provisions of this section.

"(e) There are authorized to be appropriated to the United States Postal Service an amount equal to the postage that would have been paid on the campaign material mailed in accordance with this section if this section had not been enacted.

"DEFINITIONS: ADJUSTMENT OF AMOUNTS

"SEC. 504. (a) For purposes of this title—

"(1) the term 'eligible congressional candidate' means a candidate (as defined in section 301(b) of this Act) for nomination for election, or for election, as a United States Senator, Representative, Resident Commissioner, or Delegate who is certified by the Federal Election Commission as having obtained the signatures of the lesser of—

"(A) 3 per centum of the qualified voters in the State or district in which he seeks nomination or election, or

"(B) one hundred and fifty thousand qualified voters;

"(2) the term 'district' means State in the case of a senatorial candidate,

"(3) the term 'qualified voters' means registered voters or, if a State does not provide for permanent registration of voters, individuals qualified to vote in the most recently conducted general election for Federal, State, districtwide office, and

"(4) the term 'station licensee' has the same meaning as it has in the Communications Act of 1934.

"(b) Candidates shall file qualifying petitions with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State, who shall either accept or reject such petition within fifteen days.

"(c) The Federal Election Commission shall not certify any candidate as an eligible congressional candidate unless the signatures on such petition are verified by the State election officials pursuant to paragraph (b) of this section.

"SEC. 505. At the beginning of each calendar year (commencing in 1977) the value of the time which a station

licensee is obligated to make available to eligible candidates under section 501, the value of the telephone service made available under section 502, and the amount of free postage made available under section 503, shall be increased over the amounts set forth in such sections by the per centum difference determined for adjustments under section 320 (c) of this Act.".

Amdt. No. 1507 Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

AMENDMENT

Intended to be proposed by Mr. DURKIN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

MARCH 18, 1976

Ordered to lie on the table and to be printed

Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

IN THE SENATE OF THE UNITED STATES

MARCH 22, 1976
Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. STEVENS to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: On page 14, after line 14, add the following:

(4) Section 304(b) of the Act (2 U.S.C. 434(b) is further amended by inserting immediately after paragraph (14) the following new paragraph:

"(15) When committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, they shall be deemed to be in compliance with this subsection.".

Amdt. No. 1515

Amdt. No. 1515 **Calendar No. 647**

94TH CONGRESS
2D SESSION

S. 3065

AMENDMENT

Intended to be proposed by Mr. STEVENS to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

MARCH 22, 1976

Ordered to lie on the table and to be printed

Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

IN THE SENATE OF THE UNITED STATES

MARCH 23, 1976

Ordered to lie on the table and to be printed

AMENDMENT

(IN THE NATURE OF A SUBSTITUTE)

Intended to be proposed by Mr. CANNON (for himself, Mr. HATFIELD, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. ROBERT C. BYRD, and Mr. GRIFFIN) to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

Amdt. No. 1516

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a) (1) The second sentence of section 309 (a) (1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c (a) (1)), as redesignated by section 105 (hereinafter in this Act referred to as the "Act"), is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and eight members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309 (a) (1) of the Act (2 U.S.C. 437c (a) (1)), as redesignated by section 105, is amended to read as follows: "No more than three members of the Commission appointed under this paragraph may be affiliated with the same political party, and at least two members appointed under this paragraph shall not be affiliated with any political party.".

(b) Section 309 (a) (2) of the Act (2 U.S.C. 437c (a) (2)), as redesignated by section 105, is amended to read as follows:

"(2) (A) Members of the Commission shall serve for terms of eight years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979,

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981, and

"(iv) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1983.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c) (1) Section 309(b) of the Act (2 U.S.C. 437c (b)), as redesignated by section 105, is amended to read as follows:

"(b) (1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal

Revenue Code of 1954. The Commission shall have exclusive and primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(2) The first sentence of section 309(e) of the Act (2 U.S.C. 437c(e)), as redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: ", except that the affirmative vote of five members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and sub-

chapter III of chapter 53 of such title relating to classification and General Schedule pay rates".

(e) (1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until a majority of the members of the Commission are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section. Until a majority of the members of the Commission are appointed and qualified under the amendments made by this Act, members serving on such Commission on the date of enactment of this Act may exercise only such powers and functions as are consistent with the determinations of the Supreme Court of

the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75-436, 75-437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

(g)(1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Federal Election Campaign Act of 1971 as such title existed on January 1, 1976, or under any other provision of law are transferred to the Federal Election Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2)(A) Except as provided in subparagraph (B) of this paragraph, personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with

applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remains in full force and effect. All orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1) shall continue in effect to the same extent as if such transfer had not occurred.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission at the time this section takes effect.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within twelve months after the date of enactment of this Act, allow such suit, action, or other proceeding to be

maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301 (a) (2) of the Act (2 U.S.C. 431 (a) (2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301 (e) (2) of the Act (2 U.S.C. 431 (e) (2)) is amended by inserting "written" immediately before "contract".

(c) Section 301 (e) (4) of the Act (2 U.S.C. 431 (e) (4)) is amended by inserting after "purpose" the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer

of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

(d) Section 301(e)(5) is amended—

(1) by striking out "or" at the end of clause (E),

(2) by inserting "or" at the end of clause (F), and

(3) by inserting after clause (F) the following new clause:

"(G) a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loans—

"(i) shall be reported in accordance with the requirements of section 304(b); and

"(ii) shall be considered a loan by each endorser or guarantor, in that proportion of

the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors;".

(e) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended by striking out "individual" where it appears after clause (G) and inserting in lieu thereof "person".

(f) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by inserting before the semicolon in clause (B) the following: ", or partisan activity designed to encourage individuals to register to vote, or to vote, conducted by the national committee of a political party, or a subordinate committee thereof, or the State committee of a national party, but such partisan activity shall be reported in accordance with the requirements of section 304".

(2) by striking out "or" at the end of clause (F) and at the end of clause (G); and

(3) by inserting immediately after clause (H) the following new clauses:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate except that this clause shall not apply with respect to costs incurred by a candidate in ex-

cess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304(b);

"(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provision of this title or of chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b); or

"(K) a loan of money by a national or State bank made in accordance with the applicable bank-

ing laws and regulations and in the ordinary course of business, but such loan shall be reported in accordance with section 304(b);".

(g) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out "and" at the end of paragraph (m);

(2) by striking out the period at the end of paragraph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraph:

"(o) 'Act' means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 302(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(b) Section 302(c)(2) of such Act (2 U.S.C. 432(c)(2)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(c) Section 302 of the Act (2 U.S.C. 432) is amended

by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following: "In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceeds $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign

committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of expenditures in excess of $100 by a political committee other than an authorized committee of a candidate expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9), stated in a manner which indicates whether the expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e) (1) Every person (other than a political com-

mittee or candidate) who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) A corporation, labor organization, or other membership organization which explicitly advocates the election or defeat of a clearly identified candidate through a communication with its stockholders or members or their families shall, notwithstanding the provisions of section 301(f)(4)(C), report such expenditures under paragraph (1) to the extent that they are directly attributable to such communications.

"(3) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in

cooperation, consultation, or concert, with, or at the request or suggesting of, any candidate or any authorized committee or agent of such candidate. Any expenditure, including but not limited to those described in subsection (b) (13), of $1,000 or more made after the fifteenth day, but more than forty-eight hours, before any election shall be reported within forty-eight hours of such expenditure.

"(4) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including but not limited to those reported under subsection (b) (13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely pre-election basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431–441) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

POWERS OF COMMISSION

SEC. 106. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the

following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b) (1) Section 310 (a) (6) of the Act (2 U.S.C. 437d (a) (6)), as redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313 (a) (9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313 (a) (9), the power of the Commission to initiate civil actions under sub-

section (a) (6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ENFORCEMENT

SEC. 107. Section 313 of the Act (2 U.S.C. 437g) as redesignated by section105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a) (1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) The Commission, upon receiving a complaint under paragraph (1), or if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

"(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate. Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5) (A) If the Commission determines that there is reason to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute an absolute bar to any further action by the Commission with respect to the violation which is the

subject of the agreement, including bringing a civil proceeding under paragraph (B) of this section.

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is found, resides or transacts business.

"(C) In any civil action instituted by the Commission under paragraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation

under section 328(a), or a knowing and willful violation of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to the limitations set forth in subparagraph (A) of this paragraph.

"(6) (A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has been committed, any conciliation agreement entered into by the Commission under paragraph (5) (A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $10,000; or (ii) an amount equal to 300 percent of the amount of any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5) (A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(7) The Commission shall make available to the public the results of any conciliation attempt, including any conciliation agreement entered into by the Commission, and any determination by the Commission that no violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

"(8) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 300 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5) (A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(9) In any action brought under paragraph (5) or

paragraph (8) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(10) (A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within ninety days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any action under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than sixty days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than sixty days after the ninety-day period specified in subparagraph (A).

"(C) In such proceeding the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with that declaration within thirty days, failing which the complainant may bring in his own name a civil action to remedy the violation complained of.

"(11) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(12) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(13) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5) it may petition the court for an order to adjudicate that person in civil contempt, or, if it believes the violation to be knowing and willful, it may instead petition the court for an order to adjudicate that person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than sixty days after the date the Commission refers any apparent violation, and at the close of every

thirty-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.".

DUTIES OF COMMISSION

SEC. 108. (a) Section 315 (a) (6) of the Act (2 U.S.C. 438 (a) (6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320, and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(b) Section 315 (c) (2) of the Act (2 U.S.C. 438 (c) (2)), as redesignated by section 105, is amended by striking out "30 legislative days" in the first sentence and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 109. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS; OTHER LIMITATIONS

SEC. 110. Title III of the Act (2 U.S.C. 431-441) is amended—

(1) by inserting "(a)" before "No" in section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act;

(2) by adding the following new subsection at the end of section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act:

"(b) Notwithstanding any other provision of law, no Senator, Representative, Resident Commissioner, or Delegate shall mail as franked mail under section 3210 of title 39, United States Code, any general mass mailing when such mailing is mailed at or delivered to any postal facility less than sixty days prior to the date of any primary or general election in which such Senator, Representative, Resident Commissioner, or Delegate is a candidate for Federal office. For purposes of this subsection the term 'general mass mailing' means newsletters and similar mailings of more than five hundred pieces the content of which is substantially identical and which are mailed to or delivered to any postal facility at the same time or several different times.";

(3) by striking out section 320 (2 U.S.C. 441), as redesignated by section 105 of this Act; and

(4) by inserting after section 319 (2 U.S.C. 439c), as redesignated by such section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a) (1) No person shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized political committee of any candidate, in any calendar year which, in the aggregate, exceed $25,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

"(2) No multi-candidate political committee shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized committee of any candidate in any calendar year, which, in the aggregate, exceed $25,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $10,000.

The limitations on contributions contained in paragraph (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of this paragraph, the term 'multi-candidate political committee' means a political committee which has been registered under section 303 for a period of not less than six months, which has received contributions from more than fifty persons, and, except for any State political party organization, has made contributions to five or more candidates for Federal office.

"(3) For purposes of the limitations under paragraphs (1) and (2), all contributions made by political committees established, financed, maintained, or controlled by any person or persons, including any parent, subsidiary, branch, division, department, affiliate, or local unit of such person, or by any group of persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund-raising efforts; (B) this sentence shall not apply so that contributions made by a political party through a single national committee and con-

tributions by that party through a single State committee in each State are treated as having been made by a single political committee; and (C) a political committee of a national organization shall not be precluded from contributing to a candidate or committee merely because of its affiliation with a national multicandidate political committee which has made the maximum contribution it is permitted to make to a candidate or a committee.

"(4) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

"(5) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B) (i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(6) The limitations imposed by paragraphs (1) and (2) of this subsection (other than the annual limitation on contributions to a political committee under paragraph (2)(B)) shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(7) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise

directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b) (1) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of

the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c) (1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average

over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d) (1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

"(3) The national committee of a political party, or

a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, eighteen years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"(h) Notwithstanding any other provision of this Act, amounts totaling not more than $20,000 may be contributed to a candidate for nomination for election, or for election, to the United States Senate or House of Representatives, during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, the Democratic National Congressional Committee, the National Republican Congressional Committee, or the national committee of a political party, or any combination of such committees.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"(b) (1) For the purposes of this section 'labor organization' means any organization of any kind, or any agency

or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. As used in this section and in section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 79l(h)), the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; or the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for

political purposes by a corporation or labor organization, or by a membership organization, cooperative, or corporation without capital stock.

"(2) It shall be unlawful—

"(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

"(B) for an employee to solicit a subordinate employee;

"(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

"(D) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

"(3) (A) Except as provided in subparagraphs (B) and (C), it shall be unlawful—

"(i) for a corporation, or a separate segregated fund

established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

"(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

"(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by a corporation or a labor organization, to solicit in writing one contribution during the calendar year for use in connection with primary election campaigns, and one contribution during the calendar year for use in connection with general election campaigns, from any stockholder, officer, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to the stockholder, officer, or employee at his residence, and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution as a result of such solicitation and who does not.

"(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a mem-

bership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

"(4) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations.

"(5) Any corporation that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, that method, to a labor organization representing any members working for that corporation.

"(6) For purposes of this section, the term 'executive or administrative personnel' means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking or supervisory responsibilities.

"(7) For purposes of this section, the term 'stockholder' includes any individual who has a legal or vested beneficial interest in stock, including, but not limited to, an employee of a corporation who participates in a stock bonus, stock option, or employee stock ownership plan.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"SEC. 322. (a) It shall be unlawful for any person—

"(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 321 applies to a corporation, labor organization or separate segregated fund to which this subsection applies.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails, and other similar types of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees or their agents, shall clearly and

conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or

"(2) if not authorized by a candidate, his authorized, political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303 (b) (2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

"(b) As used in this section, the term 'foreign national' means—

"(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTION OF CURRENCY

"SEC. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 327. No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) willfully and knowingly to participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

"PENALTY FOR VIOLATIONS

"SEC. 328. (a) Any person, following the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both. A willful and knowing violation of section 321

(b) (2), including such a violation of the provisions of such section as applicable through section 322 (b), is punishable by a fine of not more than $50,000, imprisonment for not more than 2 years, or both. In the case of a knowing and willful violation of section 325 or 326, the penalties set forth in this section shall apply to a violation involving an amount having a value in the aggregate of $250 or more during a calendar year. In the case of a knowing and willful violation of section 327, the penalties set forth in this section shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more was involved.

"(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect.

"(c) In any criminal action brought for a violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in

weighing the seriousness of the offense and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

"(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313,

"(2) the conciliation agreement is in effect, and

"(3) the defendant is, with respect to the violation for which the defense is being asserted, in compliance with the conciliation agreement.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: "There are authorized to be appropriated to the Federal Election Commission $8,000,000 for the fiscal year ending June 30, 1976, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for the fiscal year ending September 30, 1977.".

SAVINGS PROVISION

SEC. 112. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect to release or extinguish any penalty, forfeiture,

or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 113. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(d)(1) Section 301(e)(5)(F) of the Act (2 U.S.C. 431(e)(5)(F)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(2) Section 301(f)(4)(H) of the Act (2 U.S.C. 431(f)(4)(H)) is amended by striking out "the last para-

graph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321 (b)".

(e) Section 314 (a) of the Act (2 U.S.C. 437h (a)), as redesignated by section 105, is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code" in the first sentence of such section and by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code," in the second sentence of such subsection.

(f) (1) Section 406 (a) of the Act (2 U.S.C. 455 (a)) is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code".

(2) Section 406 (b) of the Act (2 U.S.C. 455 (b)) is amended by striking out "or section 608, 610, 611, or 613 of title 18, United States Code,".

(g) Section 591 of title 18, United States Code, is amended—

(1) by striking out "608 (c) of this title" in subsection (f) (4) (H) and inserting in lieu thereof "section 320 (b) of the Federal Election Campaign Act of 1971";

(2) by striking out "by section 608 (b) (2) of this title" in subsection (f) (4) (I) and inserting in lieu

thereof "under section 320(a)(2) of the Federal Election Campaign Act of 1971"; and

(3) by striking out "310(a)" in subsection (k) and inserting in lieu thereof "309(a)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES FOR PAYMENTS

SEC. 301. (a) Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in a Presidential election shall certify to the Commission, under

penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) For purposes of applying section 9004(d) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

PAYMENTS TO ELIGIBLE CANDIDATES

SEC. 302. Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

REVIEW OF REGULATIONS

SEC. 303. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and insert-

ing in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

(b) Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

ELIGIBILITY FOR PAYMENTS

SEC. 304. Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "**LIMITATION**" and inserting in lieu thereof "**LIMITATIONS**";

(2) by inserting "(a) EXPENDITURE LIMITATIONS.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations.".

(c) For purposes of applying section 9035(a) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT

SEC. 306. Section 9037 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates in primary campaigns) is amended by adding at the end thereof the following new subsection:

"(c) TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, no payment shall be made under this chapter to any candidate more than 30 days after the date of the second consecutive primary election in which such candidate receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election if the candidate permitted or authorized the appearance of his name on the ballot or certifies to the Commission that he will not be an active candidate in the primary. If the primary elections are held in more than one State on the same date, a candidate shall, for purposes of this subsection, be treated as receiving that percentage of the votes on that date which he received in the primary election conducted on such date in which he received the greatest percentage vote. The provisions of this section shall apply as of the date of enactment of the Federal Election Campaign Act Amendments of 1976.

"(2) REINSTATEMENT OF PAYMENTS.—Notwithstanding the provisions of paragraph (1), a candidate whose payments have been terminated under paragraph (1) may again receive payments (including amounts he would have received but for paragraph (1)) if he receives 20 percent or more of the total number of votes

cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 307. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISION OF LEGAL AND ACCOUNTING SERVICES.—For purposes of this section, the payment by any person, including the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services, of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall

not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on Presidential nominating convention expenses.".

(c) Section 9034 (b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608 (c) (1) (A) of title 18, United States Code," and inserting in lieu thereof "section 320 (b) (1) (A) of the Federal Election Campaign Act of 1971".

(d) Section 9035 (a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 305 (a), is amended by striking out "section 608 (c) (1) (A) of title 18, United States Code," and inserting in lieu thereof "section 320 (b) (1) (A) of the Federal Election Campaign Act of 1971".

(e) Section 9004 (a) (1) of the Internal Revenue Code of 1954 (relating to entitlements of eligible candidates to payments) is amended by striking out "608 (c) (1) (B) of title 18, United States Code" and inserting in lieu thereof "320 (b) (1) (B) of the Federal Election Campaign Act of 1971".

(f) Section 9007 (b) (3) of the Internal Revenue Code of 1964 (relating to repayments) is amended by striking out "9006 (d)" and inserting in lieu thereof "9006 (c)".

(g) Section 9012 (b) (1) of the Internal Revenue Code

of 1954 (relating to contributions) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

TITLE IV—COMMISSION TO STUDY PRESIDENTIAL NOMINATING PROCESS

DECLARATION OF POLICY

SEC. 401. It is hereby declared to be the policy of the United States to improve the system of nominating candidates for election to the office of the President of the United States by studying such system in a broad manner never before attempted in the two-hundred-year history of this Nation.

ESTABLISHMENT OF COMMISSION

SEC. 402. (a) There is established the Bicentennial Commission on Presidential Nominations (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members to be appointed as follows:

(1) six members shall be appointed by the President pro tempore of the Senate, on the recommendation of the majority and minority leaders, of whom at least two shall be Members of the Senate and at least two shall be elected or appointed State officials;

(2) six members shall be appointed by the Speaker of the House of Representatives, of whom at least two

shall be Members of the House and at least two shall be elected or appointed State officials;

(3) six members shall be appointed by the President; and

(4) two members shall be the chairman of the two national political parties and shall serve as ex officio members.

(c) At no time shall more than three members appointed under paragraph (1), (2), or (3) of subsection (b) be individuals who are of the same political affiliation.

(d) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made, subject to the same limitations with respect to party affiliations as the original appointment.

(e) Twelve members shall constitute a quorum, but a lesser number may conduct hearings. The Chairman of the Commission shall be selected by the members from among the members, other than ex officio members.

FUNCTIONS OF THE COMMISSION

SEC. 403. (a) The Commission shall make a full and complete investigation with respect to the Presidential nominating process. Such investigation shall include but not be limited to a consideration of—

(1) the manner in which States conduct primaries

for the expression of a preference for the nomination of candidates for election to the office of President of the United States and caucuses for the selection of delegates to the national nominating conventions of political parties;

(2) State laws and the rules of national political parties which govern the participation of voters and candidates in such primaries and caucuses;

(3) the financing of campaigns for the nomination of candidates for election to the office of the President of the United States;

(4) the relationship between candidates for election to the office of the President of the United States and the news media, including how candidates achieve public recognition and whether such candidates should be guaranteed access to the television media;

(5) the interrelationship of the elements described in paragraphs (1) through (4) of this section;

(6) alternative nominating systems, including but not limited to a national or regional primary system for the expression of a preference for the nomination of candidates for election to the office of President of the United States and variations on the present nominating system;

(7) the manner in which candidates are nominated

for election to the office of Vice President of the United States; and

(8) the extent to which State laws and the Federal Election Campaign Act of 1971 promote or retard independent candidacies for election to the office of President.

(b) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than one year after the enactment of this title, a final report of its study and investigation based upon a full consideration of alternatives to our current Presidential nominating system, including an analysis of the strengths and weaknesses of all such alternatives studied, together with its recommendations as to the best system to establish for the 1980 Presidential elections. The Commission shall cease to exist sixty days after its final report is submitted.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 404. (a) The Commission may, in carrying out the provisions of this title, sit and act at such times and places, hold such hearings, take such testimony, request the attendance of such witnesses, administer oaths, have such printing and binding done, and commission studies by any Federal agency or executive department, as the Commission deems advisable.

(b) Per diem and mileage allowances for witnesses requested to appear under the authority conferred by this

section shall be paid from funds appropriated to the Commission.

(c) Subject to such rules and regulations as may be adopted by the Commission, the chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification in General Schedule pay rates, but at such rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSATION OF MEMBERS

SEC. 405. (a) Members of the Commission who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(b) Members of the Commission not otherwise employed by the Federal Government shall receive per diem at the maximum daily rate for GS–18 of the General Schedule when they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

TIMELINESS OF APPOINTMENTS

SEC. 406. It is the sense of the Congress that the appointments of individuals to serve as members of the Commission be completed within ninety days after the enactment of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 407. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE V—MISCELLANEOUS PROVISIONS

USE OF FRANKED MAIL BEFORE ELECTIONS

SEC. 501. Section 3210(a)(5)(D) of title 39, United States Code, is amended by striking out "28" and inserting in lieu thereof "60".

Amdt. No. 1516 Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

AMENDMENT

(IN THE NATURE OF A SUBSTITUTE)

Intended to be proposed by Mr. CANNON (for himself, Mr. HATFIELD, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. ROBERT C. BYRD, and Mr. GRIFFIN) to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

MARCH 23, 1976

Ordered to lie on the table and to be printed

Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

IN THE SENATE OF THE UNITED STATES

MARCH 23, 1976

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. ALLEN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, viz: Add at the end thereof the following new section:

SEC. . (a) Each person referred to in subparagraph (b) herein shall file annually with the Comptroller General of the United States on or before February 15 of each year a full and complete report of net worth as of the end of the preceding calendar year, such report to consist of a statement of assets (and of their reasonable market value) owned by him, or jointly by him and his spouse, and of liabilities owed by him, or jointly by him and his spouse, to-

Amdt. No. 1517

gether with a full and complete statement of income for the preceding calendar year, such statement of income to consist of a list of the identity of each source of income and a list of the amount paid by each source of income to him or jointly to him and his spouse, during the preceding calendar year, except that in lieu of such statement of income, each individual referred to in subparagraph (b) may file with the Comptroller General of the United States a copy of such person's Federal income tax report for such calendar year.

(b) The provisions of this section shall apply to any person who as an officer or employee of the United States within the executive, legislative, or judicial branch of the Government of the United States received compensation at a gross annual rate in excess of $25,000 during the year 1976 or any subsequent year.

(c) The report required by this section shall be in such form and shall contain such information as the Comptroller General may prescribe in order to meet the provisions of this section. Notwithstanding any provision of law to the contrary, all reports filed under this section shall be maintained by the Comptroller General as public records, open to inspection by members of the public, and copies of such records shall be furnished upon request at a reasonable fee. Any

report filed under this section shall be retained by the Comptroller General for a period of five years.

(d) All reports required hereunder shall be certified as being correct by the person filing the same and shall be duly sworn to and properly notarized.

Amdt. No. 1517 Calendar No. 647

94TH CONGRESS
2D SESSION

S. 3065

AMENDMENT

Intended to be proposed by Mr. ALLEN to S. 3065, a bill to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

MARCH 23, 1976

Ordered to lie on the table and to be printed

H.R. 12406

Union Calendar No. 458

94TH CONGRESS
2D SESSION

H. R. 12406

[Report No. 94–917]

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 1976

Mr. HAYS of Ohio (for himself, Mr. THOMPSON, Mr. DENT, Mr. BRADEMAS, Mr. HAWKINS, Mr. ANNUNZIO, Mr. GAYDOS, Mr. JONES of Tennessee, Mr. MINISH, Mr. ROSE, and Mr. JOHN L. BURTON) introduced the following bill; which was referred to the Committee on House Administration

MARCH 17, 1976

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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A BILL

To amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

I

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a) (1) The second sentence of section 309 (a) (1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 473c(a) (1)), as so redesignated by section 105, hereinafter in this Act referred to as the "Act", is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and 6 members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a) (1) of the Act (2 U.S.C. 437c(a) (1)), as so redesignated by section 105, is amended to read as follows: "No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.".

(b) Section 309(a) (2) of the Act (2 U.S.C. 437c (a) (2)), as so redesignated by section 105, is amended to read as follows:

"(2) (A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

"(i) one shall be appointed for a term of 1 year;

"(ii) one shall be appointed for a term of 2 years;

"(iii) one shall be appointed for a term of 3 years;

"(iv) one shall be appointed for a term of 4 years;

"(v) one shall be appointed for a term of 5 years; and

"(vi) one shall be appointed for a term of 6 years;

as designated by the President at the time of appointment, except that of the members first appointed under this subparagraph, no member affiliated with a political party shall be appointed for a term that expires 1 year after another member affiliated with the same political party.

"(B) A member of the Commission may serve on the Commission after the expiration of his term until his successor has taken office as a member of the Commission.

"(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c) (1) Section 309(a) (3) of the Act (2 U.S.C. 437c(a) (3)), as so redesignated by section 105, is amended by adding at the end thereof the following new sentences: "Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment

at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity no later than 1 year after beginning to serve as such a member.".

(2) Section 309(b) of the Act (2 U.S.C. 437c(b)), as so redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(3) The first sentence of section 309(c) of the Act (2 U.S.C. 437(c)), as so redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following ", except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter

96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d) (1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as so redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)) as so redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until members are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as so redesignated by section 105 and as amended by this section, except that until appointed and qualified under this Act, members serving on such Commission on such date of enactment may, beginning on March 1, 1976, exercise only such powers and functions as may be consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United

States Senate, et al. (numbered 75–436, 75–437) (January 30, 1976).

(e) The provisions of section 309 (a) (3) of the Act (2 U.S.C. 437c (a) (3)), as so redesignated by section 105, which prohibit any member of the Federal Election Commission from being an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301 (a) (2) of the Act (2 U.S.C. 431 (a) (2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301 (e) (2) of the Act (2 U.S.C. 431 (e) (2)) is amended by inserting "written" immediately before "contract", and by striking out "expressed or implied,".

(c) (1) Section 301 (e) (4) of the Act (2 U.S.C. 431 (e) (4)) is amended by inserting immediately before the semicolon the following: ", except that this subparagraph shall not apply (A) in the case of any legal or accounting services rendered to or on behalf of the national committee of a political party, other than any legal or accounting services attributable to activity which directly furthers the election of

any designated candidate to Federal office; or (B) in the case of any legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(2) Section 301 (e) (5) of the Act (2 U.S.C. 431 (e) (5)) is amended—

(A) in clause (E) thereof, by striking out "or" at the end thereof;

(B) in clause (F) thereof, by inserting "or" immediately after the semicolon at the end thereof; and

(C) by inserting immediately after clause (F) the following new clause:

"(G) a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any such gift,

subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with section 304(b)".

(d)(1) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(A) by striking out "or" at the end of clause (F) and at the end of clause (G);

(B) by inserting "or" immediately after the semicolon at the end of clause (H); and

(C) by inserting immediately after clause (H) the following new clause:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), except that all such costs shall be reported in accordance with section 304(b).".

(2) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)), as amended by paragraph (1), is further amended—

(A) by redesignating clause (F) through clause (I) as clause (G) through clause (J), respectively; and

(B) by inserting immediately after clause (E) the following new clause:

"(F) the payment, by any person other than a candidate or a political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of any designated candidate to Federal office, or for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954;".

(e) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) in paragraph (m) thereof, by striking out "and" at the end thereof;

(2) in paragraph (n) thereof, by striking out the period at the end thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(o) 'Act' means the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976;

"(p) 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

"(q) 'clearly identified' means (1) the name of the candidate appears; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate is apparent by unambiguous reference.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1)(C) of the Act (2 U.S.C. 434(a)(1)(C)) is amended by inserting immediately before the period at the end thereof the following: "except that, in any year in which a candidate is not on the

ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures totaling in excess of $10,000, and such reports shall be complete as of the close of such calendar quarter (except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph)".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of an independent expenditure in excess of $100 by a political committee, other than an authorized committee of a candidate, expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9) stated in a manner which indicates whether the independent expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e) (1) Every person (other than a political committee or candidate) who makes contributions or independent expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 during a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who

makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b) (9), stated in a manner indicating whether the contribution or independent expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any independent expenditure, including those described in subsection (b) (13), of $1,000 or more made after the fifteenth day, but more than 24 hours, before any election shall be reported within 24 hours of such independent expenditure.

"(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including those reported under subsection (b) (13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely preelection basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431 et seq.) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

CAMPAIGN DEPOSITORIES

SEC. 106. The second sentence of section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)), as so redesignated by section 105, is amended by striking out "a checking account" and inserting in lieu thereof "one or more checking accounts, at the discretion of any such committee,".

POWERS OF COMMISSION

SEC. 107. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as so redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b) (1) Section 310 (a) (6) of the Act (2 U.S.C. 437d (a) (6)), as so redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory or other appropriate relief) defend (in the case of any civil action brought under section 313 (a) (9)) or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as so redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313 (a) (9), the power of the Commission to initiate civil actions under subsection (a) (6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ADVISORY OPINIONS

SEC. 108. (a) Section 312 (a) of the Act (2 U.S.C. 437f (a)), as so redesignated by section 105, is amended to read as follows:

"SEC. 312. (a) Upon written request to the Commission by any individual holding Federal office, any candidate for Federal office, any political committee, or the national com-

mittee of any political party, the Commission shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954. No advisory opinion shall be issued by the Commission or any of its employees except in accordance with the provisions of this section.".

(b) Section 312 (b) of the Act (2 U.S.C. 437 (b)), as so redesignated by section 105, is amended to read as follows:

"(b) (1) Notwithstanding any other provision of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (2) (A) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(2) (A) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by (i) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and (ii) any person involved in any specific transaction or ac-

tivity which is similar to the transaction or activity with respect to which such advisory opinion is rendered.

"(B) (i) The Commission shall, no later than 30 days after rendering an advisory opinion with respect to a request received under subsection (a), transmit to the Congress proposed rules or regulations relating to the transaction or activity involved if such transaction or activity is not subject to any existing rule or regulation prescribed by the Commission. In any such case in which the Commission receives more than one request for an advisory opinion involving the same or similar transactions or activities, the Commission may not render more than one advisory opinion relating to the transactions or activities involved.

"(ii) Any rule or regulation prescribed by the Commission under this subparagraph shall be subject to the provisions of section 315(c).".

(c) Section 315(c)(1) of the Act (2 U.S.C. 438(c)(1)), as so redesignated by section 105, is amended by inserting "or under section 312(b)(2)(B)" immediately after "under this section".

(d) The amendments made by this section shall apply to any advisory opinion rendered by the Federal Election Commission after October 15, 1974.

ENFORCEMENT

SEC. 109. Section 313 of the Act (2 U.S.C. 437g), as so redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a) (1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission. Notwithstanding any other provision of this Act, the Commission shall not have the authority to inquire into or investigate the utilization or activities of any staff employee of any person holding Federal office without first consulting with such person holding Federal office. An affidavit given by the person holding Federal office that such staff employee is performing his regularly assigned duties shall be a complete bar to any further inquiry or investigation of the matter involved.

"(2) The Commission, if it has reasonable cause to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such apparent violation and shall make an investigation of such violation in accordance with the provisions of this section.

"(3) (A) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate.

"(B) Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall, at the request of any person who receives notice of an apparent violation under paragraph (2), afford such person a reasonable opportunity to demonstrate that no action shall be taken against such person by the Commission under this Act.

"(5) (A) If the Commission determines that there is reasonable cause to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Com-

mission shall make every endeavor for a period of not less than 30 days to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved, except that, if the Commission has reasonable cause to believe that—

"(i) any person has failed to file a report required to be filed under section 304(a)(1)(C) for the calendar quarter occurring immediately before the date of a general election;

"(ii) any person has failed to file a report required to be filed no later than 10 days before an election; or

"(iii) on the basis of a complaint filed less than 45 days but more than 10 days before an election, any person has committed a knowing and willful violation of this Act of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall make every effort, for a period of not less than one-half the number of days between the date upon which the Commission determines there is reasonable cause to believe such a violation has occurred and the date of the election involved, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless vio-

lated, shall constitute a complete bar to any further action by the Commission, including the bringing of a civil proceeding under subparagraph (B).

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under subparagraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater or $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is prob-

able cause to believe that a knowing and willful violation subject to and as defined in section 328 has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitation set forth in subparagraph (A).

"(6) (A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has been committed, any conciliation agreement entered into by the Commission under paragraph (5) (A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5) (A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(C) The Commission shall make available to the pub-

lic (i) the results of any conciliation attempt, including any conciliation agreement entered into by the Commission; and (ii) any determination by the Commission that no violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred.

"(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 200 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5) (A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(8) In any action brought under paragraph (5) or paragraph (7), subpenas for witnesses who are required

to attend a United States district court may run into any other district.

"(9) (A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within 90 days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any petition under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than 60 days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than 60 days after the 90-day period specified in subparagraph (A).

"(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with such declaration within 30 days, failing which the complainant may bring in his own name a civil action to remedy the violation involved in the original complaint.

"(10) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5) it may petition the court for an order to adjudicate such person in civil contempt, except that if it believes the violation to be knowing and willful it may petition the court for an order to adjudicate such person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every

30-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.

"(c) Any member of the Commission, any employee of the Commission, or any other person who violates the provisions of subsection (a) (3) (B) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subsection (a) (3) (B) shall be fined not more than $5,000.".

DUTIES OF COMMISSION

SEC. 110. (a) (1) Section 315 (a) (6) of the Act (2 U.S.C. 438 (a) (6)), as so redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320 (a) (2), and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(2) Section 315 (a) (8) of the Act (2 U.S.C. 438 (a)

(8)), as so redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to give priority to auditing and field investigating the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(b) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)), as so redesignated by section 105, is amended—

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the second sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(c) Section 315 of the Act (2 U.S.C. 438), as so redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) In any proceeding, including any civil or criminal

enforcement proceeding against any person charged with violating any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, no rule, regulation, guideline, advisory opinion, opinion of counsel or any other pronouncement by the Commission or by any member, officer, or employee thereof (other than any rule or regulation of the Commission which takes effect under subsection (c)) shall be used against any person, either as having the force of law, as creating any presumption of violation or of criminal intent, or as admissible in evidence against such person, or in any other manner whatsoever.".

ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 111. Section 407(a) of the Act (2 U.S.C. 456(a)) is amended by inserting immediately after "such title III," the following: "the Commission shall (1) make every endeavor for a period of not less than 30 days to correct such failure by informal methods of conference, conciliation, and persuasion; or (2) in the case of any such failure which occurs less than 45 days before the date of the election involved, make every endeavor for a period of not less than one-half the number of days between the date of such failure and the date of the election involved to correct such failure by informal methods of conference, conciliation, and persuasion, except that no action may be taken by the Commission with respect to any complaint filed with the Commission

during the 5-day period immediately before an election until after the date of such election. If the Commission fails to correct such failure through such informal methods, then".

CONTRIBUTION AND EXPENDITURE LIMITATIONS; PENALTIES

SEC. 112. (a) Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105, is further amended by striking out section 316, as so redesignated by section 105, by striking out section 320, as so redesignated by section 105, and by inserting immediately after section 319 the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a) (1) Except as otherwise provided by paragraphs (2) and (3), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000, or to any political committee in any calendar year which exceed, in the aggregate, $1,000.

"(2) No political committee (other than a principal compaign committee) shall make contributions to (A) any candidate with respect to any election for Federal office which, in the aggregate, exceed $5,000; or (B) to any political committee in any calendar year which, in the aggregate, exceed $5,000. Contributions by the national committee of a political party serving as the principal campaign

committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by the preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term 'political committee' means an organization registered as a political committee under section 303 for a period of not less than 6 months which has received contributions from more than 50 persons and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office. For purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fundraising efforts; and (B) for purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or

maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations prescribed by paragraph (1) and this paragraph.

"(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made is considered to be made during the calendar year in which such election is held.

"(4) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B) (i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request

or suggestion of, a candidate, his authorized political committees, or their agents shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(5) The limitations imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the President of the United States (except a general election for such office) shall be considered to be one election.

"(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including

contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b) (1) No candidate for the office of President of the United States who has established his eligibility under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury or his delegate may make expenditures in excess of—

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed twice the greater of 8 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $100,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to

the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a candidate for the office of Vice President, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c) (1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d) (1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign com-

mittee of a candidate for the office of the President of the United States.

"(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification.

The term 'voting age population' means resident population, 18 years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for nomination for election to the office of President for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corpo-

ration whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress are to be voted for, or in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank, or any officer of any labor organization, to consent to any contribution or expenditure by such corporation, national bank, or labor organization, as the case may be, which is prohibited by this section.

"(b) (1) For purposes of this section the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or contributions of work.

"(2) For purposes of this section, the term 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan

of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the officers referred to in this section, but shall not include (A) communications by a corporation to its stockholders and executive officers and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive officers and their families; or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization, except that (i) it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal, or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction; (ii) it shall be unlawful for a corporation or a separate segregated fund established by a corporation to solicit contributions from any person other than its stock-

holders, executive officers, and their families, for an incorporated trade association or a separate segregated fund established by an incorporated trade association to solicit contributions from any person other than the stockholders and executive officers of the member corporations of such trade association and the families of such stockholders and executive officers (to the extent that any such solicitation of such stockholders and executive officers, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation has not approved any such solicitation by more than one such trade association in any calendar year, or for a labor organization or a separate segregated fund established by a labor organization to solicit contributions from any person other than its members and their families; (iii) notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations; and (iv) any corporation which utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, such method to a labor organization representing any members working for such corporation.

"(3) For purposes of this section the term 'executive officer' means an individual employed by a corporation who is paid on a salary rather than hourly basis and who has policymaking or supervisory responsibilities.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"SEC. 322. (a) It shall be unlawful for any person who enters—

"(1) into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any polit-

ical party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing any communication expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or other similar type of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees, or their agents, shall clearly and

conspicuously, in accordance with regulations prescribed by the Commission, state that such communication has been so authorized; or

"(2) if not authorized in accordance with paragraph (1), shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that such communication is not authorized by any candidate, and state the name of the person that made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization as stated in section 303 (b) (2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office, or for any person to solicit, accept, or receive any such contribution from any such foreign national.

"(b) As used in this section, the term 'foreign national' means—

"(1) a foreign principal, as such term is defined by

section 1 (b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 (b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101 (a) (20) of the Immigration and Nationality Act (8 U.S.C. 1101 (a) (20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTIONS OF CURRENCY

"SEC. 326. (a) No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceeds $250, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"(b) Any person who knowingly and willfully violates the provisions of this section shall be fined in an amount

which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution involved.

"ACCEPTANCE OF EXCESSIVE HONORARIUMS

"SEC. 327. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

"(1) any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

"(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $15,000 in any calendar year.

"PENALTY FOR VIOLATIONS

"SEC. 328. Any person who knowingly and willfully commits a violation of any provision or provisions of this Act, other than the provisions of section 326, which involves the making, receiving, or reporting of any contribution or expenditure having a value, in the aggregate, of $5,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both.".

(b) Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105 and subsection (a), is further

amended by inserting immediately after section 315 the following new section:

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 316. No person, being a candidate for Federal office or an employee or agent of such a candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).".

SAVINGS PROVISION RELATING TO REPEALED SECTIONS

SEC. 113. Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105 and section 112, is further amended by adding at the end thereof the following new section:

"SAVING PROVISION RELATING TO REPEALED SECTIONS

"SEC. 329. Except as otherwise provided by this Act, the repeal by the Federal Election Campaign Act Amendments of 1976 of any provision or penalty or penalties shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under such provision or penalty,

and such provision or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.".

PRINCIPAL CAMPAIGN COMMITTEES

SEC. 114. Section 302(f) of the Act (2 U.S.C. 432 (f)) is amended by adding at the end thereof the following new sentence: "Any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of the preceding sentence.".

TERMINATION OF AUTHORITY OF COMMISSION

SEC. 115. Title IV of the Act (2 U.S.C. 451 et seq.) is amended by adding at the end thereof the following new section:

"TERMINATION OF AUTHORITY OF COMMISSION

"SEC. 409. (a) Notwithstanding any other provision of this Act or any other provision of law, the authority of the Commission to carry out the provisions of this Act, and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, shall terminate at the close of March 31, 1977, if either House of the Congress by appropriate action determines that such termination shall take effect pursuant to subsection (b).

"(b) The appropriate committee of each House of the Congress shall, commencing January 3, 1977, conduct a review of the elections of candidates for Federal office con-

ducted in 1976, the operation of chapter 95 and chapter 96 of the Internal Revenue Code of 1954 with respect to such elections, and the activities conducted by the Commission, and report to their respective Houses not later than March 1, 1977. Such report shall include a recommendation of whether the authority of the Commission shall be terminated on March 31, 1977, as set forth in subsection (a).

"(c) Nothing in this section shall affect any proceeding pending in any court of the United States on the date of the enactment of this section. The Attorney General of the United States shall have the authority to act on behalf of the United States in any such proceeding.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 116. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304 (a) (1) (C)," the following: "304(c),".

(b) (1) Section 310(a) (7) of the Act (2 U.S.C. 437d(a) (7)), as so redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c) (1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a) (1)" and inserting in lieu thereof "309(a) (1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a) (1)" and inserting in lieu thereof "309(a) (1)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

CHANGES IN DEFINITIONS

SEC. 202. (a) Section 591 of title 18, United States Code, is amended by striking out "602, 608, 610, 611, 614, 615, and 617" and insert in lieu thereof "and 602".

(b) Section 591 (e) (4) of title 18, United States Code is amended by inserting immediately before the semicolon the following: ", except that this subparagraph shall not apply (A) in the case of any legal or accounting services rendered to or on behalf of the national committee of a political party, other than any legal or accounting services attributable to any activity which directly furthers the election of any designated candidate to Federal office; or (B) in the case of any legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions

of this chapter, the Federal Election Campaign Act of 1971, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(c) Section 591 (f) (4) of title 18, United States Code, is amended—

(1) by redesignating clause (F) through clause (I) as clause (G) through clause (J), respectively; and

(2) by inserting immediately after clause (E) the following new clause:

"(F) the payment, by any person other than a candidate or a political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of any designated candidate to Federal office, or for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this chapter, the Federal Election Campaign Act of 1971, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954;".

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

SEC. 301. Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000. For purposes of this subsection, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent,

brother, or sister of the candidate, and the spouses of such persons.".

PAYMENTS TO ELIGIBLE CANDIDATES; INSUFFICIENT AMOUNTS IN FUND

SEC. 302. (a) Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

(b) Section 9006(c) of the Internal Revenue Code of 1954 (relating to insufficient amounts in fund), as so redesignated by subsection (a), is amended by adding at the end thereof the following new sentence: "In any case in which the Secretary or his delegate determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.".

PROVISION OF LEGAL OR ACCOUNTING SERVICES

SEC. 303. Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISION OF LEGAL OR ACCOUNTING SERVICES.—For purposes of this section, the payment, by

any person other than the national committee of a political party, of compensation to any person for any legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such national committee with respect to the presidential nominating convention of the political party involved.".

REVIEW OF REGULATIONS

SEC. 304. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(b) Section 9039 (c) (2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

ELIGIBILITY FOR PAYMENTS

SEC. 305. Section 9033 (b) (1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 306. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "LIMITATION" and inserting in lieu thereof "LIMITATIONS";

(2) by inserting "(a) EXPENDITURE LIMITATIONS.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations.".

RETURN OF FEDERAL MATCHING PAYMENTS

SEC. 307. (a) (1) Section 9002 (2) of the Internal Revenue Code of 1954 (defining candidate) is amended by

adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States, in more than one State.".

(2) Section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(d) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9002(2), such individual—

"(1) shall no longer be eligible to receive any payments under section 9006; and

"(2) shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses.".

(b) (1) Section 9032 (2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who is not actively

conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.".

(2) Section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(c) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2), such individual—

"(1) shall no longer be eligible to receive any payments under section 9037; and

"(2) notwithstanding the provisions of section 9038(b)(3), shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9037 which are not used to defray qualified campaign expenses.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 308. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting

in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(c) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

Union Calendar No. 458

94TH CONGRESS
2D SESSION

H. R. 12406

[Report No. 94–917]

A BILL

To amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

By Mr. HAYS of Ohio, Mr. THOMPSON, Mr. DENT, Mr. BRADEMAS, Mr. HAWKINS, Mr. ANNUNZIO, Mr. GAYDOS, Mr. JONES of Tennessee, Mr. MINISH, Mr. ROSE, and Mr. JOHN L. BURTON

MARCH 11, 1976

Referred to the Committee on House Administration

MARCH 17, 1976

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

REPORT TO ACCOMPANY H.R. 12406

HOUSE COMMITTEE ON
HOUSE ADMINISTRATION

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

REPORT

OF THE

COMMITTEE ON HOUSE ADMINISTRATION

TOGETHER WITH

MINORITY VIEWS, SEPARATE VIEWS, SUPPLEMENTAL VIEWS AND ADDITIONAL VIEWS

TO ACCOMPANY

H.R. 12406

TO AMEND THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 TO PROVIDE THAT MEMBERS OF THE FEDERAL ELECTION COMMISSION SHALL BE APPOINTED BY THE PRESIDENT, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, AND FOR OTHER PURPOSES

MARCH 17, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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COMMITTEE ON HOUSE ADMINISTRATION

Ninety-Fourth Congress

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2d Session } { No. 94-917

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

MARCH 17, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HAYS of Ohio, from the Committee on House Administration, submitted the following

REPORT

together with

MINORITY VIEWS, SEPARATE VIEWS, SUPPLEMENTAL VIEWS AND ADDITIONAL VIEWS

[To accompany H.R. 12406]

The Committee on House Administration, to whom was referred the bill (H.R. 12406) to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President by and with advice and consent of the Senate, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

On March 11, 1976, a quorum being present, the Committee adopted by recorded vote of 15 ayes and 9 nays, a motion to report H.R. 12406 without amendment.

The Oversight Subcommittee of the Committee on House Administration has not submitted any findings with respect to this bill. No other special oversight findings were necessitated as a result of consideration of this bill.

No budget statement is submitted.

No estimate or comparison was received from the Director of the Congressional Budget Office as referred to in subdivision (C) of clause 2(1)(3) of Rouse Rule XI.

No findings of recommendations of the Committee on Government Operations were received as referred to in subdivision (d) of clause 2 (1)(3) of House Rule XI.

The enactment of H.R. 12406 is not expected to have an inflationary impact on prices and costs in the operation of the national economy, especially during the current serious recession. Specific language in the bill provides that no moneys shall be made available from any

other source if there are insufficient moneys in the Presidential Election Campaign fund.

This bill provides for a Federal Election Commission appointed in accordance with the requirements of the Constitution as stated by the Supreme Court of the United States in *Buckley* v. *Valeo*, (Nos. 75–436, 75–437), decided January 30, 1976. Among other things, the bill also gives the Commission exclusive primary jurisdiction for the civil enforcement of the Act and of the public financing of presidential campaigns.

The Committee on House Administration first held discussion sessions and then held mark-up sessions on February 23, 24 and 25 and March 1, 2, 3, 4, 8, 9 and 10, 1976, authorized the minority to submit their views by noon March 17, 1976, and ordered H.R. 12406 be reported to the House of Representatives.

Purpose of the Bill

In *Buckley, et al.* v. *Valeo, et al.* (Nos. 75–436 and 75–437; January 30, 1976), the Supreme Court of the United States upheld against constitutional challenge the contribution limitations, the recordkeeping and disclosure requirements, and the provisions for public financing of Presidential elections and conventions embodied in the Federal Election Campaign Act of 1971, and the Federal Election Campaign Act Amendments of 1974. The Court, however, ruled that certain of the expenditure limitations imposed by the Act contravene the First Amendment, and that the Federal Election Commission could not exercise the full range of administrative and enforcement powers granted to it because the method provided for appointing the Commissioners did not comport with the requirements of Art. II, §2, cl. 2 (the Appointment Clause). The Court stayed the latter ruling for a period of 50 days to avoid interrupting enforcement of the Act while the Congress considers what legislative action is warranted.

The Federal Election Campaign Act, as amended, created a comprehensive, integrated scheme for the regulation of campaigns for Federal office. After the *Buckley* decision, the congressional design does not remain fully intact. Moreover, the initial administration of the Act by the Federal Election Commission has revealed certain procedural and substantive problems in the Act that were not fully anticipated. To assure that the 1976 Federal elections are conducted under fair, uniform, and enforceable rules, it is therefore necessary to fill the most important gaps in the law revealed by the Supreme Court's decision and by the actions of the Commission; and to do so while meeting, insofar as possible, the time constraints imposed by the Court. That is the purpose of H.R. 12406 as reported to the House of Representatives by the Committee on House Administration.

Prior to turning to the section-by-section explanation of H.R. 12406 it appears helpful to first state the basic principles that have guided the Committee and that are embodied in the bill, and to then address certain other issues treated in the bill.

First, to meet the requirements of Art. II, § 2, cl. 2 of the Constitution, H.R. 12406 modifies the present law to provide that the six full members of the Federal Election Commission shall be appointed by the President of the United States by and with the advice and consent of the Senate. (The Secretary of the Senate and the Clerk of the House of Representatives are to serve on an ex-officio basis and without the right to vote.)

Second, election campaigns are the central expression of this country's democratic ideal. It is therefore essential in this sensitive area that the system of administration and enforcement enacted into law does not provide room for partisan misuse or for administrative action which does not comport with the intent of the enabling statute. At the same time it is recognized that the authorities charged with administering and enforcing the law must have the independence required by the tripartite system of government created by the Constitution. To mediate between these conflicting concerns, H.R. 12406 provides that the Commission shall initiate investigations, bring judicial actions, and take other steps of comparable importance only upon the affirmative vote of four of its six voting members. The four-vote requirement serves to assure that enforcement actions, as to which the Congress has no continuing voice, will be the product of a mature and considered judgment. The bill also provides that when the Commission issues an advisory opinion it shall reduce that opinion to a regulation subject to congressional veto through the procedures presently provided. This amendment is intended to apply to opinions of counsel rendered by the Federal Election Commission. It is the intent of the Committee that the advisory opinions and regulations shall be the only means through which the Commission may establish guidelines and procedures for carrying out the Act. In any case in which the Commission desires that an opinion of counsel shall have any operative effect on any person, the Commission must propose a regulation based on the opinion of counsel. The proposed regulation will then be subject to the congressional review authority set out in section 315(c) of the Act. Those familiar with administrative agencies know that the process at elaborating a statute has a quasi-legislative component. There is no bright line between the process of interstitial law-making through the rendering of opinions as opposed to the promulgation of regulations. That being so, the Committee determined that to prevent the Commission from interpreting the Act in a manner inconsistent with the congressional intent it is necessary to treat on the same basis, situations in which an advisory opinion is issued and those in which a regulation is issued. At the same time H.R. 12406 strengthens the Commission's ability to administer the law by making it plain that FEC has the authority to issue rules and regulations concerning each and every provision of the Act, and not only those relating to disclosure and reporting. These amendments complete the process of assuring that the Commission possesses the means necessary to elaborate the law and that it does do in a manner that comports with the will of Congress as embodied in the Act.

Third, originally the Federal campaign laws were enforced solely through the criminal law. The 1971 Act as amended recognized the inadequacies of that approach and provided also for civil actions through the Federal Election Commission and the Department of Justice. The result was that enforcement responsibility was fragmented, and the line between improper conduct remediable in civil proceedings and conduct punishable as a crime blurred. On the occasion of reconstituting the Federal Election Commission the Committee concluded that it was appropriate to simplify and rationalize the present enforcement system.

H.R. 12406 places its reliance on civil enforcement, except as to substantial violations committed with a specific wrongful intent. The bill distinguishes between violations of the law as to which there is not a

specific wrongful intent which are subject to injunctive relief and civil penalties of up to $5,000 or the amount in question, whichever is greater, and violations as to which the Commission has clear and convincing proof that the acts were committed with a knowledge of all the relevant facts and a recognition that the action is prohibited by law, which are subject to injunctive relief and a civil penalty of $10,000 or twice the amount in question. These civil penalties were not provided for in the 1971 Act or its predecessors. Criminal penalties are reserved for knowing and willful violations involving an amount in excess of $5,000 and are punishable by a fine of up to $25,000 or three times the amount in question, imprisonment of up to one year, or both. The delineation of these different classes of offenses is intended to promote greater unformity and certainty in enforcing the law.

H.R. 12406, following the pattern set in the 1974 Amendments, channels to the Federal Election Commission complaints alleging on any theory, that a person is entitled to relief, because of conduct regulated by this Act, other than complaints directed to the Attorney General and seeking the institution of a criminal proceeding. And, as noted above, the bill also clarifies the point that the Commission has the authority to issue rules and regulatons concerning every facet of the Act and not simply those relating to disclosure. In both particulars, H.R. 12406 advances the goal of expert, uniform, non-partisan administration of the law.

In addition to centralizing civil enforcement authority in the Commission, the bill takes one additional step to limit unjustifiable litigation burdens that might otherwise be imposed on the courts and on individuals against whom a complaint has been filed. The Commission is charged with the duty, upon receiving a complaint, to attempt to conciliate the matter for a specified reasonable period of time.

The phrase "exclusive primary jurisdiction" used to describe the congressional intent to centralize the civil enforcement of the Act in the Federal Election Commission is taken from the Supreme Court's decisions in *San Diego Unions* v. *Garmon*, 359 U.S. 236. There the Court recognized that Congress, in enacting the National Labor Relations Act, "entrusted administration of the labor policy for the nation to a centralized administrative agency, armed with its own procedures, and equipped with its specialized knowledge and cumulative experience" (*Garmon*, 359 U.S. at 242). On that basis the Court stated that all complaints bottomed on an alleged violation of the NLRA are within that Agency's "exclusive competence" (*id* at 245) and that all other tribunals must therefore "yield to the primary jurisdiction of the National Board" (*id*). The Court's ruling in *Garmon* captures the essence not only of the NLRA's administrative scheme, but of this Act's enforcement procedures as well.

Together, the requirement of four votes for affirmative action, the broad investigatory powers granted (which are limited only by the requirement that complaints be signed and sworn to and that the Commission shall not act solely on the basis of anonymous information), the conciliation procedure mandated, and the substantial civil remedies provided represent a delicate balance designed to effectively prevent and redress violations, and to winnow out, short of litigation, insubstantial complaints and those matters as to which settlement is both possible and desirable.

Fourth, prior to 1971 the laws regulating Federal campaigns permitted an infinite proliferation of political committees which were ostensibly separate entities but which were in fact a means for advancing a candidate's campaign. That deficiency brought the campaign laws into disrepute and provided an essential predicate for the 1971 and 1974 reforms that the Congress enacted. *Buckley* v. *Valeo's* invalidation of the limitations placed by the 1971 Act, as amended, on individual expenditures and on candidate expenditures promises a repetition of the pre-1971 experience. To prevent that result, while safeguarding the full enjoyment of the First Amendment right of individuals and groups to make expenditures for political expression, H.R. 12406 contains a series of prophylactic measures. These are directed solely at requiring full reporting and disclosure by individuals and groups that make "independent expenditures" (a term defined in the bill in conformity with the *Buckley* Court's definition); and at placing several additional limitations akin to those upheld by the Court on the amount that may be contributed by or to a political committee. In the definition of "independent expenditures," the phrase "at the * * * suggestion of * * * is intended to include direct suggestions made by a candidate or his agent, his campaign manager, his campaign treasurer, or any other person responsible for reporting contributions and expenditures in connection with the campaign of the candidate. It is not the Committee's intent to hold a candidate responsible for suggestions by persons over whom he does not exercise any control. Further, for example, if a candidate or some other person suggests in a speech to a group of persons that everything possible should be done to defeat the opponent of the candidate, it is not the intent of the Committee that such a reference in a speech be viewed as a "suggestion" for purposes of the definition.

Thus, H.R. 12406 provides that an individual or a political committee making independent expenditures in excess of $100 shall be required to report the information presently required of candidate committees for comparable activities and shall be required to certify that the expenditure was not made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate. The bill also provides that communications by a candidate and his committees utilizing the mass media expressly advocating his election or his opponent's defeat shall clearly and conspicuously state that the communication has been authorized by the candidate, and that such a communication by any other individual or political committee shall state that the communication has not been authorized by a candidate, and shall state also the name of the person making or financing the expenditure for the communication. Both of these provisions are designed to provide additional information to the voting public and to do so in a manner which places comparable reporting and disclosure requirement on candidates, and on individuals and groups making independent expenditures.

The bill also refines and strengthens in three separate respects the contribution limitations contained in the 1971 Act and upheld by the Supreme Court:

To discourage circumvention of the $1,000 limit on contributions by a person to a candidate and his authorized political committees in an election, and of the requirement that independent expenditures be properly identified and truly independent, contributions to a political committee in a calendar year by any person are limited to $1,000. For

the same reasons contributions by a multi-candidate political committee to another political committee are limited to $5,000 in a calendar year.

To prevent corporations, labor organizations, or other persons or groups of persons from evading the contribution limits of H.R. 12406, the bill establishes the following rules:

All of the political committees set up by a single corporation and its subsidiaries would be treated as a single political committee for the purposes of H.R. 12406's contribution limitations;

All of the political committees set up by a single international union and its local unions would be treated as a single political committee for the purposes of H.R. 12406's contribution limitations;

All of the political committees set up by the AFL–CIO and all its State and local central bodies would be treated as a single political committee for the purposes of H.R. 12406's contribution limitations;

All the political committees established by the Chamber of Commerce and its State and local Chambers would be treated as a single political committee for the purposes of H.R. 12406's contribution limitations;

The anti-proliferation rules just stated would also apply in the case of multiple committees established by a group of persons.

There is an exception to the foregoing rules by which a political committee set up by a national political party, and a political committee set up by each State political party, are to be treated separately for the purposes of H.R. 12406's contribution limitations. However, all political committees set up by a national political party would be treated as a single political committee for the purposes of H.R. 12406's contribution limitations. Moreover, all political committees set up by a State political party or by county or city parties in that State would be treated as a single political committee for the purposes of H.R. 12406's contribution limitations.

Political committees which have engaged in a joint fundraising effort may divide the money so collected between the committees which participate in the effort.

Finally, the bill treats expenditures made in cooperation, consultation, or concert with or at the request or suggestion of a candidate as a contribution in kind to that candidate and provides further that the republication of a candidate's campaign materials shall be regarded as such as a contribution. This provision is designed to draw a line between "independent expenditures" protected by the First Amendment because they are an expression of an individual's views, and expenditures which are disguised contributions to a candidate. The present law strikes the proper balance on political party expenditures in connection with the general election campaign of the parties' candidates. H.R. 12406, therefore, retains the language of the 1971 Act on this subject. A candidate who runs under a political party's banner signifies that his campaign is on behalf of that party. Thus, the limited separate permission for these political party expenditures is plainly designed to encourage a specific type of contribution to such candidates in order to strengthen the party system; that limited permission cannot on any theiory be regarded as dealing with "independent expenditures".

One further provision of H.R. 12406, deserves separate extended comment. The Federal Election Commission, in its Advisory Opinion No. 1975–23 concerning a proposal by the Sun Oil Company to estab-

lish a series of separate, segregated political funds, rules that Sun Oil could use its treasury moneys, and contributions generated by treasury moneys, to solicit its employees as well as its stockholders, and ruled further that the corporation could facilitate the making of such contributions by instituting a check-off system. The general rule enacted in 1971 is that "corporations and labor unions [must] confine their activities [of a political nature] to their own stockholders and members, the beneficial owners of these organizations," and the present statutory law not only draws a line between corporate and union political activities financed by treasury money limited to stockholders and members, which are permitted, and other treasury financed political activities, which are prohibited, but does so by spelling out rules that the Congress believed "apply equally to labor unions and corporations."

The Sun Oil opinion destroys the intent of the Congress to establish rules that apply equally to labor unions and corporations. There are as many corporate shareholders as there are union members. Under the Commission's ruling corporations are free to use their treasury funds to solicit stockholders, union members, and all unorganized employees. Unions are limited to union members. Moreover, corporations are permitted to establish systems whereby those who wish to contribute to a corporate political committee may take advantage of the convenience of a check-off system, while by reason of the limitations created by § 302 of the Taft-Hartley Act, union members are denied that system for making contributions to union political committees. And, of more fundamental importance, the FEC's decision is directly contrary to a more particular congressional intent expressed in 1971. As noted above, the congressional understanding that the permissions written into the law are only for "activities directed at members and stockholders."

H.R. 12406 proposes three limited clarifications of the law. First, the bill broadens the permissions contained in the present law to allow corporations to communicate with and solicit voluntary contributions from "executive officers". The Committee believes that management personnel as well as stockholders should be considered to be among the beneficial owners of a corporation. Second, H.R. 12406 continues the rule that unions may only solicit those they represent—their members—and reaffirms the intent of the 1971 Congress that corporations must also confine their activities to a roughly comparable group—namely, stockholders and executive officers. Third, H.R. 12406 provides that methods of soliciting voluntary contributions or of facilitating the making of such contributions which the law permits corporations shall also be permitted to unions. The bill also provides that where a corporation is in fact utilizing a particular method of soliciting voluntary contributions or facilitating the making of contributions to a corporate political fund, such as the check-off, the corporation must upon request make that means available to unions representing employees of that corporation or to union member employees.

In addition to the major points just discussed there are several narrower issues that should be noted:

1. The amendments to section 301(e)(4) and section 301(f)(4) of the Act are intended to reflect the Committee's understanding of the intent with which these provisions were originally enacted.

2. Section 320(a)(2) is not intended to apply to principal campaign committees of candidates for Congress nor to their subordinate committees.

3. The amendments made by the bill in connection with the congressional review of proposed regulations of the Commission, are not intended to foreclose debate on the floor of the House of Representatives relating to a resolution to disapprove any proposed regulation. The amendments provide that a motion to move to the consideration of the resolution is not debatable. The resolution itself, however, will be debatable.

4. The provision in the amendment relating to congressional review of proposed regulations permitting disapproval in part reflects the current understanding and is intended to permit disapproval of discrete self-contained sections or subdivisions of proposed regulations and is not intended to permit the rewriting of regulations by piecemeal changes.

5. Section 321 of the Act (formerly section 610 of title 18, United States Code), is added by section 112 of the bill, is intended to apply to cooperative associations, whether or not the cooperative associations are incorporated. The cooperative will be permitted to establish a separate, segregated fund for political purposes and to solicit contributions from members of the cooperative in accordance with the provisions of section 321.

6. The present law permits the AFL–CIO to solicit all AFL–CIO union members to make voluntary contributions to COPE, its political committee. But because the stockholders and executive officers of corporations that belong to trade associations have only a distant indirect relationship to the association and because corporations often belong to many such associations the law on their solicitation is unclear. To end this uncertainty H.R. 12406 permits solicitations of stockholders and executive officers by a single trade association selected by the corporation.

7. The amendment to the Internal Revenue Code of 1954 made by section 307 of the bill, which requires the return of Federal matching payments by candidates who withdraw from a Presidential campaign is intended to provide that a candidate will remain eligible for Federal payments only so long as he maintains a good faith, multistate campaign for nomination for election, or for election, to the Office of President. A candidate should not be considered to be actively seeking nomination or election if he curtails his campaign activity to such an extent that it is reasonable to conclude that he no longer intends to engage in activity necessary to secure the nomination or win the election involved.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Federal Election Campaign Act of 1971

* * * * * * *

TITLE III—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

DEFINITIONS

SEC. 301. When used in this title and title IV of this Act—

(a) "election" means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party [held] *which has authority* to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, and (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

* * * * * * *

(e) "contribution"—

(1) means a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of—

(A) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

(B) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States;

(2) means a *written* contract, promise, or agreement, [expressed or implied,] whether or not legally enforceable, to make a contribution for such purposes;

(3) means funds received by a political committee which are transferred to such committee from another political committee or other source;

(4) means the payment, by any person other than a candidate or a political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose, *except that this subparagraph shall not apply (A) in the case of any legal or accounting services rendered to or on behalf of the national committee of a political party, other than any legal or accounting services attributable to*

activity which directly furthers the election of any designated candidate to Federal office; or (B) in the case of any legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954; but

(5) does not include—

(A) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

(B) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

(C) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

(D) any reimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate;

(E) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines or other similar types of general public political advertising; [or]

(F) any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization; *or*

(G) a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with section 304(b);

to the extent that the cumulative value of activities by any individual on behalf of any candidate under each of clauses

(B), (C), and (D) does not exceed $500 with respect to any election;

(f) "expenditure"—

(1) means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of—

(A) influencing the nomination for election, or the election, of any person to Federal office, or to the office of presidential and vice-presidential elector; or

(B) influencing the results of a primary election held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President of the United States;

(2) means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure;

(3) means the transfer of funds by a political committee to another political committee; but

(4) does not include—

(A) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(B) nonpartisan activity designed to encourage individuals to register to vote or to vote;

(C) any communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office;

(D) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities if the cumulative value of such activities by such individual on behalf of any candidate do not exceed $500 with respect to any election;

(E) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate if the cumulative amount for such individual incurred with respect to such candidate does not exceed $500 with respect to any election;

(F) the payment, by any person other than a candidate or a political committee, of compensation for legal or accounting services, rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of any designated candidate to Federal office, or for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the pur-

pose of insuring compliance with the provisions of this Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

[(F)](*G*) any communication by any person which is not made for the purpose of influencing the nomination for election, or election of any person to Federal office; [or]

[(G)](*H*) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines or other similar types of general public political advertising; [or]

[(H)](*I*) any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of title 18, United States Code, would not constitute an expenditure by such corporation or labor organization; *or*

(J) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), except that all such costs shall be reported in accordance with section 304(b).

* * * * * * *

(m) "political party" means an association, committee, or organization which nominates a candidate for election to any Federal office, whose name appears on the election ballot as the candidate of such association, committee, or organization: [and]

(n) "principal campaign committee" means the principal campaign committee designated by a candidate under section 302(f)(1)[.]

(o) "Act" means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976;

(p) "independent expenditure" means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(q) "clearly identified" means (1) the name of the candidate appears; (2) a photograph or drawing of the candidate appears;

or (3) the identity of the candidate is apparent by unambiguous reference.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 302. (a) * * *

* * * * * * *

[(e) Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.]

[(f)](*e*)(1) Each individual who is a candidate for Federal office (other than the office of Vice President of the United States) shall designate a political committee to serve as his principal campaign committee. No political committee may be designated as the principal campaign committee of more than one candidate, except that the candidate for the office of President of the United States nominated by a political party may designate the national committee of such political party as his principal campaign committee. Except as provided in the preceding sentence, no political committee which supports more than one candidate may be designated as a principal campaign committee. *Any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of the preceding sentence.*

* * * * * * *

REPORTS

SEC. 304. (a)(1) Except as provided by paragraph (2), each treasurer of a political committee supporting a candidate or candidates for election to Federal office, and each candidate for election to such office, shall file with the Commission reports of receipts and expenditures on forms to be prescribed or approved by it. The reports referred to in the preceding sentence shall be filed as follows:

(A)(i) In any calendar year in which an individual is a candidate for Federal office and an election for such Federal office is held in such year, such reports shall be filed not later than the tenth day before the date on which such election is held and shall be complete as of the fifteenth day before the date of such election; except that any such report filed by registered or certified mail must be postmarked not later than the close of the twelfth day before the date of such election.

(ii) Such reports shall be filed not later than the thirtieth day after the date of such election and shall be complete as of the twentieth day after the date of such election.

(B) In any other calendar year in which an individual is a candidate for Federal office, such reports shall be filed after December 31 of such calendar year, but not later than January 31 of the following calendar year and shall be complete as of the close of the calendar year with respect to which the report is filed.

(C) Such reports shall be filed not later than the tenth day following the close of any calendar quarter in which the candidate

or political committee concerned received contributions in excess of $1,000, or made expenditures in excess of $1,000, and shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph *except that, in any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures totaling in excess of $10,000, and such reports shall be complete as of the close of such calendar quarter (except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph).*

* * * * * * *

(2) Each treasurer of a political committee [which is not a] *authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's* principal campaign committee, shall file the reports required under this section with the [appropriate] *candidate's* principal campaign committee.

* * * * * * *

(b) Each report under this section shall disclose—

(1) * * *

* * * * * * *

(12) the amount and nature of debts and obligations owed by or to the committee, in such form as the supervisory officer may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the Commission may require until such debts and obligations are extinguished, together with a statement as to the circumstances and conditions under which any such debt or obligation is extinguished and the consideration therefor; [and]

(13) in the case of an independent expenditure in excess of $100 by a political committee, other than an authorized committee of a candidate, expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9) stated in a manner which indicates whether the independent expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

[(13)] *(14)* such other information as shall be required by the Commission.

* * * * * * *

[(e) Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution

to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission a statement containing the information required by this section. Statements required by this subsection shall be filed on the dates on which reports by political committees are filed but need not be cumulative.]

(e)(1) Every person (other than a political committee or candidate) who makes contributions or independent expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 during a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or independent expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any independent expenditure, including those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than 24 hours, before any election shall be reported within 24 hours of such independent expenditure.

(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely preelection basis.

* * * * * * *

FORMAL REQUIREMENTS RESPECTING REPORTS AND STATEMENTS

SEC. 306. (a) * * *

* * * * * * *

(d) If a report or statement required by section 303, 304(a)(1)(A)(ii), 304(a)(1)(B), 304(a)(1)(C), *304(c)*, or 304(e) of this title to be filed by a treasurer of a political committee or by a candidate or by any other person, is delivered by registered or certified mail, to the Commission or principal campaign committee with which it is required to be filed, the United States postmark stamped on the cover of the envelope or other container in which such report or statement is so mailed shall be deemed to be the date of filing.

* * * * * * *

[REPORTS BY CERTAIN PERSONS

[SEC. 308. Any person (other than an individual) who expends any funds or commits any act directed to the public for the purpose of

influencing the outcome of an election, or who publishes or broadcasts to the public any material referring to a candidate (by name, description, or other reference) advocating the election or defeat of such candidate, setting forth the candidate's position on any public issue, his voting record, or other official acts (in the case of a candidate who holds or has held Federal office), or otherwise designed to influence individuals to cast their votes for or against such candidate or to withhold their votes from such candidate shall file reports with the Commission as if such person were a political committee. The reports filed by such person shall set forth the source of the funds used in carrying out any activity described in the preceding sentence in the same detail as if the funds were contributions within the meaning of section 301(e), and payments of such funds in the same detail as if they were expenditures within the meaning of section 301(f). The provisions of this section do not apply to any publication or broadcast of the United States Government or to any news story, commentary, or editorial distributed through the facilities of a broadcasting station or a bona fide newspaper, magazine, or other periodical publication. A news story, commentary, or editorial is not considered to be distributed through a bona fide newspaper, magazine, or other periodical publication if—

[(1) such publication is primarily for distribution to individuals affiliated by membership or stock ownership with the person (other than an individual) distributing it or causing it to be distributed, and not primarily for purchase by the public at newsstands or by paid subscription; or

[(2) the news story, commentary, or editorial is distributed by a person (other than an individual) who devotes a substantial part of his activities to attempting to influence the outcome of elections, or to influence public opinion with respect to matters of national or State policy or concern.]

CAMPAIGN DEPOSITORIES

SEC. [309] *308.* (a)(1) Each candidate shall designate one or more national or State banks as his campain depositories. The principal campaign committee of such candidate, and any other political committee authorized by him to receive contributions or to make expenditures on his behalf, shall maintain [a checking account] *one or more checking accounts, at the discretion of any such committee,* at a depository designated by the candidate and shall deposit any contributions received by such committee into such account. A candidate shall deposit any payment received by him under chapter 95 or chapter 96 of the Internal Revenue Code of 1954 in the account maintained by his principal campaign committee. No expenditure may be made by any such committee on behalf of a candidate or to influence his election except by check drawn on such account, other than petty cash expenditures as provided in subsection (b).

(2) The treasurer of each political committee (other than a political committee authorized by a candidate to receive contributions or to make expenditures on his behalf) shall designate one or more national or State banks as campaign depositories of such committee, and shall maintain a checking account for the committee at each such depository.

All contributions received by such committee shall be deposited in such accounts. No expenditure may be made by such committee except by check drawn on such accounts, other than petty cash expenditures as provided in subsection (b).

(b) A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the Commission, and such statements and reports thereof shall be furnished to the Commission as it may require.

(c) A candidate for nomination for election, or for election, to the office of President of the United States may establish one such depository in each State, which shall be considered as his campaign depository for such State by his principal campaign committee and any other political committee authorized by him to receive contributions or to make expenditures on his behalf in such State, under rules prescribed by the Commission. The campaign depository of the candidate of a political party for election to the office of Vice President of the United States shall be the campaign depository designated by the candidate of such party for election to the office of President of the United States.

FEDERAL ELECTION COMMISSION

SEC. [310] *309.* (a)(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and 6 members appointed [as follows:

[(A) 2 shall be appointed, with the confirmation of a majority of both Houses of the Congress, by the President pro tempore of the Senate upon the recommendations of the majority leader of the Senate and the minority leader of the Senate;

[(B) 2 shall be appointed, with the confirmation of a majority of both Houses of the Congress, by the Speaker of the House of Representatives, upon the recommendations of the majority leader of the House and the minority leader of the House; and

[(C) 2 shall be appointed, with the confirmation of a majority of both Houses of the Congress, by the President of the United States.]

by the President of the United States, by and with the advice and consent of the Senate.

[A member appointed under subparagraph (A), (B), or (C) shall not be affiliated with the same political party as the other member appointed under such paragraph.] *No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.*

* * * * * * *

[(2) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

[(A) one of the members appointed under paragraph (1)(A) shall be appointed for a term ending on the April 30 first occurring more than 6 months after the date on which he is appointed;

[(B) one of the members appointed under paragraph (1)(B) shall be appointed for a term ending 1 year after the April 30 on which the term of the member referred to in subparagraph (A) of this paragraph ends;

[(C) one of the members appointed under paragraph (1)(C) shall be appointed for a term ending 2 years thereafter;

[(D) one of the members appointed under paragraph (1)(A) shall be appointted for a term ending 3 years thereafter;

[(E) one of the members appointed under paragraph (1)(B) shall be appointed for a term ending 4 years thereafter; and

[(F) one of the members appointed under paragraph (1)(C) shall be appointed for a term ending 5 years thereafter.

An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds. Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.]

(2)(A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

(i) one shall be appointed for a term of 1 year;

(ii) one shall be appointed for a term of 2 years;

(iii) one shall be appointed for a term of 3 years;

(iv) one shall be appointed for a term of 4 years;

(v) one shall be appointed for a term of 5 years; and

(vi) one shall be appointed for a term of 6 years;

as designated by the President at the time of appointment, except that of the members first appointed under this subparagraph, no member affiliated with a political party shall be appointed for a term that expires 1 year after another member affiliated with the same political party.

(B) A member of the Commission may serve on the Commission after the expiration of his term until his successor has taken office as a member of the Commission.

(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.

(3) Members shall be chosen on the basis of their maturity, experience, integrity, impartiality, and good judgment and shall be chosen from among individuals who, at the time of their appointment, are not elected or appointed officers or employees in the executive, legislative or judicial branch of the Government of the United States. *Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity no later than 1 year after beginning to serve as such a member.*

* * * * * * *

[(b) A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person in connection with a single purchase or transaction. A record of petty

cash disbursements shall be kept in accordance with requirements established by the Commission, and such statements and reports thereof shall be furnished to the Commission as it may require.]

(b)(1) *The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive primary jurisdiction with respect to the civil enforcement of such provisions.*

(2) *Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.*

(c) A candidate for nomination for election, or for election, to the office of President of the United States may establish one such depository in each State, which shall be considered as his campaign depository for such State by his principal campaign committee and any other political committee authorized by him to receive contributions or to make expenditures on his behalf in such State, under rules prescribed by the Commission, *except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a).* The campaign depository of the candidate of a political party for election to the office of Vice President of the United States shall be the campaign depository designated by the candidate of such party for election to the office of President of the United States.

POWERS OF COMMISSION

SEC. [311] *310.* (a) The Commission has the power—

(1) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe; and such submission shall be made within such a reasonable period of time and under oath or otherwise as the Commission may determine;

(2) to administer oaths or affirmations;

(3) to require by subpena, signed by the chairman or the vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection;

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States;

[(6) to initiate (through civil proceedings for injunctive, declaratory, or other appropriate relief), defend, or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act, through its general counsel;]

(6) to initiate (through civil actions for injuctive, declaratory or other appropriate relief) defend (in the case of any civil action brought under section 313(a)(9)) or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954 through its general counsel;

(7) to render advisory opinions under section [313] *312;*

(8) to *develop such prescribed forms and to* make, amend, and repeal such rules, pursuant to the provisions of chapter 5 of title 5, United States Code, as are necessary to carry out the provisions of this Act *and chapter 95 and chapter 96 of the Internal Revenue Code of 1954;*

(9) to formulate general policy with respect to the administration of this Act [and sections 608, 610, 611, 613, 614, 615, 616, and 617 of title 18, United States Code] *and chapter 95 and chapter 96 of the Internal Revenue Code of 1954;*

[(10) to develop prescibed forms under section 311(a)(1); and]

[11] *(10)* to conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations to the appropriate law enforcement authorities.

* * * * * * *

(e) *Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.*

SEC. [312] *311.* The Commission shall transmit reports to the President of the United States and to each House of the Congress no later than March 31 of each year. Each such report shall contain a detailed statement with respect to the activities of the Commission in carrying out its duties under this title, together with recommendations for such legislative or other action as the Commission considers appropriate.

ADVISORY OPINIONS

SEC. [313] *312.* (a) Upon written request to the Commission by any individual holding Federal office, any candidate for Federal office, [or] any political committee, *or the national committee of any political party*, the Commission shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this Act [of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code.] *or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954. No advisory opinion shall be issued by the Commission or any of its employees except in accordance with the provisions of this section.*

[(b) Notwithstanding any other provision of law, any person with respect to whom an advisory opinion is rendered under subsection (a) who acts in good faith in accordance with the provisions and findings of such advisory opinion shall be presumed to be in compliance with the provision of this Act, of chapter 95 or chapter 96 of the Internal

Revenue Code of 1954, or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code, with respect to which such advisory opinion is rendered.]

(b)(1) Notwithstanding any other provision of law, any person who relies upon any provision or findings of an advisory opinion in accordance with the provisions of paragraph (2)(A) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

(2)(A) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by (i) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and (ii) any person involved in any specific transaction or activity which is similar to the transaction or activity with respect to which such advisory opinion is rendered.

(B)(i) The Commission shall, no later than 30 days after rendering an advisory opinion with respect to a request received under subsection (a), transmit to the Congress proposed rules or regulations relating to the transaction or activity involved if such transaction or activity is not subject to any existing rule or regulation prescribed by the Commission. In any such case in which the Commission receives more than one request for an advisory opinion involving the same or similar transactions or activities, the Commission may not render more than one advisory opinion relating to the transactions or activities involved.

(ii) Any rule or regulation prescribed by the Commission under this subparagraph shall be subject to the provisions of section 315(c).

* * * * * * *

[ENFORCEMENT

[SEC. 314. (a)(1)(A) Any person who believes a violation of this Act or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code, has occurred, may file a complaint with the Commission.

[(B) In any case in which the Clerk of the House of Representatives or the Secretary of the Senate (who receive reports and statements as custodian for the Commission) has reason to believe a violation of this Act or section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code, has occurred, he shall refer such apparent violation to the Commission.

[(2) The Commission, upon receiving any complaint under paragraph (1)(A), or a referral under paragraph (1)(B), or if it has reason to believe that any person has committed a violation of any such provision, shall notify the person involved of such apparent violation and shall—

[(A) report such apparent violation to the Attorney General; or

[(B) make an investigation of such apparent violation.

[(3) Any investigation under paragraph (2)(B) shall be conducted expeditiously and shall include an investigation of reports and statements filed by any complainant under this title, if such complainant is a candidate. Any notification or investigation made under paragraph

(2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

[(4) The Commission shall, at the request of any person who receives notice of an apparent violation under paragraph (2), conduct a hearing with respect to such apparent violation.

[(5) If the Commission determines, after investigation, that there is reason to believe that any person has engaged, or is about to engage in any acts or practices which constitute or will constitute a violation of this Act, it may endeavor to correct such violation by informal methods of conference, conciliation, and persuasion. If the Commission fails to correct the violation through informal methods, it may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business. Upon a proper showing that such person has engaged or is about to engage in such acts or practices, the court shall grant a permanent or temporary injunction, restraining order, or other order.

[(6) The Commission shall refer apparent violations to the appropriate law enforcement authorities to the extent that violations of provisions of chapter 29 of title 18, United States Code, are involved, or if the Commission is unable to correct apparent violations of this Act under the authority given it by paragraph (5), or if the Commission determines that any such referral is appropriate.

[(7) Whenever in the judgment of the Commission, after affording due notice and an opportunity for a hearing, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this Act or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code, upon request by the Commission the Attorney General on behalf of the United States shall institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person is found, resides, or transacts business. Upon a proper showing that such person has engaged or is about to engage in such acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court.

[(8) In any action brought under paragraph (5) or (7) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

[(9) Any party aggrieved by an order granted under paragraph (5) or (7) of this subsection may, at any time within 60 days after the date of entry thereof, file a petition with the United States court of appeals for the circuit in which such order was issued for judicial review of such order.

[(10) The judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 315).

[(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 30-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.]

ENFORCEMENT

SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission. Notwithstanding any other provision of this Act, the Commission shall not have the authority to inquire into or investigate the utilization or activities of any staff employee of any person holding Federal office without first consulting with such person holding Federal office. An affidavit given by the person holding Federal office that such staff employee is performing his regularly assigned duties shall be a complete bar to any further inquiry or investigation of the matter involved.

(2) The Commission, if it has reasonable cause to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such apparent violation and shall make an investigation of such violation in accordance with the provisions of this section.

(3)(A) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate.

(B) Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

(4) The Commission shall, at the request of any person who receives notice of an apparent violation under paragraph (2), afford such person a reasonable opportunity to demonstrate that no action shall be taken against such person by the Commission under this Act.

(5)(A) If the Commission determines that there is reasonable cause to believe that any person has committed or is about to commit a viola-

tion of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor for a period of not less than 30 days to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. Except that, if the Commission has reasonable cause to believe that—

(i) any person has failed to file a report required to be filed under section 304(a)(2)(C) for the calendar quarter occurring immediately before the date of a general election;

(ii) any person has failed to file a report required to be filed no later than 10 days before an election; or

(iii) on the basis of a complaint filed less than 45 days but more than 10 days before an election, any person has committed a knowing and willful violation of this Act of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall make every effort, for a period of not less than one-half the number of days between the date upon which the Commission determines there is reasonable cause to believe such a violation has occurred and the date of the election involved, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission, including the bringing of a civil proceeding under subparagraph (B).

(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

(C) In any civil action instituted by the Commission under subparagraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater or $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation subject to and as defined in section 328 has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitation set forth in subparagraph (A).

(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty

which shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

(C) The Commission shall make available to the public (i) the results of any conciliation attempt, including any conciliation agreement entered into by the Commission; and (ii) any determination by the Commission that no violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred.

(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 200 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

(8) In any action brought under paragraph (5) or paragraph (7), subpenas for witnesses who are required to attend a United States district court may run into any other district.

(9)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within 90 days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

(B) The filing of any petition under subparagraph (A) shall be made—

(i) in the case of the dismissal of a complaint by the Commission, no later than 60 days after such dismissal; or

(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than 60 days after the 90-day period specified in subparagraph (A).

(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with such declaration within 30 days, failing which the complainant may bring in his own name a civil action to remedy the violation involved in the original complaint.

(10) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

(12) If the Commisison determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5) it may petition the court for an order to adjudicate such person in civil contempt, except that if it believes the violation to be knowing and willful it may petition the court for an order to adjudicate such person in criminal contempt.

(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 30-day period thereafter until there is final disposition of such apparent violation. The Commisison may from time to time prepare and publish reports on the status of such referrals.

(c) Any member of the Commission, any employee of the Commission, or any other person who violates the provisions of subsection (a)(3)(B) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subsection (a)(3)(B) shall be fined not more than $5,000.

JUDICIAL REVIEW

SEC. [315] *314.* (a) The Commission, the national committee of any political party, or any individual eligible to vote in any election for the office of President of the United States may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this Act or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code. The district court immediately shall certify all questions of constitutionality of this Act or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(b) Notwithstanding any other provisions of law, any decision on a matter certified under subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the court of appeals.

(c) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under subsection (a).

DUTIES

SEC. [316] *315.* (a) It shall be the duty of the Commission—

(1) to develop and furnish to the person required by the provisions of this Act prescribed forms for the making of the reports and statements required to be filed with it under this title;

(2) to prepare, publish, and furnish to the person required to file such reports and statements a manual setting forth recommended uniform methods of bookkeeping and reporting;

(3) to develop a filing, coding, and cross-indexing system consonant with the purposes of this title;

(4) to make the reports and statements filed with it available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, as requested by any person, at the expense of such person: *Provided*, That any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(5) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

(6) to compile and maintain a cumulative index of reports and statements filed with it, which shall be published in the Federal Register at regular intervals and which shall be available for purchase directly or by mail for a reasonable price, *and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320(a)(2), and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph;*

(7) to prepare and publish from time to time special reports listing those candidates for whom reports were filed as required by this title and those candidates for whom such reports were not filed as so required;

(8) to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this title, and with respect to alleged failures to file any report or statement required under the provisions of this title, *and to give priority to auditing and field investigating the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954;*

* * * * * * *

(c)(1) The Commission, before prescribing any rule or regulation under this section *or under section 312(b)(2)(B)*, shall transmit a statement with respect to such rule or regulation to the Senate or to the House of Representatives, as the case may be, in accordance with the provisions of this subsection. Such statement shall set forth

the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If the appropriate body of the Congress which receives a statement from the Commission under this subsection does not, through appropriate action, disapprove, *in whole or in part*, the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. In the case of any rule or regulation proposed to deal with reports or statements required to be filed under this title by a candidate for the office of President of the United States, and by political committees supporting such a candidate both the Senate and the House of Representatives shall have the power to disapprove such proposed rule or regulation. *Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.* The Commission may not prescribe any rule or regulation which is disapproved under this paragraph.

* * * * * * *

(e) In any proceeding, including any civil or criminal enforcement proceeding against any person charged with violating any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, no rule, regulation, guideline, advisory opinion, opinion of counsel or any other pronouncement by the Commission or by any member, officer, or employee thereof (other than any rule or regulation of the Commission which takes effect under subsection (c)) shall be used against any person, either as having the force of law, as creating any presumption of violation or of criminal intent, or as admissible in evidence against such person, or in any other manner whatsoever.

[STATEMENTS FILED WITH STATE OFFICERS

[SEC. 317. (a) A copy of each statement required to be filed with the Commission by this title shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State. For purposes of this subsection, the term "appropriate State" means—

[(1) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of President or Vice President of the United States, each State in which an expenditure is made by him or on his behalf, and

[(2) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, the State in which he seeks election.

[(b) It shall be the duty of the Secretary of State, or the equivalent State officer, under subsection (a)—

[(1) to receive and maintain in an orderly manner all reports and statements required by this title to be filed with him;

[(2) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

[(3) to make the reports and statement filed with him available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, requested by any person, at the expense of such person; and

[(4) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate.]

FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

SEC. 316. No person, being a candidate for Federal office or an employee or agent of such a candidate shall—

(1) fraudulently misrpresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

(2) participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES

SEC. [318] *317.* Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred by him in connection with his duties as a holder of Federal office, may be contributed by him to any organization described in section 170(c) of the Internal Revenue Code of 1954, as may be used for any other lawful purpose. To the extent any such contribution, amount contributed, or expenditure thereof is not otherwise required to be disclosed under the provisions of this title, such contribution, amount contributed, or expenditure shall be fully disclosed in accordance with rules promulgated by the Commission. The Commission is authorized to prescribe such rules as may be necessary to carry out the provisions of this section.

PROHIBITION OF FRANKED SOLICITATIONS

SEC. [319] *318.* No Senator, Representative, Resident Commissioner, or Delegate shall make any solicitations of funds by a mailing under the frank under section 3210 of title 39, United States Code.

AUTHORIZATION OF APPROPRIATIONS

SEC. [320] *319.* There are authorized to be appropriated to the Commission for the purpose of carrying out its function under this Act, and under chapters 95 and 96 of the Internal Revenue Code of 1954, not to exceed $5,000,000 for the fiscal year ending June 30, 1975.

[PENALTY FOR VIOLATIONS

[SEC. 321. (a) Any person who violates any of the provisions of this title shall be fined not more than $1,000 or imprisoned not more than one year, or both.

[(b) In case of any conviction under this title, where the punishment inflicted does not include imprisonment, such conviction shall be deemed a misdemeanor conviction only.]

LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

SEC. 320. (a) (1) Except as otherwise provided by paragraphs (2) and (3), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000, or to any political committee in any calendar year which exceed, in the aggregate, $1,000.

(2) No political committee (other than a principal campaign committee) shall make contributions to (A) any candidate with respect to any election for Federal office which, in the aggregate, exceed $5,000; or (B) to any political committee in any calendar year which, in the aggregate, exceed $5,000. Contributions by the national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by the preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term 'political committee' means an organization registered as a political committee under section 303 for a period of not less than 6 months which has received contributions from more than 50 persons and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office. For purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fundraising efforts; and (B) for purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee. In any case in which a corporation and any of its subsidiaries, branches, divi-

sions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations prescribed by paragraph (1) and this paragraph.

(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made is considered to be made during the calendar year in which such election is held.

(4) For purposes of this subsection—

(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request of suggestion of, a candidate, his authorized political committees, or their agents shall be considered to be a contribution to such candidate;

(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

(5) The limitations imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the President of the United States (except a general election for such office) shall be considered to be one election.

(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

(b)(1) No candidate for the office of President of the United States who has established his eligibility under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury or his delegate may make expenditures in excess of—

(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed twice the greater of 8 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $100,000; or

(B) $20,000,000 in the case of a campaign for election to such office.

(2) For purposes of this subsection—

(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

(B) an expenditure is made on behalf of a candidate, including a candidate for the office of Vice President, if it is made by—

(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

(c)(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

(2) For purposes of paragraph (1)—

(A) the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(B) the term "base period" means calendar year 1974.

(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraph (2) and (3) of this subsection.

(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a

State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

(ii) $20,000; and

(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term "voting age population" means resident population, 18 years of age or older.

(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

(g) The Commission shall prescribe rules under which any expenditure by a candidate for nomination for election to the office of President for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress are to be voted for, or in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank, or any officer of any labor organization, to consent to any contribution or expenditure by such corporation, national bank, or labor organization, as the case may be, which is prohibited by this section.

(b)(1) For purposes of this section the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or contributions of work.

(2) For purposes of this section, the term 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the officers referred to in this section, but shall not include (A) communications by a corporation to its stockholders and executive officers and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive officers and their families; or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization, except that (i) it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal, or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction; (ii) it shall be unlawful for a corporation or a separate segregated fund established by a corporation to solicit contributions from any person other than its stockholders, executive officers, and their families, for an incorporated trade association or a separate segregated fund established by an incorporated trade association to solicit contributions from any person other than the stockholders and executive officers of the member corporations of such trade association and the families of such stockholders and executive officers (to the extent that any such solicitation of such stockholders and executive officers, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation has not approved any such solicitation by more than one such trade association in any calendar year, or for a labor organization or a separate segregated fund established by a labor organization to solicit contributions from any person other than its members and their families; (iii) notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations; and (iv) any corporation which utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, such method to a labor organization representing any members working for such corporation.

(3) for purposes of this section the term "executive officer" means an individual employed by a corporation who is paid on a salary rather than hourly basis and who has policymaking or supervisory responsibilities.

CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

SEC. 322. (a) It shall be unlawful for any person who enters—

(1) into any contract with the United States or any department or agency thereof either for the rendition of personal service or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

(2) to solicit any such contribution from any such person for any such purpose during any such period.

(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

(c) For purposes of this section, the term "labor organization" has the meaning given it by section 321.

PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

SEC. 323. Whenever any person makes an expenditure for the purpose of financing any communication expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or other similar type of general public political advertising, such communication—

(1) if authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that such communication has been so authorized; or

(2) if not authorized in accordance with paragraph (1), shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that such communication is not

authorized by any candidate, and state the name of the person that made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization as stated in section 302(b)(2).

CONTRIBUTIONS BY FOREIGN NATIONALS

SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office, or for any person to solicit, accept, or receive any such contribution from any such foreign national.

(b) As used in this section, the term "foreign national" means—

(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

LIMITATION ON CONTRIBUTIONS OF CURRENCY

SEC. 326. (a) No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceeds $250, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

(b) Any person who knowingly and willfully violates the provisions of this section shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution involved.

ACCEPTANCE OF EXCESSIVE HONORARIUMS

SEC. 327. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

(1) any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $15,000 in any calendar year.

PENALTY FOR VIOLATIONS

SEC. 328. Any person who knowingly and willfully commits a violation of any provision or provisions of this Act, other than the provisions of section 326, which involves the making, receiving, or reporting of any contribution or expenditure having a value, in the aggregate, of $5,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both.

SAVING PROVISION RELATING TO REPEALED SECTIONS

SEC. 329. Except as otherwise provided by this Act, the repeal by the Federal Election Campaign Act Amendments of 1976 of any provision or penalty or penalties shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under such provision or penalty, and such provision or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.

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TITLE IV—GENERAL PROVISIONS

EXTENSION OF CREDIT BY REGULATED INDUSTRIES

SEC. 401. * * *

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ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 407. (a) In any case in which the Commission, after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code, makes a finding that a person who, while a candidate for Federal office, failed to file a report required by title III of this Act, and such finding is made before the expiration of the time within which the failure to file such report may be prosecuted as a violation of such title III, *the Commission shall (1) make every endeavor for a period of not less than 30 days to correct such failure by informal methods of conference, conciliation, and persuasion; or (2) in the case of any such failure which occurs less than 45 days before the date of the election involved, make every endeavor for a period of not less than one-half the number of days between the date of such failure and the date of the election involved to correct such failure by informal methods of conference, conciliation, and persuasion, except that no action may be taken by the Commission with respect to any complaint filed with the Commission during the 5-day period immediately before an election until after the date of such election. If the Commission fails to correct such failure through such informal methods, then* such person shall be disqualified from becoming a candidate in any future election for Federal office for a

period of time beginning on the date of such finding and ending one year after the expiration of the term of the Federal office for which such person was a candidate.

* * * * * * *

TERMINATION OF AUTHORITY OF COMMISSION

SEC. 409. (a) Notwithstanding any other provision of this Act or any other provision of law, the authority of the Commission to carry out the provisions of this Act, and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, shall terminate at the close of March 31, 1977, if either House of the Congress by appropriate action determines that such termination shall take effect pursuant to subsection (b).

(b) The appropriate committee of each House of the Congress shall, commencing January 3, 1977, conduct a review of the elections of candidates for Federal office conducted in 1976, the operation of chapter 95 and chapter 96 of the Internal Revenue Code of 1954 with respect to such elections, and the activities conducted by the Commission, and report to their respective Houses not later than March 1, 1977. Such report shall include a recommendation of whether the authority of the Commission shall be terminated on March 31, 1977, as set forth in subsection (a).

(c) Nothing in this section shall affect any proceeding pending in any court of the United States on the date of the enactment of this section. The Attorney General of the United States shall have the authority to act on behalf of the United States in any such proceeding.

INTERNAL REVENUE CODE OF 1954

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SUBTITLE H—FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS

CHAPTER 95—PRESIDENTIAL ELECTION CAMPAIGN FUND

* * * * * * *

SEC. 9002. DEFINITIONS.

For purposes of this chapter—

(1) The term "authorized committee" means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in

writing and shall be addressed and filed in the same manner as the authorization.

(2) The term "candidate" means, with respect to any Presidential election, an individual who (A) has been nominated for election to the office of President of the United States or the office of Vice President of the United States by a major party, or (B) has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to either such office in 10 or more States. For purposes of paragraphs (6) and (7) of this section and purposes of section 9004(a)(2), the term "candidate" means, with respect to any preceding presidential election, an individual who received popular votes for the office of President in such election. *The term "candidate" shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States, in more than one State.*

(3) The term "Commission" means the Federal Election Commission established by section [310] *310*(a)(1) of the Federal Election Campaign Act of 1971.

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SEC. 9003. CONDITION FOR ELIGIBILITY FOR PAYMENTS.

(a) IN GENERAL.— * * *

* * * * * * *

(d) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9002(2), such individual—

(1) shall no longer be eligible to receive any payments under section 9006; and

(2) shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses.

SEC. 9004. ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS.

(a) IN GENERAL.— * * *

* * * * * * *

(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000. For purposes of this subsection, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and spouses of such persons.

* * * * * * *

SEC. 9006. PAYMENTS TO ELIGIBLE CANDIDATES.

(a) ESTABLISHMENT OF CAMPAIGN FUND.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the "Presidential Election Campaign Fund." The Secretary shall, from time to time, transfer to the fund an amount not in excess of the sum of the amounts designated (subsequent to the previous Presidential election) to the fund by individuals under section 6096. There is appropriated to the fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the amounts so designated during each fiscal year, which shall remain available to the fund without fiscal year limitation.

[(b) TRANSFER TO THE GENERAL FUND.—If, after a presidential election and after all eligible candidates have been paid the amount which they are entitled to receive under this chapter, there are moneys remaining in the fund, the Secretary shall transfer the moneys so remaining to the general fund of the Treasury.]

[(c)] *(b)* PAYMENTS FROM THE FUND.—Upon receipt of a certification from the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary shall pay to such candidates out of the fund the amount certified by the Commission. Amounts paid to any such candidates shall be under the control of such candidates.

[(d)] *(c)* INSUFFICIENT AMOUNTS IN FUND.—If at the time of a certification by the Comptroller General under section 9005 for payment to the eligible candidates of a political party, the Secretary or his delegate determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he shall withhold from such payment such amount as he determines to be necessary to assure that the eligible candidates of each political party will receive their pro rata share of their full entitlement. Amounts withheld by reason of the preceding sentence shall be paid when the Secretary or his delegate determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates for whom amounts have been withheld, but, if there are not sufficient moneys in the fund to satisfy the full entitlement of the eligible candidates of all political parties, the amounts so withheld shall be paid in such manner that the eligible candidates of each political party receive their pro rata share of their full entitlement. *In any case in which the Secretary or his delegate determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.*

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SEC. 9008. PAYMENTS FOR PRESIDENTIAL NOMINATING CONVENTIONS.

(a) ESTABLISHMENT OF ACCOUNTS.—* * *

(b) ENTITLEMENT TO PAYMENTS FROM THE FUND.—

(1) MAJOR PARTIES.—Subject to the provisions of this section, the national committee of a major party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention. in amounts which, in the aggregate, shall not exceed $2,000,000.

(2) MINOR PARTIES.—Subject to the provisions of this section, the national committee of a minor party shall be entitled to payments under paragraph (3), with respect to any presidential nominating convention, in amounts which, in the aggregate, shall not exceed an amount which bears the same ratio to the amount the national committee of a major party is entitled to receive under paragraph (1) as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President of the United States of the major parties in the preceding presidential election.

(3) PAYMENTS.—Upon receipt of certification from the Commission under subsection (g), the Secretary shall make payments from the appropriate account maintained under subsection (a) to the national committee of a major party or minor party which elects to receive its entitlement under this subsection. Such payments shall be available for use by such committee in accordance with the provisions of subsection (c).

(4) LIMITATION.—Payments to the national committee of a major party or minor party under this subsection from the account designated for such committee shall be limited to the amounts in such account at the time of payment.

(5) ADJUSTMENT OF ENTITLEMENTS.—The entitlements established by this subsection shall be adjusted in the same manner as expenditure limitations established by section [608(c) and section 608(f) of title 18, United States Code,] *section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971* are adjusted pursuant to the provisions of section [608(d) of such title] *320(c) of such Act.*

* * * * * * *

(d) LIMITATION OF EXPENDITURES.—

(1) MAJOR PARTIES.—Except as provided by paragraph (3), the national committee of a major jarty may not make expenditures with respect to a presidential nominating convention which, in the aggregate, exceed the amount of payments to which such committee is entitled under subsection (b) (1).

(2) MINOR PARTIES.—Except as provided by paragraph (3), the national committee of a minor party may not make expenditures with respect to a presidential nominating convention which, in the aggregate, exceed the amount of the entitlement of the national committee of a major party under subsection (b) (1).

(3) EXCEPTION.—The Commission may authorize the national committee of a major party or minor party to make expenditures which, in the aggregate, exceed the limitation established by paragraph (1) or paragraph (2) of this subsection. Such authorization shall be based upon a determination by the Commission that, due to extraordinary and unforeseen circumstances, such expenditures are necessary to assure the effective operation of the presidential nominating convention by such committee.

(4) PROVISION OF LEGAL OR ACCOUNTING SERVICES.—For purposes of this section, the payment, by any person other than the national committee of a political party, of compensation to any person for any legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such national committee with respect to the presidential nominating convention of the political party involved.

SEC. 9009. REORTS TO CONGRESS; REGULATIONS.

(a) REPORTS.— * * *

* * * * * * *

(c) REVIEW OF REGULATIONS.—

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove, *in whole or in part*, the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. *Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.* The Commission may not prescribe any rule or regulation which is disapproved by either such House under this paragraph.

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CHAPTER 96—PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT

SEC. 9031. SHORT TITLE.

This chapter may be cited as the "Presidential Primary Matching Payment Account Act."

SEC. 9032. DEFINITIONS.

FOR PURPOSES OF THIS CHAPTER—

(1) The term "authorized committee" means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

(2) The term "candidate" means an individual who seeks nomination for election to be President of the United States. For purposes of this paragraph, an individual shall be considered to seek nomination for election if he (A) takes the action necessary under the law of a State to qualify himself for nomination for election, (B) receives contributions or incurs qualified campaign expenses, or (C) gives his consent for any other person to receive contributions or to incur qualified campaign expenses on his behalf. *The term "candidate" shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.*

(3) The term "Commission" means the Federal Election Commission established by section [310] *309*(a)(1) of the Federal Election Campaign Act of 1971.

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SEC. 9033. ELIGIBILITY FOR PAYMENTS.

(a) CONDITIONS.— * * *

(b) EXPENSE LIMITATION; DECLARATION OF INTENT; MINIMUM CONTRIBUTIONS.—To be eligible to receive payments under section 9037, a candidate shall certify to the Commission that—

(1) the candidate and his authorized committees will not incur qualified campaign expenses in excess of the [limitation] *limitations* on such expenses under section 9035,

(2) the candidate is seeking nomination by a political party for election to the office of President of the United States,

(3) the candidate has received matching contributions which, in the aggregate, exceed $5,000 in contributions from residents of each of at least 20 States, and

(4) the aggregate of contributions certified with respect to any person under paragraph (3) does not exceed $250.

(c) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2), such individual—

(1) shall no longer be eligible to receive any payments under section 9037; and

(2) notwithstanding the provisions of section 9038(b)(3), shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9037 which are not used to defray qualified campaign expenses.

SEC. 9034. ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS.

(a) IN GENERAL.—Every candidate who is eligible to receive payments under section 9033 is entitled to payments under section 9037 in an amount equal to the amount of each contribution received by such candidate on or after the beginning of the calendar year immediately preceding the calendar year of the presidential election with respect to which such candidate is seeking nomination, or by his authorized committees, disregarding any amount of contributions from any person to the extent that the total of the amounts contributed by such person on or after the beginning of such preceding calendar year exceeds $250. For purposes of this subsection and section 9033(b), the term 'contribution' means a gift of money made by a written instrument which identifiies the person making the contribution by full name and mailing address, but does not include a subscription, loan, advance, or deposit of money, or anything of value or anything described in subparagraph (B), (C), or (D) of section 9032(4).

(b) LIMITATIONS.—The total amount of payments to which a candidate is entitled under subsection (a) shall not exceed 50 percent of the expenditure limitation applicable under section [608(c)(1)(A) of title 18, United States Code] *320(b)(1)(A) of the Federal Election Campaign Act of 1971.*

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SEC. 9035. QUALIFIED CAMPAIGN EXPENSE [LIMITATION] *LIMITATIONS.*

(a) EXPENDITURE LIMITATIONS.—No candidate shall knowingly incur qualified campaign expenses in excess of the expenditure limitation applicable under section [608(c)(1)(A) of title 18, United States Code,] *section 320(b)(1)(A) of the Federal Election Campaign Act of 1971 and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000.*

(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

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SEC. 9039. REPORTS TO CONGRESS; REGULATIONS.

(a) REPORTS.—* * *

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(c) REVIEW OF REGULATIONS.—

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove, *in whole or in part*, the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. *Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.* The Commission may not prescribe any such rule or regulation which is disapproved by either such House under this paragraph.

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CHAPTER 29 OF TITLE 18, UNITED STATES CODE

CHAPTER 29.—ELECTIONS AND POLITICAL ACTIVITIES

Sec.

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§ 591. Definitions.

Except as otherwise specifically provided, when used in this section and in sections 597, 599, 600, [602, 608, 610, 611, 614, 615, and 617] *and 602* of this title—

(a) "election" means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, or (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal office, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

(d) "political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000;

(e) "contribution"—

(1) means a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, which shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors), made for the purpose of influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President of the United States;

(2) means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;

(3) means funds received by a political committee which are transferred to such committee from another political committee or other source;

(4) means the payment, by any person other than a candidate or a political committee, of compensation for the per-

sonal services of another person which are rendered to such candidate or political committee without charge for any such purpose, *except that this subparagraph shall not apply (A) in the case of any legal or accounting services rendered to or on behalf of the national committee of a political party, other than any legal or accounting services attributable to any activity which directly furthers the election of any designated candidate to Federal office; or (B) in the case of any legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this chapter, the Federal Election Campaign Act of 1971, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954; but*

* * * * * * *

(f) "expenditure"—

(1) means a purchase, payment, distributions, loan, advance, deposit, or gift of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President of the United States;

(2) means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and

(3) means the transfer of funds by a political committee to another political committee; but

(4) does not include—

(A) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(B) nonpartisan activity designed to encourage individuals to register to vote or to vote;

(C) any communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office;

(D) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a service on the individual's residential premises for candidate-related activities;

(E) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate;

(F) the payment, by any person other than a candidate or a political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of any designated candidate to Federal Office, or for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this chapter, the Federal Election Campaign Act of 1971, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

[F] (G) any communication by any person which is not made for the purpose of influencing the nomination for election, or election, of any person to Federal office;

[G] *(H)* the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines or other similar types of general public political advertising;

[H] *(I)* any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitations applicable to such candidate under section 608(c) of this title;

[I] *(J)* any costs incurred by a political committee (as such term is defined by section 608(b)(2) of this title) with respect to the solicitation of contributions to such political committee or to any general political fund controlled by such political committee, except that this clause shall not apply to exempt costs incurred with respect to the solicitation of contributions to any such political committee made through broadcasting stations, newspapers, magazine, outdoor advertising facilities, and other similar types of general public political advertising;

to the extent that the cumulative value of activities by any individual on behalf of any candidate under each of clauses (D) or (E) does not exceed $500 with respect to any election;

(g) "person" and "whoever" mean an individual, partnership, committee, association, corporation, or any other organization or group of persons;

(h) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

(i) "political party" means any association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization;

(j) "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Federal Election Commission;

(k) "national committee" means the organization which, by virture of the bylaws of the political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Federal Election Commission established under section 310(a) of the Federal Election Campaign Act of 1971; and

(l) "principal campaign committee" means the principal campaign committee designated by a candidate under section 302(f)(1) of the Federal Election Campaign Act of 1971.

* * * * * * *

[§ 608. Limitations on contributions and expenditures.

[(a)(1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaigns during any calendar year for nomination for election, or for election, to Federal office in excess of, in the aggregate—

[(A) $50,000, in the case of a candidate for the office of President or Vice President of the United States;

[(B) $35,000, in the case of a candidate for the office of Senator or for the office of Representative from a State which is entitled to only one Representative; or

[(C) $25,000, in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner, in any other State.

[For purposes of this paragraph, any expenditure made in a year other than the calendar year in which the election is held with respect to which such expenditure was made, is considered to be made during the calendar year in which such election is held.

[(2) For purposes of this subsection, "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

[(3) No candidate or his immediate family may make loans or advances from their personal funds in connection with his campaign for nomination for election, or for election, to Federal office unless such loan or advance is evidenced by a written instrument fully disclosing the terms and conditions of such loan or advance.

[(4) For purposes of this subsection, any such loan or advance shall be included in computing the total amount of such expenditures only to the extent of the balance of such loan or advance outstanding and unpaid.

[(b)(1) Except as otherwise provided by paragraphs (2) and (3), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000.

[(2) No political committee (other than a principal campaign committee) shall make contributions to any candidate with respect to any

election for Federal office which, in the aggregate, exceed $5,000. Contributions by the national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by the preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term "political committee" means an organization registered as a political committee under section 303 of the Federal Election Campaign Act of 1971 for a period of not less than 6 months which has received contributions from more than 50 persons and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

[(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

[(4) For purposes of this subsection—

[(A) contributions to a named candidate made to any political committee authorized by such candidate, in writing, to accept contributions on his behalf shall be considered to be contributions made to such candidate; and

[(B) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

[(5) The limitations imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

[(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

[(c)(1) No candidate shall make expenditures in excess of—

[(A) $10,000,000, in the case of a candidate for nomination for election to the office of President of the United States, except that the aggregate of expenditures under this subparagraph in any one State shall not exceed twice the expenditure limitation applicable in such State to a candidate for nomination for election to the office of Senator, Delegate, or Resident Commissioner, as the case may be;

[(B) $20,000,000, in the case of a candidate for election to the office of President of the United States;

[(C) in the case of any campaign for nomination for election by a candidate for the office of Senator or by a candidate for the office of Representative from a State which is entitled to only one Representative, the greater of—

[(i) 8 cents multiplied by the voting age population of the State (as certified under subsection (g)); or

[(ii) $100,000;

[(D) in the case of any campaign for election by a candidate for the office of Senator or by a candidate for the office of Representative from a State which is entitled to only one Representative, the greater of—

[(i) 12 cents multiplied by the voting age population of the State (as certified under subsection (g)); or

[(ii) $150,000;

[(E) $70,000, in the case of any campaign for nomination for election, or for election, by a candidate for the office of Representative in any other State, Delegate from the District of Columbia, or Resident Commissioner; or

[(F) $15,000, in the case of any campaign for nomination for election, or for election, by a candidate for the office of Delegate from Guam or the Virgin Islands.

[(2) For purposes of this subsection—

[(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

[(B) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

[(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

[(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

[(3) The limitations imposed by subparagraphs (C), (D), (E), and (F) of paragraph (1) of this subsection shall apply separately with respect to each election.

[(4) The Commission shall prescribe rules under which any expenditure by a candidate for Presidential nomination for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

[(d)(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the per centum difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (c) and subsection (f) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

[(2) For purposes of paragraph (1)—

[(A) the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

[(B) the term "base period" means the calendar year 1974.

[(e)(1) No person may make any expenditure (other than an expenditure made by or on behalf of a candidate within the meaning of subsection (c)(2)(B)) relative to a clearly identified candidate during a calendar year which, when added to all other expenditures made by such person during the year advocating the election or defeat of such candidate, exceeds $1,000.

[(2) For purposes of paragraph (1)—

[(A) "clearly identified" means—

[(i) the candidate's name appears;

[(ii) a photograph or drawing of the candidate appears; or

[(iii) the identity of the candidate is apparent by unambiguous reference; and

[(B) "expenditure" does not include any payment made or incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610, would not constitute an expenditure by such corporation or labor organization.

[(f)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

[(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (g)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.

[(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

[(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

[(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (g)); or

[(ii) $20,000; and

[(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

[(g) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification.

The term "voting age population" means resident population, 18 years of age or older.

[(h) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

[(i) Any person who violates any provision of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both.]

[§ 610. Contributions or expenditures by national banks, corporations, or labor organizations.

[It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, poiltical committee, or other person to accept or receive any contribution prohibited by this section.

[Every corporation or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than $25,000; and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation or labor organization, as the case may be, and any person who accepts or receives any contribution, in violation of this section, shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than $50,000 or imprisoned not more than two years, or both.

[For the purposes of this section "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

[As used in this section, the phrase "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to this section; but shall not include communications by a corporation to its stockholders and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corpora-

tion aimed at its stockholders and their families, or by a labor organization aimed at its members and their families; the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor oragnization: *Provided*, That it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction.

[§ 611. Contributions by Government contractors.

[Whoever—

[(a) entering into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (1) the completion of performance under, or (2) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

[(b) knowingly solicits any such contribution from any such person for any such purpose during any such period;

shall be fined not more than $25,000 or imprisoned not more than five years, or both.

[This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 610 of this title prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

[For purposes of this section, the term "labor organization" has the meaning given it by section 610 of this title.

[§ 612. Publication or distribution of political statements.

[Whoever willfully publishes or distributes or causes to be published or distributed, or for the purpose of publishing or distributing the same, knowingly deposits for mailing or delivery or causes to be deposited for mailing or delivery, or, except in cases of employees of the Postal Service in the official discharge of their duties, knowingly transports or causes to be transported in interstate commerce any card, pamphlet, circular, poster, dodger, advertisement, writing, or other statement relating to or concerning any person who has publicly de-

clared his intention to seek the office of President, or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to Congress, in a primary, general, or special election, or convention of a political party, or has caused or permitted his intention to do so to be publicly declared, which does not contain the names of the persons, associations, committees, or corporations responsible for the publication or distribution of the same, and the names of the officers of each such association, committee, or corporation, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

[§ 613. Contributions by foreign nationals.

[Whoever, being a foreign national directly or through any other person, knowingly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or

[Whoever knowingly solicits, accepts, or receives any such contribution from any such foreign national—

[Shall be fined not more than $25,000 or imprisoned not more than five years or both.

[As used in this section, the term "foreign national" means—

[(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 (b)), except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

[(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

[§ 614. Prohibition of contributions in name of another.

[(a) No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

[(b) Any person who violates this section shall be fined not more than $25,000 or imprisoned not more than one year, or both.

[§ 615. Limitation on contributions of currency.

[(a) No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceeds $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

[(b) Any person who violates this section shall be fined not more than $25,000 or imprisoned not more than one year, or both.

[§ 616. Acceptance of excessive honorariums.

[Whoever, while an elected or appointed officer or employee of any branch of the Federal Government—

[(1) accepts any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

[(2) accepts honorariums (not prohibited by paragraph (1) of this section) aggregating more than $15,000 in any calendar year shall be fined not less than $1,000 nor more than $5,000.

[§ 617. Fraudulent misrepresentation of campaign authority.

[Whoever, being a candidate for Federal office or an employee or agent of such a candidate—

[(1) fraudulently misrepresents himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

[(2) willfully and knowingly participates in or conspires to participate in any plan, scheme, or design to violate paragraph (1); shall, for each such offense, be fined not more than $25,000 or imprisoned not more than one year, or both.]

SECTION-BY-SECTION EXPLANATION OF THE BILL

SHORT TITLE

Section 1 of the bill provides that this legislation may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

Section 101(a)(1) amends section 309(a)(1) of the Federal Election Campaign Act of 1971 (hereinafter in this explanation referred to as the "Act"), as so redesignated by section 105 of the bill, to provide that the Federal Election Commission (hereinafter in this explanation referred to as the "Commission") is composed of the Secretary of the Senate and the Clerk of the House of Representatives ex officio and without the right to vote, and 6 members appointed by the President of the United States, by and with the advice and consent of the Senate.

Section 101(a)(2) amends section 309(a)(1) of the Act, as so redesignated by section 105 of the bill, to provide that no more than 3 members of the Commission appointed by the President may be affiliated with the same political party.

Section 101(b) amends section 309(a) of the Act, as so redesignated by section 105, by rewriting paragraph (2). Section 309(a)(2)(A) provides that members of the Commission shall serve for terms of 6 years, except that members first appointed shall serve for staggered terms as designated by the President. In making such designations, the President may not appoint an individual affiliated with any political party for a term which expires 1 year after the term of another member affiliated with the same political party.

Section 309(a)(2)(B) provides that a member of the Commission may serve after the expiration of his term until his successor has taken office.

Section 309(a)(2)(C) provides that an individual appointed to fill a vacancy occurring other than by the expiration of a term of office may be appointed only for the unexpired term of the member he succeeds.

Section 309(a)(2)(D) provides that a vacancy in the Commission shall be filled in the same manner as the original appointment.

Section 101(c)(1) of the bill amends section 309(a)(3) of the Act, as so redesignated by section 105 of the bill, to provide that members of the Commission shall not engage in any other business, vocation, or employment. Members are given 1 year to terminate or liquidate any such activities.

Section 101(c)(1) amends section 309 of the Act, as so redesignated by section 105 of the bill, by rewriting subsection (b). Section 309 (b)(1) requires the Commission to administer and formulate policy regarding the Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission is given exclusive primary jurisdiction regarding the civil enforcement of such provisions.

Section 309(b)(2) provides that the provisions of the Act do not limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress regarding elections to Federal office.

Section 101(c)(3) of the bill amends section 309(c) of the Act, as so redesignated by section 105 of the bill, to require an affirmative vote of 4 members of the Commission in order for the Commission to establish guidelines for compliance with the Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action under (1) section 310(a)(6) of the Act, as so redesignated by section 105 of the bill, relating to the initiation of civil actions; (2) section 310(a)(7) of the Act, relating to the rendering of advisory opinions; (3) section 310(a)(8) of the Act, relating to rule-making authority; or (4) section 310(a)(10) of the Act, relating to investigations and hearings.

Section 101(d)(1) provides that the President shall appoint members of the Commission as soon as practicable after the date of the enactment of the bill. Subsection (d)(2) provides that the first appointments made by the President shall not be considered appointments to fill the unexpired terms of members serving on the Commission on the date of the enactment of the bill.

Subsection (d)(3) provides that members of the Commission serving on the date of the enactment of the bill may continue to serve as such members until members are appointed and qualified under section 309(a) of the Act, as amended by the bill, except that they may exercise only such powers and functions as may be consistent with the determinations of the Supreme Court of the United States in *Buckley et al.* v. *Valeo, et al.* (Nos. 75–436, 75–437) (January 30, 1976).

Section 101(e) provides that members serving on the Commission on the date of the enactment of the bill shall not be subject to the provisions of section 309(a)(3) of the Act, as so redesignated by section 105 of the bill, which prohibit any member of the Commission from being an elected or appointed officer or employee of any branch of the Federal Government.

Changes in Definitions

Election

Section 102(a) of the bill amends section 301(a)(2) of the Act to provide that any caucus or convention of a political party which has authority to nominate a candidate shall be considered to be an election.

Contribution

Section 102(b) amends section 301(e)(2) of the Act to provide that a contract, promise, or agreement to make a contribution must be in writing in order to be considered a contribution.

Section 102(c)(1) amends section 301(e)(4) of the Act to provide that the definition of contribution shall not apply to (1) legal or accounting services rendered to or on behalf of the national committee of a political party, other than legal or accounting services attributable to any activity which directly furthers the election of a designated candidate for Federal office; or (2) legal or accounting services rendered to or on behalf of a candidate or political committee for the sole purpose of ensuring compliance with the Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Subsection (c)(2) adds a new clause (G) to section 301(e)(5) of the Act. Clause (G) provides that the term contribution shall not include a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee or a State committee of a political party which is for the sole purpose of defraying any cost incurred for the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office. Clause (G) requires that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, must be reported in accordance with section 304(b) of the Act.

Expenditure

Section 102(d)(1) amends section 301(f)(4) of the Act by adding a new clause (I). Clause (I) provides that the term expenditure does not include any costs incurred by a candidate in connection with any solicitation of contributions by the candidate. Clause (I) does not apply, however, to costs incurred by a candidate in excess of an amount equal to 20 percent of the applicable expenditure limitation under section 320(b) of the Act, except that all such costs shall be reported in accordance with section 304(b).

Subsection (d)(2) amends section 301(f)(4) of the Act by adding a new clause (F). Clause (F) provides that the term expenditure does not include the payment, by any person other than a candidate or a political committee, of compensation for (1) legal or accounting services rendered to or on behalf of the national committee of a political party, other than legal or accounting services attributable to any activity which directly furthers the election of a designated candidate for Federal office; or (2) legal or accounting services rendered to or on behalf of a candidate or political committee for the sole purpose of ensuring compliance with the Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Other definitions

Section 102(e) amends section 301 of the Act by adding the following new definitions:

1. The term "Act" is defined to mean the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976.

2. The term "independent expenditure" is defined to mean any expenditure by a person which expressly advocates the election or defeat

of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of the candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of the candidate.

3. The term "clearly identified" is defined to mean (1) the name of the candidate involved appears; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate is apparent by unambiguous reference.

Organization of Political Committees

Section 103 of the bill amends section 302 of the Act by striking out subsection (e), relating to a requirement that political committees raising contributions or making expenditures on behalf of a candidate without being authorized to do so by the candidate must indicate this lack of authority on any campaign literature and campaign advertisements. Section 323 of the Act, as added by the bill, contains a similar provision.

Reports by Political Committees and Candidates

Section 104(a) amends section 304(a)(1)(C) of the Act to provide that in any year in which a candidate is not on the ballot for election to Federal office, the candidate and his authorized committees must file a report not later than the tenth day after the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures which aggregate a total of more than $10,000. Each report must be complete as of the close of the calendar quarter, except that any report which must be filed after December 31 of any calendar year in which a report must be filed under section 304(a)(1)(B) shall be filed as provided in section 304(a)(1)(B).

Section 104(b) amends section 304(a) of the Act by rewriting paragraph (2). Paragraph (2) provides that each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on behalf of the candidate, other than the principal campaign committee of the candidate, must file reports with the principal campaign committee of the candidate (rather than with the Commission).

Section 104(c) amends section 304(b) of the Act by adding a new paragraph (13). Paragraph (13) requires each report to include, in the case of an independent expenditure in excess of $100 by a political committee, other than an authorized committee of a candidate, expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (1) any information required by section 304(b)(9), stated in a manner which indicates whether the independent expenditure is in support of, or in opposition to, a candidate; and (2) under penalty of perjury, certification whether the independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of the candidate. If such expenditure is made with such cooperation, consultation, or concert, or as a result

of such request or suggestion, it no longer would qualify as an independent expenditure.

Section 104(d) amends section 304 of the Act by rewriting subsection (e). Subsection (e)(1) requires every person (other than a political committee or a candidate) who makes independent expenditures of more than $100 in a calendar year to file a statement with the Commission containing information required of a person who makes contributions of more than $100 to a candidate or political committee and information required of a candidate or political committee receiving such a contribution.

Subsection (e)(2) provides that statements required by subsection (e) must be filed on dates for the filing of reports by political committees. The statements must include (1) information required by section 309(b)(9), stated in a manner which indicates whether the contribution or independent expenditure is in support of, or in opposition to, a candidate; and (2) under penalty of perjury, certification whether the independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or any authorized committee or agent of the candidate.

Any independent expenditure, including independent expenditures described in section 304(b)(13), of $1,000 or more which is made after the fifteenth day, but more than 24 hours, before any election must be reported within 24 hours of the independent expenditure.

Subsection (e)(3) requires the Commission to prepare indices regarding expenditures made with respect to each candidate. The indices must be issued on a timely preelection basis.

Reports by Certain Persons

Section 105 amends title III of the Act by striking out section 308, relating to reports by certain persons.

Campaign Depositories

Section 106 amends section 308(a)(1) of the Act, as so redesignated by section 105 of the bill, to provide that it is within the discretion of political committees to maintain one or more checking accounts at banks which they designate as campaign depositories.

Powers of Commission

Section 107(a) amends section 310(a) of the Act, as so redesignated by section 105 of the bill, by combining paragraph (10) with paragraph (8). Paragraph (10) relates to the authority of the Commission to develop forms for the filing of reports.

Section 107(b)(1) amends section 310(a) of the Act, as so redesignated by section 105 of the bill, by rewriting paragraph (6). Paragraph (6) gives the Commission authority to initiate, defend, and appeal civil actions.

Subsection (b)(2) amends section 310 of the Act, as so redesignated by section 105 of the bill, by adding a new subsection (e) which provides that the civil action authority of the Commission is the exclusive civil remedy for enforcing the Act, except for actions which may be brought under section 313(a)(9) of the Act, as added by the bill.

Advisory Opinions

Section 108(a) amends section 312 of the Act, as so redesignated by section 105 of the bill, by rewriting subsection (a). Subsection (a) provides that the Commission shall render a written advisory opinion upon the written request of any individual holding a Federal office, any candidate for Federal office, any political committee, or any national committee of a political party. Any such advisory opinion must be rendered within a reasonable time after the request is made and shall indicate whether a specific transaction or activity would constitute a violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954. Subsection (a) prohibits the Commission or any of its employees from issuing any advisory opinion except in accordance with the provisions of section 312.

Section 108(b) amends section 312 of the Act, as so redesignated by section 105, by rewriting subsection (b). Subsection (b)(1) provides that any person who relies on an advisory opinion and who acts in good faith in accordance with the advisory opinion may not be penalized under the Act or under chapter 95 or chapter 96 of the Internal Revenue Code of 1954 as the result of any such action.

Subsection (b)(2) provides that an advisory opinion may be relied upon by (1) any person involved in the transaction or activity with respect to which the advisory opinion is rendered; and (2) any person involved in any similar transaction or activity.

The Commission is required to transmit to the Congress proposed rules and regulations based on an advisory opinion if the transaction or activity involved is not already covered by any rule or regulation of the Commission. If the Commission receives more than one request for an advisory opinion involving the same or similar transactions or activities, the Commission may not render more than one advisory opinion relating to the transactions or activities. Any rule or regulation which the Commission proposes under subsection (b) is subject to the congressional review procedures of section 315(c) of the Act.

Section 108(c) makes a conforming amendment to section 315(c)(1) of the Act.

Section 108(d) provides that the amendments made by section 108 apply to any advisory opinion rendered by the Commission after October 15, 1974.

Enforcement

Section 109 of the bill amends title III of the Act by rewriting section 313, as so redesignated by section 105 of the bill.

Complaints

Section 313(a)(1) permits any person who believes that the Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been violated to file a written complaint with the Commission. The complaint must be notarized and signed and sworn to by the person filing the complaint. The person shall be subject to the provisions of section 1001 of title 18, United States Code (relating to false or fraudulent statements).

The Commission is prohibited from conducting any investigation, or taking any other action, solely on the basis of an anonymous complaint.

Subsection (a)(1) prohibits the Commission from investigating the actions or activities of any staff employee of any person holding a Federal office unless the Commission first consults with the person holding Federal office. If the person provides an affidavit that the staff employee is performing his regularly assigned duties, the affidavit shall be a complete bar to any further investigation by the Commission.

Notification and investigation

Subsection (a)(2) provides that, if the Commission has reasonable cause to believe that a person has violated the Act or chapter 95 or Chapter 96 of the Internal Revenue Code of 1954, the Commission is required to notify the person and to conduct an investigation of the violation.

Subsection (a)(3) requires the Commission to conduct any investigation expeditiously and to include in the investigation an additional investigation of any reports and statements filed with the Commission by the complainant involved, if the complainant is a candidate for Federal office. Subsection (a)(3) prohibits the Commission and any other person from making public any investigation or any notification made under subsection (a)(2) without the written consent of the person receiving the notification or the person under investigation.

Subsection (a)(4) requires the Commission to permit any person who receives notification under subsection (a)(2) to demonstrate that the Commission should not take any action against such person under the Act.

Conciliation agreements

Subsection (a)(5) requires the Commission to seek to correct or prevent any violation of the Act by informal methods of conference, conciliation, and persuasion during the 30-day period after the Commission determines there is reasonable cause to believe that a violation has occurred or is about to occur. The Commission also is required to seek to enter into a conciliation agreement with the person involved in such violation. If, however, the Commission has reasonable cause to believe that—

(1) a person has failed to file a report required under section 304(a)(1)(C) of the Act before the date of an election;

(2) a person has failed to file a report required to be filed no later than 10 days before an election; or

(3) on the basis of a complaint filed less than 45 days but more than 10 days before an election, a person has committed a knowing and willful violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall seek to informally correct the violation and to enter into a conciliation agreement with the person involved for a period of not less than one-half the number of days between the date upon which the Commission determines that there is reasonable cause to believe a violation has occurred and the date of the election involved.

Any conciliation agreement entered into by the Commission and a person involved in a violation shall constitute a complete bar to any further action by the Commission, unless the person involved violates the conciliation agreement.

Civil actions

Subsection (a)(5) also provides that the Commission may institute a civil action for relief if the Commission is unable to correct or pre-

vent a violation by informal methods and if the Commission determines there is probable cause to believe that the violation has occurred or is about to occur. The relief sought in any civil action may include a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in the violation. The civil action may be brought in the district court of the United States for the district in which the person against whom the action is brought is found, resides, or transacts business.

The court involved shall grant the relief sought by the Commission in a civil action brought by the Commission upon a proper showing that the person involved has engaged or is about to engage in a violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Referrals to Attorney General

Subsection (a)(5) also permits the Commission to refer an apparent violation to the Attorney General of the United States if the Commission determines that there is probable cause to believe that a knowing and willful violation subject to and as defined in section 328 of the Act has occurred or is about to occur. In order for such a referral to made the violation or violations must involve the making, receiving, or reporting of any contribution or expenditure having a value, in the aggregate, of $5,000 or more during a calendar year. The Commission is not required to engage in any informal conciliation efforts before making any such referral.

Civil penalties

Subsection (a)(6) permits the Commission to include a civil penalty in a conciliation agreement if the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred. The civil penalty may not exceed the greater of (1) $10,000; or (2) an amount equal to 200 percent of the amount of any contribution or expenditure involved in the violation. If the Commission believes that a violation has occurred which is not a knowing and willful violation, the conciliation agreement may require the person involved to pay a civil penalty which does not exceed the greater of (1) $5,000; or (2) an amount equal to the amount of the contribution or expenditure involved in the violation.

Availability of information

Subsection (a)(6) also requires the Commission to make available to the public (1) the results of any conciliation efforts made by the Commission, including any conciliation agreement entered into by the Commission; and (2) any determination by the Commission that a person has not committed a violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Court-imposed civil penalties

Subsection (a)(7) permits a court to impose a civil penalty in any civil action for relief brought by the Commission if the court determines that there is clear and convincing proof that a person has com-

mitted a knowing and willful violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954. The civil penalty may not exceed the greater of (1) $10,000; or (2) an amount equal to 200 percent of the contribution or expenditure involved in the violation.

In any case in which a person against whom the court imposes a civil penalty has entered into a conciliation agreement with the Commission, the Commission may bring a civil action if it believes that the person has violated the conciliation agreement. The Commission may obtain relief if it establishes that the person has violated, in whole or in part, any requirement of the conciliation agreement.

Subpenas

Subsection (a)(8) provides that subpenas for witnesses in civil actions in any United States district court may run into any other district.

Private actions for relief

Subsection (a)(9) permits any party to file a petition with the United States District Court for the District of Columbia if the party is aggrieved by an order of the Commission dismissing a complaint filed by the party or by a failure on the part of the Commission to act on the complaint within 90 days after the complaint is filed. The petition must be filed (1) in the case of a dismissal by the Commission, no later than 60 days after the dismissal; or (2) in the case of a failure on the part of the Commission to act on the complaint, no later than 60 days after the initial 90-day period.

The court may declare that the dismissal or failure to act is contrary to law and may direct the Commission to take any action consistent with the declaration no later than 30 days after the court makes the declaration. If the Commission fails to act during the 30-day period, the party who filed the original complaint may bring in his own name a civil action to remedy the violation involved.

Appeals procedures

Subsection (a)(10) provides that any judgment of a district court may be appealed to the court of appeals. Any judgment of a court of appeals which affirms or sets aside, in whole or in part, any order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

Subsection (a)(11) provides that any action brought under subsection (a) shall be advanced on the docket of the court involved and put ahead of all other actions, other than actions brought under subsection (a) or under section 314.

Civil and criminal contempt

Subsection (a)(12) permits the Commission to petition a court for an order to adjudicate a person in civil contempt if the Commission determines after an investigation that the person has violated an order of the court entered in a proceeding brought under subsection (a)(5). If the Commission believes that the violation is a knowing and willful violation, the Commission may petition the court for an order to adjudicate the person in criminal contempt.

Reports by Attorney General

Section 313(b) requires the Attorney General to report to the Commission requiring apparent violations referred to the Attorney General by the Commission. The reports must be transmitted to the Commission no later than 60 days after the date of the referral, and at the close of every 30-day period thereafter until there is final disposition. The Commission may from time to time prepare and publish reports relating to the status of such referrals.

Penalty for disclosure of information

Section 313(c) imposes a penalty against any member of the Commission, any employee of the Commission, or any other person who reveals the identity of any person under investigation in violation of section 313(a)(3)(B). Any such member, employee, or other person is subject to a fine of $2,000 for any such violation. If the violation is knowing and willful the maximum fine is $5,000.

DUTIES OF COMMISSION

Cumulative index

Section 110(a)(1) amends section 315(a)(6) of the Act, as so redesignated by section 105 of the bill, to require the Commission to compile and maintain a separate cumulative index of reports and statements filed by the political committees supporting more than one candidate. The index must include a listing of the date of registration of such political committees and the date upon which such political committees qualify to make expenditures under section 320(a)(2) of the Act. The Commission is required to review the index on the same basis and at the same time as other cumulative indices required under section 315(a)(6).

Auditing of Federal payments

Section 110(a)(2) amends section 315(a)(8) of the Act to require the Commission to give priority to auditing and conducting field investigations requiring the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Congressional review procedures

Section 110(b) amends section 315(c)(2) of the Act to provide that the Congress may disapprove proposed rules and regulations of the Commission in whole or in part. The amendment also provides that, whenever a committee of the House of Representatives reports any resolution relating to a proposed rule or regulation of the Commission, it is in order at any time (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Although the motion to proceed to the consideration of the resolution is not debatable, debate may be conducted with respect to the consideration of the resolution.

Applicability of Commission rulings

Section 110(c) amends section 315 of the Act by adding a new subsection (e). Subsection (e) provides that, in any civil or criminal pro-

ceeding to enforce the Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, no rule, regulation, guideline, advisory opinion, opinion of counsel, or any other pronouncement by the Commission or by any member, officer, or employee of the Commission may be used against the person against whom the proceeding is brought. No such rule, regulation, guideline, advisory opinion, opinion of counsel, or other pronouncement (1) shall have the force of law; (2) may be used to create any presumption of violation or of criminal intent; (3) shall be admissible in evidence against the person involved; or (4) may be used in any other manner. The provisions of subsection (e) do not apply to any rule or regulation of the Commission which takes effect under section 315(c).

Additional Enforcement Authority

Section 111 amends section 407(a) of the Act to establish conciliation procedures regarding the enforcement of section 407. The amendment provides that, if a person fails to file a report required by title III of the Act, the Commission shall (1) make very effort for a period of not less than 30 days to correct the failure by informal methods of conference, conciliation, and persuasion; or (2) in the case of any failure to file which occurs less than 45 days before the date of an election, make every effort to correct the failure by informal methods for a period of not less than one half the number of days between the date of the failure and the date of the election. The Commission, however, may not take any action regarding any complaint filed with the Commission during the 5-day period immediately before an election until after the date of the election.

Contribution and Expenditure Limitations; Penalties

Section 112(a) amends title III of the Act by striking out section 316, as so redesignated by section 105 of the bill, by striking out section 320, as so redesignated by section 105 of the bill, and by adding new sections 320 through 328.

A. LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

Contribution limitations

Section 320(a)(1) prohibits any person from making contributions (1) to any candidate in connection with any election for Federal office which, in the aggregate, exceed $1,000; or (2) to any political committee in any calendar year which exceed, in the aggregate, $1,000.

Subsection (a)(2) prohibits any political committee (other than a principal campaign committee) from making contributions to (1) any candidate in connection with any election for Federal office which, in the aggregate, exceed $5,000; or (2) any political committee in any calendar year which, in the aggregate, exceed $5,000. Contributions by the national committee of a political party serving as the principal campaign committee of a Presidential candidate may not exceed the limitation described in the preceding sentence with respect to any other candidate for Federal office.

The term "poltical committee" is in (a)(2) defined to mean an organization which (1) is registered as a political committee under

section 303 of the Act for a period of not less than 6 months; (2) has received contributions from more than 50 persons; and (3) except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

Subsection (a)(2) also provides that, for purposes of the limitations provided by subsection (a)(1) and subsection (a)(2), all contributions made by political committees which are established, financed, maintained, or controlled by any corporation, labor organization, or any other person (including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person), or by any group of such persons, shall be considered to have been made by a single political committee, except that (1) the amendment made by the bill does not limit transfers between political committees of funds raised through joint fund raising efforts; and (2) for purposes of the limitations provided by subsection (a)(1) and subsection (a)(2), all contributions made by a single political committee which is established, financed, maintained, or controlled by a national committee of a political party and by a single political committee established, financed, maintained, or controlled by the State committee of a political party, shall not be considered to have been made by a single political committee.

Subsection (a)(2) also provides that, in any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish, finance, maintain, or control more than one separate segregated fund, all such funds shall be treated as a single separate segregated fund for purposes of the limitations provided by subsection (a)(1) and subsection (a)(2).

Subsection (a)(3) prohibits any individual from making contributions which, in the aggregate, exceed $25,000 in any calendar year. Any contribution which is made to a candidate in a year other than the calendar year in which the election involved is held, is considered to be made during the calendar year in which the election is held.

Subsection (a)(4) provides that (1) any contribution to a named candidate which is made to any political committee authorized by the candidate to accept contributions on behalf of the candidate shall be considered to be contributions made to the candidate; (2) any expenditure which is made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate or any authorized political committee or agent of the candidate shall be considered to be a contribution to the candidate; (3) any expenditure to finance publication of any campaign broadcast or any other campaign materials prepared by a candidate or any authorized political committee or agency of the candidate shall be considered to be a contribution to that candidate; and (4) contributions made to a vice presidential nominee shall be considered to be contributions to the presidential nominee of the party involved.

Subsection (a)(5) provides that the contribution limitations established by subsection (a)(1) and subsection (a)(2) shall apply separately to each election, except that all elections in any calendar year for the office of President (except a general election for such office) shall be considered to be one election.

Subsection (a)(6) provides that all contributions made by a person on behalf of a particular candidate, including contributions which are earmarked or directed through an intermediary or conduit to such candidate, shall be treated as contributions from the person involved to the candidate. The intermediary or conduit is required to report the name of the original source of the contribution and the name of the intended recipient of the contribution to the Commission and to report the name of the original source of the contribution to the intended recipient.

Expenditure limitations

Section 320(b)(1) prohibits any candidate for the office of President who has established his eligibility to receive payments under section 9003 of the Internal Revenue Code of 1954 or under section 9033 of the Internal Revenue Code of 1954 from making expenditures in excess of (1) $10,000,000, in the case of a campaign for nomination for election to the office of President; or (2) $20,000,000 in the case of a campaign for election to the office of President. In the case of campaigns for nomination, the aggregate of expenditures in any one State may not exceed twice the greater of (1) 8 cents multiplied by the voting age population of the State; or (2) $100,000.

Subsection (b)(2) provides that (1) expenditures made by a vice-presidential nominee shall be considered to be expenditures made by the presidential nominee of the same political party; and (2) an expenditure is made on behalf of a candidate if it is made by (A) a committee or agent of the candidate authorized to make expenditures; or (B) any person authorized or requested by the candidate or an authorized committee or agent of the candidate to make the expenditure involved.

Increases in expenditure limitations

Section 320(c)(1) provides that, at the beginning of each calendar year (beginning in 1976), as there become available necessary data from the Bureau of Labor Statistics, the Secretary of Labor shall certify to the Commission the percentage difference between the price index from the 12-month period preceding the calendar year and the price index for the base period. The term "price index" is defined to mean the average over a calendar year of the Consumer Price Index (all items—United States city average), and the term "base period" is defined to mean the calendar year 1974. Each limitation established by section 320(b) and section 320(d) shall be increased by such percentage difference.

Expenditures by political party committees

Section 320(d)(1) provides that the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office.

Subsection (d)(2) provides that the national committee of a political party may not make expenditures in connection with the general election campaign of a candidate for the office of President which exceed an amount equal to 2 cents multiplied by the voting age popula-

tion of the United States. Any expenditures under subsection (d)(2) are considered as an addition to expenditures by a national committee of a political party which is serving as the principal campaign committee of a candidate for the office of President.

Subsection (d)(3) provides that the national committee of a political party and that the State committee of a political party, including any subordinate committee of a State committee, may each make expenditures in connection with the general election campaign of a candidate for Federal office in any State which do not exceed (1) in the case of candidates for election to the office of Senator (or of Representative from a State which is entitled to only one Representative), the greater of (A) 2 cents multiplied by the voting age population of the State; or (B) $20,000; and (2) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

Voting age population

Section 320(e) requires the Secretary of Commerce, during the first week of January 1975, and each subsequent year, to certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district, as of the first day of July next preceding the date of certification. The term "voting age population" is defined to mean resident population, 18 years of age or older.

Prohibition of contributions and expenditures

Section 320(f) prohibits candidates and political committees from knowingly accepting any contribution or knowingly making any expenditure in violation of section 320. Subsection (f) also prohibits any officer or employee of a political committee from knowingly accepting a contribution made to a candidate, or knowingly making an expenditure on behalf of a candidate in violation of section 320.

Attribution of expenditures

Section 320(g) requires the Commission to prescribe rules under which expenditures by a candidate for Presidential nomination for use in two or more States shall be attributed to the expenditure limits of such candidate in each State involved. The attribution shall be based on the voting age population in each State which can reasonably be expected to be influenced by the expenditure.

B. CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

Prohibition of contributions and expenditures

Section 321(a) makes it unlawful for any national bank or any corporation to make any contribution or expenditure in connection with (1) any election to any political office; or (2) any primary election or political convention or caucus held to select candidates for any political office. Subsection (a) also prohibits any corporation or labor organization from making a contribution or expenditure in connection with (1) any general election for Federal office; or (2) any primary election or political convention or caucus held to select candidates for any Federal office.

Subsection (a) also prohibits any candidate, political committee, or other person from knowingly accepting or receiving any contribution which is prohibited by section 321. It is also unlawful for any officer or director of a corporation or national bank, or any officer of a labor organization, to consent to any contribution or expenditure which is prohibited by section 321.

Definition of labor organization

Section 321 (b) (1) defines the term "labor organization" to mean any organization or any agency or employee representation committee or plan in which employers participate and which exists for the purpose of dealing with employees regarding grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Definition of contribution or expenditure

Subsection (b) (2) defines the term "contribution or expenditure" to include any payment or other distribution of money, services, or anything of value (except a lawful loan by a national or State bank in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any Federal office.

Such term, however, does not include—

(1) communications on any subject by a corporation to its stockholders and executive officers and their families, or by a labor organization to its members and their families;

(2) nonpartisan registration and voting campaigns conducted by a corporation with respect to its stockholders and its executive officers and their families, or by a labor organization with respect to its members and their families; and

(3) the establishment, administration, and solicitation of contributions to a separate segregated fund to be used for political purposes by a corporation or labor organization, except that—

(A) it is unlawful for such a fund to make a contribution or expenditure through the use of money or anything of value secured by (i) physical force; (ii) job discrimination; (iii) financial reprisal; (iv) the threat of force, job discrimination, or financial reprisals; (v) dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment; or (vi) moneys obtained in any commercial transaction;

(B) it is unlawful for a corporation or a separate segregated fund established by a corporation to solicit contributions from any person other than stockholders and executive officers of such corporation and their families, for an incorporated trade association or a separate segregated fund established by such an association to solicit contributions from any person other than the stockholders and executive officers of the member corporations of such trade association and the families of stockholders and executive officers (to the extent that any such solicitation has been separately and specifically approved by the member corporation involved, and such member corporation has not approved any such solicitation by more than one such trade association in any calendar year),

or for a labor organization or a separate segregated fund established by a labor organization to solicit contributions from any person other than the members of the labor organization and their families;

(C) any method of soliciting voluntary contributions, or of facilitating the making of voluntary contributions, to a separate segregated fund established by a corporation which may be used by a corporation also may be used by labor organizations; and

(D) a corporation which uses a method of soliciting voluntary contributions or facilitating the making of voluntary contributions shall make such method available to a labor organization representing any members who work for the corporation, upon written request by the labor organization.

Definition of executive officer

Subsection (b)(3) defines the term "executive officer" to mean an individual employed by a corporation who is paid on a salary rather than an hourly basis and who has policymaking or supervisory responsibilities.

C. CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

Section 322(a) makes it unlawful for any person who enters into certain contracts with the United States to make any contribution, or to promise to make any contribution, to any political party, committee, or candidate for public office, or to any person for any political purpose or use, or to solicit any such contribution from any such person. The prohibition applies during the period beginning on the date of the commencement of negotiations for the contract involved and ending on the later of (1) the completion of performance under the contract; or (2) the termination of negotiations for the contract.

The prohibition applies with respect to any contract with the United States or any department or agency of the United States for (1) the performance of personal services; (2) furnishing any materials, supplies, or equipment; or (3) selling any land or building. The prohibition, however, applies only if payment under the contract is to be made in whole or in part from funds appropriated by the Congress.

Section 322(b) provides that section 322 does not prohibit the operation of a separate segregated fund by a corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit the operation of such fund.

Section 322(c) defines the term "labor organization" by giving it the same meaning as in section 321.

D. PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

Section 323 provides that, whenever a person makes an expenditure to finance a communication which advocates the election or defeat of a clearly identified candidate through a broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or other type of general public political advertising, such communication (1) if authorized by a candidate or an authorized political committee or

agent of a candidate, shall state that such communication has been so authorized; or (2) if not authorized by a candidate, or an authorized political committee or agent of a candidate, shall state (A) that the communication is not so authorized; and (B) the name of the person making or financing the expenditure for the communication, including (in the case of a political committee) the name of any affiliated organization as stated in section 303(b)(2) of the Act.

E. CONTRIBUTIONS BY FOREIGN NATIONALS

Section 324(a) makes it unlawful for a foreign national to make any contribution in connection with (1) any election to any political office; or (2) any primary election, convention, or caucus held to select candidates for any political office. It is also unlawful for any person to solicit, accept, or receive any such contribution from a foreign national.

Section 324(b) defines the term "foreign national" to mean (1) a foreign principal, as defined by section 1(b) of the Foreign Agents Registration Act of 1938, except that the term "foreign national" does not include any individual who is a citizen of the United States; or (2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act.

Section 324 is the same as section 613 of title 18, United States Code, except that the penalties have been omitted in order to conform with section 328 of the Act. The bill eliminates section 613 of title 18, United States Code.

F. PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

Section 325 prohibits any person from (1) making a contribution in the name of another person; (2) knowingly permitting his name to be used to make such a contribution; and (3) knowingly accepting a contribution made by one person in the name of another person.

Section 325 is the same as section 614 of title 18, United States Code, except that the penalties have been omitted in order to conform with section 328 of the Act. The bill eliminates section 614 of title 18, United States Code.

G. LIMITATION ON CONTRIBUTIONS OF CURRENCY

Section 326(a) prohibits any person from making contributions of currency of the United States or of any foreign country to any candidate which, in the aggregate, exceed $250, with respect to any campaign of the candidate for nomination for election, or for election, to Federal office.

Sectin 326(b) provides that any person who knowingly and willfully violates section 326 shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution involved.

H. ACCEPTANCE OF EXCESSIVE HONORARIUMS

Section 327 prohibits any person who is an elected or appointed officer of employee of any branch of the Federal Government from

accepting (1) any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or (2) honorariums aggregating more than $15,000 in any calendar year.

Section 327 is the same as section 616 of title 18, United States Code, except that the penalties have been omitted in order to conform with section 328 of the Act. The bill eliminates section 616 of title 18, United States Code.

I. PENALTIES FOR VIOLATIONS

Section 328 provides that any person who knowingly and willfully violates any provision or provisions of the Act (other than section 326) which involves the making, receiving, or reporting of any contribution or expenditure having a value, in the aggregate, of $5,000 or more during any calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution or expenditure involved, imprisoned for not more than 1 year, or both.

J. FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

Section 112(b) of the bill amends title III of the Act by adding a new section 316. Section 316 prohibits any candidate for Federal office, or any employee or agent of the candidate from (1) fraudulently misrepresenting himself (or any committee or organization under his control) as acting for or on behalf of any other candidate or political party regarding a matter which is damaging to such other candidate or political party; or (2) participating in, or conspiring to participate in, any plan to violate section 316.

Section 316 is substantially the same as section 617 of title 18, United States Code, except that the penalties have been omitted in order to conform with section 328 of the Act. The bill eliminates section 617 of title 18, United States Code.

Savings Provision Relating to Repealed Sections

Section 113 amends title III of the Act by adding a new section 329. Section 329 provides that the repeal by the bill of any provision or penalty shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under the provision or penalty. The provision or penalty shall be treated as remaining in force for the purpose of sustaining any action or prosecution for the enforcement of the penalty, forfeiture, or liability.

Principal Campaign Committees

Section 114 amends section 302(f) of the Act to provide that, with respect to the designation of political committees as principal campaign committees, any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of section 302.

Termination of Authority of Commission

Section 115 amends title IV of the Act by adding a new section 409. Section 409(a) provides that the authority of the Commission to carry out the Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954 will terminate at the close of March 31, 1977, if either House of the Congress determines by appropriate action that such termination shall take effect.

Section 409(b) provides that the appropriate committee of each House of the Congress shall, beginning on January 3, 1977, conduct a review of (1) elections for Federal office conducted in 1976; (2) the operation of chapter 95 and chapter 96 of the Internal Revenue Code of 1954 with respect to such elections; and (3) the activities of the Commission. Each such committee shall report to the appropriate House of the Congress not later than March 1, 1977. The report shall include a recommendation of whether the authority of the Commission shall be terminated on March 31, 1977.

Section 409(c) provides that section 409 does not affect any proceeding pending in any court of the United States on the effective date of section 409. The Attorney General is given authority to act on behalf of the United States in any such proceeding.

Technical and Conforming Amendments

Section 116 makes several technical and conforming amendments to the Act and to the Internal Revenue Code of 1954.

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

Repeal of Certain Provisions

Section 201(a) amends chapter 29 of title 18, United States Code, by striking out sections 608 (relating to limitations on contributions and expenditures), 610 (relating to contributions or expenditures by national banks, corporations, or labor organizations), 611 (relating to contributions by Government contractors), 612 (relating to publication or distribution of political statements), 613 (relating to contributions by foreign nationals), 614 (relating to prohibition of contributions in name of another), 615 (relating to limitations on contributions of currency), 616 (relating to acceptance of excessive honorariums), and 617 (relating to fraudulent misrepresentation of campaign authority).

Section 201(b) makes conforming amendments to the table of sections for chapter 29 of title 18, United States Code.

Changes in Definitions

Section 202(a) makes a conforming amendment to section 591 of title 18, United States Code, based upon the amendment made by section 201(a) of the bill.

Section 202(b) amends section 591(e)(4) of title 18, United States Code, to provide that the term "contribution" does not apply (1) in the case of any legal or accounting services rendered to the national committee of a political party, other than any such services attributable to any activity which directly furthers the election of any designated candidate to Federal office; or (2) in the case of any legal or accounting services rendered to a candidate or political committee solely for the purpose of ensuring compliance with the Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Section 202(c) amends section 591(f)(4) of title 18, United States Code, to provide that the term "expenditure" does not include the payment by any person other than a candidate or political committee, of compensation for legal or accounting services rendered (1) to the national committee of a political party, other than services attributable to activities which further the election of a designated candidate to Federal office; or (2) to a candidate or political committee solely for the purpose of ensuring compliance with the Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

Entitlement of Eligible Candidates to Payments

Section 301 amends section 9004 of the Internal Revenue Code of 1954 by adding new subsections (d) and (e). Subsection (d) provides that, in order to be eligible to receive payments under section 9006, a candidate of a major, minor, or new party for election to the office of President must certify to the Commission that the candidate will not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of an aggregate amount of $50,000. Expenditures made by a vice-presidential nominee shall be considered to be expenditures made by the Presidential nominee of the same political party.

Subsection (e) defines the term "immediate family" to mean the spouse of a candidate, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

Payments to Eligible Candidates; Insufficient Amounts in Fund

Section 302(a) amends section 9006 of the Internal Revenue Code of 1954 by striking out subsection (b). Subsection (b) provides that any moneys remaining in the Presidential Election Campaign Fund after a Presidential election shall be transferred to the general fund of the Treasury.

Section 302(b) amends section 9006(c) of the Internal Revenue Code of 1954, as so redesignated by section 302(a) of the bill, to provide that, in any case in which the Secretary of the Treasury determines that there are not sufficient moneys in the Presidential Election Cam-

paign Fund to make payments under section 9006(b), section 9008(b)(3), and section 9037(b) of the Internal Revenue Code of 1954, moneys shall not be made available from any other source for the purpose of making payments.

Provision of Legal or Accounting Services

Section 303 amends section 9008(d) of the Internal Revenue Code of 1954 by adding a new paragraph (4). Paragraph (4) provides that any payment by a person other than the national committee of a political party of compensation to any person for legal or accounting services rendered to the national committee of a political party shall not be treated as an expenditure made by the national committee with respect to the Presidential nominating convention of the political party involved.

Review of Regulations

Section 304(a) amends section 9009(c)(2) of the Internal Revenue Code of 1954 to provide that the Congress may disapprove proposed rules and regulations of the Commission in whole or in part. The amendment also provides that, whenever a committee of the House of Representatives reports any resolution relating to a proposed rule or regulation of the Commission, it is in order at any time (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Although the motion to proceed to the consideration of the resolution is not debatable, debate may be conducted with respect to the consideration of the resolution.

Section 304(b) makes an identical amendment to section 9039(c)(2) of the Internal Revenue Code of 1954.

Eligibility for Payments

Section 305 makes a conforming amendment to section 9033(b)(1) of the Internal Revenue Code of 1954, based upon amendments made by section 306 of the bill.

Qualified Campaign Expense Limitation

Section 306(a) amends section 9035 of the Internal Revenue Code of 1954 to provide that any candidate seeking Federal matching funds in connection with a campaign for nomination for election to the office of President may not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign which exceed an aggregate amount of $50,000. Section 306(a) also amends section 9035 of the Internal Revenue Code of 1954 by adding a new subsection (b) which defines the term "immediate family" to mean the spouse of a candidate, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

Section 306(b) makes a conforming amendment to the table of sections for chapter 96 of the Internal Revenue Code of 1954.

Return of Federal Matching Funds

Section 307(a)(1) amends section 9002(2) of the Internal Revenue Code of 1954 to provide that the term "candidate" does not include any individual who has ceased actively to seek election to the office of President or to the office of Vice President in more than one State.

Section 307(a)(2) amends section 9003 of the Internal Revenue Code of 1954 by adding a new subsection (d). Subsection (d) provides that, in any case in which an individual ceases to be a candidate for the office of President or Vice President as a result of the operation of the last sentence of section 9002(2) of the Internal Revenue Code of 1954 (which is added by the amendment made by section 307(a)(1) of the bill), such individual (1) shall no longer be eligible to receive any Federal payments; and (2) shall pay to the Secretary of the Treasury, as soon as practicable after the date upon which the individual ceases to be a candidate, an amount equal to the amount of payments received by the individual which are not used to defray qualified campaign expenses.

Section 307(b) makes amendments to section 9032(2) of the Internal Revenue Code of 1954 and to section 9033 of such Code which are substantially similar to the amendments made by section 307(a). The amendments made by section 307(b) relate to the receipt of Federal matching payments in Presidential primary elections.

Technical and Conforming Amendments

Section 308 makes several technical and conforming amendments to the Internal Revenue Code of 1954.

SUPPLEMENTAL VIEWS OF JAMES C. CLEVELAND

Although I find myself in sympathy with some of the thoughts expressed in the minority views, I have not signed them. Some of the items to which the minority object can probably be taken care of by the amendment process on the Floor of the House or in the House-Senate conference committee.

It has been argued that the provisions of the bill are unduly restrictive of the Federal Elections Commission and its ability to make and enforce decisions. I don't find this particularly objectionable. Although Congressional motives in imposing restrictions on the rule-making process of the FEC may be suspect, to me at least, it is high time that the U.S. Congress imposes similar restrictions on most other independent regulatory agencies.

It is no secret that there is growing disenchantment with the manner in which the federal government is performing. Many of the complaints can be laid directly at the door of independent regulatory agencies that have assumed powers the Congress never intended and have exercised those powers with such arrogance and stupidity as to erode public confidence in government.

For this reason, it is predictable that so-called "sunset" laws will soon be enacted by states and, hopefully, the message will eventually get through to Congress. Insofar as we are establishing procedures to closely monitor the FEC—despite the fact that the Congressional motive may be subject to suspicion in this particular case—the experiment is well worth at least trying.

I do have some objections to the legislation, however. The principal one is based on my conviction that the Congress made a significant error in totally pre-empting all state election laws, and federal pre-emption is continued in the new amendments. Some of the states had excellent laws which were more practicable and fully as effective as the federal law if not more so. In spite of the growing feeling in the U.S. Congress that it is inefficient to attempt to run everything from Washington, we're at it again. The ultimate act of violence to the principle that there are many important functions best left to the states is the provision in this bill that a candidate doesn't even have to file copies of his disclosure reports with any state office.

JAMES C. CLEVELAND.

MINORITY VIEWS

On January 30th of this year, the Supreme Court issued its opinion in *Buckley* v. *Valeo*. The Court held inter alia that the administrative powers delegated to the Federal Election Commission were unconstitutional because of the manner in which the members were appointed. It left our Committee with a compelling duty to take prompt action to remedy the situation.

Fortunately, the circumstances of this situation presented us with an easily achievable solution, a simple reconstitution of the Commission. Unfortunately, the majority of the Committee ignored this alternative. Instead, without the benefit of hearings, they embarked on a process which has resulted in the bill that we have before us at the present time.

The Committee has reported H.R. 12406, a bill of extraordinary complexity, which amounts to a massive revision of the Federal Election Campaign Act. While this bill has fifty-eight pages, only the first two deal with the essential reconstitution of the Federal Election Commission.

The amendments represent a major change in our election laws in a year of both Presidential and Congressional election contests. This is truly analogous to changing the rules in a baseball game in the third inning. They contain features which clearly benefit Congressional incumbents to the detriment of challengers; this is fundamentally unfair. They strike at the very heart of an independent Federal Election Commission and in effect reconstitute it as a virtual sub-committee of this Committee. Taken together, these provisions amount to an antireform rather than to a reform measure.

There are few who would not agree that the Federal Election Campaign Act of 1971 and its 1974 amendments are a very complex and extremely unwieldy piece of legislation. The act is hardly conducive to compliance by the public for the simple reason that it is so difficult to understand. The record of the 1976 elections will doubtlessly be replete with unintentional violations. One of our major goals should be to encourage greater participation in the political process. Unfortunately, we have added yet another layer of complexity to the law that will discourage participation.

The implication of the preceding paragraph is obvious; our election law should be made easier to understand. The most cursory review of this legislation indicates that we have not accomplished that result. Rather, we have made key sections of the Federal Election Campaign Act even more complex than they were when we began our work.

It cannot be denied that the more delay there is in the development and ultimate passage by the Congress of curative legislation, the greater uncertainty there will be among candidates and committees as to what the ground rules will be for the upcoming elections. As was noted above, we could have reported out a simple reconstitution bill to bring

the act's appointment mechanism into harmony with the Court's mandate. If we had taken that route instead of the one we did, then the "reconstitution crisis" would be over and done with, and hopefully the Commission would be well on the way, with an occasional nudge from the Congress to getting on with its assigned responsibilities.

Legislation of this sort should not be written in an election year. Rather, we should postpone the consideration of any substantive amendments, aside from a simple reconstitution, until after the elections. In 1977, we will have two conditions that are conducive to a major overhaul of the Act which are absent at this time. The political atmosphere will be less heated, and perhaps more importantly, the elections will have given us vitally needed experience as to how the present law works and how the Federal Election Commission functions during a "peak business year". Serious difficulties have already become apparent in the Presidential primary matching fund area. This year's elections will surely reveal problems in other areas of the present law.

THE BILL IS A MAJOR REVISION OF OUR ELECTION LAW IN AN ELECTION YEAR.

This legislation has a myriad of provisions that amount to a major revision of the Federal Election Campaign Act. Space limitations do not permit a treatment of each change; however, the major amendments are discussed below:

The definitions of contribution and expenditure have been amended to exclude legal and accounting services rendered in certain circumstances. Independent expenditure is defined to reflect the Court's opinion in the *Buckley* case. New reporting requirements in the independent expenditure area have been added to the present law.

The reporting requirements for political committees and candidates have been amended so that in non-election years, candidates and committees will not be obliged to file quarterly reports unless they have received contributions or made expenditures in excess of $10,000.00. This provision limits the disclosure features of the present law.

The bill changes the law governing political action committees including a drastic reduction in permissible individual contributions and amendments designed to restrict the proliferation of these groups.

Another major change involves the area of criminal penalties. The bill provides for fines of up to the greater of $25,000 or 300 percent of the amount of any involved contributions or expenditures or for a jail sentence but only for violations of the law where the amount of the contributions or expenditures involved is more than $5,000.

Any individual who "knowingly or willfully" violates the section limiting cash contributions is subject to a fine "which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution involved. The level of permissible cash contributions incidentally has been raised to $250.

This new penalty section replaces the separate penalty sections under present law which attach to illegal corporate and labor union contributions; the contribution limitations; and other sections dealing with illegal political activity. The penalties have been lessened, this is particularly true of the possibility of imprisonment. For example,

under present law, a willful violation of the section forbidding corporate contributions, no matter what the amount, could result in a prison term of two years. This bill severely limits the possibility of imprisonment for violations.

Present law requires that copies of all reports filed under the Act also be filed with the Secretary of State of the state where a given candidate is running for office. This provision allows local residents ready access to a candidate's filings. The bill strikes this provision thus eliminating one facet of the present law's disclosure provisions.

This Bill Destroys the Independence of the Federal Election Commission

Section 108 of the bill grants the Congress a veto power over all advisory opinions. The Commission will be obliged to submit its advisory opinions to the Congress under the Congressional review sections of the Federal Election Campaign Act. This means that our committee will have thirty days in which to scrutinize each one and will be able to disapprove those with which they do not agree.

It will take longer than it has heretofore for the public to obtain final opinions on which they can rely. The increased uncertainty and difficulty that will result from this new process will surely decrease the effectiveness of advisory opinions as vehicles for interpreting the Federal Election Campaign Act.

This section applies to every advisory opinion issued by the Commission since its inception unless the transaction dealt with in the opinion is subject to a pre-existing Commission regulation. To date, the Commission has not prescribed any rules or regulations, yet it has issued nearly 100 advisory opinions. Moreover, a single advisory opinion often speaks to more than one issue.

It is clear from the preceeding paragraph that the Congress will be deluged by a veritable flood of advisory opinions submitted for our review. Many of these involve intricate fact patterns and complex legal issues. There is a very real question whether we will have the time to give each one the attention it deserves. Additionally, this provision cannot help but result in a virtual hodgepodge of inconsistent regulations.

Section 10 of the bill includes a provision that in effect gives either House of Congress, the opportunity to literally rewrite proposed regulations submitted to it by the Commission. It provides that Congress can veto regulations, entirely or in part, during the course of the Congressional review process. It should be noted that the Supreme Court in its opinion in *Buckley* specifically reserved judgment on the constitutionality of the review process. The constitutionality of this provision has been questioned and no doubt will be again. It would appear that a strengthening of the Congressional review provisions would increase the vulnerability of the Act to a court challenge and could lead us to a repetition of the same sort of crisis brought on by the Buckley opinion.

The enforcement section of the Act has been completely restructured. A new reasonable cause standard has been added. In a preponderance of cases, the Commission will be obliged to correct or prevent viola-

tions by informal methods with an eye to entering into conciliation agreements. Such an agreement, unless violated, is a complete bar to further enforcement activity. Other parts of the new enforcement section include a provision for civil penalty fines. Furthermore, the Federal Election Commission is prohibited from acting on any violation that occurs within five days of an election. This section, which covers some eight pages in the bill, imposes a rigid procedural frame work on the Commission that may prevent that agency from effectively carrying out its responsibilities.

Section 115 of the bill directs our Committee and the appropriate Committee in the other body to review the Commission's implementation of the election laws during the first three months of calendar year 1977. They are further directed to recommend whether the Commission should be terminated as of March 31, 1977. A recommendation by either House to that effect will result in the demise of the Commission. Notwithstanding the fact that a directive issued by the 94th Congress to the 95th Congress is of dubious legal efficacy, it represents clear notice from the Committee to the Commission that their activities during the remainder of this campaign year will be closely monitored and could lead to their abolition.

This Legislation Is Slanted Toward Incumbent Office Holders

The Commission will not be authorized to investigate whether a Federal office holder's staff is engaged in improper campaign activities without first consulting the office holder. If an affadavit is executed by the office holder that the staff is performing its regularly assigned duties, then the Commission is barred from any further inquiry. This provision clearly imparts an advantage to incumbents which is not enjoyed by challengers.

The very complexity of this legislation will help incumbents, who with their large staffs and greater access to expert assistance will be better able to cope with the arcane mysteries of this bill than will challengers.

The Present Situation Calls for a Simple Extension of the Federal Election Commission and Nothing More

The Minority believes that this bill should not be passed for the reasons stated in the preceding paragraphs. The Federal Election Commission should be reconstituted so that it can continue to implement the Federal Election Campaign Act. The Congress should move promptly to pass legislation appropriate to that end. It would be derelict in its duty if it did not so act.

Charles E. Wiggins.
Marjorie S. Holt.
Bill Frenzel.
William L. Dickinson.
Samuel L. Devine.
J. Herbert Burke.
W. Henson Moore.

ADDITIONAL VIEWS BY CONGRESSMEN DEVINE AND DICKINSON

It is our view that the electoral process in a republic is better served by the candid, free and informed weighing of the competing interests, candidates, and campaigns facing the voters.

Accordingly, we are inalterably opposed to the basic concepts imbodied in H.R. 12406. The first amendment cure for corrupt infection is open discussion of the evil and wide participation in the political process. H.R. 12406 will, in our opinion, through legal restrictions, bureaucratic regulation and complexities drive people, ideas, and issues from the political arena, which should be an uninhibited market place for the vast array of public interests that must ultimately forge the course of government. Further, as written, an inbalance favoring big labor continues to the detriment of others who would like to have a reasonable political imput.

We are particularly opposed to the concept of Public Financing and fully agree with Chief Justice Burger in his dissenting opinion in Buckley v. Valeo:

> I would, however, fault the Court for not adequately analyzing and meeting head-on, the issue whether public financial assistance to the private political activity of individual citizens and parties is a legitimate expenditure of public funds. The public monies at issue here are not being employed simply to police the integrity of the electoral process or to provide a forum for the use of all participants in the political dialog, as would, for example, be the case if free broadcast time were granted. Rather, we are confronted with the Government's actual financing, out of general revenues, a segment of the political debate itself. As Senator Howard Baker remarked during the debate on this legislation:
>
> "I think there is something politically incestuous about the Government financing and, I believe, inevitably then regulating, the day to day procedures by which the Government is selected. I think it is extraordinarily important that the Government not control the machinery by which the public expresses the range of its desires, demands, and dissent."
>
> If this "incest" affected only the issue of wisdom of the plan, it would be none of the concern of judges. But, in my view, the inappropriateness of subsidizing, from general revenues, the actual political dialog of the people—the process which begets the Government itself—is as basic to our national tradition as the separation of church and state also deriving from the First Amendment.

Already we have seen examples of potential abuses in public financing. We have single issue candidates using public funds to promote their cause. We have candidates withdrawing or "suspending" their campaigns under conditions which could abuse the system. We have closed one loophole by an amendment in the Committee; others remain.

We are also opposed to the Federal Election Commission as conceived in this bill. We question whether Congress should turn over the management of its elections to another branch of government. It does violence to the separation of powers and injects bureaucracy into the political selection process.

In an attempt to reach this problem, H.R. 12406 provides for elaborate legislative vetoes. But this method is on thin ice constitutionally. The plaintiffs in the Buckley case challenged the legislative veto as an unconstitutional infringement of separation-of-powers principles. If commission rules subject to the veto are regarded as legislative in nature, then the veto results in what is in effect legislation by Congress without the President's having his constitutionally required opportunity to participate in the legislative process. If, on the other hand, the rule-making function is executive—as the Court strongly suggested in its discussion of the method of appointing the commissioners—then the veto is an impermissible intrusion on executive authority. And the Act's provision for a veto by either House acting alone is even more questionable than the more usual device of concurrent resolution.

The Court found it unnecessary to pass on the legislative veto issue as such, since it held the commission's rule-making power unconstitutional because of the appointment method. The Court's opinion contains a lengthy footnote (slip opinion page 134, n. 176) which carefully outlined the legislative-veto question and expressly left it open. In that footnote the Court cited two law review articles which argued that the legislative veto is unconstitutional.

If the Congressional control of the commission does not pass constitutional muster and the remainder of H.R. 12406 is allowed to stand, the problems are compounded rather than resolved. This whole bundle might well be categorized in the area of reform simply for the sake of reform.

SAMUEL L. DEVINE.
WILLIAM L. DICKINSON.

SEPARATE VIEWS OF CONGRESSMEN DICKINSON AND DEVINE

When the Federal Election Campaign Act Amendments of 1974 were before the last Congress we filed separate views in the Committee Report at Page 123 of House Report 93–1239 as follows:

"The undersigned recognize that honest elections are essential to the survival of our form of Government and that there is a constant and ongoing need for legislation in this field. However, this legislation, to be effective must be fair and workable. It is with this last thought in mind that the undersigned oppose this bill.

"The undersigned regard the following aspects of the bill as particularly unrealistic for the reasons given:

1. "*Financing of Presidential Primaries.*—The provisions for public financing of Presidential Primaries will inject the Federal Treasury into what many times amounts to a popularity contest under a formula that will probably work unfairly to the candidates involved.

"The prospect of a Federal subsidy to run for office may very well result in a proliferation of candidates. Access to such subsidies would be an incentive to everyone with a desire for publicity to become a candidate; primaries may then become an anarchic jungle with policy issues largely obscured. The subsidy might also be a temptation for those who anticipate financial gain from running for office.

"The use of private money we are told has weakened public confidence in the democratic process. But is this confidence likely to be restored when tax payers pay for campaigns they regard as frivolous, wasteful and in some cases, abhorrent?

"Finally, we are told that subsidies will reduce the pressures on candidates for dependence on large campaign contributions from private sources. Where indeed will our democratic process be when the candidates' principal constituent is the Federal Establishment.

"2. *Financing of Conventions.*—The undersigned oppose the public financing of political conventions. Conventions are uniquely a party function and as such should not be supported by the overburdened public treasury. Nor should the party be entangled in the bureaucratic regulatory web which is envisioned by the present language of the bill. The party must have the ability to determine the size and form of its convention; this can only be accomplished if the party retains control of its purse strings. Furthermore, the vitality of the party is enhanced by the participation of its members, while public

financing of conventions will undercut individual initiative and participation.

"The ever increasing encroachment of the federal bureaucracy into the private lives of our citizens is taking another large step with the enactment of convention financing. The two party system, free from bureaucratic tampering, has been a fourth branch in our constitutional form of government and will only remain a strong force if it is kept in the hands of the people.

"3. *Political Parties.*—Instead of strengtening the role of political parties in the political process, the Committee bill, by treating political parties the same as all other political committees, would significantly weaken and contribute to the demise of the two party system.

"Section 101(b)(2) of the bill places a limitation of $5,000 on the contributions of political committees to candidates for Federal office. The definition of political committee clearly encompasses the national and state committees of the major parties, thus limiting them to $5,000 contributions. It would also apply to both direct cash transfers and services provided to or for the benefit of candidates, many of which presently performed without the candidates' full knowledge.

"The undersigned strongly believe that the national and state committees of the major parties should be excluded from the definition of political committee for the purpose of contribution limitations. The national and state committees have been traditionally the policy making bodies of the major parties and are cornerstones of our political system. The definition in the bill presently treats these important committees equally with all other committees, even small special interest committees. The national and state committees must be permitted the ability to assist candidates as the need arises so that a strong and dynamic party system can be maintained.

"The governments of many countries throughout the world are going through a period of extreme instability. The United States can best avoid this phenomenon by furthering the development of a strong party system. If major parties are weakened or destroyed by a series of legislative shackles placed on them in the name of reform, our constitutional form of government will be seriously undermined.

"In their haste to reform the funding of political campaigns, the Committee has severely limited the function of the parties. If the national and state committees have no control over their candidates, there will be little, if any, reason for candidates to adhere to the policy decisions of the party and the inevitable splintering of the two-party system will have begun. To prevent this from occurring, national and state parties must be exempted from the same limitations on contributions by political committees.

"4. *Citizens participation.*—A final concern of the undersigned is that the sheer length and complexity of this bill will discourage citizen participation and involvement perhaps even driving many people right out of politics.

Many people, when confronted with the complexity of this legislation, may become overwhelmed and give up politics in disgust. There will be ample potential for unintentional violations of the law. Many people may worry about going to jail or being fined for an inadvertent violation. Indeed, it is inevitable unless the administration and enforcement is done with tolerance and understanding of the complexities and problems involved.

Many well-qualified individuals may view the burdensome reporting requirements and complicated regulations as an insurmountable obstacle and choose not to run. In addition to understanding the lengthy complicated disclosure forms, candidates may have to familiarize themselves with hundreds of pages of regulations promulgated to insure fair administration and enforcement of the limitations.

Spontaneous, grassroots action and people who are political novices or independent of regular political channels should not be discouraged. The loss of such activities and candidacies would be a major blow to our political process.

The undersigned urge the administrators and enforcers of the law to take every action possible to simplify reporting procedures and to make regulations easy to understand and intelligible to those not well versed in the law. In addition, services should be provided to candidates who do not understand the law or who are unable to understand the legal jargon used in the law and regulations so that they will not be found in violation of the law.

It would be ironic indeed if, in the name of reforming our present system of campaign financing, we fail to drive out the special interests and only succeed in driving honest, concerned citizens from participation in the political process.

These views are now coming to pass. Considering the provisions that are contained in H.R. 12406, we respectfully reassign these same views and as things are now going we fully expect to reassign them in the 95th Congress.

WILLIAM L. DICKINSON.
SAMUEL L. DEVINE.

SUPPLEMENTAL VIEWS OF MR. FRENZEL

When the Supreme Court decision on Buckley, et al, was announced, the President promptly asked the Congress to reestablish the Federal Election Commission.

To encourage the Congress not to get slowed down in the consideration of other aspects of the election law, he also proposed that the FEC be given an expiration date of next winter. That feature would force another look at the whole law next year, but would assure that election laws now in effect would remain uniform throughout this year's election period.

The House Administration Committee ignored this good advice. Instead, it is now presenting a major, comprehensive revision and recodification of the election laws.

A sweeping revision of our election law is not a bad idea if it had been done in the regular manner. But no witnesses were called. The FEC was not called to testify. No party officials were allowed to testify. No candidates could appear. No public interest groups were invited. In short, not one minute of public hearings were held.

Incumbents re-wrote the law all by themselves. But none of the challengers, none of the parties, and none of the people, were even allowed to present testimony.

Without hearings, the Committee fashioned about the kind of an election bill a group of incumbents might be expected to make. It guts the independence of the FEC, and it feathers the nests of incumbents. It is a substantial retreat from the reforms of 1974. The foxes are back in charge of the chicken coop.

H.R. 12406 weakens the Election Commission to an intolerable level. Under it, either House of Congress can veto any decision of the Federal Election Commission. In fact, either House can terminate the FEC. Under the bill, the FEC is subservient to Congress. It is reduced to being almost a subcommittee of the House Administration Committee.

The bill is self serving—another incumbent's delight. Penalties are reduced, and in some cases, like receiving excessive honoraria, eliminated. Congressional staff is made immune from investigation. Filings with Secretaries of States are eliminated.

The bill changes or eliminates all existing procedures. It repeals all advisory opinions. Since Congress has approved no regulations, there are none. Without advisory opinions, all candidates, parties, and political participants are without rules or guidelines.

Based on the Congressional record of rejecting regulations, the primaries will be over long before any regulations are in place. Some needed regulations probably won't be approved by general election time.

The bill also changes all the criminal procedures, by instituting a new civil procedure, and by changing, largely through reductions, the penalties for violation.

Briefly here's what the bill does:

I. Reconstitutes the Federal Election Commission, but

II. Removes its last shred of independence by:
- (a) effectively repealing all existing advisory opinions;
- (b) eliminating all opinions other than advisory opinions;
- (c) claiming a one-House veto on future opinions;
- (d) allowing a veto of any part of a regulation;
- (e) extending veto powers over forms as well as regulations;
- (f) providing a preferential, non-debatable rule on veto resolution;
- (g) allowing either House to kill the FEC by resolution.

III. Provides special shelters for incumbents by:
- (a) immunizing all congressional employees from FEC investigation;
- (b) reducing penalties for such violations as receiving excessive honoraria;
- (c) effectively removes jail sentences for violators, but provides them for false swearing of complaints;
- (d) allowing one candidate's committee to transfer funds to another;
- (e) eliminating filing with secretaries of state;
- (f) directing FEC to audit Presidential candidates first;
- (g) remaining silent on disclosure of congressional office accounts (slush funds);
- (h) increasing allowable cash contributions by 250 percent;
- (i) adding restrictions and burdensome reporting for independent expenditures.

IV. Revises criminal code and penalty sections by:
- (a) creating a civil process;
- (b) giving FEC power to assess fines;
- (c) making FEC prosecutor in civil cases;
- (d) removing most jail penalties, if less than $5,000 violation;
- (e) reducing authority of Justice Department;
- (f) reducing FEC ability to ask that illegal practices be enjoined.

V. Gives Union Political Action Committees unfair advantages by:
- (a) repealing SUNPAC (AO No. 23) decision which was approved by Justice Department and by Supreme Court;
- (b) giving unions exclusive right to solicit union members for political contributions;
- (c) denying corporate political action committees right to solicit their employees;
- (d) preserving exemption from disclosure for political action committee expenditures.

VI. Makes other substantial changes too numerous to detail

H.R. 12406, the Committee bill, is bad law. It seeks to use a popular, needed, feature—the reconstitution of the Federal Election Commission—as a vehicle to carry many complicated, objectionable changes in all facets of our election law.

H.R. 12406 is not necessary. There are nearly 100 House sponsors of simple reconstitution bills. That was the President's recommendation and Common Cause's recommendation. A simple bill to reestablish the Federal Election Commission is still the best solution. H.R. 12406 is an unacceptable 58 page monster.

SUPPLEMENTAL VIEWS OF W. HENSON MOORE

I am strongly opposed to this bill for reasons expressed in the Minority Report and one additional one. Section 321(b) provides among other things that a corporate political action committee cannot solicit to be members of that committee any person other than its stockholders, executive officers or their families. Executive officers are defined as salaried employees with policy making or supervisory authority. This changes the existing law which allows a corporate political action committee to solicit not only those persons, but any employee of the corporation. The existing law has been approved by the Federal Elections Commission, the Justice Department and the United States Supreme Court in the recent decision of *McCarthy and Buckley* v. *Valeo*.

I believe this new language to be unconstitutional, unwise and unfair. It makes an illogical distinction between types of employees of a corporation and treats them discriminatorily. Under the new language, a corporate political action committee could not solicit the large majority of its employees for no apparent rational reason. Whether an employee is paid by the hour, piece or salary, and whether an employee supervises others or is supervised, he or she is no less an employee and has the same economic interests as all others working for the employer.

What then is the reason the current law is so radically altered in this bill? Since no hearings were held to develop evidence for the need for such, one can only conclude the obvious—"politics". The strongest and most effective coalition of political action committees in the nation, those of labor unions, oppose any challenge to their current collective political dominance as the most powerful special interest group in American politics today. Certainly members of unions should be encouraged to participate in union political action committees, but this is not a valid reason to deny this right to other American workers.

Although of no legal significance, there is no evidence that labor unions are justified in fearing a loss of the political power of the "working man". The activities of a political action committee are determined by its membership. Employee ("working man") members of such a committee should have the same interests and rights in any political action committee they choose to join, whether labor or place of employment related. Thus, it cannot be the concern for the political activities of the working man in general that causes labor union opposition, but the fear of increased competition or diminution of power of their own political action committees.

As a matter of fact, many members of unions might well choose to also join the political action committee of the corporation for which they work as well as that of their union. It should be pointed out that approximately 75 percent of America's total labor force does not

belong to unions, and if they work for corporations and are not shareholders or executive officers, they cannot be solicited. This practically all but eliminates their right to participate in this type of political activity. This bill also prevents non-union employees of a corporation or employees of a corporation which has no union at all from being solicited if they are not shareholders or executive officers. Therefore, in an unconstitutional, unwise and unfair manner, only labor union political action committees can under this bill solicit employees who are not shareholders or executive officers. This is a severe political limitation.

The whole purpose in political action committees is to allow persons with like philosophical and/or economic interests to band together and to promote those interests through a political action committee. This is participation in our political system and certainly any participation in politics should be encouraged and not hindered. Our democracy needs greater, not less, participation by our citizenry. Political action committees can be justified only on this basis. They currently meet this need by encouraging citizens by the thousands to become more politically active. There should be no "political" hindrances on who can join and participate in such committees.

For these reasons and the ones expressed in other minority views, this bill should be defeated and the Federal Election Commission simply reconstituted.

W. HENSON MOORE.

HOUSE FLOOR DEBATES ON H.R. 12406

selective enforcement, whether by the executive branch or by a commission appointed by the legislative branch, creates an atmosphere of guilt. It is a most unfortunate situation.

Mr. Speaker, I think the point of the gentleman from Ohio (Mr. HAYS) is well taken. Since I have disagreed with him on other aspects I want to register my agreement on this one.

Mr. HAYS of Ohio. Mr. Speaker, I thank the gentleman from Colorado (Mr. ARMSTRONG). I agree with him. I would like to do what he says, but I am also aware that I could not sell that package to the committee and probably not to the House.

Mr. Speaker, I am not going to prolong this. There will be a chance to debate this this full, and I do not want to foreclose debate under the 5-minute rule, however long it may take; but there is a provision in the bill of the other body that really, in my view, would be very restrictive if we passed it.

There are many things we are going to debate, but as far as this Commission is concerned, I just think that we have too many commissions in town now. I think that instead of adding another one, probably what we ought to do is to abolish some of them.

Mr. Speaker, let me tell the Members what they say. They say in their bill that everybody who makes more than $25,000 in the Government shall file a statement with the Commission, I believe, of his annual net worth, his income, from what sources it came, and so on. I do not know how many people there are. Somebody estimated that there are 150,000. That may be high or low, but I will take that figure. That is 150,000 more pieces of paper for this Commission to audit and look over; and if that provision stays in, in conference, instead of having 200 employees down there, they are going to need another 1,000 or so. Therefore, we have to draw the line somewhere with respect to this. We did the best we could in committee with the votes that we had.

Mr. ARMSTRONG. Mr. Speaker, will the gentleman yield further

Mr. HAYS of Ohio. I yield to the gentleman from Colorado.

Mr. ARMSTRONG. Mr. Speaker, I just want to make the point that the regulatory framework is so complicated as we now have it as to discourage participation.

In my State and in other areas of the country good people who want to participate and to be active in campaigns, either as fund raisers, treasurers, or contributors, are saying that it is too complicated and the risks are too great.

Based on my own experience, I know of this happening, not among people who are naive, but among lawyers, CPA's, and other professional people who feel that the law is impossible to comply with.

As for the point of whether or not it would be feasible to pass the kind of legislation which the gentleman has mentioned, and which I myself favor; that is, abolishing the Commission and making it simple for the law enforcement authorities to enforce the law through the regular process, the issue before us in this instance is the adoption of the rule. My complaint is that the rule which is now before us, if adopted, precludes even the attempt to do what the gentleman from Ohio and I both favor.

Mr. HAYS of Ohio. Mr. Speaker, I think the rule is a rule which will enable the House to work its will in large measure. The majority and the minority on the committee are agreed to that, I believe altogether. I agreed to ask for this kind of a rule in consultation with the minority and put into the request every single amendment on which there was substantial disagreement or that they wanted to put in.

As I say, I think the House can substantially work its will if this rule is adopted.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 333, nays 73, not voting 26, as follows:

[Roll No. 145]

YEAS—333

Abdnor
Abzug
Adams
Addabbo
Alexander
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Cederberg
Chappell
Clancy
Clay
Cleveland
Cochran
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cornell
Cotter
Coughlin
D'Amours
Daniel, Dan
Daniel, R. W.
Daniels, N.J.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Devine
Diggs
Dingell
Dodd
Downey, N.Y.
Downing, Va.
Drinan
Duncan, Oreg.
du Pont
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Eilberg
English
Erlenborn
Esch
Eshleman
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Frenzel
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grassley
Green
Gude
Hagedorn
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Harsha
Hawkins
Hays, Ohio
Heckler, Mass.
Hefner
Heinz
Helstoski
Henderson
Hicks
Hightower
Hillis
Holt
Holtzman
Horton
Howard
Howe
Hubbard
Hughes
Hungate
Hyde
Ichord
Jacobs
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kasten
Kastenmeier
Kazen
Kemp
Keys
Koch
Krebs
LaFalce
Lagomarsino
Leggett
Lehman
Lent
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lundine
McCloskey
McCollister
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madden
Maguire
Mahon
Mann
Martin
Mathis
Matsunaga
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oberstar
O'Brien
O'Hara
O'Neill
Ottinger
Patten, N.J.
Patterson, Calif.
Pattison, N.Y.
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Quie
Railsback
Randall
Rangel
Rees
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarasin
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stuckey
Studds
Sullivan
Symington
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thompson
Thone
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Walsh
Wampler
Waxman
Weaver
Whalen
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wright
Wydler
Wylie
Yates
Yatron
Young, Ga.
Zablocki
Zeferetti

NAYS—73

Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bennett
Brown, Ohio
Burleson, Tex.
Carter
Clawson, Del
Collins, Tex.
Conlan
Crane
Derwinski
Dickinson
Duncan, Tenn.
Eckhardt
Emery
Forsythe
Frey
Goodling
Gradison
Hammer-schmidt
Hansen
Hechler, W. Va.
Hutchinson
Jarman
Jeffords
Kelly
Ketchum
Kindness
Krueger
Landrum
Latta
Lott
Lujan
McClory
McDonald
Madigan
Mazzoli
Michel
Mills
Montgomery
Moore
Myers, Ind.
Obey
Passman
Quillen
Roberts
Rousselot
Ruppe
Satterfield
Schneebeli
Sebelius
Shriver
Shuster
Skubitz
Snyder
Spence
Steelman
Steiger, Ariz.
Steiger, Wis.
Symms
Treen
Vander Jagt
Waggonner
Whitehurst
Whitten
Winn
Young, Alaska
Young, Fla.
Young, Tex.

NOT VOTING—26

Barrett
Bell
Biester
Chisholm
Clausen, Don H.
Fary
Flynt
Guyer
Hayes, Ind.
Hébert
Hinshaw
Holland
Jenrette
Johnson, Pa.
Jones, Ala.
McCormack
Macdonald
Nix
Pepper
Riegle
Rodino
Sarbanes
Stratton
Udall
White
Wolff

The Clerk announced the following pairs:

Mr. Hébert with Mr. Barrett.

Mr. Rodino with Mr. White.

Mr. McCormack with Mr. Johnson of Pennsylvania.

Mr. Fary with Mr. Biester.

Mr. Stratton with Mr. Don H. Clausen.
Mr. Wolff with Mr. Hayes of Indiana.
Mr. Macdonald of Massachusetts with Mr. Jones, of Alabama.
Mrs. Chisholm with Mr Jenrette.
Mr. Flynt with Mr. Udall.
Mr. Pepper with Mr. Holland.
Mr. Riegle with Mr. Guyer.
Mr. Nix with Mr. Sarbanes.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CORRECTION OF THE RECORD

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to delete certain words as printed on page H2023 of the CONGRESSIONAL RECORD of March 17, 1976, and that the permanent RECORD be corrected accordingly to reflect the deletion, the words referred to being as follows:

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to my colleague from Texas.

Mr. GONZALEZ. Mr. Speaker, does the gentleman think that if we change that name from "Magna Carta" to "Mogen David" that we could get it over?

Mr. ECKHARDT. I would not go that far.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS

Mr. HAYS of Ohio. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12406) to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. HAYS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12406) with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Ohio (Mr. HAYS) will be recognized for 1 hour, and the gentleman from California (Mr. WIGGINS) will be recognized for 1 hour.

The Chair recognizes the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I am going to try as briefly as I can and as quickly as I can and as lucidly as I can to outline the provisions of this bill and not to get into any arguments pro or con about it.

It was reported out on March 11 by a vote of 15 ayes and 9 noes. A clean bill was later introduced. The Members have all heard the debate on the rule—or those who were here. The rule has been adopted, which is a limited, open rule.

Among other things, the bill provides that the six FEC commissioners shall be named by the President with the advice and consent of the Senate. The commissioners shall serve staggered 6-year terms, with no more than three Members and no two consecutive appointments from the same party. The present commissioners will serve until the new commissioners are appointed. Upon appointment, the commissioners must terminate any outside employment within 1 year of confirmation.

It really is immaterial to me, but as one chairman said at one time when presenting a budget, "It would be boring." This may be boring to the Members, and it has been a subject I have been dealing with for a long time. All I am trying to do is tell the Members what is in the bill because it affects everyone who is in the House who will be running in the future.

Major actions by the Commission, including initiation of civil suits, referral of criminal violations to the Justice Department, establishment of guidelines or forms and the issuance of advisory opinions require affirmative vote of four of the six Commissioners.

I had a talk last night—the first I have ever talked to him on the telephone—with the staff director of the Commission. As the Members know, their books have to close tomorrow on this quarter and the report has to be in on the 10th of April. Some people, anticipating that there will be no bills to pay or no expenditures to make, already filled out the forms and are checking them over, including the treasurer of my campaign.

She called me yesterday and said, "I got all these forms filled out this morning and finished. We audited them here and they are ready to go, and before I got to the post office they brought in the mail and there is a whole, brand-new set of forms radically changed from what we have been using."

I called the staff director and I said, "I don't know if this is poor judgment or poor timing or just general laxity." He said, well, he thought it was poor timing, and that he hoped that today the Commission could rule that we could use the forms currently in effect or the new ones if we have them in time, either one. A Member has to give the same information on what he spent, what he took in and how much he had left on hand, but these are some of the complications we get into with the Commission.

I think it was an innocent act. I think they just did not think or maybe the Post Office Department did not get the forms out in timely fashion after they mailed them.

In item 6, the Committee on Rules and Administration of the Senate and this committee are to review this, the FEC 1976 election operations, and report to their separate Houses by March 1, 1977, recommending whether or not the FEC authority should expire on March 31.

This was something that I understood the White House wanted, only in a more radical form. They wanted a self-destruct provision, just saying it does terminate on, I think it was, January 31.

The Commission may continue to issue advisory opinions in response to written requests, and anyone acting in accord with an advisory opinion is not subject to prosecution.

Here comes the one that is controversial:

Within 30 days after issuing an advisory opinion, the FEC must transmit to Congress a proposed regulation relating to the transaction in such opinion if it is not subject to an existing regulation.

Why? I will tell the Members why. Because if the gentleman from Maryland (Mr. LONG) writes in for an advisory opinion and he gets one, under the present system that is only applicable to the gentleman from Maryland. And if the gentleman from California (Mr. SISK) talks to the gentleman from Maryland and the gentleman from Maryland tells him he has an advisory opinion so-and-so, and the gentleman from California acts upon it without it being made in the form of a regulation, some capricious person over in the Justice Department could possibly prosecute the gentleman from California (Mr. SISK).

So we are not trying, as somebody said, to make this Commission a subcommittee of the Committee on House Administration; we are trying to make it do a consistent job. I was not too strong for the advisory opinion in the beginning. I think it has been a good thing. But I think it ought to be applied across the board.

Each advisory opinion issued before enactment must be proposed as a regulation within 30 days of enactment or lose its status.

Any person may file a written, signed, and notarized complaint with the Commission. Details of the investigation are not to be made public without the written consent of the person being investigated.

If the Commission determines that a person has committed or is about to commit a noncriminal violation of Federal election law, it must for a period of 30 days try to correct such violation by informal methods of conciliation, conference, and persuasion.

What are we saying here? We are saying that if one of your reports comes in with line 14–C blank, and there should be something in there, that instead of referring it over to the Justice Department for a civil violation, the Commission shall call your treasurer, or whoever files the report, and say, "Look, you forgot to fill in line 14–C on page 7. Give us the information or file an amended report." If you do that, that wipes out the violation.

If the Commission is unable to settle an apparent violation of this act through conciliation, it may bring a civil action.

The Commission would have exclusive primary jurisdiction over civil actions to enforce the law.

If the Commission believes a criminal violation of election law has been committed, it may refer the apparent violation to the Attorney General. A criminal violation is defined as any "knowing and

willful" violation involving a contribution or expenditure in excess of $5,000.

The Committee on Rules made in order an amendment offered by the gentleman from Minnesota (Mr. FRENZEL) to reduce that to $1,000, and if he offers such an amendment I do not intend to vigorously oppose it.

The bill establishes an appeals procedure whereby any person aggrieved by an order of the Commission dismissing or failing to act on his or her complaint may petition no later than 60 days following the dismissal of the complaint by the Commission, or no later than 60 days following the 90-day period in the event the Commission fails to act on the complaint.

The bill prohibits any FEC member or staff employee from disclosing the fact that an individual is being investigated or is about to be investigated by the Commission, without the written consent of the person to be investigated.

Why? Let me tell the Members about the Rose investigation or about the Gradison investigation. But in the Rose case, it was more flagrant. Someone wrote an anonymous letter in, saying that Mr. ROSE of North Carolina had given an Indian a Cadillac to round up the Indian vote. It was not signed, being anonymous, and it was not notarized. It was not anything but a piece of paper with some writing on it. The Commission, or somebody—we have not found out who yet, because we have three or four different stories—sent nine investigators into Mr. ROSE's district, with eight-column headlines saying that he had been charged with a flagrant violation of the election law, they spent a week down in sunny North Carolina on the beach, and they said there was not any violation, after he had gotten all of that bad publicity which is attendant to a thing like that.

So that is why we tried to say this with respect to these complaints which are generally made against an incumbent for the purposes of getting the opponent some free publicity. This one was not that way; this was made a year after the election. God knows why it was made. Anyway, they cannot get those eight-column headlines until after they have gone in and investigated.

After prescribing rules and regulations, the Commission would be required to transmit such rules or regulations—this is in the law now—to each House of Congress. Either House could disapprove all or part of any Commission rule or regulation within 30 legislative days after submission.

Number 17: The Commission would not be permitted to investigate the activities of a staff member of a Federal officeholder without first notifying such person holding Federal office.

This pertains to what the staff member may be doing in your office or elsewhere.

If a Federal officeholder signs an affidavit stating that a staff employee is performing his regularly assigned duties, further inquiry or investigation of the matter would be prohibited.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. HAYS) has expired.

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 5 additional minutes.

Mr. Chairman, the reason for that provision is that if we lose control of our staff, we might as well not be here. We cannot have seven or eight people in there sitting with them every day and asking what they are doing. I presume they would even want to look in your files.

No person would be permitted to contribute more than $1,000, and no political committee could contribute more than $5,000 to any multicandidate political committee or party committee during a calendar year.

Contrary to what the Washington Post says, that eliminates the Democratic Campaign Committee of which I am chairman.

Number 19: The bill increases the ceiling on cash contributions of individuals and groups to candidates running for Federal office from $100 to $250.

Mr. Chairman, I will be candid with the Members. I do not know where the $50 came from. There was a motion to change it from $100 to $200, and then much to my amazement I heard in the committee that 35 percent of the people in this country do not have checking accounts, and that for many candidates running $100-a-plate dinners this would preclude a man from buying a ticket for his wife and himself. That is the reason it was raised. Somebody offered an amendment to change it from $100 to $200, and somebody offered an amendment to amend that amendment to make it $250. That amendment carried. I do not know why the $50 is there, but I am completely in support of a $200 minimum.

Number 20: The bill eliminates the requirement that candidates and committees must file reports with the Secretary of State in the State where they are candidates.

The reason for that is that many Secretaries have said they do not know what to do with the reports when they get them. There is no provision made as to what they should do with them, so they simply file them, and a good many Secretaries, I am told, simply throw them away. All of this information will be available in the Clerk's office and down in the Commission, and every Commission would provide access to UPI and AP, and let us not think they will not have that report on the date it is filed. This will eliminate many more thousands of papers during the year.

Item 21: The bill eases reporting requirements in nonelection years.

That is done by saying that if you do not spend more than a certain amount of money in a quarter, you do not file a report for that quarter. We have had that provision in there, and then, as we know, the Election Commission rule said that in a quarter where you did not have to file a report there was a rule that said you had to file a report to that effect. I do not know whether these rules are worth anything.

Item 22: Locals of a union, subsidiaries of a corporation, and other similarly structured groups—and this is important; there has been a lot of flack about this, but it is pretty clear if you understand it—would be treated as part of the parent with respect to the $5,000 limitation on contributions to any one candidate or political committee.

In other words, if an international union contributed $5,000 to a candidate, no local union could contribute anything. If the international contributed $1,000, its local unions could contribute up to an additional $4,000, but the maximum applies to the whole bag. Of course, this applies to corporation taxes as well. If what we will call the national PAC or the medi PAC contributes $2,000 to your campaign, your local State PAC can contribute another $3,000, but the $5,000 is the overall limit on them.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Would this have any effect whatesoever on the personal contribution of a doctor who might be a member of the AMA or of the State organization?

Mr. HAYS of Ohio. No, no. Corporations are prohibited from soliciting contributions from anyone other than their stockholders, executive officers, and their families. Trade associations may not solicit funds from anyone other than the stockholders and executive members of corporations and their families. Labor unions are prohibited from soliciting contributions from non-members.

Mr. Chairman, I now go to paragraph 24: Anyone making independent expenditures for the benefit of candidates for Federal office must file contribution and spending reports on the same basis as political committees.

Twenty-five: Whenever an individual makes an expenditure financing any communication advocating the election or defeat of a candidate for public office, such communication must be clearly identified as authorized by a political candidate or committee, or if not authorized by a candidate or committee, that fact must be clearly identifiable.

Mr. Chairman, I think that is for the protection of every candidate, whether an incumbent or not.

Twenty-six: No person seeking the Presidency would be eligible for Federal funds if he or she spent more than $50,000 of his or her own funds of those of his or her immediate family.

Twenty-seven: If the Secretary of the Treasury determines there are insufficient moneys in the dollar checkoff fund to make payments to candidates, no moneys would be available to make such payments from other sources.

Twenty-eight: Candidates ceasing to actively campaign for the Presidency would no longer be eligible to receive Federal funds. Following such a withdrawal, a former candidate must return to the Treasury Department all funds received and not being used to defray qualified campaign expenses.

Twenty-nine: Candidates receiving voluntary legal or accounting services would not have to include such services against their expenditure limitations even if payment was made by a third party to the volunteer.

Thirty: The Federal Elections Commission would be prohibited from acting on any election law violation occurring within 5 days of an election.

Mr. Chairman, that does not mean that anyone would be barred from ever acting, but in that 5-day period when all the charges and countercharges are flying around, they will not take any public action until after the election. Then they can proceed to investigate the elections to their heart's content, but this is to try to minimize what our committee, which has policed elections, has gone through, a flurry of charges in the last 3 or 4 days before an election.

Mr. Chairman, that, in broad, general outline, is what the bill contains.

Mr. WIGGINS. Mr. Chairman, I yield 10 minutes to the gentleman from Minnesota (Mr. FRENZEL).

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, the bill before us, H.R. 12406, is a maze of complicated revisions and recodification of our existing law. In it we reconstituted the Federal Election Commission at the expense of eliminating its independence.

We are also making massive revisions in other areas of the election law. This bill is only going to serve to confuse the electoral process in the middle of an election year. And, we have done all of this without the benefit of public hearings. The only experts who count are ourselves.

Briefly, here is how the bill changes the rules in the middle of the ballgame.

First, we are reconstituting the Federal Election Commission but at the same time removing its last shred of independence. We are effectively repealing all existing advisory opinions. We are eliminating all opinions other than advisory opinions. We're claiming a one-House veto on future opinions. The bill allows a veto of any part of any regulation and provides a preferential nondebatable rule on veto resolutions. We are extending veto powers over forms as well as regulations and we are allowing either House to kill the FEC by resolution. That is a pretty thorough job of nailing the lid on the coffin.

Second, the bill is self-serving. The League of Women Voters have labeled it as an "Incumbent Protection Commission." We are extending "executive privilege" to all congressional employees. Everybody knows Watergate only applies to "the other guys."

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, I do not think the gentleman from Minnesota (Mr. FRENZEL) believes, and I certainly do not believe, that that was the intent of the committee.

I want to make legislative history to the effect that if he commits any criminal act, this does not quash it.

All we were attempting to do was to prohibit the commission from coming in and saying, "You have not worked enough this week. You have been out campaigning too much."

I would also point out that if the man makes that affidavit that the person has worked full time, he is subject to perjury action; and I would not take that lightly, I do not think.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his legislative history. However, I have an easier way to cure the problem and that is simply to delete the section. The language itself is self-evident and I urge each Member to take a look at the language in the committee bill.

We are allowing one candidate's committe to transfer funds to another. Why not fool the contributor, and pass money to less popular friends. We are directing the FEC to audit Presidential candidates first. There is no sense in letting them get to us. We are adding restrictions and burdensome reporting for an independent expenditure. Those expenditures might be spent against us. However, of course, we remained silent on disclosure of congressional office accounts—slush funds. It is no fun to give away our own advantages.

Third, the bill is revising the criminal code and penalty sections. We are creating a new civil process and giving the FEC power to assess fines. We have removed most jail penalties, except those involving a knowing and willful violation of more than $5,000. Any person can commit a willful, knowing, premeditated offense like, for instance, accepting $4,900 in corporate money, or taking $4,900 in cash, or violating the contribution limit by $4,900, and be assured of no criminal penalty. We are reducing the authority of the Justice Department, and are also reducing the FEC's ability to ask that illegal practices be enjoined. We are removing most jail sentences for violators but we thoughtfully provided them for false swearing of complaints.

Fourth, the bill weakens the disclosure provisions of existing law. We are eliminating filings with the local secretaries of state. We surely do not want the local press to print that stuff, do we? We have also raised the reporting threshold to $10,000 in an off-election year. We have also increased the allowable cash contribution level by 250 percent. We are keeping our own slush funds secret, and allowing unions and corporations to continue to make covert political contributions.

Fifth, we are giving union political action committees unfair advantage over their corporate counterparts. We are repealing the SUNPAC decision which was approved by the Justice Department, and by reference, by the Supreme Court. We give unions exclusive rights to solicit union members for political contributions. We have denied corporate political action committees the right to solicit their own employees. And we have preserved the exemption from disclosure for political action committee expenditures. No wonder big labor wants this bill. I wonder if there will be a bundle available for those who vote for it.

A sweeping revision of our election law may not have been a bad idea if it had been done in the regular manner, after hearings, and some time other than in the middle of an election year. However, here we are using a popular and needed feature—the reconstitution of the Federal Election Commission—as a vehicle to carry many complicated, objectionable changes in all facets of our election law.

The committee worked hard to produce H.R. 12406. The chairman and members deserve credit for their diligence, but, not for their work product. There are nearly 100 House sponsors of simple reconstitution bills. That was the President's recommendation and Common Cause's recommendation. A simple bill to reestablish the Federal Election Commission is still the best solution and, at the appropriate time, I will offer the short 3-page reconstitution bill as a substitute for this 58-page monster. I will also offer other important amendments.

I will try to restore some of the independence of the FEC, by striking the section on advisory opinions, the section containing the "item veto," and the section permitting one House to kill the Commission.

I will seek to improve disclosure by restoring filings with secretaries of state and by asking corporations and unions to disclose political expenses from corporate funds, or from union—involuntary—treasury money.

I will also try to remove some of the self-serving aspects of the bill like the "executive privilege" for congressional employees, some of the new criminal and conciliation features, and the contributions from one candidate's committee to another.

Finally, Mr. Chairman, I urge this committee to reject the Burton amendment to extend public financing to congressional elections. That idea is, in my judgment, ill-timed and ill-conceived. Public financing is a poor idea which generates most of the need for personnel in the FEC and carries an unusually high overhead cost.

We are in the middle of a public financing experiment for Presidential elections now. I wish we did not have it at all, because it apparently lures unattractive candidates, props them up when they should fall down, and, in general, wastes taxpayer dollars. However, we ought to have sense enough to let the test be completed before we compound our miseries. I hope the Burton amendment is defeated.

Mr. Chairman, if my substitute amendment, which provides for simple reconstitution of the Election Commission, is not adopted, I hope that this committee will vote down the bill.

Mr. Chairman, I yield back the remainder of my time.

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 30 seconds.

I just want to say that the whole gist of the gentleman's complaint seems to be about the House changing the rules in the middle of the game. Well, the Federal Election Commission is writing opinions and decisions every day and will continue to right up to election day, changing the rules week by week.

Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. DENT).

(Mr. DENT asked and was given

permission to revise and extend his remarks.)

Mr. DENT. Mr. Chairman, I am sorry that the House is not full because I believe that this is one subject that they ought to listen to. There appears to be only a small portion of the experts on this subject matter on the floor right now. We all recognize that every one of us elected to this body is a real expert in this field, and that is why it is difficult for the House to pass this kind of legislation and get any unanimity of opinion.

However, when I hear the Member who just preceded me talk about study and hearings, I think he has been around here long enough to know that after about 5 years of study and hearings, we have not changed the viewpoint of a single person who has appeared before us or those of us who have held the hearings, so I do not think there is going to be any change if we hold hearings on this bill for the next 100 years.

What we have to do is take the consensus of the members of the committee, properly named and duly qualified by the Rules of the House to study this proposition, and to bring before the Members the best bill that they can conceive and put into that bill before this House for a vote. To do other than that would not only be to kid ourselves but to do what some have accused us of trying to do, and that is kid the public. We are not kidding the public. This is a very serious matter in not only what it means to the individual Members now in Congress, or those who are out in the field at the moment campaigning, but what we do for the long-range welfare of the country itself and the makeup of this body.

What the Supreme Court did, of course, was in their judgment what they thought to be right in interpreting that act before them. But commonsense must tell every one of us that once we lift the ceiling on spending, all of the other restrictions and criteria that we set up on the election regarding the funding, or the spending of funds for an election, become minor in importance, because under the particular view of the Supreme Court there is a difference between a person who has personal wealth seeking office and a person who has little or no personal wealth and must depend upon his fellow citizens to contribute to his campaign.

We had to rewrite the act. Everyone of us knows that most of the problems that we have seen in the elections in the past have been somehow connected with the spending of funds or the collecting of funds.

We thought we had written a rather tight-ship piece of legislation. It did not please everybody, nor will any bill that is ever passed please everybody. But somehow or other the American people have been fed by the single-purpose organizations the idea that somehow in this Nation of ours, after almost 200 years, we have come full swing and have picked 435 dunderheads in this Congress. We are in this Congress no better and no worse than those who have preceded us in all the Congresses since the Constitution was put into effect. We are representative of the citizens of this country. Some are smart and some are dumb and some have a great deal of education and some have little education, and some are liberal and some are conservative. But we are the representatives of the American people in an American type of Government.

There are those who would try to pattern this Government differently and put it in the hands of those who they think are better qualified by birth or by nature of their standing in society or by the money they have either earned themselves or have inherited.

It is said the incumbent has a great advantage. The greatest disadvantage to any elected public official is his record if he does not have a good one. More people are defeated by their records than those who fail to raise enough money or fail to spend enough money.

I do not want to read the litany but I have seen a candidate who has spent $138,000 against an opponent who spent $735. Does that mean the person who had spent $735 was not qualified to be a Member of this body or does it mean he was overwhelmed by the inherited wealth of the individual?

I could lay before the Members a record of one contest in which more than $470,000 was spent between the two individuals. Time will not allow me to give the Members the details as I see them.

I want to say now this legislation is far from being perfect but it will be less perfect when this House is through with it if the Members continue to do what I hear they will try to do. How could we accept the recommendation by my colleague from Minnesota when he said these are the reasons he wants us to vote for a simple substitute, that takes everything we have had in the past which has been proven by experience already to be bad and just gives the President the sole right, which the Supreme Court said was his, to name the Commissioners?

How does that take care of all the things that have been proven bad? Why does the gentleman recommend that? Here is what he says he recommends and he recommends it because it is recommended by the President of the United States, who is no longer a Member of this body. I can stand here and believe in my heart that the President would be the first to stand up to defeat that simple proposal which is being offered today. Who else does he name as the great authority to tell the 435 Members of this Congress, the freely elected Members, what to do?

Common Cause is named. It is a single-issue organization, determined, as the Fabians in Great Britain were, to destroy the kind of government in existence. It was a government in Great Britain which had brought that country to its highest peak, and it was brought to its lowest depth in less than 35 years. That is what we will have here because the first plank in the platform of the Fabians was public financing of campaigns.

I want to say to the Members that this public financing is a fraud. Why is it a fraud? It is a fraud because it is not public financing and it is not identified as being a contribution to candidates as such, as individuals. What it is is a raid on the Treasury of $70 million or less.

These funds would normally be tax receipts for the proper expenses of the Government.

If the contributions were after tax then they would be properly labeled public funding by taxpayers willing to help their candidate.

Mr. HAYS of Ohio. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. McHUGH).

(Mr. McHUGH asked and was given permission to revise and extend his remarks.)

Mr. McHUGH. Mr. Chairman, I rise in support of the principal purpose of this legislation, which is to reconstitute the Federal Election Commission—FEC. If we are serious about the many reforms adopted in recent years to cleanse Federal election campaigns, we must have an independent agency to monitor those reforms. The FEC is that agency and this legislation must insure its continuation.

In my view the Supreme Court was correct in holding that the FEC, as originally established by Congress, was structured in violation of the Constitution. The FEC is an enforcement agency and such agencies are within the executive branch of Government. The fact that its members were appointed by Congress breached the separation of powers mandated by our Constitution.

The original agency was not only flawed legally, however. It was flawed in a very practical sense. It was not a truly independent agency. Its prime purpose was to see that candidates for Federal office abided by the rules in the conduct of their campaigns; to assure, for example, that contributions did not exceed the legal limits. The fact that Congress alone could control that agency rendered it less than independent or, at the very least, appeared to render it less than independent, which is almost as bad.

We now have an opportunity to rectify the initial error. By reconstituting the FEC we cannot only conform that agency to the Supreme Court's ruling, but make it a truly independent body.

Unfortunately, the legislation before use today accomplishes only part of the job. It would bring the FEC within the Supreme Court's legal standard, but it would not assure substantial independence for the agency. For example, the bill provides that either House of Congress can abolish the FEC in 1977. This puts the FEC on a short leash vis-a-vis Congress, and the implication is fairly clear that if this enforcement agency is too rough on the Members of Congress during their 1976 campaigns, the agency will be abolished in 1977. This is not the kind of provision which promotes real independence.

There are other glaring weaknesses in the bill, such as the provision precluding the FEC from investigating alleged abuse of staff employees by an officeholder if the officeholder simply signs an affidavit stating that the employee is

performing his regularly assigned duties. This is tantamount to enabling the accused in a criminal case to have his indictment dismissed by signing an affidavit that he is not guilty. It hamstrings the FEC and surely will breed greater skepticism on the part of the public.

In addition to strengthening the FEC and assuring its independence, Mr. Chairman, I believe we should adopt Mr. BURTON's amendment to provide partial public financing for congressional campaigns. This is a reform which has been extended to Presidential campaigns. There is no good reason why we should deprive the public of similar reform in congressional races.

Last year I sponsored a bill with Mr. MAGUIRE of New Jersey which in my view addresses this issue more comprehensively than Mr. BURTON's amendment. Among other things, our bill would provide for partial public financing of primary campaigns which, as we all know, are the only races that count in certain districts. To withhold matching public funds from primary campaigns is to grant only half a loaf. Although the Burton amendment is too limited in this and certain other respects, it nonetheless offers the best hope this year of additional progress.

The reasons for public financing have been oft stated. The people of this Nation have come to understand that the present system is neither fair nor democratic. Unless a candidate is personally wealthy, he must look to private sources to finance the expensive costs of running for office. As statistics and commonsense both indicate, these sources are not representative of the electorate as a whole. In the recent past, 90 percent of campaign donations have come from less than 1 percent of the population. This 1 percent represents people who often have substantial and particular interests in the decisions to be made and the choices formulated by elected officials.

The effect is a distortion of the political process in which those with the wherewithal to help a candidate underwrite his campaign develop an influence among the electorate. Legislation enacted in 1974 went far toward redressing this imbalance in Presidential elections. However, the lack of any provisions covering congressional races was a major shortcoming. To be comprehensive, reforms directed toward limiting the outsized impact of private contributions in our political system must also cover races for Congress.

The Burton amendment is not perfect. But it would be a significant reform. It would encourage candidates for Congress to rely upon small contributions; it would impose limits on the money candidates who accept public funds could spend in their campaigns; and it would provide for the matching public funds out of the dollar check-off account, which is an account voluntarily contributed to by the taxpayers. In short, the amendment would go far to return congressional campaigns, and the financing of them in particular, to average Americans. It would establish a system of funding which would serve the public interest rather than the special interests.

Mr. WIGGINS. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. VANDER JAGT).

(Mr. VANDER JAGT asked and was given permission to revise and extend his remarks.)

Mr. VANDER JAGT. Mr. Chairman, I rise to commend and to criticize the House Administration Committee for the bill which it has presented to us. I commend the distinguished chairman of that committee for some improvements in this legislation over the prior law. Of course, that bill that we passed in 1974 left a lot of room for improvement, so that really was not very difficult to achieve.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. That was not my bill. That was a product of the House, if the gentleman will remember.

Mr. VANDER JAGT. If the gentleman will note, I did not tar with the brush of claiming that was the gentleman's bill; but I do sincerely commend the chairman for the courage and the conviction with which the gentleman has tried in some respects to bring reasonableness and commonsense and due process to the rules by which we conduct ourselves in congressional campaigns.

Unfortunately, I believe that the committee succumbed to the temptation of overkill. I believe that the temptation when they had so many votes was just irresistible to try to jimmy the legislation, so that it really was blatantly favorable to the interests of the other side and in some respects makes a mockery of clean independent campaign enforcement.

The right of either House to veto a regulation coming from the FEC, I believe, strips the FEC of independent regulatory authority. We are the ones who are being regulated and yet we are the ones who can override any regulation of that Commission. It is like giving the utilities the right to veto any rule promulgated by the Federal Power Commission. It is like putting the rabbits in charge of guarding the cabbage patch.

I think that Common Cause and all the others who worked so hard for campaign reform should be leading the charge against this bill, which strips the FEC of independent regulatory authority.

I also believe that this bill, taken together with other legislation that is already on the books, in the way in which this dovetails in with that legislation, blatantly favors one special interest group. If this bill passes, with one glaring exception, the impact that any interest group can have on the outcome of any congressional election is limited to $5,000. That one glaring exception is one very special interest group, big labor, upon which there is no limit whatsoever. If this bill passes, with one glaring exception, every single special interest group will have to report in minute detail exactly what it spent on a congressional election. That one glaring exception is a very special interest group, big labor. They will not have to report one cent of what they spent to influence the outcome of a congressional election under section 301.

If this bill passes, we will have limited by law all interest groups, including our own congressional committees, including our two great national political parties, to pigmy size, while giant labor is free to lope across the political landscape—unregulated, unchecked, and unreported.

In a way, I have to hand it to the majority leadership for focusing the attention of the press on the dispute of how many people can be solicited in a plant. The outcome of that dispute will not make more difference than a glass of water to the level of a flood. As long as we are arguing about how many peas we can solicit with the pea shooter that we are confined to by law and labor continues to be able to fire its cannons without any regulations or any reporting whatsoever, we are accomplishing nothing. This is not conjecture. It is not theory of what might happen. It already took place in New Hampshire in the special election. There were not two campaigns for Senator in New Hampshire. There were three. There was Wyman for Senate, DURKIN for Senate, and labor for DURKIN for Senate. In fact, labor probably spent more for DURKIN for Senate than the Durkin committee spent to send DURKIN to the U.S. Senate and not a penny of that had to be reported. Not all the doorbell ringing nor the telephone banks nor the hundreds of thousands of dollars spent to send out campaign literature were in any way limited or regulated let alone reported.

It is like sending a prizefighter into the ring and he has to fight two men. Only in this instance we say that in addition to the boxing match pitting one man against two, he has to fight with one arm behind his back if this law passes. By focusing the attention of the Members of this body and the press and public on petty cash, I think the majority leadership is walking off with bank robbery in very, very sizable amounts. I believe that so long as this bill remains as it is, the President would be derelict in his duty to the American people, to clean elections, to independent enforcement of honest elections and the traditional notion of American fair play if he did not veto this legislation.

Mr. HAYS of Ohio. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana (Mr. BRADEMAS).

(Mr. BRADEMAS asked and was given permission to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Chairman, I rise in support of H.R. 12406, the Federal Election Campaign Amendments of 1976.

First, however, Mr. Chairman, I want to take this opportunity to commend the chairman of the Committee on House Administration, the gentleman from Ohio (Mr. HAYS), for the diligence and the fairness with which he conducted the committee's lengthy deliberations on this very important matter.

I should also add, Mr. Chairman, that all of the members of the House Administration Committee expended much time and effort on this bill.

We considered over 60 amendments offered by both majority and minority members of the committee and although I did not, any more than did any other member of the committee, prevail in my

views in every detail of the bill, I believe that the bill our committee has brought to the House today is on the whole a very sound measure.

Mr. Chairman, let me take a moment to remind members of the committee of the background of this legislation. In 1971, Congress passed the Federal Election Campaign Act for the purpose of requiring that campaign expenditures and contributions in both Federal primary and general elections be disclosed.

Then, in order to prevent the excessive influence of large sums of money in campaigns for Federal office, Congress in 1974 passed the Federal Election Campaign Act amendments. This legislation provided for limitations on campaign expenditures and on contributions to campaigns as well as calling for extensive reporting and recordkeeping and the establishment of an independent Federal Election Commission to administer and enforce the provisions of the act.

It was, Members will recall, in early 1975, on January 2, that the constitutionality of the Federal Election Campaign Act amendments was challenged in the U.S. District Court for the District of Columbia.

Just a year later, on January 30, 1976, the Supreme Court of the United States upheld the contribution limitations provided by the act as well as the recordkeeping and disclosure provisions and the public financing of Presidential elections and conventions authorized in the law.

On the other hand, Mr. Chairman, Members will also recall that the Supreme Court held several provisions of the 1974 act unconstitutional, specifically, the ceiling on independent expenditures, the limitation on a candidate's expenditures from his own personal funds, and the ceiling on overall campaign expenditures.

All three of these provisions were held by the Supreme Court to be in violation of the first amendment.

In addition, the Supreme Court ruled that, in view of the manner in which the Federal Election Commission members were appointed, the exercise of the administrative and enforcement powers delegated to the Commission was unconstitutional. The court held that the method of appointment violated article II, section 2, clause 2 of the Constitution.

Mr. Chairman, H.R. 12406 complies with the constitutional standards indicated by the Supreme Court, it closes some of the loopholes created by the decision of the Court, extends the reforms enacted in 1974 and clarifies certain ambiguities that appeared when the law was put into effect.

Let me at this time, Mr. Chairman, focus my own remarks on the key provisions of the bill dealing with the reconstitution of the Commission, independent expenditures, limitations on contributions, and the political activities permitted to corporations and labor unions.

Mr. Chairman, H.R. 12406 continues the Federal Election Commission and reconstitutes its voting membership to conform with the requirement of the Supreme Court that the Commissioners be duly constituted officers of the United States appointed by the President with the advice and consent of the Senate. The Secretary of the Senate and the Clerk of the House will continue to serve as nonvoting ex officio members. The bill also stipulates that no more than three members of the Commission can be of the same political party and that no member of the Commission may engage in any other business, vocation, or employment.

Mr. Chairman, it needs hardly to be emphasized that the election process is the keystone of the American democracy. It is, therefore, imperative that the laws governing our elections be administered and enforced with unquestionable fairness and in strict compliance with the intent of Congress.

Based on these principles, H.R. 12406 provides that only upon the affirmative vote of four of its six voting members can the Commission promulgate rules and regulations, initiate investigations, or bring judicial action.

Another problem to which the House Administration Committee addressed itself in this bill was that of unnecessary and frivolous litigation, which can be both burdensome and extremely costly. H.R. 12406 requires that upon receipt of a complaint, and before instituting any judicial action, the Commission attempt for at least 30 days, through conciliation and persuasion, to correct an alleged violation of the act. The bill also provides, however, that when a complaint has been filed less than 45 days but no more than 10 days before the election. the conciliation period shall be only one half the number of days between the date of the complaint and the election.

Mr. Chairman, not only does the bill under consideration grant authority to the Commission to enter into conciliation agreements with alleged violators but also allows the Commission, as part of such agreements, to levy severe monetary fines of up to $5,000 or, if there is evidence that the violation was knowingly and willfully made, of up to $10,000.

Moreover, all conciliation agreements or any determnation by the Commission that no violation has occurred must be made public.

Mr. Chairman, I would also remind the members of the committee that the January 1976 decision of the Supreme Court nullified the $1,000 ceiling on independent expenditures made by any individual or group. Independent expenditures are expenditures which are made on behalf of a candidate without his authorization or against a candidate's opponent without the authorization of the candidate.

The effect, Mr. Chairman, of this ruling by the Supreme Court can be to put political "fat cats" and special interest groups back into business because they are now permitted to spend unlimited amounts on behalf of a specific candidate or against a specific candidate's opponent.

Mr. Chairman, these political "fat cats" have already begun to return to the election arena. The Miami, Fla., Herald reported on March 17, 1976 that Joseph Coors:

> The millionaire beer magnate from Colorado, became the first "fat cat" to pour thousands of dollars into the cause of an active, Presidential candidate. . . . Coors spent more than $18,000 for full page advertisements promoting Ronald Reagan in eight Florida newspapers on that day before the primary last Tuesday.

Mr. Chairman, in order to assure that any independent expenditure is in fact independent, H.R. 12406, in complete accord with the guidelines of the Supreme Court, specifies that in order to qualify as an "independent expenditure," the expenditure must be made without the cooperation or the suggestion of any candidate. Otherwise, the contribution limits elsewhere in the bill of $1,000 by an individual or $5,000 by a group will apply.

Moreover, Mr. Chairman, the bill under consideration requires that any individual or any committee making independent expenditures in behalf of a candidate or against a candidate must report all such expenditures to the Federal Election Commission on the same basis as political commitees are required to report, that is to say, on a regular and cumulative basis.

Still more important, independent expenditures—like the expenditures of Joseph Coors in Florida which I have cited—of $1,000 or more made during the 15 days prior to an election must be reported within 24 hours.

Finally, the bill requires that billboards, television advertisements and other similar public advertisements—financed by independent expenditures—must include a conspicuous statement identifying the person making the expenditure and whether or not it is authorized by any candidate.

Mr. Chairman, it was only after extensive and thorough debate in the Committee on House Administration that these disclosure requirements for independent expenditures were adopted, and I believe that if we are to prevent the corrupting influence of large sums of money in elections to Federal office, the requirements are essential.

Finally, Mr. Chairman, I wish to discuss briefly one of the most important sections of the bill, the one covering political activities permitted to corporations and labor organizations.

Members will recall that the Federal Election Campaign Act of 1971 set forth rules for political activity by corporations and labor unions.

Prior to enactment of the 1971 act the Corrupt Practices Act had for 50 years prohibited corporations and labor unions from making direct expenditures in connection with a Federal election campaign.

The 1971 act, however, included an amendment sponsored by our distinguished former colleague in the House, the gentleman from Idaho, Mr. Orval Hansen.

Mr. Hansen's remarks during floor consideration of his amendment summed up accurately what he had in mind:

> There is, of course, no need to belabor the point that Government policies profoundly effect both business and labor . . . if an or-

ganization, whether it be the NAM, the AMA or the AFL–CIO, believes that certain candidates pose a threat to its well-being or the well-being of its members or stockholders, it should be able to get its views to those members or stockholders (93 CONGRESSIONAL RECORD 43380)."

In other words, Mr. Chairman, the entire thrust of the Hansen amendment in the 1971 act was to allow corporations to play a catalytic role in involving their stockholders in political activities deemed important by the management of the corporation and to allow labor unions the same latitude of action with respect to their members. The underlying principle was clearly that just as labor unions and their members might have a legitimate interest in the outcome of an election, so might a corporation and its stockholders.

Let me, Mr. Chairman, again quote Mr. Hansen in the 1971 debate:

The amendment... (was) designed to recognize the fact that a stockholder or a union member exists in two capacities: in his individual capacity with his own individual views and his capacity as a member of an organization that has interests as an organization (93 CONGRESSIONAL RECORD 43382).

It is of very great importance, Mr. Chairman, to note that throughout consideration in the House of the Hansen amendment, Mr. Hansen's remarks and those of other Members of the House who took part in the debate without exception linked the valid political interests of corporations to those of their stockholders, and the valid political interests of labor unions to those of their members.

At no point was it then suggested that the valid political interests involved were such that, for example, a corporation should be allowed to solicit contributions from any individuals other than its stockholders nor was it suggested at any point that a labor union should be allowed to solicit any individuals other than its members.

The purpose of the Hansen amendment was to allow labor unions and corporations to join with their members and stockholders, respectively, in the expression of commonly held views.

There was no intention to enact into law the notion that either corporations or labor unions should be given free rein to solicit contributions from every individual conceivably within their reach. That, Mr. Chairman, would have made a mockery of the law and invited the worst kind of abuse. Such an interpretation would have meant that the rationale advanced in support of the amendment—the joint expression of views by persons sharing a commonality of interest—was dishonest and misleading.

However, Mr. Chairman, as with too many other acts of Congress, despite a definitely articulated legislative intent, a regulatory agency intervened to reverse the intent of Congress.

In an advisory opinion issued on December 3, 1975, by the Federal Election Commission, the Commission—at the request of the Sun Oil Co.—interpreted the law to permit a corporation not only to solicit political contributions from its stockholders but also from all other employees, including its wage and hourly employees.

Thus, at a single stroke, and in defiance of the intent of Congress, the Federal Election Commission destroyed the balance which Congress had created between the sometimes competing interests of business and labor.

While paying lip service to the legislative history of the relevant section of the law, the Commission announced that the statute was vague and determined that—

It would be illogical to conclude that corporations could solicit only their stockholders and not their employees."

The result of the action of the Federal Election Commission was aptly described in a statement, which according to the New York Times of December 14, 1975 was made by one of the Commissioners of the FEC in a speech before an audience of businessmen:

We did a great deal of work on the Sun Oil request—

Said Commissioner Joan D. Aiken. She said:

At this point, it's smooth sailing for political action committee plans.

Mr. Chairman, aside from the propriety—or lack thereof—of the remarks of Commissioner Aiken, it is clear that the "Sun Oil" opinion represents a kind of regulatory agency coup, the substitution of the judgment of a regulatory agency for the intent of Congress expressed in legislation.

Mr. Chairman, now is the time and place to set right what can only be described as an outrageous abuse of power by a regulatory agency.

Indeed, Mr. Chairman, listening to the words of the gentleman from Michigan, Mr. VANDER JAGT, a few moments ago, I hardly recognized the bill he said he was describing and which we are today debating. I cite, only by way of indicating the effect of the "Sun Oil" advisory opinion, the report in the financial section of the New York Times of last Sunday, March 28, 1976, to the following effect:

What began as a slow but steady stream of corporate "political action committees"—formed last year following a landmark ruling by the Federal Election Commission—is turning into a torrent.

American business and professional groups, already sitting on top of a $9 million political war chest, are rushing to form new committees which aim to raise additional millions of dollars for this year's Presidential and Congressional candidates.

Mr. Chairman, now is the time to set right a situation which, if not corrected, can substantially distort the entire balance of the American political system.

It is my understanding that it is President Ford's view that we in Congress should not concern ourselves with this matter, that we should at present simply vote to allow him to appoint all of the Commissioners of the Federal Election Commission, to continue the flow of Presidential matching funds and wait another year to consider the Federal election law, including the Sun Oil question, after, Mr. Chairman, the current Presidential and congressional campaigns are over.

That point of view, Mr. Chairman, is to suggest that we repair the leaky roof of the barn but leave open the door so that the horse can escape. And President Ford intends to ride that horse, with moneybags on both sides of the saddle, and everyone knows it.

Mr. Chairman, I cannot accede to the proposition that it is right to leave a gaping hole in the Federal election laws, even if for 1 year, even if for one election.

This Congress has a responsibility to insure the integrity of the election laws. We cannot avoid that responsibility simply by exhorting the next Congress to do what we should do now.

Mr. HAYS of Ohio. Mr. Chairman, may I inquire as to what the status of the time is?

The CHAIRMAN. The majority has 23½ minutes remaining, and the minority has 46 minutes remaining.

Mr. WIGGINS. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan (Mr. VANDER JAGT).

(Mr. VANDER JAGT asked and was given permission to revise and extend his remarks.)

Mr. VANDER JAGT. Mr. Chairman, I thank the gentleman for yielding this time to me because the gentleman who immediately preceded me in the well referred to me and referred to a statement that I had made.

My statement was that this bill before us, taken together with other legislation already on the books, creates a giant loophole for a very special interest group, which is labor. I went on to say that the political action committees of management and labor are relatively inconsequential as to their impact on the outcome of a campaign compared to the so-called communication or education loophole enjoyed by labor.

I then cited the situation in New Hampshire where literally hundreds of thousands of pieces of literature went into that campaign proclaiming "Send a Fighter to the U.S. Senate. Send John Durkin to the Senate If You Want Jobs. Send John Durkin If You Want to Stop Inflation."

Under the law that is not political. That is not campaigning; that is educational. It is, therefore, unregulated, unlimited, and unreported. The literature said:

Vote for John Durkin for the U.S. Senate on September 16.

That under the law is not political, it is educational, and it is that loophole to which I was referring.

Since the gentleman from Indiana quoted from the New York Times, I will cite another issue of the New York Times. This appeared as the lead paragraph of the story on the front page on Saturday. This is not GUY VANDER JAGT speaking; this is the reporter analyzing this issue, and he has stated it well:

Organized labor is fighting a stubborn and sometimes camouflaged battle to retain a major political weapon—the right to spend unlimited, unreported amounts of money from the union treasury to support candidates.

Mr. Chairman, I include at this point the entire article, as follows:

LABOR FIGHTING TO RETAIN EDGE IN ELECTION OUTLAYS

(by Warren Weaver, Jr.)

WASHINGTON, March 27.—Organized labor is fighting stubborn and sometimes camouflaged battle to retain major political weapon—the right to spend unlimited, unreported amounts of money from the union treasury to support candidates.

Unions, like corporations, are prohibited from using their dues money to make direct campaign contributions. Generally, they are allowed to set up political committees to collect voluntary contributions from members and then distribute the proceeds among prolabor candidates.

In 1971, however, Congress approved a relatively obscure amendmetn to the campaign law that expanded radically the political potential of unions. It permitted them to spend any amount of their resources to communicate with their members "on any subject."

As a result, labor can devote unmeasured thousands of dollars to set up a telephone bank for a political candidate, carry on mass mailings in his behalf and conduct door-to-door canvasses, as long as the voters reached are all members of the union that is paying the bills.

CORPORATIONS APPEAR WARY

In the current Congressional debate over revising the campaign law, Republicans are trying to compel unions to report this kind of spending, how much and for whom, just as all other political spending is reported under the current disclosure law. Labor is resisting fiercely.

The issue has been partly clouded by the fact that the law of 1971 gave corporations the same right to use corporate funds to communicate with their stockholders. But this did not apply until 1974 to corporations with Government contracts, most of the major ones—and little if any subsequent political activity appears to have resulted.

Corporations, generally, have had little experience with legal participation in campaigns and their illegal participation revealed in the Watergate scandals has tended to discourage them from taking advantage of this new power.

But the unions, old hands at organizing support for candidates they favor, have made profitable use of this communicating power.

In the New Hampshire special senate election last September, the product of a virtual tie the year before, thousands of dollars of union money financed telephone banks and canvassing for John A. Durkin, the Democratic victor, all unreported and all outside the spending ceiling then in effect.

Similarly in a special New York house election this month, the New York State A.F.L.-C.I.O. and New York State United Teachers both sent computerized mailings and illustrated flyers to all their members in the 39th Congressional District.

Although the upstate district had not sent a Democrat to Washington since 1874, the Republican nominee, John T. Calkins, was deefated by Stanley N. Lundine, the Democratic Mayor of Jamestown, by 20,000 votes. The unions boasted they had spent $20,000, made 60,000 phone calls and distributed 50,000 pieces of literature.

PACKWOOD PROPOSES CHANGE

When the bill reconstituting the Federal Election Commission came up on the Senate floor this week, Republicans proposed an amendment that would require unions and corporations to report this "communications" spending to the commission, just as candidates, parties and private individuals all do.

In the ensuing debate, some Democratic liberal stalwarts found themselves arguing disclosure of campaign spending, the keystone of electoral refrom by almost any standard, was an invasion of privacy when certain groups were affected.

Senator Alan Cranston, Democrat of California, called the requiring of such spending reports "a dangerous Federal intrusion into the internal affairs" of unions and corporations. "I see no reason why the costs of such internal communications are any business of the Federal government," he said.

But the amendment, sponsored by Senator Robert W. Packwood, Republican of Oregon, was approved, 59 to 42. Later, some Democrats attempted an intricate parliamentary maneuver to kill the Packwood amendment but retain all other changes made by the Senate. This aroused a mini-filibuster and failed.

AMENDMENT CHANGED

When party leaders reached a compromise agreement on the campaign bill, it included a provision modifying the Packwood amendment so that no union or corporation would have to report an expenditure of less than $1,000 "in a calenadar year with respect to a particular candidate."

But when Senator Cranston proposed this amendment with perhaps a half-dozen senators on the floor, it merely exempted from reporting communications "expenditures less than $1,000," with no reference to candidates or time periods.

As a result, under the Cranston proposal, labor could have made 10 or 20 daily mailings in behalf of the same candidate without reporting any of these as long as each cost less than $1,000. A motion by Senator Packwood to table this amendment as creating a giant loophole failed, 49 to 36.

Then Senator Dale Bumpers, Democrat of Arkansas, proposed that the $1,000 floor on reporting apply "per candidate, per election," restoring the compromise agreement Senator Cranston opposed the amendment, but it passed.

The House version of the campaign bill does not include a requirement for reporting the political spending, and attempt to do so having been defeated in the House Administration Committee. The A.F.L.-C.I.O. is already on record as opposing a scheduled floor amendment similar to the Senate language.

Andrew J. Biemiller, legislative director of the labor federation, said it would oppose any amendment that requires reports of "a variety of communications limited to members and stockholders."

"This amendment," the labor lobbyist said, "is aimed squarely at preventing local unions from exercising their rights under the 1971 act by burdening them with excessive filing requirements relating to minor costs."

[Mr. WIGGINS addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. WIGGINS. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE).

(Mr. MOORE asked and was given permission to revise and extend his remarks.)

Mr. MOORE. Mr. Chairman, I rise in opposition to H.R. 12406 as I am strongly opposed to this bill for reasons expressed in the minority report and one additional one. Section 321(b) provides among other things that a corporate political action committee cannot solicit to be members of that committee any person other than its stockholders, executive officers, or their families. Executive officers are defined as salaried employees with policymaking or supervisory authority. This changes the existing law which allows a corporate political action committee to solicit not only those persons, but any employee of the corporation. The existing law has been approved by the Federal Elections Commission, the Justice Department, and the U.S. Supreme Court in the recent decision of McCarthy and Buckley against Valeo.

I believe this new language to be unconstitutional, unwise, and unfair. It makes an illogical distinction between types of employees of a corporation and treats them discriminatorily. Under the new language, a corporate political action committee could not solicit the large majority of its employees for no apparent rational reason. Whether an employee is paid by the hour, piece, or salary, and whether an employee supervises others or is supervised, he or she is no less an employee and has the same economic interests as all others working for the employer.

What then is the reason the current law is so radically altered in this bill? Since no hearings were held to develop evidence for the need for such, one can only conclude the obvious—"politics." The strongest and most effective coalition of political action committees in the Nation, those of labor unions, oppose any challenge to their current collective political dominance as the most powerful special interest group in American politics today. Certainly members of unions should be encouraged to participate in union political action committees, but this is not a valid reason to deny this right to other American workers.

Although of no legal significance, there is no evidence that labor unions are justified in fearing a loss of the political power of the "working man." The activities of a political action committee are determined by its membership. Employee—"working man"—members of such a committee should have the same interests and rights in any political action committee they choose to join, whether labor or place of employment related. Thus, it cannot be the concern for the political activities of the working man in general that causes labor union opposition, but the fear of increased competition or diminution of power of their own political action committees.

As a matter of fact, many members of unions might well choose to also join the political action committee of the corporation for which they work as well as that of their union. It should be pointed out that approximately 75 percent of America's total labor force does not belong to unions, and if they work for corporations and are not shareholders or executive officers, they cannot be solicited. This practically all but eliminates their right to participate in this type of political activity. This bill also prevents non-union employees of a corporation or employees of a corporation which has no union at all from being solicited if they are not shareholders or executive officers. Therefore, in an unconstitutional, unwise and unfair manner, only labor union political action committees can under this bill solicit employees who are not shareholders or executive officers. This is a severe political limitation.

The whole purpose in political action committees is to allow persons with like philosophical and/or economic interests

to band together and to promote those interests through a political action committee. This is participation in our political system and certainly any participation in politics should be encouraged and not hindered. Our democracy needs greater, not less, participation by our citizenry. Political action committees can be justified only on this basis. They currently meet this need by encouraging citizens by the thousands to become more politically active. There should be no "political" hindrances on who can join and participate in such committees.

For these reasons and the ones expressed in other minority views, this bill should be defeated and the Federal Election Commission simply reconstituted.

Mr. WIGGINS. Mr. Chairman, I have no immediate requests for time by any Member who is presently prepared to use it, so I will reserve the balance of my time momentarily.

Mr. HAYS of Ohio. That is all right for this side momentarily, but we would like to have the last speaker, so I will go ahead and yield time to other speakers. I have only one more request for time.

At this time, Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. ANNUNZIO).

(Mr. ANNUNZIO asked and was given permission to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Chairman, I rise in support of H.R. 12406. I want to congratulate and commend the members of the Committee on House Administration, and especially its chairman for the patience he exercised during the entire deliberations on the bill.

As I look around the Chamber this afternoon, I would like to point out that we had more Members present in the entire hearings which went on for 2 weeks, and more people present in that small room on the third floor of the Capitol dome where the Committee on House Administration held its sessions, so that we can put this thing into perspective as to where it belongs.

We are here this afternoon because the U.S. Supreme Court in its wisdom decided that certain sections of this act were not constitutional, and, consequently, we had to take up the ball that the Supreme Court threw at the committee once again.

The reason I am on my feet is because I am totally opposed to the public financing section of the bill, that is, the Burton amendment that will be offered this afternoon when we go into the 5-minute rule. It is unfortunate that more Members are not here on the floor, because I want to give them a little bit of the background of this particular amendment.

When we discussed the legislation originally in 1974, we discussed public financing only from the point of view of the checkoff system. That means that our constituents voluntarily checked off a dollar or $2 on the income tax form, which said, "Mr. Congressman, we want you to spend our money in order to publicly finance Presidential elections."

So, the committee decided that $20 million would be spent for the Democratic candidate and $20 million for the Republican candidate. In addition to that we allocated $2 million to each party for their party conventions. We got more information from the Internal Revenue Service and it was estimated that there would be approximately $60 million checked off for public financing. We added, and at that point we had $44 million spent under the checkoff. There was no money under general revenue. So we decided we could play around with $10 million more for the Presidential primaries. We set up a formula. The formula was very simple. There were $250 contributions or less with a total of $5,000 in each State, in 20 States, so a candidate would have to collect $100,000 in order to qualify for matching funds in the Presidential primaries.

The way it is going it looks as if we are going to spend that $10 million. The point is, we have no way of knowing. We are paying our taxes now in 1976 for 1975. We have no way of knowing how much money is going to be checked off in 1975.

I for one am not going to vote and I urge the few of the Members who are present this afternoon not to vote to raid the Treasury of the United States to finance the Socialist Party, the Communist Party, the Pro-abortion Party, the Anti-abortion Patry, or any other freak and kook who wants to run for office. We cannot use moneys that are paid in taxes to the Treasury of the United States to finance elections. We have not been elected to do that. But, we were authorized to spend the checkoff money. There is a big, big difference.

I was the original sponsor, as the people on the minority side know, of the amendment to self-destruct the Commission. That passed one day by a vote of 10 to 9. But the next day I reintroduced another amendment because I felt that we should give the Commission a chance. For that reason my amendment, which is section 409, simply states that at the close of business on March 31, 1977, if either House of the Congress by appropriate action determines that, such determination shall take effect pursuant to subsection (b), and the appropriate committee of each House of the Congress commencing on January 3, 1977—and in our case it will be the Election Commission—will begin to hold hearings and make a determination as to whether or not this Federal Election Commission should be continued, should not be continued, or whatever the recommendation is, and that recommendation will be brought to the full committee and to the floor of the House.

I want to say that as a member of that committee I will watch, as I have in the past, closely this checkoff system in public dollars, and in the event that there is not sufficient money for public financing, just as hard as I fought vigorously in that committee for public financing of the Presidential elections and Presidential primaries, I am going to fight against it.

So I want to urge under the 5-minute rule that every Member that is present this afternoon, so few of us, would go out and talk to the other Members as they walk into the Chamber and urge them to vote down special financing of congressional elections.

Mr. WIGGINS. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I wonder if I might engage the gentleman from Minnesota (Mr. FRENZEL) in a colloquy concerning H.R. 11736. It has been brought to my attention that many feel that this bill, the so-called Frenzel-Mikva bill, includes provisions that would validate the actions of SUNPAC and other organizations. Is that the case?

Mr. FRENZEL. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. Indeed.

Mr. FRENZEL. Mr. Chairman, H.R. 11736, which I hope to introduce at the proper time as an amendment in the nature of a substitute, provides for the reconstitution of the Federal Election Commission by Presidential appointment with the advice and consent of the Senate much as it is today, with the exception of that particular form and style of appointment. The terms will be the same kind of staggered terms and the bill deals with no more or no less, it is silent on the matter of SUNPAC or any other substantive matters that are before us in H.R. 12406.

Mr. WIGGINS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. WALSH).

(Mr. WALSH asked and was given permission to revise and extend his remarks.)

Mr. WALSH. Mr. Chairman, the issue before us today is one which should be of the utmost concern to members of both political parties.

It is an attempt by the Democratic majority to turn what could be a simple, needed election reform bill into a mockery of muddled legislation. In the process, the entire two-party system is in jeopardy.

The bill before us, H.R. 12406, banishes all election reforms accomplished in the past.

Rather than reorganize the Federal Election Campaign Act, this bill seeks to make wholesale revisions of almost all existing election laws. Only two of the 58-page bill before us calls for election reform.

The FEC would be stripped of its independence if this bill is allowed to go through. Election laws will be changed in the middle of an election year. And the fundraising ability of party committees will be choked.

Mr. Chairman, I am concerned about the direction that all election reform is taking.

The action generated by various citizens' groups and even by various political organizations is, in my judgment, an effort to end the two-party system in this country.

Under the present restrictions of the FEC, the local political organization at the city or county level is almost totally precluded from playing any important role in the election of a Member of Congress. In order to subscribe financially to a candidate, local political parties must devise methods and establish com-

mittees, other than the existing city or county committee in order to make contributions.

This raises the question whether Congressmen should even run under a party label. If it was to be carried to its ultimate, critics would like to see the words "Democrats" and "Republicans" eliminated.

If this trend continues, we will see the proliferation of political parties similar to that which has occurred in Europe. This would mean an effective end to the two-party system in this country. Despite some problems in the past with that system, it has worked and it does work and it will work if we give it the opportunity.

It is that same system that has made this country so great.

To abandon it now would be a tragic mistake.

Congressmen will now have to go out and beg funds from constituents who agree with their views. They will become dependent on their contributors. Formerly when the contributors gave to the party, Congressmen enjoyed a certain amount of independence because they seldom knew who the individual contributors were since there were thousands.

Mr. Chairman, on March 24, 1976, the Syracuse, N.Y., Post-Standard published an editorial concerning these very problems of election reform. I think that editorial is extremely helpful in understanding the necessity to block passage of H.R. 12406 and I would like to share it with you:

Is the Federal Election Law part of a plot to break up the two-party system in this country?

Intentional or not, that is the effect it may have unless the public becomes aware of the damage it may cause in this year's Congressional elections.

Many members of Congress are already smarting under its restrictions but apparently are reluctant to speak out.

Elections are won or lost in the United States according to the support given individual nominees by party organizations, both with money and in well directed volunteer work during the campaign period and at the polls.

Yet local party committees are now forbidden to assist a Congressional candidate, duly endorsed and nominated, with more than $1,000 toward his campaign fund.

This puts on the incumbent Congressman or on an opponent trying to unseat him the very onerous burden of having to beg funds to pay the huge expenses of campaigning.

A Congressman who accepted nominations several terms back with the assurance that "the party" would finance his campaigns now finds himself being virtually forced to go out, hat in hand, to seek money from persons and organizations he may have "served" by his votes on important legislation.

If he has voted pro-labor much of the time, this is not too difficult for some Congressman. Unions do have legal means of showing their appreciation directly and indirectly.

But corporations are presently sharply restricted on the nominal amount they may contribute to any political cause or to a candidate, and business associations rarely hand funds over even to a favorite candidate.

So the law-maker finds himself driven toward a position of soliciting campaign contributions for possible future support.

Cocktail parties and benefit dinners may help an energetic candidate, but the number of such affairs is limited.

Party organizations as such have always collected campaign contributions to be allocated to nominees, but if there is a legal limit on the amount to be "invested" in a candidate, the party is placed in a futile position.

It is wrong for any candidate for public office at any level to be made to beg for money. The best type of nominees, even though they file lists of contributors in accordance with law, prefer not to be intimately concerned with the donors and the amounts they give. They believe this preserves their personal independence in office.

The doubtful "post-Watergate morality" of the Washington scene seems to be having exactly the opposite effect from the best intentions of reformers.

The Washington Star, in a March 22, 1976, editorial, referred to the Federal Election Commission legislation as a "bad piece of work." The newspaper said it agreed with Senator WILLIAM BROCK of Tennessee that the legislation was a "lousy, stinking, fraudulent bill."

It continues, in part:

The Democrats, particularly House Administration Committee Chairman Wayne Hays, haven't been able to resist loading the legislation with self-serving amendments. One would give organized labor an advantage in raising money for candidates—which means an advantage for Democrats since most of labor's campaign money goes to Democrats. Several amendments would curtail the independence of the Election Commission so that Congress could tell the commission how and where to enforce the election laws and when to lay off.

The editorial notes that—

Members of the House and Senate seized the opportunity to do major surgery on the 1974 Act and to insert amendments having nothing to do with the issue at hand.

The editorial continues:

If Congress persists in this foolishness, President Ford will have no alternative but to veto the bill. If that happens, the Congress will have no one to blame but itself for the chaos that will follow.

I favor election reform. But I feel such reform can only be accomplished through passage of a simple bill, instead of one which rips apart the very progress we have made in election reform.

I trust my fellow colleagues will vehemently rally against this bill.

Its effects could be disasterous to our political systems and to our country.

Mr. WIGGINS. Mr. Chairman, I have no further requests for time.

Mr. DENT. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. THOMPSON).

(Mr. THOMPSON asked and was given permission to revise and extend his remarks.)

Mr. THOMPSON. Mr. Chairman, I rise in support of H.R. 12406. There are admittedly some sections of it with which I am not happy, and I do not suppose that anyone who served on this committee and worked as hard as each of us did, is perfectly satisfied; neither am I.

I would, however, like to say that the chairman of the full committee, the gentleman from Ohio, not only exhibited great patience and skill, but gave each and every Member a fair opportunity to express himself or herself.

I would like also to pay tribute to the Members on the minority side who spent much time and effort on this measure, although we ultimately disagreed on a number of points.

Mr. Chairman, there has been much talk about the so-called SUNPAC decision. The fact is that on November 30, 1971, Mr. Orval Hansen and I and others explained on the floor the reasons for amending title 18, section 610, United States Code. In explaining that amendment, I said the following:

What the gentleman's amendment will do is simple. It, in effect, incorporates the case law—meaning by that the United States against the United Auto Workers, 352 U.S. 567—into existing statutory law and would allow within a very limited area, already existing in the law, the expenditure of certain Treasury moneys, or corporate moneys, for the sole purpose of reaching either union members, or stockholders in the corporations . . .

That is on page 43385 of the CONGRESSIONAL RECORD of November 30, 1971.

Consequently, as has been explained, the Commission, in Advisory Opinion No. 23, in what I considered to be a complete and absolutely erroneous interpretation of congressional intent, handed down the SUNPAC advisory opinion. This has been terribly distorted. The U.S. Chamber of Commerce, in a document which I shall make a part of the RECORD at the appropriate time, refers to the mention of SUNPAC in Buckley against Valeo, and states that the court said that the SUNPAC decision is now the law, or in other words, that that advisory opinion, A.O. 23, is a part of the decision.

No so. It is a footnote; it is simply dicta, and does not have the force of law.

The gentleman from Louisiana mentioned the proliferation of moneys and said that he would like the record straight with regard to moneys. I refer the gentleman to yesterday's RECORD, which shall be expanded upon. As of March 10, 1976, special interest groups had accumulated $16,400,000 for the 1976 political campaigns—$16,400,000 not the much smaller sum which he mentioned.

The New York Times story previously referred to was not the one to which the gentleman from Indiana (Mr. BRADEMAS) and I refer.

We are referring to the New York Times article of Sunday, March 28, entitled, "Business Builds Its Political War Chest." That is in the Sunday New York Times, which I shall also put in the RECORD.

Yesterday 16 million shares of stock were traded on the New York Stock Exchange. Now, the intent of the gentleman from Idaho (Mr. HANSEN) and of myself, in November 1971, clearly to expand the law to give corporations a reasonable opportunity to raise political funds, using corporate moneys for the sole purposes of soliciting their stockholders and managerial employees. By no stretch of the imagination did we intend to allow corporations to solicit

hourly wage, union employees for corporate political action committees. Quite to the contrary.

May I suggest that in the RECORD of tomorrow, where it is appropriate to include such materials, I shall put a complete documentation of the history of the Sun Oil decision and the results which have thus far arisen from it. I think that it is only reasonable that we understand the danger inherent in this advisory opinion, as it was handed down erroneously, in my judgment, by the Federal Election Commission.

Mr. HAYS of Ohio. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois (Mr. ROSTENKOWSKI).

(Mr. ROSTENKOWSKI asked and was given permission to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Chairman, I approach this subject with a qualified endorsement only because of the fact that in the years past I think we have all suffered some embarrassment with respect to reporting.

Mr. Chairman, in considering this legislation today, the House not only has an opportunity to correct the constitutional flaws in the 1974 election reform amendments, but also has the opportunity to correct other flaws in the legislation.

When the House considered the 1974 amendments to the Federal Election Campaign Act of 1971, I was somewhat concerned that we were establishing an administrative mechanism that would not only inundate candidates, committees, and civic organizations with burdensome accounting and recordkeeping requirements, but more importantly were developing a system with a myriad of intricacies that may result in citizens innocently violating the law. Operation of the law during the 1974 election has demonstrated that my original concerns were justified.

The cumbersome recordkeeping and accounting procedures required by the existing legislation accomplish the necessary function of organizing, for the purpose of public disclosure, information on political contributions. My experience during the past year leads me to the conclusion that simplification procedures should be developed to keep this burden to a minimum particularly for candidates and committees with a minimal amount of income and expenses in a given quarter. The provisions in this bill that would ease the quarterly reporting requirements in nonelection years will serve to markedly reduce the volume of paperwork.

I am more concerned, however, about the provisions in the existing law that provide harsh penalties for what may be innocent and often unknowing violations of its more technical requirements. In my opinion we have arrived at a very sorry state when a taxpayer becomes a criminal because he did not know that he must disclose certain information on the political materials he produced himself in his own garage; or that a local civic organization can with all good intentions endorse a candidate for Congress in its literature and in doing so find itself in violation of the law.

For this reason I applaud the provisions in the committee bill to decriminalize certain minor violations of existing law and substitute more appropriate civil penalties. More importantly, I applaud the conciliation process developed by the committee. The 30-day conciliation procedure will provide the necessary buffer to permit the Commission to initially enforce the act by informal methods before instituting court proceedings. This will help those who unknowingly violated the law to achieve voluntary compliance.

Another point that deserves commendation is the provision requiring that complaints of election law violations be signed, notorized and that the individual be notified before the FEC can initiate any investigation.

This provision will protect innocent people from being subjected to anonymous and unfounded charges of election law violations. Requiring that a complaint be filed in this manner, subject to the criminal code, will make the reporting of false accusations less likely. In the past, the FEC has wasted considerable amounts of time any money tracking down alleged violations on the strength of an unidentified complainant's accusations which in many cases have proved fallacious. Running for public office is replete with enough hazards of misrepresentation of views and issues without subjecting candidates to attacks that often prove groundless but only after the damage has been done.

Although I earlier noted my opposition to provisions which result in the creation of additional layers of bureaucratic regulation, I support the provision in the committee bill which would require the promulgation of additional regulations. The provision requiring the conversion of advisory opinions into regulations will help to standardize the advisory opinion process. Under present law inequities exist of which I am personally only too familiar.

Very soon after the enactment of the 1974 amendments I asked for an advisory opinion to clarify aspects of the new provisions relating to the acceptance of honorariums. In particular I wished to insure that it would be proper under certain circumstances to donate honorariums to charity. While somewhat dismayed by the rather narrow legal reasoning involved in the opinion, which essentially equated a donation by the sponsoring organization to a charity as an honorarium accepted by me even though such was not a prerequisite for my speech, I accepted it as the proper interpretation of the law.

What troubled me more than the ruling on my request, however, was the fact that on a subsequent request by another individual, the Commission chose to rule differently upon a virtually identical set of facts. Since individual advisory opinions under existing law are only operative with respect to the precise request received, a situation has developed where it is improper for me to suggest to a group that it make a charitable donation but it is acceptable for someone else to do so. Asking for a clarification bound me to a position that was later changed for everyone else. The new procedure in the committee bill will insure that such situations do not arise in the future and that advisory opinions will be handed down in a more uniform manner.

While these positive modifications incline me to support this legislation, I am deeply troubled by the public financing provisions that are being discussed for congressional campaigns.

It is clear that public financing favors incumbents. In any fundraising contest the incumbent has important advantages that virtually assure him of outsoliciting his challengers. A well-entrenched incumbent with a well-established contribution base will find it easier to qualify for matching funds. After reelection any surplus funds he might raise could then be put in the bank to give him a head-start in the next election. Public funding in this respect is just another advantage for the incumbent.

I am also concerned about the costs of public financing. Estimates range from $20 million to $40 million depending upon with whom you speak. My own computations indicate that the actual costs in the next Presidential election year are likely to be in excess of $40 million. I believe we must examine the implications of public financing more closely.

As the record shows, when the Election Reform Act was first considered by the House, I voted in favor of the public financing of Presidential campaigns. At that time I believed that it was necessary to experiment with that concept. I have watched with great interest the development of the program since the establishment of the Federal Election Commission. I am generally dissatisfied with the program thus far.

We are not yet in a position to objectively evaluate the Presidential campaign financing program. The establishment of public financing of congressional elections at this time is unwarranted and ill-advised. Based on what I have seen I am convinced that the public financing of congressional elections is not a good idea.

While I generally support the reforms which the House Administration Committee has reported, if the amendment to provide for the public financing of congressional elections is adopted, I will not be able to support the final passage of this otherwise essential legislation.

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, in closing the debate, I want to express my appreciation to all the members of the committee for providing a quorum in the long and arduous hours we spent in marking up the bill. I wish to express my appreciation to the minority for its conduct during the markup. We tried to give the members of the minority every opportunity to offer their amendments and to debate them.

I am especially indebted to the gentleman from California (Mr. WIGGINS), who has a flair for legal technicalities and whose precise explanations of what some of the amendments would do was convincing to many members of the committee, including myself. Although we are in opposite political parties, I have

learned to rely on the gentleman's legal advice.

I believe that although there were sharp disagreements between the majority and the minority, in the end we came out with a bill which, although it still contains disagreements, will, under the rule we agreed upon to ask for and which the House overwhelmingly voted for, give the gentleman from California (Mr. WIGGINS) and his associates the opportunity to offer the basic amendments about which there was sharp disagreement.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, if I can only get the chairman of the committee to rely on my political instinct rather than my legal ability, I will trade all that legal advice in exchange for his support.

Mr. Chairman, I intended during my remarks earlier to recognize the contribution of the chairman of our committee. I have told the gentleman from Ohio privately—and I take this occasion to mention it publicly—that at all times he conducted himself as chairman of the full committee with an evenhandedness and with courtesy to all the members, notwithstanding the emotional nature of the subject matter before our committee. The gentleman's conduct as chairman of the committee was in the highest traditions of the House, and I want to commend the gentleman for it.

Mr. HAYS of Ohio. Mr. Chairman, I want to thank the gentleman from California (Mr. WIGGINS). I will say that I appreciate his remarks, and I am only sorry there are not more people in the Press Gallery to take note of them

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WIGGINS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The bill is considered as having been read for amendment. No amendments to the bill shall be in order except the 13 categories of amendments, as specifically provided for under House Resolution 1115, but said amendments shall not be subject to amendment except those specifically provided for under said resolution.

The text of the bill is as follows:

H.R. 12406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a)(1) The second sentence of section 309 (a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 473c(a)(1)), as so redesignated by section 105, hereinafter in this Act referred to as the "Act", is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and 6 members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as so redesignated by section 105, is amended to read as follows: "No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.".

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as so redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

"(i) one shall be appointed for a term of 1 year;

"(ii) one shall be appointed for a term of 2 years;

"(iii) one shall be appointed for a term of 3 years;

"(iv) one shall be appointed for a term of 4 years;

"(v) one shall be appointed for a term of 5 years; and

"(vi) one shall be appointed for a term of 6 years;

as designated by the President at the time of appointment, except that of the members first appointed under this subparagraph, no member affiliated with a political party shall be appointed for a term that expires 1 year after another member affiliated with the same political party.

"(B) A member of the Commission may serve on the Commission after the expiration of his term until his successor has taken office as a member of the Commission.

"(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c)(1) Section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as so redesignated by section 105, is amended by adding at the end thereof the following new sentences: "Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity no later than 1 year after beginning to serve as such a member.".

(2) Section 309(b) of the Act (2 U.S.C. 437c(b)), as so redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(3) The first sentence of section 309(c) of the Act (2 U.S.C. 437(c)), as so redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following ", except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as so redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)) as so redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until members are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as so redesignated by section 105 and as amended by this section, except that until appointed and qualified under this Act, members serving on such Commission on such date of enactment may, beginning on March 1, 1976, exercise only such powers and functions as may be consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75–436, 75–437) (January 30, 1976).

(e) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as so redesignated by section 105, which prohibit any member of the Federal Election Commission from being an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract", and by striking out "expressed or implied,".

(c)(1) Section 301(e)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting immediately before the semicolon the following: ", except that this subparagraph shall not apply (A) in the case of any legal or accounting services rendered to or on behalf of the national committee of a political party, other than any legal or accounting services attributable to activity which directly furthers the election of any designated candidate to Federal office; or (B) in the case of any legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(2) Section 301(e)(5) of the Act (2 U.S.C 431(e)(5)) is amended—

(A) in clause (E) thereof, by striking out "or" at the end thereof;

(B) in clause (F) thereof, by inserting "or" immediately after the semicolon at the end thereof; and

(C) by inserting immediately after clause (F) the following new clause:

"(G) a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any can-

didate in any particular election for Federal office, except that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with section 304(b);".

(d)(1) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(A) by striking out "or" at the end of clause (F) and at the end of clause (G);

(B) by inserting "or" immediately after the semicolon at the end of clause (H); and

(C) by inserting immediately after clause (H) the following new clause:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), except that all such costs shall be reported in accordance with section 304(b).".

(2) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)), as amended by paragraph (1), is further amended—

(A) by redesignating clause (F) through clause (I) as clause (G) through clause (J), respectively; and

(B) by inserting immediately after clause (E) the following new clause:

"(F) the payment, by any person other than a candidate or a political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of any designated candidate to Federal office, or for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954;".

(e) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) in paragraph (m) thereof, by striking out "and" at the end thereof;

(2) in paragraph (n) thereof, by striking out the period at the end thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(o) 'Act' means the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976;

"(p) 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

"(q) 'clearly identified' means (1) the name of the candidate appears; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate is apparent by unambiguous reference.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1)(C) of the Act (2 U.S.C. 434(a)(1)(C)) is amended by inserting immediately before the period at the end thereof the following: "except that, in any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures totaling in excess of $10,000, and such reports shall be complete as of the close of such calendar quarter (except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph)".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of an independent expenditure in excess of $100 by a political committee, other than an authorized committee of a candidate, expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (5) stated in a manner which indicates whether the independent expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or independent expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 during a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or independent expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or consent with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any independent expenditure, including those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than 24 hours, before any election shall be reported within 24 hours of such independent expenditure.

"(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely preelection basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431 et seq.) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

CAMPAIGN DEPOSITORIES

SEC. 106. The second sentence of section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)), as so redesignated by section 105, is amended by striking out "a checking account" and inserting in lieu thereof "one or more checking accounts, at the discretion of any such committee,".

POWERS OF COMMISSION

SEC. 107. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as so redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as so redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory or other appropriate relief) defend (in the case of any civil action brought under section 313(a)(9)) or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as so redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ADVISORY OPINIONS

SEC. 108. (a) Section 312(a) of the Act (2 U.S.C. 437f(a)), as so redesignated by section 105, is amended to read as follows:

"SEC. 312. (a) Upon written request to the Commission by any individual holding Federal office, any candidate for Federal office, any political committee, or the national committee of any political party, the Commission shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954. No advisory opinion shall be issued by the Commission or any of its employees except in accordance with the provisions of this section.".

(b) Section 312(b) of the Act (2 U.S.C. 437(b)), as so redesignated by section 105, is amended to read as follows:

"(b)(1) Notwithstanding any other provision of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (2)(A) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(2)(A) Any advisory opinion rendered by the Commision under subsection (a)

may be relied upon by (i) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and (ii) any person involved in any specific transaction or activity which is similar to the transaction or activity with respect to which such advisory opinion is rendered.

"(B) (i) The Commission shall, no later than 30 days after rendering an advisory opinion with respect to a request received under subsection (a), transmit to the Congress proposed rules or regulations relating to the transaction or activity involved if such transaction or activity is not subject to any existing rule or regulation prescribed by the Commission. In any such case in which the Commission receives more than one request for an advisory opinion involving the same or similar transactions or activities, the Commission may not render more than one advisory opinion relating to the transactions or activities involved.

"(ii) Any rule or regulation prescribed by the Commission under this subparagraph shall be subject to the provisions of section 315(c).".

(c) Section 315(c)(1) of the Act (2 U.S.C. 438(c)(1)), as so redesignated by section 105, is amended by inserting "or under section 312(b)(2)(B)" immediately after "under this section".

(d) The amendments made by this section shall apply to any advisory opinion rendered by the Federal Election Commission after October 15, 1974.

ENFORCEMENT

SEC. 109. Section 313 of the Act (2 U.S.C. 437g), as so redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission. Notwithstanding any other provisions of this Act, the Commission shall not have the authority to inquire into or investigate the utilization or activities of any staff employee of any person holding Federal office without first consulting with such person holding Federal office. An affidavit given by the person holding Federal office that such staff employee is performing his regularly assigned duties shall be a complete bar to any further inquiry or investigation of the matter involved.

"(2) The Commission, if it has resonable cause to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such apparent violation and shall make an investigation of such violation in accordance with the provisions of this section.

"(3)(A) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate.

"(B) Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall, at the request of any person who receives notice of an apparent violation under paragraph (2), afford such person a reasonable opportunity to demonstrate that no action shall be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reasonable cause to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor for a period of not less than 30 days to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved, except that, if the Commission has reasonable cause to believe that—

"(i) any person has failed to file a report required to be filed under section 304(a)(1)(C) for the calendar quarter occurring immediately before the date of a general election;

"(ii) any person has failed to file a report required to be filed no later than 10 days before an election; or

"(iii) on the basis of a complaint filed less than 45 days but more than 10 days before an election, any person has committed a knowing and willful violation of this Act of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall make every effort, for a period of not less than one-half the number of days between the date upon which the Commission determines there is reasonable cause to believe such a violation has occurred and the date of the election involved, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission, including the bringing of a civil proceeding under subparagraph (B).

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under subparagraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater or $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation subject to and as defined in section 328 has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitation set forth in subparagraph (A).

"(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(C) The Commission shall make available to the public (i) the results of any conciliation attempt, including any conciliation agreement entered into by the Commission; and (ii) any determination by the Commission that no violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred.

"(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 200 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(8) In any action brought under paragraph (5) or paragraph (7), subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(9)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section withn 90 days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any petition under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than 60 days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than 60 days after the 90-day period specified in subparagraph (A).

"(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with such declaration within 30 days, failing which the complainant may bring in his own name a civil action to remedy the violation involved in the original complaint.

"(10) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any

such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5) it may petition the court for an order to adjudicate such person in civil contempt, except that if it believes the violation to be knowing and willful it may petition the court for an order to adjudicate such person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 30-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.

"(c) Any member of the Commission, any employee of the Commission, or any other person who violates the provisions of subsection (a)(3)(B) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subsection (a)(3)(B) shall be fined not more than $5,000.".

DUTIES OF COMMISSION

SEC. 110. (a)(1) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as so redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320(a)(2), and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(2) Section 315(a)(8) of the Act (2 U.S.C. 438(a)(8)), as so redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to give priority to auditing and field investigating the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(b) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)), as so redesignated by section 105, is amended—

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the second sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(c) Section 315 of the Act (2 U.S.C. 438), as so redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) In any proceeding, including any civil or criminal enforcement proceeding against any person charged with violating any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, no rule, regulation, guideline, advisory opinion, opinion of counsel or any other pronouncement by the Commission or by any member, officer, or employee thereof (other than any rule or regulation of the Commission which takes effect under subsection (c)) shall be used against any person, either as having the force of law, as creating any presumption of violation or of criminal intent, or as admissible in evidence against such person, or in any other manner whatsoever.".

ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 111. Section 407(a) of the Act (2 U.S.C. 456(a)) is amended by inserting immediately after "such title III," the following: "the Commission shall (1) make every endeavor for a period of not less than 30 days to correct such failure by informal methods of conference, conciliation, and persuasion; or (2) in the case of any such failure which occurs less than 45 days before the date of the election involved, make every endeavor for a period of not less than one-half the number of days between the date of such failure and the date of the election involved to correct such failure by informal methods of conference, conciliation, and persuasion, except that no action may be taken by the Commission with respect to any complaint filed with the Commission during the 5-day period immediately before an election until after the date of such election. If the Commission fails to correct such failure through such informal methods, then".

CONTRIBUTION AND EXPENDITURE LIMITATIONS; PENALTIES

SEC. 112. (a) Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105, is further amended by striking out section 316, as so redesignated by section 105, by striking out section 320, as so redesignated by section 105, and by inserting immediately after section 319 the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a)(1) Except as otherwise provided by paragraphs (2) and (3), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000 or to any political committee in any calendar year which exceed, in the aggregate, $1,000.

"(2) No political committee (other than a principal campaign committee) shall make contributions to (A) any candidate with respect to any election for Federal office which, in the aggregate, exceed $5,000; or (B) to any political committee in any calendar year which, in the aggregate, exceed $5,000. Contributions by the national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by this preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term 'political committee' means an organization registered as a political committee under section 303 for a period of not less than 6 months which has received contributions from more than 50 persons and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office. For purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fundraising efforts; and (B) for purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations prescribed by paragraph (1) and this paragraph.

"(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made is considered to be made during the calendar year in which such election is held.

"(4) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(5) The limitations imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b)(1) No candidate for the office of

President of the United States who has established his eligibility under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive from the Secretary of the Treasury or his delegate may make expenditures in excess of—

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed twice the greater of 8 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $100,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a candidate for the office of Vice President, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c)(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

"(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, 18 years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for nomination for election to the office of President for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress are to be voted for, or in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank, or any officer of any labor organization, to consent to any contribution or expenditure by such corporation, national bank, or labor organization, as the case may be, which is prohibited by this section.

"(b)(1) For purposes of this section the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or contributions of work.

"(2) For purposes of this section, the term 'contribution or expenditure' shall include any direct or indirect payment, distribution loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the officers referred to in this section, but shall not include (A) communications by a corporation to its stockholders and executive officers and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive officers and their families; or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization, except that (i) it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal, or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condititition of employment, or by moneys obtained in any commercial transaction; (ii) it shall be unlawful for a corporation or a separate segregated fund established by a corporation to solicit contributions from any person other than its stockholders, executive officers, and their families, for an incorporated trade association or a separate segregated fund established by an incorporated trade association to solicit contributions from any person other than the stockholders and executive officers of the member corporations of such trade association and the families of such stockholders and executive officers (to the extent that any such solicitation of such stockholders and executive officers, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation has not approved any such solicitation by more than one such trade association in any calendar year, or for a labor organization or a separate segregated fund established by a labor organization to solicit contributions from any person other than its members and their families; (iii) notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations; and (iv) any corporation which utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, such method to a labor organization representing any members working for such corporation.

"(3) For purposes of this section the term 'executive officer' means an individual employed by a corporation who is paid on a salary rather than hourly basis and who has policymaking or supervisory responsibilities.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"SEC. 322. (a) It shall be unlawful for any person who enters—

"(1) into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the

completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solocitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing any communication expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or other similar type of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicously, in accordance with regulations prescribed by the Commission, state that such communication has been so authorized; or

"(2) if not authorized in accordance with paragraph (1), shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that such communication is not authorized by any candidate, and state the name of the person that made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization as stated in section 303(b)(2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office, or for any person to solicit, accept, or receive any such contribution from any such foreign national.

"(b) As used in this section, the term 'foreign national' means—
defined by section 1(b) of the Foreign

"(1) a foreign principal, as such term is Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTIONS OF CURRENCY

"SEC. 326. (a) No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceeds $250, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"(b) Any person who knowingly and willfully violates the provisions of this section shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution involved.

"ACCEPTANCE OF EXCESSIVE HONORARIUMS

"SEC. 327. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

"(1) any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

"(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $15,000 in any calendar year.

"PENALTY FOR VIOLATIONS

"SEC. 328. Any person who knowingly and willfully commits a violation of any provision or provisions of this Act, other than the provisions of section 326, which involve the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate, of $5,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year or both.".

(b) Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105 and subsection (a), is further amended by inserting immediately after section 315 the following new section:

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 316. No person, being a candidate for Federal office or an employee or agent of such a candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).".

SAVINGS PROVISION RELATING TO REPEALED SECTIONS

SEC. 113. Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105 and section 112, is further amended by adding at the end thereof the following new section:

"SAVING PROVISION RELATING TO REPEALED SECTIONS

"SEC. 329. Except as otherwise provided by this Act, the repeal by the Federal Election Campaign Act Amendments of 1976 of any provision or penalty or penalties shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under such provision or penalty, and such provision or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.".

PRINCIPAL CAMPAIGN COMMUNITIES

SEC. 114. Section 302(f) of the Act (2 U.S.C. 432(f)) is amended by adding at the end thereof the following new sentence: "Any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of the preceding sentence.".

TERMINATION OF AUTHORITY OF COMMISSION

SEC. 115. Title IV of the Act (2 U.S.C. 451 et seq.) is amended by adding at the end thereof the following new section:

"TERMINATION OF AUTHORITY OF COMMISSION

"SEC. 409. (a) Notwithstanding any other provision of this Act or any other provision of law, the authority of the Commission to carry out the provisions of this Act, and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, shall terminate at the close of March 31, 1977, if either House of the Congress by appropriate action determines that such termination shall take effect pursuant to subsection (b).

"(b) The appropriate committee of each House of the Congress shall, commencing January 3, 1977, conduct a review of the elections of candidates for Federal office conducted in 1976, the operation of chapter 95 and chapter 96 of the Internal Revenue Code of 1954 with respect to such elections, and the activities conducted by the Commission, and report to their respective Houses not later than March 1, 1977. Such report shall include a recommendation of whether the authority of the Commission shall be terminated on March 31, 1977, as set forth in subsection (a).

"(c) Nothing in this section shall affect any proceeding in any court of the United States on the date of the enactment of this section. The Attorney General of the United States shall have the authority to act on behalf of the United States in any such proceeding.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 116. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b)(1) Section 310(a)(7) of the Act (2 U.S.C. 437(a)(7)), as so redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

CHANGES IN DEFINITIONS

SEC. 202. (a) Section 591 of title 18, United States Code, is amended by striking out "602, 608, 610, 611, 614, 615, and 617" and insert in lieu thereof "and 602".

(b) Section 591(e)(4) of title 18, United States Code, is amended by inserting immediately before the semicolon the following: ", except that this subparagraph shall not apply (A) in the case of any legal or accounting services rendered to or on behalf of the national committee of a political party, other than any legal or accounting services attributable to any activity which directly further the election of any designated candidate to Federal office; or (B) in the case of any legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this chapter, the Federal Election Campaign Act of 1971, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(c) Section 591(f)(4) of title 18, United States Code, is amended—

(1) by redesignating clause (F) through clause (I) as clause (G) through clause (J), respectively; and

(2) by inserting immediately after clause (E) the following new clause:

"(F) the payment, by any person other than a candidate or a political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of any designated candidate to Federal office, or for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this chapter, the Federal Election Campaign Act of 1971, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954;".

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

SEC. 301. Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000. For purposes of this subsection, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.".

PAYMENTS TO ELIGIBLE CANDIDATES; INSUFFICIENT AMOUNTS IN FUND

SEC. 302. (a) Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

(b) Section 9006(c) of the Internal Revenue Code of 1954 (relating to insufficient amounts in fund), as so redesignated by subsection (a), is amended by adding at the end thereof the following new sentence: "In any case in which the Secretary or his delegate determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.".

PROVISION OF LEGAL OR ACCOUNTING SERVICES

SEC. 303. Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISION OF LEGAL OR ACCOUNTING SERVICES.—For purposes of this section, the payment, by any person other than the national committee of a political party, of compensation to any person for any legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such national committee with respect to the presidential nominating convention of the political party involved.".

REVIEW OF REGULATIONS

SEC. 304. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(b) Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

ELIGIBILITY FOR PAYMENTS

SEC. 305. Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSES LIMITATION

SEC. 306. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "LIMITATION" and inserting in lieu thereof "LIMITATIONS";

(2) by inserting "(a) EXPENDITURE LIMITATIONS.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations.".

RETURN OF FEDERAL MATCHING PAYMENTS

SEC. 307. (a)(1) Section 9002(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who has ceased actively to seek election of the office of President of the United States or to the office of Vice President of the United States, in more than one State.".

(2) Section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(d) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9002(2), such individual—

"(1) shall no longer be eligible to receive any payments under section 9006; and

"(2) shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses.".

(b)(1) Section 9032(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.".

(2) Section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(c) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2), such individual—

"(1) shall no longer be eligible to receive any payments under section 9037; and

"(2) notwithstanding the provisions of section 9038(b)(3), shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9037 which are not used to defray qualified campaign expenses.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 308. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" an inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(c) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

Mr. HAYS of Ohio. Mr. Chairman, in view of the fact that with the Speaker's approval I made a commitment to a great number of Members, including one total State delegation which has its State dinner scheduled tonight, it was agreed that we would not get into subsequent voting on amendments today.

We have finished general debate, and we will be ready to go into the amendment stage tomorrow as soon as the 1-

minute speeches are out of the way. Under the rule, the bill will be ready for amendment at that time, and I will first offer a group of technical amendments upon which I believe there is no controversy.

Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Ohio (Mr. HAYS).

The motion was agreed to.

Accordingly the Committee rose, and the Speaker having resumed the Chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12406) to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes, had come to no resolution thereon.

HOWARD GREENBERG LEAVES SMALL BUSINESS COMMITTEE, SEEKS RETIREMENT AFTER 40 YEARS OF GOVERNMENT SERVICE

(Mr. EVINS of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVINS of Tennessee. Mr. Speaker, it is with a sense of deep regret that I announce that Mr. Howard Greenberg, contract consultant with the House Small Business Committee, is leaving the committee and Government service at the end of this month after 40 years of outstanding and dedicated public service.

Mr. Greenberg has had a long and distinguished career in Government, having served in the executive branch and the legislative branch—for the past 7 years he served as executive director and consultant to the Small Business Committee.

Mr. Greenberg is generally recognized as one of the most informed and knowledgeable men in the Nation on matters affecting small business. Indeed, he was the first chief financial officer when the Small Business Administration was established in 1953, and Deputy Administrator of the Agency from 1966 to 1969.

Howard Greenberg is effective, efficient, and an able Administrator. He gets the job done—he knows how to make Government work. He is an outstanding example of a Federal career manager who made Government perform more efficiently and effectively wherever he served.

I hold Mr. Greenberg in the highest personal regard and esteem. From the lowest civil service grade in the executive branch he worked his way to a top supergrade position and consultant.

He has received many awards, including an award for distinguished service in the civil service and citations for outstanding service from small business associations and the Congress.

Howard Greenberg has dedicated a great part of his life to serving the Nation's small businessmen—and he has served them well, at SBA and with the House Small Business Committee. He has made substantial contributions to the improvement of the small business segment of our society and to the solution of many problems affecting independent business and the free enterprise system.

Certainly he leaves the committee and Government with my best wishes and my congratulations and commendation for a job well done—and I am sure the members of the Small Business Committee share my best wishes for Howard in his retirement. Good luck, Howard, we wish you the best in any future endeavors.

DUNCAN'S RESOLUTION OF DISAPPROVAL OF PROPOSED DEFERRAL OF BUDGET AUTHORITY FOR FOREST SERVICE

(Mr. DUNCAN of Oregon asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DUNCAN of Oregon. Mr. Speaker, today I introduced a resolution in disapproval of the proposed deferral of budget authority in the amount of $278,657,000 for the Forest Service under the Impoundment Control Act. This money is authorized under the Federal Aid to Highways Act and is used for the construction of roads and trails in our national forests.

Along with my colleagues from the Pacific Northwest and northern California who cosponsored this resolution, I believe that efforts must be made to build and maintain access into our national forests. Construction of these roads is vital: First, to reach thousands of acres of insect infested areas to control the loss and salvage the bug-killed trees; second, to make available much needed recreation areas; third, to control forest fires, and fourth, to reach our timber supplies and in turn lower costs to the homebuilding industry throughout the country.

Although this deferral is in terms of the entire authorization of $278-million-plus, in effect it is a disapproval of only $20 million out of that amount. This is because the year is so far gone that the Forest Service, speaking by and through its Chief, has testified that they can usefully use only $10 million of this authority in the balance of fiscal 1976 and $10 million in the transition quarter. Although the total of $278 million would be available for commitment, in fact only $20 million can and would be committed.

I commend to the attention of my colleagues the report of the Chief submitted pursuant to the provisions of the Humphrey-Rarick bill, indicating the returns to the country at various levels of management and including the administration's backing of one such alternative. It requires increasing amounts of capital investment, much of which must go into roads. At comparatively small costs, this resolution of disapproval will enable the Nation to take the first small steps to fulfilling the commitment we made to the renewing of our ranges and forests.

I include the following tables:

FOREST ROADS AND TRAILS—FISCAL YEAR 1976

[Program level—$10,000,000]

State/National Forest	Project	Units	Type of work	Amount (thousands)
Alabama:				
Bankhead	Road 305	6	R	$248
Bankhead	Road 637	5	R	132
Alaska:				
South Tongass	Bridges 5000	3	R	530
South Tongass	Bridges 5500	2	R	130
South Tongass	Bridges 5600	1	C	300
Arizona: Apache	Wallace Rd. 34	11	R	750
Arkansas:				
Ouchita	Road 114	3	C	53
Ouchita	Road 33	1	C	48
Ozark	Bridges 1900	2	R	257
California:				
Klamath	Road 45N05	12	R	1,240
Plumas	Road 24N76	3	R	200
Plumas	Road 29N43	11	R	1,500
Sequoia	Campground roads	2	S	15
Sierra	Road 4S81	25	R	1,050
Six Rivers	Bridge 10N020240	1	C	500
Stanislaus	Bridge 1N040210	1	C	420
Colorado:				
Roosevelt	Bridge 169	1	C	20
Roosevelt	Road 156	13	S	300
San Isabel	Bridge 406-04	1	R	60
Routt	Bridge 11792	1	R	10
Georgia: Chattahoochee-Oconee	Road 665	3	S	41
Idaho:				
Boise	Bridge 10524C-0.1	1	C	85
Boise	Bridge 10447-0.1	1	C	85
Clearwater	Musselshell Bridge	1	C	60
Teton	Bridge 70227-49	2	C	149
Targhee	Bridge 80082-41	1	C	65
Louisiana: Kisatchie	Bridge 535	3	C	151
Michigan: Superior	Road 343	2	R	102
Minnesota:				
Ottawa	Road 172	13	R	500
Superior	Bridge 375	1	R	62
Mississippi:				
Bienville	Roads 965 and 968	3	S	18
Bienville	Road 971	4	R	45
Montana:				
Beaverhead	Bridge—Little Lake-Miner	5	C/R	250
Beaverhead	Wise River Rd	5	R	400
Flathead	Firefighter Rd	7	C	125
Flathead	Bridge, Logan Creek	2	R	400
Galatin	Evergreen Rd	15	C	650
Lolo	Cedar Creek Bridge 7803-0.0.	1	R	55

HOUSE FLOOR DEBATES ON H.R. 12406 MARCH 31, 1976

that the warrior really means to hang up his sword and go down home to his beautiful country place near New Orleans. He, like no man before him, has fought for a stronger America and he has, many times over earned a gracious retirement.

EDDIE HÉBERT's imprint on our defense posture will stand for all time. His most notable accomplishment, the new Uniformed Services University of the Health Sciences will turn out thousands of physicians for our services in the decades ahead, and the myriad of other policies laid down by Chairman HÉBERT will continue as long as Americans demand the best possible defense for our country.

I will miss him as a strong and forthright colleague. Shirley and I will always hold EDDIE and his much-loved wife, Gladys, close to our hearts and happy in our memories.

Mr. MORGAN. Mr. Speaker, I join his many friends and colleagues in paying tribute today to the Honorable F. EDWARD HÉBERT, one of Louisiana's most distinguished sons.

Most of us are happy to have had one successful career. EDDIE HÉBERT has had at least two. First, he was a distinguished Louisiana journalist and editor with a reputation as for honesty and accuracy that spread far beyond his native State.

Second, in the role we know him, he has served with distinction the people of his district and this Nation in the House of Representatives for the past 35 years.

As a Congressman, he has attracted notice almost from the outset of his career as a national legislator, both for his ability in the lawmaking process and for his capacity for inquiry into the working of the National Government.

He has stood for many years as a bulwark for strong national defense. In three national conflicts he has helped to provide our Armed Forces with the equipment, the support, and manpower needed to insure success.

We shall miss EDDIE HÉBERT, but we know he has richly deserved the fruits of retirement. Our best wishes go to him, his wife, and family on this occasion.

Mr. HÉBERT. Mr. Speaker, I thank the Members of the House who have been so kind to me this morning, and in particular the members of my own Louisiana delegation. I deeply appreciate all of the kind remarks and I hope I shall always command the respect of the Members.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the retirement of the distinguished gentleman from Louisiana (Mr. HÉBERT).

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT DURING 5-MINUTE RULE TODAY

Mr. VAN DEERLIN. Mr. Speaker, I ask unanimous consent that the subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce may be permitted to sit during the 5-minute rule today.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO SIT DURING THE 5-MINUTE RULE TODAY

Mr. FLYNT. Mr. Speaker, I ask unanimouse consent that the Committee on Standards of Official Conduct may be permitted to sit this afternoon during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE TODAY

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that the subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary may sit during the 5-minute rule this afternoon.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

WHY SILENCE ABOUT LEBANON?

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, I rise today because there has been too much silence on the tragedy that is unfolding on the eastern shore of the Mediterranean and that is the destruction of the ancient Chistian community of Lebanon.

Day after day as we hear the sad news reports and read sickening accounts in the papers and see the bloody photographs of destruction and death. We see the tragedy of a Christian community that has been there for years living in peace, harmony, and prospering, now being reduced to ashes by terrorism and by brute force.

When any group of people, no matter how small in number, is being attacked persecuted and oppressed, no other group is safe for long, no matter how large their number. We are, indeed, our brothers' keepers. Loss of the right to survive as a free person anywhere is a loss for each of us anywhere. We cannot be silent. For evil to prevail, Burke said, it requires only that good men do nothing, or remain silent.

I think the people of the world, particularly the people of the Western World have been silent far too long on this point. I think the time has come for us to speak out, to be heard and to give voice to the great anguish we feel for what is unfolding there.

Why has this Nation done nothing to save the lives and religious security of the hapless Christian community in Lebanon? Why have our leaders been quiet?

The destruction of Lebanon and the jeopardy of its Christian community by terrorists armed by radical Arab States is a blight on the conscience of the world. I cannot be silent about this. Can you?

(Mr. TREEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

[Mr. TREEN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

CONGRESSMAN PEPPER HAS SUCCESSFUL HEART SURGERY

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, as you know, our distinguished colleague, CLAUDE PEPPER, has successfully undergone an operation for repair of a valve of his heart.

His physician, Dr. Thomas O. Gentsch, of the Miami Heart Institute, has pronounced the operation "a complete success," and I am pleased to report that CLAUDE is upon his feet and expects to be out of the Miami Heart Institute by the end of the week.

The operation, last Wednesday, corrected a deficiency in the valve between the left ventricle and the aorta, the main artery that carries blood from the heart to the rest of the body. A slight malformation in the valve apparently had existed from birth and was first detected in 1952 as a mild heart murmur. Due to the malformation, the flow of the blood gradually built up a deposit on the valve opening which restricted its size.

The operation enlarged the opening and replaced the deficient valve with an artificial heart valve. The operation was a relatively simple "repair job" which is routinely performed by heart surgeons throughout the world.

Dr. Gentsch said CLAUDE's heart muscle and arterial system are in good condition and the operation has eliminated the strain which has gradually been building up on the heart muscle over the last few years.

I am sure you all know how active

CLAUDE has always been. He wanted to get this restriction eliminated so he would not have to curtail his active schedule or risk a heart attack at some time in the future. He chose to undergo the operation and we all are very pleased that it has been so successful.

After he leaves the hospital he will gradually rebuild his strength, as is necessary in these cases. He expects to be back on a full schedule by the end of April and will be back with us here on the floor in his usually good form and good health.

CALL OF THE HOUSE

Mr. BROOMFIELD. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 146]

Alexander	Giaimo	Nix
Ambro	Guyer	Pepper
Andrews, N.C.	Harsha	Rangel
Archer	Hayes, Ind.	Rees
Ashley	Heckler, Mass.	Riegle
Barrett	Henderson	Rodino
Biester	Hinshaw	Sarbanes
Boggs	Holland	Scheuer
Breckinridge	Jarman	Stratton
Chisholm	Jenrette	Symington
Clausen, Don H.	Johnson, Pa.	Thompson
	Jones, Ala.	Traxler
Clay	LaFalce	Udall
Conyers	Landine	Ullman
Diggs	McKinney	White
Dingell	Macdonald	Wydler
Dodd	Moffett	
Drinan	Moorhead, Pa.	

The SPEAKER. On this rollcall 381 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

Mr. HAYS of Ohio. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12406) to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12406, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Tuesday, March 30, 1976, all time for general debate on the bill had expired. The bill is considered as having been read for amendment.

The Chair recognizes the gentleman from Ohio (Mr. HAYS).

AMENDMENTS OFFERED BY MR. HAYS OF OHIO

Mr. HAYS of Ohio. Mr. Chairman, as I advised on yesterday, I offer a group of technical amendments to this bill, on which I believe there is no controversy.

The Clerk read as follows:

Amendments offered by Mr. HAYS of Ohio: Page 9, line 22, insert "and instering in lieu thereof a semicolon" immediately after "end thereof".

Page 12, line 15, strike out the period immediately after "candidate" and insert in lieu thereof "; and".

Page 14, line 21, insert a semicolon immediately after "Code".

Page 14, line 23, insert "; and " immediately after "1954".

Page 31, line 10, strike out "prescribed" and insert in lieu thereof "provided".

Page 32, line 3, strike out "campaign" and insert in lieu thereof "authorized political".

Page 32, line 20, strike out "President of the " the first place it appears therein.

Page 33, line 21, insert a comma immediately before "in the case of".

Page 38, line 6, strike out the comma immediately after "convention".

Page 38, line 21, strike out "contributions" and insert in lieu thereof "conditions".

Page 39, line 5, strike out "officers" and insert in lieu thereof "offices".

Page 39, line 11, strike out the semicolon and insert in lieu thereof a comma.

Page 40, line 12, strike out "calendar year," and insert in lieu thereof "calendar year),".

Page 41, line 22, strike out "makes" and insert in lieu thereof "to make".

Page 41, line 23, strike out "promises" and insert in lieu thereof "to promise".

Page 44, line 21, strike out "exceeds" and insert in lieu thereof "exceed".

Page 47, line 6, strike out "302(f)" and insert in lieu thereof "302(e)(1)".

Page 47, line 7, strike out "(f)) is amended" and insert in lieu thereof "(e)(1)), as so redesignated by section 103, is amended".

Page 48, line 6, strike out "on" and insert in lieu thereof "at the close of".

Page 49, line 15, insert a comma immediately after "United States Code".

Page 58, line 2, insert a comma immediately after "1971".

Page 58, line 8, strike out the comma immediately after "Code".

Page 58, line 13, strike out "305(a)" and insert in lieu thereof "306(a)".

Page 58, line 14, strike out the comma immediately after "Code".

Mr. HAYS of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS of Ohio. Mr. Chairman, I ask unanimous consent that these amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS of Ohio. Mr. Chairman, these amendments are strictly technical amendments. As I am sure the House is aware, once the bill was approved it was a matter of urgency in getting it rewritten and before the House so that we could move on it. I would say that these technical amendments are concurred in, or were written jointly by the minority counsel and committee council.

I believe there is no objection on the minority side to these technical amendments, such as including a comma where one should be, including a semicolon where one was not or putting in an "and" where we did not have one, and so on and so forth.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Chairman, the gentleman is correct. The technical amendments have been cleared by the minority. We agree to the technical amendments and urge their adoption.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. HAYS).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 15, beginning line 19, strike section 108 in its entirety.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, the section to be stricken by this amendment is the section on advisory opinions, beginning on page 15 and going through pages 16 and 17.

This section of the bill is central to the weakening of the independence of the Federal Elections Commission. The section does a number of things to the independence of the Commission by mandating that all advisory opinions must be approved by Congress.

Mr. Chairman, advisory opinions heretofore have been the only source of guidance for candidates, committees, parties and political participants. Congress has not yet approved any single regulation submitted to it by the Federal Elections Commission and, therefore, this particular section of the bill, which forces advisory opinions to later be put into the form of regulations which are subject to veto, means that we will have no guidance until we can get those advisories into the regulation form.

So far, the Federal Elections Commission has rendered about 140 advisory opinions. Some of them are very simple, and very specific. Others, however, are of a broad nature and involve as many as 2 dozen complex questions.

This section of the bill requires that the FEC put all opinions into regulation form and submit them to Congress.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. I thank the gentleman for yielding.

Mr. Chairman, is the gentleman aware of the Long amendment which will be

made in order if this amendment is defeated?

Mr. FRENZEL. I am aware of that.

Mr. HAYS of Ohio. If the gentleman will yield further, would this cure any of the gentleman's troubles? I am disposed, if this amendment is defeated, to accept the Long amendment, because I realize that there are advisory opinions which could cover a specific matter which might not be of general applicability.

As the gentleman knows, the Long amendment would, on page 17, where it says, "The Commission shall, no later than 30 days after rendering an advisory opinion," insert the words, "of general applicability."

I wonder if that would make any difference to the gentleman?

Mr. FRENZEL. Mr. Chairman, I do intend to support the Long amendment if this one fails. But it does not cure all of the problems that I see with this section.

I thank the chairman, the gentleman from Ohio (Mr. HAYS) for his interest.

Mr. Chairman, there has not been any controversy about any advisory opinion of which I am aware, with the exception of an advisory opinion No. 23, the SUNPAC decision.

In this bill, in another section, the SUNPAC decision is laid to rest anyway. So it seems to me that this particular section is a sort of overkill. It is an attempt to kill SUNPAC the second time and, in so doing, limit the ability of the Commission to render necessary guidance to participants in the political process. I think it is simply another way in which the Commission becomes subservient to Congress. It cannot take any significant action until it clears it with Congress.

The worst of it is that the congressional track record is so bad. We have disapproved two regulations, but we have not approved any of the other regulations that are before us, so everybody in the game of politics is traveling exclusively now on advisory opinions.

Mr. Chairman, this bill also provides that the advisory opinions must be made in the form of regulations and presented to Congress in 30 days. I think those of us who are familiar with the administrative procedures understand that that is impossible. The Commission must develop its advisory opinion. Having done so, it must then publish it in the Federal Register. At that point it has to schedule it for public hearings, hold the public hearings, and then rewrite the regulation. Then if it is satisfied, the Commission confirms it and sends it to Congress.

In my judgment, it is not reasonably possible for the Commission to do a good job of regulation-writing within the period required by this particular bill.

So, Mr. Chairman, it seems to me that if we really believe in an independent elections commission with the ability to make some determinations which, no matter whether they are general or specific, are probably going to have to stand for 60 to 90 days at least, we ought to eliminate this section and vote for this amendment.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Mr. Chairman, the problem here is that the Commission must make some regulations while we get waiting for Congress to approve them, and people have to be able to bank on them.

The advisory opinion section of the 1974 law was one that turned out to be particularly fortuitous. I did not vote for it, but it has been very helpful because we have had so much trouble putting these regulations in good form and getting approval by the Congress.

I would like to state further that the Senate has eliminated this provision from its bill. The Senate understood the controversy and understood the challenge to the Commission's independence. We must remember there are practically no independent commissions and practically no agencies of Government that must bring their regulations back to Congress for a veto.

I believe we would do ourselves and the general public a favor if we would vote for the amendment and strike this section on advisory opinions.

Mr. HAYS of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think there is one misconception that the gentleman from Minnesota (Mr. FRENZEL) left, although I am sure he did not mean to, and that is that, as he said, the Congress has a terribly bad track record on approving the regulations of this Commission and that they have already disapproved two and none is in existence.

Now, this is not the way it is. We disapproved two, and that was the judgment of the Congress. Anybody who wants to can criticize our judgment, but the fact remains that all the other regulations that have laid over the necessary 30 days and on which Congress took no action automatically became approved. In other words, what Congress has to do in order to disapprove a regulation is to take action itself. If it fails to do that within 30 legislative days, the regulation becomes effective.

Mr. Chairman, I do not think that any Member, when he understands this, really wants to give a commission the power to rewrite the law, either with an understanding of the legislative intent or without it. And I am unable to determine whether they understood the legislative intent or whether they just did not care. However, I do not think that we ought to subject ourselves, with the tradition of the division of powers, totally to a commission appointed by the Executive, who has unlimited ability to rewrite the laws by the form of regulation.

I am perfectly aware that this bill is not perfect, and I think we perhaps went a little too far on page 17 when we said that every advisory opinion should be rendered under the form of a regulation and sent up here.

The gentleman from Louisiana (Mr. LONG) has an amendment which has been made in order and which he will offer if this amendment is defeated, as I think it should be, and which, on page 17, line 4, will put in the words "of general applicability" after the words "advisory opinion." Therefore, if they issue an advisory opinion, it could only have effect in one district or in one area. They do not have to send it up.

Then he would strike the language on lines 9 through 14, which says:

> In any such case in which the Commission receives more than one request * * * the Commission may not render more than one advisory opinion.

Mr. Chairman, that troubles me a little bit, but maybe it is better to accept the amendment of the gentleman from Louisiana (Mr. LONG) than not to. I am convinced that it is. I am convinced that we should have this section 108 in there because I think somebody ought to have the right, if it becomes a flagrant thing, of vetoing these regulations.

Mr. Chairman, neither the House nor the Senate will undertake lightly to veto a regulation. It has to be a regulation that is so onerous that one could easily convince a majority of one body or the other to do away with it.

In this Committee on House Administration, we only brought one regulation here before the Members to ask them to veto it, and the vote was pretty overwhelming to veto it.

Mr. Chairman, I think the Members of Congress who face the electorate every 2 years for judgment on their actions are far more competent to say whether a regulation is sensible or not, not a Commission which is appointed and which never goes to the electorate for any approval of any action it takes.

Mr. Chairman, I could stand here all afternoon and talk about commissions. I think the concept of handling the power of the President and the power of the Congress to a commission is what has gotten us into a lot of the trouble we are in. I think the fact that these commissions issue regulations which then have the force and effect of law is one of the reasons that the people of this country are fed up with Washington, because they are encompassed in such a torrent of redtape that in order to conduct the day-to-day business of a one-man operation, the man has to have an attorney and an accountant to advise him what to do.

Mr. Chairman, I am not talking about just the Federal Election Commission. I am talking about the entire plethora of commissions.

Somebody mentioned the Public Utilities Commission here yesterday.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. HAYS) has expired.

(By unanimous consent, Mr. HAYS of Ohio was allowed to proceed for 2 additional minutes.)

Mr. HAYS of Ohio. Mr. Chairman, I am trying to keep this debate short. I do not intend to ask for a lot of extra time.

As I was saying, somebody mentioned the Public Utilities Commission. We have a public utilities commission in the State of Ohio. They call it the PUCO, the Public Utilities Commission of Ohio.

I have said repeatedly that if I am ever Governor of Ohio, the first act I am going to ask the legislature to pass is one changing the name to the "Utilities Commission of Ohio" and taking the word "Public" out of it, because the utilities have owned it ever since it was created. The public interest is never considered, and that has been true under Democratic Governors and Republican Governors. Those are the only two kinds we have had. I think we had a Whig Governor at one time, but I do not think they had the PUCO at that time.

Mr. Chairman, I say to the Members that this Government, both State and National, is just commission ridden.

Mr. Chairman, all we are asking to do in section 108 is to have them submit their regulations of general applicability, if the Long amendment prevails, so that the Congress can have a final review on it.

Mr. Chairman, I ask that the Frenzel amendment be defeated.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. WIGGINS asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. Mr. Chairman, we all understand that a bill regulating the conduct of elections is a very partisan-prone activity. Yet, there ought to be agreement in this Chamber that the bill which we write should reflect the public interest rather than one which reflects a jockeying for partisan advantage.

Mr. Chairman, if the Members agree with that statement, I will want to speak for a moment about where the public interest lies with respect to the amendment offered by the gentleman from Minnesota (Mr. FRENZEL). The public interest, I think, demands that there be a statute which regulates the conduct of Federal elections. The public interest, I believe, requires that we create a body which is given the duty of supervising the day-to-day requirements of the law.

The public interest will be served if that body is independent and not dominated by any partisan interest. The public interest is served if the independent election commission is given authority to devise rules necessary to implement the act. Clearly, Members of the House, the rules which are promulgated should be fair, they should be objective and they should not reflect any partisan bias.

I hope at this point there has been no disagreement in this Chamber with what I have said. Assuming the Members agree, however, this is what this bill does to the agreed public interest: The independent commission cannot make a rule which has any force and effect at all unless this Congress ratifies it. Well, who amongst us will stand up and say that this Congress is a nonpartisan, nonobjective body? It is not, it is a very partisan institution. So when my friend speaks of the independence of the commission, understand that the procedure in the bill giving this Congress the right to veto rules and regulations or any part thereof is utterly destructive of the independence of the commission. When we vote on the Frenzel amendment, we will have an opportunity to stand up and be counted, yes or no, as to whether we support an independent commission.

It has been said that it is improper for any regulatory commission around this town to rewrite the law and I agree; but we all know or should know that no rule written by any regulatory commission is of any force or effect if it contravenes the law. All rules by the Federal Election Commission must be consistent with the statute which we pass or they are a nullity.

Let me pass for a moment from the public interest and speak to our narrower interests as candidates for reelection to the Congress. Unless this section is stricken, all advisory opinions heretofore rendered will be a nullity. Have any of the Members relied upon an opinion of the FEC? If they have, then I assure them that they can no longer rely upon the opinions rendered if this bill is passed because they are all nullified.

Can we as candidates for public office get any guidance whatsoever from the Commission unless we strike this section?

Let me tell the Members the way we would expect it to work. If we in our campaigns between now and November have a question about the propriety of certain acts which we may contemplate undertaking, the most logical thing in the world for us to do is to get on the phone and call the FEC and ask them for guidance. The purpose of this of course is to avoid violation of the law. Heretofore the FEC has responded to such requests or invitations by opinions of counsel. They have been very helpful. They have been helpful to me and I am sure they have been helpful to other Members in this Chamber.

If, however, this section is not stricken, what happens to the whole procedure of giving informal advice that candidates who seek to comply with the law have requested? I will tell the Members what will happen. Let me read to the Members from the committee report on page 3. It says as follows:

> In any case in which the Commission desires that an opinion of counsel shall have any operative effect on any person, the Commission must propose a regulation based on the opinion of counsel.

Let me tell the Members what that means.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. If one has an opinion of counsel, I can tell the Members right now that he cannot rely upon it because the Commission must propose that opinion in regulation form.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. I thank the gentleman for yielding.

Is the gentleman saying now that we are going to narrow this down beyond the Commission and have some counsel that they appoint render opinions which have the force of law? The gentleman says if this is stricken, such things will be in order; if it is not, they will not.

On page 16 we say in the part the gentleman is seeking to strike at line 21:

> Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by (i) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and (ii) any person involved in any specific transaction or activity which is similar . . .

And I will not read the rest of it. So we broaden it out.

Mr. WIGGINS. I agree that is the language of the bill, but I still ask my colleague to consider the practical effect. If one has an immediate problem in his campaign, it is not his purpose to seek a formal adivsory opinion from the Commission, which requires briefs and requires hearings and requires an affirmative vote of four members of the Commission. What he wants is an immediate answer to the problem, and I am telling the gentleman that under this procedure he cannot get it.

Even if, Mr. Chairman, the Commission takes one's request under advisement and renders an advisory opinion, should one rely upon that opinion, knowing full-well that it must be sent to Congress and it is capable of being rejected within 30 days?

Elections, Mr. Chairman, are very dynamic activities. One simply cannot wait 30 to 60 to 90 days to get an answer. Present procedure reflects one's personal interest as a candidate, I might say, and in my humble opinion reflects the public interest as well.

Mr. HAYS of Ohio. Will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. I thank the gentleman for yielding.

But there is language in the bill, I will say to my friend, that if one gets an advisory opinion which is later put into regulation and overturned, he is still protected as though it had never been overturned if he relied upon it. So that really square proposition does not lie; does it?

Mr. WIGGINS. In my opinion the Federal Election Commission will understand the clear mandate of the bill to be that they should not issue an advisory opinion which shall be relied upon unless Congress has exercised its right to ratify it.

Mr. HAYS of Ohio. If the gentleman will yield further, if the Long amendment is adopted, I do not think there will be any such interpretation by the Commission and, as I said earlier, I intend to support the Long amendment. So I think a lot of the arguments the gentleman is making will not lie if the amendment of the gentleman from Minnesota (Mr. FRENZEL) is rejected and the amendment of the gentleman from Maryland (Mr. LONG) is accepted.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

We put into the bill that if an opinion is given, one can rely upon that, and even if it is overturned, if one in good faith relied upon that opinion, he is covered. So really what the gentleman is saying is not on all fours with the bill as it was recommended.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. We have very carefully restricted the application of the advisory opinions to the individual to whom it was directed or to those who have substantially similar activities. When we are dealing as we are with a statute which is fraught with civil and criminal penalties, few amongst us are going to be so brave as to rely upon opinions directed to others.

In the remaining seconds of my time, Mr. Chairman, I want to discuss a final practical problem. We have had 140 or thereabouts advisory opinions heretofore rendered. If the same pace continues in the future—and there is every reason to believe that the pace would increase—140 rules are going to find their way to the Committee on House Administration where we are going to be forced to hold some sort of review and exercise judgment. Whatever that judgment may be, the regulation is going to come here for final resolution.

I will tell the Members, Mr. Chairman, that the House is not equipped to sit as an appellate court for the Federal Election Commission and conduct its normal legislative responsibility as well. The Frenzel amendment is a responsible amendment and should be supported.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I would like to point out that this section of the bill cancels all of the existing advisory opinions. And even if the Long amendment is adopted, those advisory opinions are gone and we will have to start all over, so instead of 140 advisories to review, we will actually have probably 280 to review in the committee.

Mr. BRADEMAS. Mr. Chairman, I rise in opposition to the amendment.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield to me for the purpose of an announcement?

Mr. BRADEMAS. I yield to the gentleman from Ohio, the chairman of the committee.

Mr. HAYS of Ohio. Mr. Chairman, after clearing with the Speaker and the leadership I would like to advise the House that we hope to make all the progress we can today on this bill, but I will move that the Committee rise at 4:30, at which time there will be brought up the petroleum reserves on some public lands, a conference report, and I guess that would be the end of business due to the reception which the King of Jordan is giving tonight, but we would continue on this bill until 4:30.

Mr. BRADEMAS. Mr. Chairman, I am strongly opposed to the gentleman's amendment and strongly support the views expressed by the distinguished chairman of the committee.

Why did we have in the original statute a provision for review by Congress and possible veto of rules and regulations issued by the Commission? One of the reasons, I suggest, among others, is that we want to be sure that in the framing of rules and regulations, the Commission complied with the intent of Congress.

Members will recall that one of the original regulations which was vetoed was the so-called point-of-entry regulation which had to do with the appropriate place at which candidates and their committees would file their reports in connection with their campaigns. I had no particular quarrel in substance with the proposal of the Federal Election Commission that the reports should be initially filed with the Commission but my reason for strongly opposing that particular point-of-entry regulation had to do with the fact that the Commission openly and clearly defined the express intent of Congress in the statute. Now the Federal Election Commission ought not to be writing laws. That is a responsibility which the Constitution assigns to Congress.

In like fashion, Mr. Chairman, we saw in the Sun Oil opinion, how the Federal Election Commission resorted to the device of an advisory opinion to set forth what in effect was a rule and regulation of great consequence affecting the Federal electoral process, and the Commission did so by using the advisory opinion procedure in order to circumvent review and possible veto by either the House or the Senate.

So, I think that in just those two instances we have ample justification for insisting that advisory opinions of general applicability be submitted like rules or regulations for review and possible veto. I will strongly support, as will the chairman, the gentleman from Ohio (Mr. HAYS), as he has indicated, the amendment to be offered by the gentleman from Louisiana (Mr. LONG) in that will have the effect of making clear that advisory opinions of general applicability will be the only advisory opinions that will be submitted for review and possible veto.

I am also supporting another provision of the amendment to be offered by the gentleman from Louisiana (Mr. LONG) to remove language in the bill which says that an advisory opinion on a given subject may be issued only once.

I would simply make two other points before I yield to my colleague, the gentleman from California (Mr. PHILLIP BURTON), and say that as I listened to the gentleman from California (Mr. WIGGINS) I asked myself: Is there any other Federal regulatory agency which does what I hear the gentleman says he wants the Federal Election Commission to do, that is, ask for an informal telephone response to a question and then allow the questioner to rely on that response as a defense? It seems to me that we should realize that what the amendment offered by the gentleman from Minnesota (Mr. FRENZEL) would do would be to put an immense power in the hands of a little group, to paraphrase the famous words, "of a little group of possibly willful men and women."

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent, Mr. BRADEMAS was allowed to proceed for an additional 2 minutes.)

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I would like to commend our colleague in the well and associate myself with the gentleman's remarks and join with the gentleman in urging our colleagues to reject this proposal before us, so we can get to the proposal of the gentleman from Louisiana (Mr. LONG), which deserves our support.

Mr. BRADEMAS. Mr. Chairman, I yield to my colleague, the gentleman from California (Mr. JOHN L. BURTON), a member of the Committee on House Administration.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman has hit the point. By use of an advisory opinion, which is outside of any regulation of the Federal Election Commission enacting a change in the law, that really supercedes provisions that go back to the Corrupt Practices Act when we prohibited from the giving of corporate funds and union election funds to Federal elections. The reason we included advisory opinions is because they have used it in place of regulations.

Mr. BRADEMAS. The gentleman is correct.

Mr. JOHN L. BURTON. And gives them the full force and effect of law and no one who voted the last time thought they were voting to permit someone to allow corporate funds or union treasury funds to be used in Federal elections.

Last, the point the gentleman makes that the arguments of the gentleman from California (Mr. WIGGINS) were not on all fours is that someone can, if an opinion of general applicability is issued, rely on that in good faith and if subsequently that is vetoed, they have a defense if they stop the action they were taking, as they relied in good faith on the opinion.

So I say we should vote down the Frenzel amendment and adopt the Long amendment and we will have something that is good for the public and it will be good for us, because we are still Members of the public and I do not think we have to view it from a narrow self-interest base.

Mr. BRADEMAS. Mr. Chairman, I yield to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Chairman, I associate myself with the gentleman's remarks and I commend the gentleman for focusing attention on the very threat that this Commission presents. What it does, really, and the House should alert itself, not only in this instance, but in

every instance where we pass legislation, the intent of which is invariably subverted by the objective. I would suggest that the Members henceforth be mindful of that subversion, because the will of the people is thwarted.

Mr. MATHIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I shall not take the full 5 minutes, because 5 minutes is not necessary.

Mr. Chairman, I would like to point out what the gentlemen from California, Mr. JOHN L. BURTON and Mr. PHIL BURTON, and the gentleman from Indiana (Mr. BRADEMAS) were saying, we are not giving to Congress the authority to veto any advisory opinion. We are reserving to this body the authority to veto any rule or regulation associated with that advisory opinion. If this section is stricken, we would also take out the subsection that provides additional protection to Members of Congress who are seeking election again or to candidates for public office.

We say here, if they act in good faith in accordance with the provisions and shall not as a result of any such act be subject to any sanctions provided by this act.

Mr. Chairman, I think that provision alone would make it worthwhile to support the committee provision and leave this section in the bill.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, that is a salutary change in the law, but it is effectively undermined by a later section of the law, which I will call to the attention of my colleagues. On page 28 of the bill it says that no advisory opinion shall be used against any person as having the force of law.

Accordingly, if one acts in good faith, one is morally secure, but one's attorney is not going to be able to inform the court of that moral security.

Mr. MATHIS. I would say to the gentleman from California that I am not sure I read that section on page 28 in that way, but, if so, I will certainly support an amendment at that time to clarify that particular position.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Minnesota.

Mr. FRENZEL. The gentleman will not have that opportunity because, under the rule, he will not be able to offer that amendment.

Mr. MATHIS. I am delighted to hear that, I would say to the gentleman from Minnesota.

Mr. ALLEN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I would just like to point out that the language on page 28 that was the subject of the discussion a moment ago says that the opinion cannot be used against a person. The language does not say that the opinion cannot be used as a defense.

Mr. ALLEN. Mr. Chairman, I rise in opposition to the amendment. I am somewhat puzzled by the distinguished gentleman from California who supports this amendment when he indicates that rules and regulations, if they were in violation of the clear provisions of the act, could be stricken down by the courts.

Obviously, if the law is clear, there is no purpose for any rules and regulations. The only time that the Commission would have occasion to pass any rules and regulations would be where the law is not clear. Otherwise, there would be no need. If the law is silent, then obviously this body wants to be in a position to be advised as to what ruling or regulation has been made by the Commission where the law is silent on the subject, and have the opportunity to review it for a period of 30 days, If we then feel that it is inconsistent with the intent of Congress, then either House could veto it.

I know that when I was running for Congress just last year, I received a $2,500 contribution from the Democratic Party Telethon Committee, in front of television cameras and the public there attending. The day before the election, it was challenged by my distinguished Republican opponent who claimed the law limited such contributions to $1,000. I wrote to the Election Commission asking for an advisory opinion. It took about 3 months to get it. In the meantime, I return the $1,500 by which the $2,500 exceeded what my distinguished opponent said was the maximum that I could accept, but eventually we received an advisory that said that I could receive $1,000 of it for the primary election, $1,000 of it for the general election, and the other $500 to help pay off my debt left from the general election.

Well now, this was an advisory opinion. But if they pass rules and regulations, it will only be because, and would only be necessitated because, the law is silent on the subject. If the law is silent on the subject and the Commission passes regulations, certainly this body should be in a position to review any regulation adopted by the Commission, on which the Congress has been silent.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. I would say that the gentleman made a good argument, but let me just advise the gentleman and the House that the law does not necessarily have to be silent. The law was specific on the point of entry, and they made a regulation totally contrary to what the law says. So, it even goes beyond what the gentleman is saying, and that is why this is here, to protect the House and the public.

Mr. ALLEN. I am in agreement with the way the bill is presently written, and I am opposed to the amendment that would permit the Election Commission without review by the Congress to adopt any kind of rules and regulations it sees fit, whether the law is silent or not.

Mr. HAYS of Ohio. Mr. Chairman, I do not want to cut anybody off from speaking, but I am curious to know how Members want to speak on this amendment.

Mr. Chairman, I ask unanimous consent that all debate on this amendment end in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 2½ minutes each.

The Chair recognizes the gentleman from Kentucky (Mr. SNYDER).

(Mr. SNYDER asked and was given permission to revise and extend his remarks.)

Mr. SNYDER. I rise, Mr. Chairman, in opposition to the amendment. I would just like to make the point to Members, particularly on my side of the aisle, that many of us are cosponsors of H.R. 9801 and similar legislation, which would establish a procedure very similar to what is in this bill for promulgated regulations of all the executive agencies.

Mr. Chairman, I think that one of the problems that we have in this country today is that we are being governed by regulations that are issued by agencies that are not at all in accordance with the intent of the laws as we have passed them in the Congress. Every day in our mail we get complaints from our constituents, who write in and say, "This regulation has been issued and that regulation has been issued, in regard to OSHA and all of the rest, and you know and we know that that is not what Congress meant." And, quite frankly, if there were some way to require this kind of a proposition be put into effect in regard to all of the agencies and all of the regulations, and make them all come back down here to the appropriate committee and have the Congress take a look at them to see if they were in accordance with the intent of what we meant when we passed the law, I think the country would be running a lot better. It would certainly minimize the "rule by regulation" that is causing all our people so much trouble and grief.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

(Mr. ECKHARDT asked and was given permission to revise and extend his remarks.)

Mr. ECKHARDT. Mr. Chairman, I favor the Frenzel amendment. It eliminates the so-called congressional veto where an advisory opinion of the Commission is concerned. If it were possible under the rule, I would eliminate the congressional veto of any Commission rule. I think we have improvidently delegated too much power to the Commission in permitting it, by an interpretation of law given to a candidate, to in effect nullify positive provisions of law. By the overly restrictive rule which we adopted on this bill, that flaw cannot be corrected here today. It was for this reason primarily that I voted against the rule.

But the way to correct the flaw would properly have been to delineate carefully the Commission's authority—not to

tie that authority to a yo-yo string so we can pull it back. The former process of discreet, final delegation is always the proper principle. I deplore the growth of the congressional veto technique because it always encourages loose delegation upon the assumption that the legislation can be pulled back for later revision.

But the legislative veto technique is particularly abhorrent in legislation which has peculiar application to the very persons who hold the veto power, the two Houses of Congress. It is as if securities legislation, making certain conduct of brokers, dealers and specialists criminal, were subject to veto by the New York Stock Exchange. Indeed, we have given members of exchanges certain self-governance, but not to this extent. Under the bill before us we can veto a general interpretation of law applicable to us and thus impel the Commission to follow another course in a matter in which we have a direct interest.

Whenever we retain in ourselves authority to review post-enactment application of legislation we tend to move from our legislative role toward an adjudicatory role. I oppose this trend generally but I oppose it particularly and vehemently when the adjudication is in our own case.

The flaw is an ugly deformity in an otherwise attractive bill—a deformity so gross that it will make me part company with my friends, the bill's supporters, unless the bill is improved by offsetting amendments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 22, noes 51.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 134, noes 269, not voting 29, as follows:

[Roll No. 147]

AYES—134

Abdnor	Edwards, Ala.	Latta
Anderson, Ill.	Emery	Lent
Andrews, N. Dak.	Erlenborn	Lott
Archer	Esch	Lujan
Armstrong	Eshleman	McClory
Aspin	Fenwick	McCloskey
Bafalis	Findley	McCollister
Beard, Tenn.	Fish	McDade
Bell	Foley	McEwen
Bennett	Forsythe	McKinney
Broomfield	Frenzel	Maguire
Brown, Mich.	Frey	Mann
Brown, Ohio	Gilman	Martin
Broyhill	Goodling	Mazzoli
Buchanan	Gradison	Michel
Burgener	Grassley	Miller, Ohio
Burke, Mass.	Gude	Mitchell, N.Y.
Butler	Hagedorn	Moakley
Carter	Hamilton	Moffett
Cederberg	Hammer-schmidt	Montgomery
Clausen, Don H.	Harsha	Moore
Cochran	Hechler, W. Va.	Moorhead, Calif.
Cohen	Heckler, Mass.	Mosher
Conable	Heinz	Mottl
Conlan	Hillis	Myers, Pa.
Conte	Hutchinson	O'Brien
Coughlin	Hyde	Pettis
Dickinson	Jeffords	Pressler
Duncan, Tenn.	Kasten	Pritchard
du Pont	Kelly	Quie
Early	Kemp	Quillen
Eckhardt	Kindness	Railsback
	Lagomarsino	Regula
Rhodes	Smith, Nebr.	Walsh
Rinaldo	Spence	Wampler
Robinson	Stanton, J. William	Whalen
Rogers	Steelman	Whitehurst
Roush	Steiger, Ariz.	Wiggins
Ruppe	Steiger, Wis.	Wilson, Bob
Sarasin	Studds	Winn
Schneebeli	Talcott	Wydler
Schulze	Thone	Wylie
Sebelius	Treen	Young, Alaska
Sharp	Vander Jagt	Young, Fla.
Shriver	Vander Veen	
Simon		

NOES—269

Abzug	Fountain	Nichols
Addabbo	Fraser	Nolan
Allen	Fuqua	Nowak
Ambro	Gaydos	Oberstar
Anderson, Calif.	Giaimo	Obey
Andrews, N.C.	Gibbons	O'Hara
Annunzio	Ginn	O'Neill
Ashbrook	Gonzalez	Ottinger
Ashley	Green	Passman
AuCoin	Haley	Patten, N.J.
Badillo	Hall	Patterson, Calif.
Baldus	Hanley	Pattison, N.Y.
Baucus	Hannaford	Perkins
Bauman	Hansen	Peyser
Bedell	Harkin	Pickle
Bergland	Harrington	Pike
Bevill	Harris	Poage
Biaggi	Hawkins	Preyer
Bingham	Hays, Ohio	Price
Blanchard	Hefner	Randall
Blouin	Helstoski	Rangel
Boggs	Hicks	Rees
Boland	Hightower	Reuss
Bolling	Holt	Richmond
Bonker	Holtzman	Risenhoover
Bowen	Horton	Roberts
Brademas	Howard	Roe
Breaux	Howe	Roncalio
Brinkley	Hubbard	Rooney
Brodhead	Hughes	Rose
Brooks	Hungate	Rosenthal
Brown, Calif.	Jacobs	Rostenkowski
Burke, Calif.	Jarman	Rousselot
Burke, Fla.	Johnson, Calif.	Roybal
Burleson, Tex.	Johnson, Colo.	Runnels
Burlison, Mo.	Jones, Ala.	Russo
Burton, John	Jones, N.C.	Ryan
Burton, Phillip	Jones, Okla.	St Germain
Byron	Jones, Tenn.	Santini
Carney	Jordan	Satterfield
Carr	Karth	Scheuer
Chappell	Kastenmeier	Schroeder
Clancy	Kazen	Seiberling
Clawson, Del	Ketchum	Shipley
Clay	Keys	Shuster
Cleveland	Koch	Sikes
Collins, Ill.	Krebs	Sisk
Collins, Tex.	Krueger	Skubitz
Conyers	Landrum	Slack
Corman	Leggett	Smith, Iowa
Cornell	Lehman	Snyder
Cotter	Levitas	Solarz
Crane	Litton	Spellman
D'Amours	Lloyd, Calif.	Staggers
Daniel, Dan	Lloyd, Tenn.	Stanton, James V.
Daniel, R. W.	Long, La.	Stark
Daniels, N.J.	Long, Md.	Steed
Danielson	Lundine	Stephens
Davis	McCormack	Stokes
de la Garza	McDonald	Stuckey
Delaney	McFall	Sullivan
Dellums	McHugh	Symms
Dent	McKay	Taylor, Mo.
Derrick	Madden	Taylor, N.C.
Derwinski	Mahon	Teague
Devine	Mathis	Thompson
Diggs	Matsunaga	Thornton
Dingell	Meeds	Traxler
Dodd	Melcher	Tsongas
Downey, N.Y.	Metcalfe	Ullman
Downing, Va.	Meyner	Van Deerlin
Drinan	Mezvinsky	Vanik
Duncan, Oreg.	Mikva	Vigorito
Edgar	Milford	Waggonner
Edwards, Calif.	Miller, Calif.	Waxman
Eilberg	Mills	Weaver
English	Mineta	Whitten
Evans, Colo.	Minish	Wilson, C. H.
Evans, Ind.	Mink	Wilson, Tex.
Evins, Tenn.	Mitchell, Md.	Wirth
Fary	Mollohan	Wolff
Fascell	Moorhead, Pa.	Wright
Fisher	Morgan	Yates
Fithian	Moss	Yatron
Flood	Murphy, Ill.	Young, Ga.
Florio	Murphy, N.Y.	Young, Tex.
Flowers	Murtha	Zablocki
Flynt	Myers, Ind.	Zeferetti
Ford, Mich.	Natcher	
Ford, Tenn.	Neal	
	Nedzi	

NOT VOTING—29

Adams	Hébert	Nix
Alexander	Henderson	Pepper
Barrett	Hinshaw	Riegle
Beard, R.I.	Holland	Rodino
Biester	Ichord	Sarbanes
Breckinridge	Jenrette	Stratton
Chisholm	Johnson, Pa.	Symington
Goldwater	LaFalce	Udall
Guyer	Macdonald	White
Hayes, Ind.	Madigan	

Mr. MOAKLEY changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LONG OF LOUISIANA

Mr. LONG of Louisiana. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. LONG of Louisiana: On page 17, line 4, after the word "opinion" insert "of general applicability" and on page 17, line 9 strike out all after the word "Commission." through line 14.

(Mr. LONG of Louisiana asked and was given permission to revise and extend his remarks.)

Mr. LONG of Louisiana. Mr. Chairman, the purpose of my amendment in very simple language is to guarantee that if the Federal Election Commission issues an advisory opinion that has any general applicability, it has to put it in the form of a regulation and let the Congress review it.

My amendment is in two parts. The first part would allow individual candidates to still ask the FEC a specific question, to get advice from the FEC without their having to submit that advice to Congress for review. However, the Commission would still be required to submit all advisory opinions of any general applicability at all to Congress for review. This will allow a candidate in the middle of a campaign to get the information he needs without having to wait the 60 days that might be required for congressional review and at the same time reserve the right of Congress to review the proposed regulations in whatever form they might appear.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. I thank the gentleman for yielding.

May I say that I am prepared, as manager of the bill, to accept the gentleman's amendment, but I would like to make a little legislative history about the part he is striking out. The reason that was put in there—that language on line 14 through line 19—was because we have instances such as one which the gentleman from Illinois (Mr. ROSTENKOWSKI) can detail where he asked for an advisory opinion and got an opinion, and 3 weeks later I believe it was the gentleman from Oregon, (Mr. ULLMAN) who asked the same question and got a totally contrary advisory opinion. So what we were trying to do was to keep them from issuing contradictory advisory opinions.

Will the gentleman say that if they issue two opinions on the same subject directly contravening each other, that that would be considered of general applicability?

Mr. LONG of Louisiana. I do not think,

Mr. Chairman, that in any way that could be considered as other than of general nature; that is, the second one, if it is in conflict with one that has been issued prior to that time. I would agree with the gentleman's statement that it would be one of general nature and subject to regulation and submission to the Congress for its review.

Mr. HAYS of Ohio. I thank the gentleman.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, the minority side agrees with the Long amendment. I would like to state parenthetically, however, that the gentleman's amendment is a good one in that it improves the bill.

It does not, however, do nearly enough. It only means that the flaws that have been in this section have had a Band-Aid applied to them, but they have been by no means cured.

Mr. LONG of Louisiana. Mr. Chairman, my amendment seeks to make a couple of technical but very important changes in the committee bill.

It would allow the FEC to continue its rulemaking authority—it will allow Congress to continue to review FEC regulations in whatever form they might appear—and it will allow candidates out in the huskings to continue to get timely answers to their individual questions on an as-needed basis.

Many unanticipated problems have arisen with regard to so called advisory opinions. Under the present law the FEC is required to submit all proposel regulations to Congress for review. In order to circumvent this review procedure the FEC has resorted to issuing so-called advisory opinions in lieu of regulations, since those opinions do not presently require congressional review. Clearly this kind of activity is in direct contradiction of the intent of Congress.

In response to this practice the committee has rightfully asserted congressional review over these kinds of advisory opinions. I commend the chairman and the members of the House Administration Committee for recognizing this problem and seeking to solve it—and I support them in this effort.

However, in attempting to solve the larger problem, we have created yet another one. Suppose a candidate who is actively involved in a heated campaign needs the benefit of FEC expertise and advice on a particular question. Under the committee bill the candidate's request would go unanswered until the FEC formulated their response and submitted it to Congress for review. This process would take up to 60 days and the campaign might be over and the question moot. Under my amendment this type of individual specific request will be answered by the FEC without delay.

Another practical consideration is that the House of Representatives does not have the time—and should not take the time—to reviey these kinds of individual inquiries. Since the FEC was formed it has issued 520 advisory opinions, and 127 of these were issued since the first of this year. Our time is too limited to devout it to this kind of activity.

In fact, this amendment will in effect spell out the law as we have all believed it to be all along—my amendment would permit the FEC to provide timely advisory opinions to specific inquries but would at the same time put a stop to issuing what are actually regulations in the form of advisory opinions for the sole purpose of circumventing the will of Congress.

Along the same lines, the second part of my amendment would permit the FEC to give the same answers to the same questions from several individuals. What I mean by this is if a candidate in Louisiana and a candidate in Iowa ask the FEC what is basically the same question the Commission can answer both inquiries on an individual basis.

In summary: I believe that my amendment strikes a reasonable balance:

It allows the FEC to continue its rulemaking authority;

It will allow Congress to continue to review FEC regulations in whatever form they might appear; and

It will allow the candidates out in the huskings to continue to get timely answers to their individual questions.

I urge my colleagues to support my amendment.

Further explanation of the second part of the amendment—the portion which strikes the prohibition against multiple opinions on the same subject.

Under the committee bill every opinion would have to be reviewed. This necessitated a procedure to limit the total number of opinions because otherwise the Congress would spend all its time reviewing them. The committee's solution was to allow only 1 opinion on a subject.

Since the Long amendment would make only the generally applicable opinions reviewable, this limitation sufficiently cuts down the workload of the Congress and there is no longer a necessity to limit the number of opinions.

Mr. ECKHARDT. Mr. Chairman, I rise in favor of the amendment.

Mr. Chairman, I favor this amendment because it narrows the area for the process which has ordinarily been described as the congressional veto.

I am against congressional veto as a general proposition. I think it invites too much delegation of authority and I think particularly the bill delegates too much authority in making an advisory opinion altogether insulate against prosecution, presuming one has received a favorable opinion. I think that is the real evil and I think it ought to be cured, but this may not be cured by amendment under the rule.

But at least the amendment offered by the gentleman from Louisiana (Mr. LONG) does knock out the provision by which Members of Congress may in effect veto a negative limited advisory opinion affecting their question. The only type of veto that may be had, as I understand it, under the Long amendment is, a general advisory opinion and not a specific one. Therefore I think the Long amendment improves the bill.

I may say I voted for the amendment offered by the gentleman from Minnesota (Mr. FRENZEL) but I do not think there is any conflict in a vote for the Frenzel amendment and also for the Long amendment, the Frenzel amendment have been more sweeping and having been defeated.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I congratulate the gentleman from Louisiana on a very constructive amendment and hope that it is agreed to with strong support on both sides of the aisle.

(Mr. ECKHARDT asked and was given permission to revise and extend his remarks.)

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. LONG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: Page 18, line 17, strike out "Notwithstanding any other provision of this".

Page 18, strike out line 18 through line 25.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, by agreement of the distinguished committee chairman we are attempting roughly to take the amendment made in order by the rule in the order that they appeared in the rule, but also including some when they apply to the same section, as we took the Long amendment. I hope that might help some of the Members follow the action here.

This particular amendment strikes language on page 18 which is known as the Mathis amendment, after its author, the distinguished gentleman from Georgia. This amendment deletes that language.

The language of the bill would prohibit the Federal Election Commission from investigating employees of any Member of Congress whether the Federal staff member is engaged in improper conduct, improper campaign activities, or for any reason without first consulting the office holder. If, after consultation, the office holder provides an affidavit for the Election Commission and says: "This employee is performing his regularly assigned duties," then the Federal Election Commission is obliged not to continue with its investigation. As a matter of fact the language says that:

An affidavit given by the person holding Federal office that such staff employee is performing his regularly assigned duties shall be a complete bar to any further inquiry or investigation of the matter involved.

And that investigation to begin with covers any of the utilization or activities of any staff employee of any person holding Federal office.

Therefore, if somebody on a Member's staff is under investigation by the Federal Election Commission for any purpose, under the broad language of this

bill, and I assume this purpose could be receiving cash above the limits of the bill, perhaps receiving corporate money, then the Federal Election Commission must notify the Member. The Member provides the affidavit. The investigation must stop.

Now, there was a time in this Congress, and there will be times in the future, when we have been worried about executive privilege by Members in the other branch; but here is a case where we have granted the congressional privilege to all our employees to do whatever they favor without fear of investigation, as long as we swear that they are a full-time employee of ours.

Now, our affidavit does not have to say that the person was not doing anything wrong. It just has to say that that person is an employee performing regularly assigned duties.

Now I believe the amendment originally was intended to take care of a problem that Members were concerned if their staff were involved in their spare time or in their own time on political work, that they would be subject to investigation. As a matter of fact, I do not know of any law on the books that says our staff cannot work in volunteer political activity. Nobody working under any congressional Member is Hatched that I know of.

Therefore, this amendment is absolutely unnecessary. It simply looks to the public as though we are being self-serving and absolutely isolating all of our employees from any kind of investigation whatsoever. In my judgment, it is not necessary. It does not improve the bill. The protection that is given is not something that is needed. Because of the quite obvious interpretation that it will be self-serving, I think it should be eliminated.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding. I will vote for the gentleman's amendment. We voted, I think, alike in the committee on this issue. I would just associate myself with the remarks of the gentleman as they pertain to documents and amendments.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for that contribution. I hope the amendment will be adopted.

Mr. HAYS of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think it is fair to say that the gentleman from Minnesota in the gentleman's zeal to be righteous has slightly misconstrued what this amendment does. First, it does not restrict itself to employees and Members of Congress. The thing came about because the Federal Election Commission announced that it was going to have an investigation of Mr. Rogers Morton as to how he was spending his time. It does not have anything to do and it was not intended to have anything to do with any criminal activities. That is reserved for the Department of Justice, and no affidavit permitting Members is going to prevent any member of his staff from taking corporate bonds or cash or whatever.

Let me tell this House what we were trying to do. Everyone has a district office, or if they do not, they have a Washington office. Next September somebody calls a Member's office and the girl picks up the phone and this person says, "Where do I get some literature on Mr. Jones for Congress?"

Now, unless she hangs up the phone without opening her mouth, she could be subject to an investigation by the Federal Election Commission. Now, they have 142 employees, by last count. They are growing every day.

Mr. Chairman, there is an article in the paper today that says, "Election Panel Still Operating":

> Those who thought the Federal Election Commission might dissolve when the Supreme Court ruled that it was constituted illegally thought wrong.

It says further:

> Although the Commission lost some of its powers when a court delay of its ruling ran out March 22, it is continuing to function in a broad area and is continuing to grow.

It is continuing to grow. When the Chairman of the Commission said that he sent the investigators in to Mr. ROSE's district—you know, this town is as leaky as a sieve—the next morning one of his own staff came up to my office and said:

> This is not true, and I will lose my job if it is known I talked to you, but the chairman did order those people down into Mr. ROSE's district.

I said, "Why?" He said, "Because we have so many people down there we did not have anything for them to do and we thought this was useful make-work for them."

Now, it that staff member is telling me the truth—and I have not brought either he or the Chairman in and put them under oath; perhaps I should—if what he said is true, they are way overstaffed and you can just bet that your opponent is going to have somebody call your office and ask where he can get some literature. If the girl tells him, he is going to file a complaint with the Federal Election Commission and they are going to be in there.

You know, the challenger has it all on his side. I have three fellows running against me. Two of them are circulating literature, not a piece of which has any identification on it as to where it came from. It is a direct violation of this law. I am not going to file any charges against them because it would only draw attention to them, but you can bet that if it were I who was doing it, there would be charges filed and the Commission would have me in headlines in every paper in my district.

There is nothing in this that says you can exempt employees from a criminal violation. What it says, in effect, is that the Commission cannot come into your office and inquire of every one of your employees, "how many hours did you work today? Did you do any political work? Did you answer the phone and answer a political question?" And so on and so on and so on.

I do not think many Members of Congress—and I know the President does not because he got pretty worked up when his staff was subject to an investigation as to how they are spending every minute of the day—I do not think there is a Member in this House who would say that his staff does not work overtime every day, and to make a certification that they are putting in full time, which is a 40-hour week, would be something that any Member in this Congress could do because I doubt if any of us have any staff who are not putting in 50 hours a week. If they want to go to a county fair in the evening and hand out literature to help their bosses get re-elected because their jobs hinge on it, I do not think that some high-paid, $30,000 per year investigator, because he does not have anything else to do, should be coming around to Members' offices trying to find out what the staff is doing.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. HAYS of Ohio was allowed to proceed for 1 additional minute.)

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, is it not a fact on which to state that this is a matter which deserves serious attention, but which properly belongs, in fact, under the rules of the House and under the existing law, in either the Committee on Standards of Official Conduct or in the Department of Justice where, if there is an abuse, it can be corrected?

Mr. HAYS of Ohio. No question about it. If there is a criminal violation it belongs in the Department of Justice, and nothing in this paragraph prohibits the Department from making an investigation.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

(Mr. WIGGINS asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. Mr. Chairman, frankly, I have mixed emotions about the amendment. As explained by the chairman, the language in the bill performs a useful function. I am sure that it was the intention of our colleague from Georgia (Mr. MATHIS) when he offered the amendment in the committee. The difficulty, however, is that the language itself is rather sweeping. Perhaps even if the amendment is defeated, we can narrow its scope by legislative history, which the chairman has offered and which I shall offer.

As I understand the word "activities" on line 19, page 18 of the bill, the activities to which the bill is referring relates to conduct by a staff member which might have some beneficial effect in the campaign but which does not interfere with that staff member's performance of his regularly assigned duties.

I am sure the chairman agrees with me.

Mr. HAYS of Ohio. If the gentleman

will yield, yes, I completely agree with that interpretation.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. I thank the gentleman for yielding.

Mr. Chairman, I would like some direction and advice.

Suppose a Member—and I think we all probably have had this occur—receives a piece of mail from a constituent which talks about four or five legislative issues, and then all of a sudden they will say, "I sure support the President," or "I sure do not support the President," or, "I hope you get elected," or, "I hope you do not get elected." But it is all part of the overall letter. Either they are asking for help in a case before a Federal agency or they are talking about their position on legislation, or even asking a question. What do we do? Do we have to throw that letter in the wastebasket because it makes some reference to a political matter?

Mr. WIGGINS. May I say to the gentleman that the answer to that question is no. One does not have to throw the letter in the wastebasket. And the same answer, I believe, would be given if the letter were devoted entirely to the constituent's support of the gentleman's campaign. I would think if the letter is entirely in support of a Member's campaign, it ought to be answered by the campaign committee, rather than the gentleman's staff, but a response to a constituent on any subject by official staff is not illegal.

What we are getting at is the possible misuse of staff which might be employed for the purpose of making telephone calls on behalf of the officeholder.

Conduct of that sort is not insulated. But if a staff member were employed and performs his or her congressional duties, there is certainly no indication intended that that staff member also could not be supportive of a Member's campaign, on his or her own time.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. I thank the gentleman for yielding.

Mr. Chairman, I would say that I concur again with the gentleman completely, and I would go further and point out that the Member must make an affidavit to that effect. An affidavit falls into the perjury laws. As I understand it—I depend on the gentleman from California (Mr. WIGGINS) for my legal advice—but all the Member is saying is that that staff member in this affidavit worked full time, which I define to mean 40 hours a week. And if he wants to go out and campaign on Saturday and Sunday—because that is the day in my district that the ethnic groups have their political meetings—he can do it, and the Elections Commission cannot come in and subpena him in or subject to an investigation. But the member has to say he has worked full time. And I again say that means 40 hours a week. That is more than most of the bureaucrats downtown work. Most of our people work a good deal more than that.

Mr. WIGGINS. Mr. Chairman, the reason I am supporting the amendment, notwithstanding this clarifying legislative history, is that the affidavit procedure on lines 22 through 25 is truly inartfully drafted. The affidavit simply must declare that the employee is performing regularly assigned duties. The affidavit in a more perfect statute ought to negate the charge. It ought to state that his employee is not engaged in the political activities which form the basis of the charge. A response that an employee is regularly employed may not be at all responsive to the charge against the employee. Because of this imperfection, I support the amendment.

Mr. NEDZI. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. I thank the gentleman for yielding.

Mr. Chairman, I note the gentleman used the words "working full time." That is not the provision in the bill.

Mr. WIGGINS. Let me clarify that.

Mr. NEDZI. There are such things as part-time employees, and I just feel that the legislative history should make that clear.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 1 additional minute.)

Mr. WIGGINS. Mr. Chairman, I am grateful to the gentleman from Michigan (Mr. NEDZI) for raising that point.

The Mathis amendment as originally proposed did use the words "40 hours per week," and it was amended in committee to use the language "regularly assigned duties."

Therefore, a part-time employee would not be barred from participation in political activities in his off-time.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, it has been my understanding that by "full time" we do not mean regular hours. Congressional employees are simply responsible for working full time in the sense they put in 40 hours a week, but this would not necessarily mean within the period from 9 to 5.

They are committed to all sorts of irregular hours, and sometimes they work at night. My employees work at night, they work all kinds of crazy hours, and that would enable them to have time during the day to engage in political activities.

Mr. WIGGINS. The words, "full time," do not appear in the statute.

Mr. THOMPSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that the chairman of the full committee, the distinguished gentleman from Ohio (Mr. HAYS), has expressed it succinctly. Recently there arose a question about the participation of a member of a staff of the House in a Presidential primary. A question arose, and the question was referred to the Committee on Standards of Official Conduct, which gave an opinion to our colleague to the effect that, as the chairman of the committee has stated, very few of us have any employees who work fewer than 40 hours a week. As a matter of fact, the great majority of them work longer than that.

There is one thing implicit in the rules, and that is that theoretically at least there is no such thing as part-time employees. A member of any Member's staff, notwithstanding the amount of pay, is considered to be an employee of the House.

The Committee on Standards of Official Conduct in a carefully worded opinion stated that it was a matter of discretion as to whether an employee of a Member's staff was working full time or not. There was no reference to the number of hours. Presumably, full time, as the gentleman from Ohio (Mr. HAYS), said, is 40 hours, and they are allowed to take vacations. A staff person should not be inhibited from the exercise of his or her right on his or her own time to devote time to political activity, including time on behalf of his or her employer, once the full-time work for the Government is completed. Whether it is or is not an election year, incidentally, is irrelevant.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the chairman of the committee.

Mr. HAYS of Ohio. Mr. Chairman, the gentleman has brought up the full-time matter, and perhaps the remarks I made about a 40-hour week were a little misleading because many Members, I am sure, employ people on a half-day basis. Ever since I have been here I have had college students on my staff or on the committee staff who worked a half-day and who were paid about half as much as a person who worked all day.

So that is why the language was changed in committee to state that this staff employee is performing his regularly assigned duties. While the law itself and the rules of the House make no provision for half-time or part-time employees, there are a lot of them here, and as long as they are putting in the time for which they are hired, they are protected if the employer says they are performing their assigned duties.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, am I correct in assuming that what this means is that as long as an employee is performing his regularly assigned duties for the pay involved—"for the pay involved" is implied and assumed—and he is doing what he does all the time, whether it is half time, full time, or otherwise, for the money he would have received but for the election being in progress, then he is insulated from engaging in whatever activity he wants to engage in because he would have made the money anyway for

the duties he is performing for his principal; is that correct?

Mr. THOMPSON. My response would be yes, that it is correct.

Mr. ECKHARDT. We cannot leave out the full-time provision because if I pay somebody for halftime and he does all his halftime work and he gets that money when an election is not going on and then he works the other halftime without getting any more money from the Government for me as a candidate, or if he helps me fill out my report forms or does anything else without taking any governmental pay, that is how it will work out; is that correct?

Mr. THOMPSON. We cannot work requirements out in halftime, I will assure the gentleman.

Mr. ECKHARDT. However, as long as he is performing the duties for the pay involved and those duties continue to occupy him in the same manner as if the election were not going on, he is all right; is that not correct?

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. THOMPSON) has expired.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 3 additional minutes.)

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Ohio (Mr. HAYS), the chairman.

Mr. HAYS of Ohio. Mr. Chairman, I would say that I concur totally in the gentleman's interpretation. That is what the amendment is all about.

Mr. ECKHARDT. I thank the chairman.

Mr. THOMPSON. Mr. Chairman, the fact is that whether this amendment is or is not adopted, it would confer on the Federal Election Commission no additional jurisdiction. The fact of the matter is that any abuse should properly be referred to the Committee on Standards of Official Conduct; and if there is a violation of law, to the Department of Justice.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Georgia.

Mr. MATHIS. As the author of the amendment, Mr. Chairman, I would like to apologize to members of this committee for the fact that the language is not perfect; but I do think that what the gentleman from New Jersey (Mr. THOMPSON), has said, what the distinguished chairman, the gentleman from Ohio (Mr. HAYS), has said, and what our friend, the gentleman from Texas (Mr. ECKHARDT), has said should clarify that we are talking about employees who perform their duties in a regularly prescribed manner, whether it is 40 hours a week, 60 hours a week, or 10 hours a week.

We are doing this, Mr. Chairman, to keep the harassment from occurring that has occurred and, obviously, will occur again during an election year. This does provide, I say very frankly, some protection for others.

Mr. THOMPSON. This gentleman will state that the addition of the requirement of an affidavit I might be willing to subscribe to, but I consider it to be obnoxious.

Mr. MATHIS. If the gentleman will yield further, I would say to the gentleman that I apologize for that provision's being obnoxious to him.

Mr. THOMPSON. I did not mean that the gentleman's amendment was obnoxious. The gentleman simply meant to tighten the rule.

Mr. MATHIS. If the gentleman will yield further, that is exactly right.

I would point out to the members of the committee, Mr. Chairman, that the staff member is not signing the affidavit; the Federal officeholder is signing it and is subjecting himself to perjury laws if, in fact, he perjures himself in the affidavit.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, just let me say again that this is a provision that will never be aimed at anybody but incumbents by the Federal Election Commission.

I have an independent opponent. He went to file the other day 20 miles away. He is the mayor of a city. He was driven there in a city car, and four city employees accompanied him.

Does anyone think the Federal Election Commission is going out to check on that? Oh, no; and I am not going to ask them to because the more he travels around in city cars, the better it is for me.

I am just pointing out that the only people who will ever be investigated or harrassed are the incumbent Members of Congress, and one has to go out on a limb if they do it.

Mr. THOMPSON. Mr. Chairman, I would like to ask a question: In the gentleman's judgment, whether or not this amendment is agreed to, is it not so that we are conferring no additional authority on the Federal Election Commission?

Mr. HAYS. I agree with the gentleman, but let me say that we do not have to confer it. They have already assumed it and started this practice which the language in the bill seeks to stop.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MOORE asked and was given permission to revise and extend his remarks.)

Mr. MOORE. Mr. Chairman, I agree with the chairman of the committee, the gentleman from Ohio (Mr. HAYS) that the Federal Election Commission probably has too many people on its staff, but that is probably true with every other agency of the Government. I also agree with the gentleman that there is nothing wrong with a member of a Congressman's staff, on his own time, working in any political endeavor since as he is not subject to the Hatch Act. I also feel very strongly that no member of my staff or the staff of any other Member of Congress should be using the Government's time, or not on his own time, to further the reelection of whoever he happens to be working for. The taxpayers who are paying the taxes for the money that is used for hiring these people did not do so to help continue people in public office.

But, Mr. Chairman, that has nothing to do with the amendment at hand. The amendment at hand simply gives Members of Congress or anybody holding Federal office a special protection that nobody else has. The first part of this particular section gives us all the protection anybody needs. I agree with the section requiring a formal sworn complaint before any investigation is undertaken but, if you are holding Federal office, you have additional protection. All a Federal official has to do is sign an affidavit and that stops the investigation right there dead in the water. Nobody else has got that kind of protection but us.

It seems to me that yesterday on the floor of the House in the general debate on this bill we heard a lot of talk about Watergate and coverups. This is without a doubt a coverup provision which is put in the law. It allows somebody to file a false affidavit or an affidavit based on incorrect information and suddenly it stops an investigation and covers up a possible election irregularity. This cannot be construed in any manner as election reform.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, can the gentleman from Louisiana conceive of a responsible person, be he an incumbent in office, or the President of the United States, or, with all due respect to our former distinguished colleague, Rogers Morton, signing a false affidavit or signing a faulty affidavit on penalty of perjury?

I know in the case of Mr. Calloway that the President did not have to sign an affidavit saying that he has complete and absolute trust in him. I would not say that of Mr. Morton, but I would say it of Mr. Calloway. Does the gentleman think that anybody here with any sense of reason would put their name, sign a false affidavit, in order to free a staff person to work on their political campaign?

I would suggest to the gentleman from Louisiana that that is patently ridiculous since the person signing the affidavit, the mere fact of signing it under the law subjects that person to perjury.

Mr. MOORE. If that is true, then we have no need for this protection.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the chairman of the committee.

Mr. HAYS of Ohio. Mr. Chairman, let me say to the gentleman from Louisiana that I think the gentleman may have made a misstatement and I do not believe he really wants to stand on that statement when he understands it. This does not stop any further inquiry or investigation by anybody but the Federal Election Commission. If the person is really violating the law and the person who brought the charges had any evidence, then that person has the authority to go to the Department of Justice and they have every right and authority in the

world not only to continue the investigation about the employee, but also to investigate the fellow who signed the affidavit if he so falsely swore. All we are talking about here are the 142 employees downtown who do not have enough to do and are looking for make work.

Mr. MOORE. I agree with the chairman's analysis of the law but I do stand on my statement that Congress has given the Federal Election Commission, rightly or wrongly, the authority to look into violations of the Federal election law. If that is going to be the case and if they can investigate complaints of anybody else, then they certainly ought to be able to investigate complaints against persons in Federal office.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I was trying to clear a point the chairman made a moment ago. I suppose it was implied that after the word "involved" should be added "by Federal Elections Commission." It does not in anyway insulate further inquiry or investigation of the employee or of his principal by any other agency with respect to the question of whether or not the affidavit was falsely signed.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the chairman, the gentleman from Ohio.

Mr. HAYS of Ohio. I thank the gentleman for yielding.

I will say to the gentleman that the language would be better if those words were in there, and I will say to him for legislative history that the section should be interpreted as though after "involved" it says "by the Federal Election Commission." It does not bar any investigation by any branch of Government which has criminal authority or otherwise.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

I would just like to point out that our challengers will be people who are employed by corporations who may be involved with unions. Each of them will have friends.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MOORE was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. If the gentleman will yield further, those people who are challengers do not have the same immunity from investigation by the Federal Election Commission, and therein lies the problem. We have given ourselves a carte blanche immunity from the investigation of the Commission, when we ourselves have been told to investigate election irregularities. But every person who runs against us does not have that same insulation and, therefore, the amendment should be adopted.

Mr. MOORE. Mr. Chairman, I conclude by saying that this is a very harmful provision that is going to subject every Member of this House of Representatives who votes against this amendment to justifiable criticism of building in a coverup procedure. I do not think that was the intention of the gentleman who offered the provision in committee and I do not think that is the intention of the chairman or any member of the committee, but that is exactly the way it is going to be interpreted, so I urge its rejection and passage of the amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MATHIS. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MATHIS asked and was given permission to revise and extend his remarks.)

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. I thank the gentleman for yielding.

Just let me say to the gentleman who just spoke in favor of the amendment that I happen to know of a case in a neighboring State where the campaign is already underway, and one Member of this House has a prosecuting attorney running against him who has 37 employees, and every one of them is engaged in his campaign right now. The Federal Election Commission cannot go into that State and say "boo" because they have no jurisdiction over State or county employees. But if his secretary picks up a phone and answers a question as to where one can get some of his literature, these people have already arrogated unto themselves the right to come into your office and hold an investigation and query your employees.

What I am saying to the gentleman is—and he can answer it any way he wants to—if he wants a double standard, one for incumbents and one for nonincumbents, I mean a double standard against incumbents, that is what we are going to have unless this language stays in the bill.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from Louisiana.

Mr. MOORE. I thank the gentleman for yielding.

Naturally, I will agree with the gentleman that one using his State employees to campaign is wrong. It should not be done. I do not think that is the issue before us.

I would agree that I do not see anything wrong with an employee answering a question—we brought this up in committee—for someone who calls, as long as he puts in a day's work for a day's pay and expects it to come from the public.

This is a coverup procedure that is going to subject this House to unnecessary criticism.

Mr. MATHIS. Mr. Chairman, I am just more than a little bit resentful of my amendment being called a coverup procedure, because it was never in any way intended to be a coverup procedure. It is intended, Mr. Chairman, to be a device by which we can avoid harassment by the people downtown and the Federal Election Commission which, as every Member of this House ought to know by now, has evolved into a head-hunting organization, and the heads they are hunting are not the challengers, they are after the heads of the incumbent Members of Congress. I think it is time that we wake up and realize what is going on downtown and vote down the Frenzel amendment and keep this very important provision in this bill.

Mr. Chairman, I yield back the remainder of my time.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Frenzel amendment.

(Mr. ECKHARDT asked and was given permission to revise and extend his remarks.)

Mr. ECKHARDT. Mr. Chairman, I think the chairman of the committee has greatly limited the language that has been used in this bill, and I think much of the objection to it is taken out by the construction that he gives the language.

If I understand that, this section 313 in every place it deals with the subject matter talks about the Commission and what the Commission will do and what the Commission's powers are, so it does not, as the chairman has indicated, in its general sweep, deal with anything but the enforcement powers and investigatory powers of the Commission. I think that should be made clear.

And in that respect the clear implication would be as if the last sentence read, "An affidavit given by the person holding Federal office that such staff employee is performing his regularly assigned duties"—and as I understand it we might read in at that point "for the pay involved"—"shall be a complete bar to any further inquiry or investigation of the matter involved." That is, investigation by the Commission.

I understand that is the intent of it. Is that correct?

Mr. HAYS of Ohio. Mr. Chairman, if the gentleman will yield, I would say that is the intent of the language perfectly described, that it would bar investigation by the Commission and it would be for regularly assigned duties if the person involved was performing those regularly assigned duties.

Mr. ECKHARDT. Under that construction I do not believe the chairman or the framer of this language can be accused of having been overly biased in favor of the incumbent, because a Congressman is peculiarly subject to the risk in the first place, not a challenger. Another person would be less likely to be subject to the risk, and this would be only a confining of the Commission's review authority to the only person who would commonly be subject to the review authority in the first place.

Mr. HAYS of Ohio. That is correct. And if the gentleman will yield further, let me say unless some protective language is in this bill, if the challenger will use this device to file charges against his incumbent, be they true or false, and mostly they will probably be false, and the Commission in its eagerness will come in, then there will be an eight-

column heading: "Congressman So-and-So Investigated by Federal Election Commission," and in the minds of half the people that is just the same as if he is convicted.

Mr. MOORE. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Louisiana.

Mr. MOORE. Mr. Chairman, I would go one step further and say when we file the affidavit to stop the investigation then we will have gone through the complete turnabout, and the other half of the public would be of the other opinion and then you have the same situation.

Mr. ECKHARDT. I am sorry this is under such a confined rule, but it is impossible to amend the bill in a way that would be wholly palatable to me and I think to much of the public because of the rule, but I shall vote for the amendment striking the language because I think most of the construction we have described here would be in effect even if the language were stricken.

The thing that does worry me about this section is the absolute acceptance of the Member's statement as irrefutable, that his employee was acting properly. I do not think that is necessary. I think that generally the Member's statement will be accepted, and if the Member can come up with reasonable proof, and he has the control of most of the evidence, supporting his position, I do not think he needs this special protection, and I would hope that the amendment would be passed, but at the same time I do not attack the language as an extensively unfair or partisan provision.

I would ask for an "aye" vote on the amendment.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I just wish to observe that Members of Congress are not the only ones who have risks. For example, a corporate executive can be a candidate for Congress. It can be alleged his secretary is working on his campaign and he, of course, is not given the opportunity to refute that allegation by filing the affidavit. Accordingly it is a protection only for incumbents in that regard.

Mr. ECKHARDT. But it would be very difficult for his employee to be attacked under this act.

Mr. WIGGINS. A corporate employee, of course, if paid by a corporation could not contribute that time to a candidacy. It would be illegal, and a challenger might very well be a corporate executive.

Mr. ECKHARDT. Let me say to the gentleman I am in favor of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 42, noes 40.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. JOHN L. BURTON

Mr. JOHN L. BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHN L. BURTON: On Page 45, line 2, strike out the "." and insert in lieu thereof ", imprisonment for not more than one year, or both."

Mr. JOHN L. BURTON. Mr. Chairman, this is a technical amendment. When we adopted the amendment in the committee that I proposed, it stated the criminal liabilities and liabilities as far as gifts of moneys and cash to a candidate for public office, the fines were put in, but there was an omission of the fact that there could also be an imprisonment term for more than 1 year.

Mr. Chairman, I believe the amendment is acceptable to both sides, because it was the intent of the committee when we adopted my amendment, but the draftsmanship was not perfect. It is a stringent reform. It puts people in jail.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for that statement. I do concur. We have made, under this title of the bill, criminal penalties in line only for willful violations that involve more than $5,000. The gentleman is simply providing a criminal penalty for this particular crime or violation of the law, which would be a contribution of more cash than allowed under the law. I think it is a good amendment and should be voted favorably.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I support the gentleman's amendment, but I must say it is a classic example of the hyprocrisy that pervades so much of the bill before Congress. It is a crime to make cash gifts in excess of the limits, but it is not a crime to receive the cash. The poor donor, who is likely to be completely ignorant with respect to the statute, runs the risk of going to jail and the candidate who has every reason to know the provision of the law goes off scot free. I think that is somewhat unfair; but however, even given the unfairness of the situation, I do support the amendment.

Mr. JOHN L. BURTON. Well, the gentleman could have offered an amendment in the markup and got support for it.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, let me say, we accept the gentleman's amendment, but I do not really feel so strongly about the poor donor who is just giving $150,000 in a black bag. I think he knew what he was doing and I think he knew what the law said and I think he knew he was violating it. Some of them have thrown themselves on the mercy of the court. I do not know of any of them in jail yet. Just the receivers have gone to jail. So I am not going to shed any crocodile tears for anyone that has $150,000 in a black bag and can deliver it to anybody. I suppose in fairness the taker ought to get a sentence, too; but I do not think we ought to let the donor off scot free.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. JOHN L. BURTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CLEVELAND

Mr. CLEVELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLEVELAND: Page 44, line 21, strike out "$250" and insert in lieu thereof "$100".

Mr. CLEVELAND. Mr. Chairman, this is probably one of the most simple and easily understood of the amendments that will be offered today. The present law limits the amount of a cash donation to $100, and for some reason the committee, after a rather short discussion, adopted an amendment to raise that to $250.

Actually I was an original supporter of a proposal to limit the amount of cash for a contribution to $50. There were quite a few of us who felt that way 2 years ago when we enacted the basic legislation but $100 is what was agreed to by most of the members of the committee and by the Committee of the Whole. I am not at this time attempting to go back to my original position of limiting the amount of cash to $50.

My amendment simply will return the limitation on a cash contribution back to where it is now, which is $100. I think one might almost call this an "incumbent's protection measure," because—if that is good or bad I do not know following some of this debate—but it seems to me that a lot of the trouble people get into in campaigns comes about through the use of cash.

I think it is bad when somebody gives to a campaign and does not feel that he can write a check and be on the record although I do know there are some people who deal in cash and do not have a checking account.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Georgia.

Mr. MATHIS. Is it the gentleman's understanding that if there is a $250 cash contribution given to his own campaign, that it also has to be reported?

Mr. CLEVELAND. The law requires that it be reported.

Mr. MATHIS. Is it a violation of the law if it not be reported?

Mr. CLEVELAND. The temptation remains. The temptation is there not to record it. I am sure the gentleman understands that there are mortals who sometimes fall subject to temptation. He may be so fortunate as not to be one of those mortals. The use of cash introduces an element of uncertainty. In fact, if we want to look at it another way, there are some people who might send a couple of hundred dollars over to the gentleman's campaign, because they want to support him and the fine record he has compiled here in Congress, and the courier might be light-fingered and perhaps only $100 would arrive. The temptations are all the way along the line with excessive use of cash.

I think anything we do to reduce these areas of temptations is constructive. I think that is why the House a year ago

did adopt the $100 limitation. I think we should return to it now.

Mr. MATHIS. If the gentleman will yield further, I think the gentleman knows the reason why this amendment was offered in the first place, and that is because there are a number of Members who have said that they have fund raisers which call for tickets to sell for $100. If someone came in and wanted one ticket for himself and one for his wife, he would violate the law if he paid cash. There is no attempt to do anything underhanded, to subvert the law. I do not think there is any intent to do that.

Mr. CLEVELAND. If the gentleman will bear with me for a moment, if he buys a ticket for $100 and turns to his wife and hands her $100 and she buys the ticket——

Mr. MATHIS. I think the gentleman knows that there is a provision in the law that provides for criminal penalties for using another as a conduit for funds. One cannot give money for another.

Mr. CLEVELAND. I did not say he would do that. The spouse can then in turn purchase the ticket.

Mr. MATHIS. Mr. Chairman, I give up.

Mr. HAYS of Ohio. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. HAYS of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HAYS of Ohio. Mr. Chairman, as manager of the bill, I guess one is obligated to try to preserve the integrity of the bill against amendments. I am just going to throw this one out to the House. The Members can do what they like about it. I am not going to shed much blood over it. In fact, none at all. I will give the history of it.

Mr. Chairman, somebody in the committee offered an amendment to raise it from $100 to $200, and they explained their amendment. I do not remember who it was now. But the person made the statement, among other things, that one-third of the people of the United States, as I said yesterday, do not have a checking account. And he said he had a personal experience in which he had a dinner for $100 a plate and he lost $200 because he would not take $200 for 2 tickets, which he would have duly reported, from this man. And he said to the man, "I cannot take $200. Write me a check." And he said, "Well, I am not going to write a check, because I have a joint checking account with my wife, and I do not want her to know who I am taking to dinner," or maybe it was, "I do not want her to know I am not taking her to dinner."

Somebody said something about $250. I do not know where the extra $50 came from, but the original idea was to make it possible to allow a person to take a person to dinner with cash. I understand they do things more frugally in New Hampshire. When I was in New Hampshire I was charged $10 for a meal that should not have cost over $2.50. But be that as it may, this is what the amendment is all about, and the Members can do whatever they like with it.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. WIGGINS asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. Mr. Chairman, I want to pose a practical problem. Let us suppose a Member of this body sponsors a fundraising dinner and the price per ticket is fixed at $150. Let us suppose that a Member mails out his invitations using whatever mailing list he has available to him, and he receives in response to his solicitation an answer in the mail requesting two tickets and three crisp $100 bills—$300. What is the Member's obligation under the circumstances?

First of all, the Member should understand that he is exposed to no criminal liability for accepting the cash. But anyone who is willing to make that kind of contribution to the Member and his candidacy is entitled, I think, to be protected by the Member.

I would think the Member would owe an obligation to get on the phone and find out whether or not the donor is purchasing a ticket for himself and his wife. If the answer is that he is using common funds belonging to himself and his wife, it would be fair to conclude that both the wife and the husband are making a separate and individual contribution of $150, and neither the husband or wife is exposed to a risk under the statute.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. I thank the gentleman for yielding.

Mr. Chairman, I just listened to the last part of that explanation, because someone was talking over here. Is the gentleman trying to make legislative history that if someone writes a check for $200 out of a joint account and he does take his wife, then he is not exposed to any prosecution?

Mr. WIGGINS. He writes a check?

Mr. HAYS of Ohio. Or pays cash, either one.

Mr. WIGGINS. If he pays cash, $200, or $300 if the bill is unamended, for himself and his wife, in my opinion that is not a violation.

Mr. HAYS of Ohio. He could not pay cash for more than $200, could he, if this language is stricken out?

Mr. WIGGINS. The bill prohibits an individual contribution of more than $250 in cash.

Mr. HAYS of Ohio. That is right.

Mr. WIGGINS. The legislative history I am trying to make is that a contribution of $500 in cash by a husband and wife can be viewed as a contribution of $250 from each of them.

Mr. Chairman, I hope the gentleman will agree with that.

Mr. HAYS of Ohio. Mr. Chairman, I will agree with that, and by the same token, if the amendment prevails, a contribution of $200 by a husband and wife would be construed as a contribution of $100 from each of them.

Mr. WIGGINS. The gentleman is correct.

Now, Mr. Chairman, let us take the tough case, the one posed by the gentleman from Ohio. In that case, it is apparent the man is not taking his wife, but he is buying two tickets, one for himself and one for a friend. In that event, I believe the person who purchased the tickets and who paid the cash should be advised that his cash contribution is illegal. It would not be any more appropriate for a person to buy an extra ticket for someone else, if the aggregate amount of the purchase is in excess of the cash limitation, than it would be for him to buy a whole table and pay cash.

In other words, I think Members owe it to the people who come to their dinners to save them from possible criminal liability by advising them of the cash limitation and the possibility of a joint contribution by husband and wife, which right does not attach to strangers.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to reinforce what the chairman of the committee said as to how this amendment got into the law. What happened was that I had the previous amendment to put in the criminal penalty for $100, and the gentleman from California raised the issue about this: What do we do when somebody comes up and peels off two $100 bills to get tickets for a fundraiser?

That started the process moving toward this: that in effect somebody could pay cash for tickets for husband and wife, and they figured, well, now, dinners cost $125 and, therefore, $250 will cover a husband and wife.

However, if the gentleman who raised the issue in the committee and got the price changed from $100 to $250 feels he made a mistake in raising the issue, I think I was right at that time in believing it was a mistake to raise the issue. Apparently the gentleman thinks the gentleman from New Hampshire (Mr. CLEVELAND) has offered a good amendment, and I am glad the other gentleman from California realizes he made a mistake when he raised the issue in the first place that resulted in increasing the amount from $100 to $250.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. CLEVELAND).

The amendment was agreed to.

Mr. CLEVELAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wish to thank the chairman of the committee, the very distinguished gentleman from Ohio (Mr. HAYS), for recognizing the frugality with which we conduct our affairs in the State of New Hampshire, and I hope that when he is dumping money into my opponent's campaign, he will be equally frugal.

Mr. HAYS of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, perhaps the gentleman from New Hampshire (Mr. CLEVELAND) does not understand the kind of frugality I am talking about. There are two different kinds up in New Hampshire, and maybe the gentleman missed my point.

There is one kind of frugality in New Hampshire that they practice on themselves and among themselves, but then they drop that when they are practicing on outsiders. What I was pointing out is that their prices are not so frugal when it comes to tourists.

I made that point, and I will try to be frugal, I will say to the gentleman, when it comes to campaign time and when I find that they charge me four times as much as a meal is worth.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: Page 27, strike out line 7 through line 21.

And redesignate the following subsection accordingly.

Page 53, strike out line 8 and all that follows through page 54, line 15.

And redesignate the following sections accordingly.

Page 58, line 13, strike out "305" and insert in lieu thereof "304".

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, this is rule No. (5), as made in order under the rule.

It strikes from the bill that section which has come to be called the "item veto." It deletes language which allows, under this bill, the House or the Senate, either one, by resolution, to veto regulations, in whole or in part.

Under the existing law, either House of Congress, by resolution, can disapprove any regulation sent to us under the law by the Federal Election Commission.

That procedure has not worked terribly well because, I think we should frankly say, partly because of the failure of the Commission and perhaps partly because of a failure of our own. Nevertheless, it is generally conceded that this disapproval process for regulations, at least until we develop some experience, ought to be maintained.

However, Mr. Chairman, this bill before us goes a good deal further. Instead of simply saying that we can veto a regulation or disapprove a regulation, this bill says that we can veto a regulation in whole or in part. Here, again, is another death blow at the independence of the Federal Election Commission because this bill gives the Congress the ability to take any part of a regulation and strike it down.

Under our Constitution we do not allow our Federal Executive an item veto of acts of Congress. Many States do not allow that kind of item veto. In almost no cases do we have a veto of regulations of independent commissions. In almost no cases do we have a veto of regulations which we allow the agencies to write.

My goodness, we are giving the Department of Health, Education, and Welfare carte blanche authority to write regulations. We let OSHA run around and regulate us without veto, but in this one, because it affects us, we have given ourselves not only the veto, but in this particular bill before us we have given ourselves an item veto. That means that anything we find that conflicts with our interest in any regulation can be stricken, and that matter can be disapproved while the rest of the regulation can be approved.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, first I would like to note that the committee report is perfectly clear.

It states, on page 8, the fourth item, as follows:

4. The provision in the amendment relating to congressional review of proposed regulations permitting disapproval in part reflects the current understanding and is intended to permit disapproval of discrete self-contained sections or subdivisions of proposed regulations and is not intended to permit the rewriting of regulations by piecemeal changes.

Mr. Chairman, I would like to submit to the gentleman that he is straining at a gnat. The Commission only has to come in with individual self-contained regulations, and this section then would have no application. It is only if the Commission comes in with a omnibus proposal, with 18 good provisions and 3 bad ones or 18 bad provisions and 3 good ones, no matter how one chooses to describe it. We are preventing omnibus take-it-all or leave-it-all kind of confrontations. If the Commission comes in, as the committee report makes absolutely clear, with a single, separate, self-contained regulation, this particular provision would have no applicability at all, because the problem the provision is designed to avoid, abuse by the Commission, will have been treated with by the Commission.

Mr. Chairman, following the commonsense thought that they are not going to get us in a position where we must swallow—or reject—everything.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I appreciate the gentleman's yielding.

I only wish to say that I share the interpretation and the observations of the gentleman from California (Mr. PHILLIP BURTON), and I hope that the gentleman's amendment is passed.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I am merely asking here for information.

Why does the gentleman strike lines 11 through 21? It would seem to me that that just has to do with facilitating the process of any veto, or does the gentleman find that the general veto is covered somewhere else? That has not been made clear.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 5 additional minutes.)

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Texas.

Mr. ECKHARDT. I am simply asking about (2). It seems to me that it only provides a shorthand procedure for the veto resolution; and I am not sure that that would not apply to both the item veto and the veto of the entire submission, but I just want to find out whether the gentleman knows whether (2) should not stay in as necessary machinery with respect to the full veto. I do not know the answer to that.

Mr. FRENZEL. Mr. Chairman, I have the same opinion as the gentleman from Texas has that (2) applies to both the item veto and a full disapproval. The reason that my amendment seeks to strike it is that it was written by the Committee on House Administration and in my judgment whatever basis we have for disapproval or vetoes in this House should be a uniform one and should be drawn by the Committee on Rules, and become a part of the permanent rules of the House. But I think if we start putting these kind of rules all around we will scatter them far and wide apart and they simply do not belong there. We have had no trouble bringing these kind of resolutions to the floor of the House in the past. Therefore I thought it was extraneous in the Election Commission bill.

Mr. ECKHARDT. I thank the gentleman.

Mr. FRENZEL. Mr. Chairman, if I may proceed, I will try to be as brief as possible because I think in view of the startling lack of success I had with my amendment on the advisory provisions I am not completely sure that the committee will sustain this amendment.

I must say nevertheless, Mr. Chairman, that notwithstanding the language in the committee report, it will be quite easy for the committees of the House or the Senate to pick out subdivisions of the rules which are considered to be not in the interest of the Members. In my judgment this weakens the rule making authority of the Election Commission and is a vital part to its independence and, even though it does not allow the House to rewrite a single word or a number, as long as it applies to subdivisions and to separate sections I think it should be stricken from the bill.

I hope the committee will sustain my amendment.

Mr. HAYS of Ohio. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

(Mr. HAYS of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HAYS of Ohio. Mr. Chairman, the gentleman from Minnesota (Mr. FRENZEL) has more amendments to this bill than all the rest of the Members of the House put together. I do not know exactly what motivates the gentleman, and I am not going to try to speculate, but he has now not only become the conscience of the committee, he has also become the conscience of the Committee on Rules. He is saying that we are usurping the power of the Committee on Rules.

Mr. Chairman, this bill was before the Committee on Rules and they granted it a rule. If they had wanted to have stricken this out, they could have done it right there and then.

There is a reason for this procedure

being in this bill. It is not in there without a reason. The gentleman from California (Mr. PHILLIP BURTON) has just explained what it does and has described the extremely proscribed language in the report.

Why do we have this provision in about presenting it as a privileged, you might say, resolution? I will tell the Members why. On one of the regulations which we had been debating bringing up here for a veto, I thought that I had reached an agreement with the chairman of the Election Commission and that they would rewrite the resolution. I went home for the weekend and the chairman of the Election Committee delivered a letter to the Speaker saying that they would not rewrite it. We had until Tuesday in which to bring it up. So we had to go to the Committee on Rules in a Monday afternoon session, which was unusual, and get a rule and come here on Tuesday morning.

I just do not want the committee to be foreclosed from what the law says it can do by any trickery from downtown. I have found the Committee on Rules to be very cooperative. I have no objection to going before them. I do not believe I have ever been before them on anything that they have not granted me a rule on. But they did not find any objection to this, and it seems more than passing strange to me why the gentleman from Minnesota wants to deliver this Congress handcuffed and shackled to the Federal Election Commission. I do not know whether he envisions defeat and wants to be a member of it, or what is going on with him.

But I thought when we got four exmembers of Congress on that commission, we would have some understanding, and I have now about decided that what we have is kind of a love-hate relationship. They left the House. They got beat, so now they hate it. Maybe I am misreading it, but that is the way it appears to me in my dealings with them.

All we are trying to do here is take some precautions. As the gentleman from California (Mr. PHILLIP BURTON) said, if they come in with a regulation that encompasses 21 different items, and 19 of them are good, we do not have to veto the whole 19 to get at the 2. What I prefer having them do, and maybe we should have written language that way, is bring in a regulation that deals with one item. But we did not do that. We do not intend to rewrite the things here on the floor. We do not intend to take out a sentence. The language in the report speaks for itself. It is only when it deals with a different subject that we can veto one subject and let the other one go through.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

(Mr. JOHN L. BURTON asked and was given permission to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Chairman, the gentleman from California (Mr. PHILLIP BURTON) the elder, I think explained very succinctly what the in-whole-or-in-part provision does. It really lets us expedite approval of the actions or regulations. If they come up with a compound triple issue regulation, and one of those regulations may be without the purview of their authority, the whole regulation does not have to be vetoed and sent back if two of the regulations can be approved forthwith. So the whole procedure here is not to be able to say candidates for public office shall not be able to make cash in the amount of $2 million; strike out "not" and say that Members of Congress shall be able to take cash. For anybody to figure out that that is what this does does not make much sense or have much logic. It merely permits us to deal in a logical and expeditious way with regulations if they come up in a multi-issued source.

As far as the previous resolution, it is the same thing. It allows expedition to the floor of the House so the House can work its will on that amendment. That is all it does. God knows if the Committee on Rules did not think they were being circumvented—and we know they are fairly generous with their prerogatives, but occasionally they like to keep a tight rein—I do not think the House can feel that this provision of the law does something other than expedite the handling of that. If I thought that this language would permit us to take "shall not" and make it "shall," I could not support it. I do not know anyone who could.

This does not let us rewrite anything; it does not even let us change a complex sentence or even a compound sentence; but if there are three or four or five subsections that are different issues dealing with different subject matters, it allows the expeditious approval of those that are approved and the expeditious disapproval of those disapproved. Again, it just allows the House to work its will expeditiously.

The chairman of the committee or the members of the committee cannot sit in the room and start writing things out. The majority of the House can work its will, but this allows us to do it in an expeditious manner and in a manner that is consistent with even what the Federal Election Commission, I believe, understands the process should be.

So, I strongly oppose the amendment, because it does not do what my good friend, the gentleman from Minnesota, says. It does not let us rewrite anything; it merely lets the House work its will in an expeditious manner so that amendments that can be accepted can be accepted and those rejected, rejected. We do not have to reject the whole package if it is tied up like one of the Christmas trees that the other body sends over every time when we are dealing with a little matter of tax reform.

Mr. Chairman, I yield back the remainder of my time.

Mr. WIGGINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I may have the attention of the chairman of the committeee, the gentleman from Ohio, page 8 of the report deals specifically with the issue which is the subject of the Frenzel amendment.

Paragraph 4 on page 8 states the following:

> The provision in the amendment relating to congressional review of proposed regulations permitting disapproval in part reflects the current understanding and is intended to permit disapproval of discrete self-contained sections or subdivisions of proposed regulations and is not intended to permit the rewriting of regulations by piecemeal changes.

I am aware, of course, that the chairman signed the majority report, but I can ask the chairman now if that remains his intention?

Mr. HAYS of Ohio. If the gentleman will yield. Absolutely. The gentleman from California (Mr. PHILLIP BURTON) perhaps—and he stepped out now—read that same section and in my speech I said I agreed, or thought I did, or thought I made clear, that paragraph 4 on page 8 is the intent of the committee.

If we need legislative history in this colloquy, to cement it down, the gentleman from California has my 100-percent endorsement that is exactly what we meant.

Mr. WIGGINS. As interpreted by legislative history, by agreement of the majority with which I also agree, I think that the problem to which our friend, the gentleman from Minnesota, spoke are largely diffused. There is clearly the need to deal with single regulations which may become compound and involve several subjects. This language would permit the excising of separate discrete provisions and, accordingly, I cannot support the gentleman's amendment in view of this explanation.

But I want to take just a moment to say that all of us should now be aware that we are dealing with a very complicated statute and a very complicated bill. It takes a special dedication, I think, Mr. Chairman, to have and to maintain an interest in legislation of this sort. I want to compliment the gentleman from Minnesota for his energy and his knowledge of this subject. We all recall that he played a major role in fashioning the bill in 1974, I believe it was, and he happens to be one of the few Members in this House who can speak from a background of knowledge. For that reason I think his contributions to the committee and to the House should not be, and I am sure were not intended to be, diminished by the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, if the gentleman will yield, of course I did not mean to cast any reflections on the gentleman at all. I agree the gentleman knows a great deal about the subject and contributed a great deal in the committee. I think the gentleman, under my tutelage and the tutelage of the gentleman from California, has matured a lot and this time instead of having 150 amendments he had only 25. The gentleman is coming along. I like him and maybe now, if he has listened to our colloquy—I am not optimistic about this—but I hope that he might even want to withdraw his amendment.

Mr. MIKVA. Mr. Chairman, I move to strike the last word and I rise in mild support of the amendment.

Mr. Chairman, I rise in mild support of the amendment and strong support of the amendment's sponsor, because while

I have heard the colloquy and I am reassured, I still hope the conferees will find a different way to accomplish this end than is now in the bill; for this reason I take the floor at this time for a minute.

Mr. HAYS of Ohio. If the gentleman will yield, if the gentleman's amendment prevails the conferees will not have any chance to be in favor of anything, so in my judgment the gentleman in the well ought to be in mild disapproval of the amendment.

Mr. MIKVA. Maybe when I am finished with this colloquy I might be.

I would say this to the chairman as well as to the members of the committee. I read the committee report and it is very clear, and I read the bill and it is very clear, and the bill very clearly says: "in whole or in part."

As I have understood the use of legislative history, and I admit I have been out of law school for a long time, we do not get to look at the committee report if the language of the bill is clear. I can only say to my colleagues at this point that I am glad we have this consensus of what we mean. That is not what we are saying. Unfortunately, the courts traditionally have said, "We look at what you say before we look at what you intended to say."

Mr. Chairman, I strongly support the purpose of what I understand this provision was intended to do. I think being multifarious in regulation drafting is an unfair thing to do.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, if the amendment fails, I wil attempt in conference, along with the gentleman from California (Mr. WIGGINS) and others who will be in the conference committee, to write the language more clearly; but I have always understood that if there is any doubt about what the law says, the courts always look at the legislative intent.

Now, what we intend is only if there are substantial areas of difference. They sent up a regulation of disclosure which had 41 different areas. We might have agreed with 39 of them, but under the way the law is made, we had to turn the whole thing down or swallow the whole thing and the report was separate and distinct in the areas covered. What we are trying to say is that if the regulation is 95 percent good, we do not have to veto it in order to get rid of the bad parts.

Mr. MIKVA. Mr. Chairman, let me say, in the efforts to clean up the language by this amendment, I do withdraw my support, but I do hope we do it better in the conference than currently in the bill.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I do thank the gentleman for this temporary mild support and I thank the gentleman from Ohio and the gentleman from California for their kind words.

Mr. ECKHARDT. Mr. Chairman I move to strike the requisite number of words. I rise in opposition to the amendment. I shall not take the 5 minutes.

Mr. Chairman, I think it would be very mischievous to adopt an amendment that strikes item two. As much as I despise and abhor the legislative veto procedure, if we are going to it, we ought not to kill it by making it impossible. The thing is, if we are going to have only 30 days to veto these acts, we cannot depend upon a waiver from the Committee on Rules, or else we delegate total authority to the Committee on Rules to veto it or permit it. I think what we have pointed out is the bad part of offering this thing under such a limited rule. I would have preferred to have voted in favor of the first part of the amendment striking lines 7 through 10, but when we put in the package the striking of the only practical procedure by which the veto process can be worked, it seems to me that we are rolling into a single amendment two very different subject matters.

Mr. Chairman, I would recommend a no vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On page 45, line 19, strike "$50000" and insert in lieu thereof "$2500".

(Mr. WIGGINS asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. Mr. Chairman, this is an amendment to the section dealing with penalties for violation of the act. The new section contained in the bill represents a positive advance over current law, since it requires that violations be knowing and willful before penalties attach to those violations; however, it contains another provision which I think is unconscionable and ought to be amended.

On page 45, line 19—the Members have the bill before them—they will observe that the violation must exceed $5,000 before the possibility of any jail time accrues to the violator. If the violation is in an amount less than $5,000, there is the possibility of fines only. Now, this classification of violations of less than $5,000 and more than $5,000 is, in my opinion, an irrational one which is capable of mischief.

For example, the Members all know that it is illegal to accept a contribution from a corporation, and they all know that it is illegal to accept a contribution from a labor union. If one violates that proscription knowingly and willfully, but the amount of the violation is $4,500, one violates no penal—that is, one risks no jail time as the result of that violation.

I would think, members of the Committee, that there are certain egregious actions which fall beneath the $5,000 limitation which ought to expose the violator to the possibility of going to jail. Members should be assured that we are not talking about mandatory sentencing here.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, we discussed this amendment, as the gentleman knows, in the committee. We had quite a discussion on it, and there was not a unanimous position taken.

So far as I am concerned—and the chairman himself takes the same position—we have no objection to the amendment.

Mr. WIGGINS. I am pleased to hear that. I will simply wrap up my last sentence by saying that these are discretionary penalties only; they are not mandatory jail sentences. A court should not be denied the discretion of dealing harshly with a particularly egregious case.

AMENDMENT OFFERED BY MR. FRENZEL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. WIGGINS

Mr. FRENZEL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL as a substitute for the amendment offered by Mr. WIGGINS: Page 45, line 19, strike out "$5,000" and insert in lieu thereof "$1,000".

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

PARLIAMENTARY INQUIRY

Mr. THOMPSON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. THOMPSON. Mr. Chairman, I would just like the prospective amendment reread. My attention was diverted for a moment, and I am not certain of the line to which the amendment refers.

The CHAIRMAN. Without objection, the Clerk will rereport the substitute amendment.

There was no objection.

The Clerk reread the substitute amendment.

Mr. THOMPSON. I thank the chair.

Mr. FRENZEL. Mr. Chairman, the rationale presented by the distinguished gentleman from California (Mr. WIGGINS) in support of his amendment applies likewise to my own. Under this section of the bill, in order to qualify for a criminal penalty, an offense has to be committed in a willful and knowing manner and be over $5,000, or, as seems likely, the Wiggins amendment will be adopted and it must be over $2,500.

Now, what that means, of course, is that if one contributes $2,400 over the contribution limit, one will not be subjected to a criminal penalty. One would be subjected only to some kind of a civil penalty. A corporation, as I understand this section of the law, may contribute $2,400 to a campaign and not be subject to criminal penalties, but only subject to civil penalties.

It seems to me that it was a good thing in this bill to set up both a civil and criminal procedure. It was a good thing to

set up a conciliation procedure, because our aim in this kind of a law is to encourage people to get into politics, not to be so afraid that they will stay out.

On the other hand, once we establish an offense or violation, it has to be a willful or knowing one. And once we establish a limitation, it should be a reasonable limitation. We should not say to Stuart Mott, for instance,

"If you want to contribute $2,400 or $4,900 more than you are allowed to under the law, we will only let you off with a civil penalty, there will be no danger of a criminal penalty."

This amendment offered by the gentleman from California is not severe at all. It is simply a matter of degree. His amendment is a good one. I think my amendment is a better one.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. I thank the gentleman for yielding.

Mr. Chairman, to eliminate any misconception or any political ambiguity, I am going to vote and urge my colleagues to vote for the gentleman's amendment.

Mr. FRENZEL. I thank the gentleman for his support.

The CHAIRMAN pro tempore (Mr. BINGHAM). The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL) as a substitute for the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 29, line 7, strike the word "by" and strike all of line 8.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, this amendment simply strikes the first part of section 112. That section has eliminated from the current law the provision that candidates for Federal office or for Congress must file their disclosure reports with their local secretaries of state. It strikes the first part of section 112 referring only to the secretaries of state.

That portion was put in the bill in an attempt to reduce unnecessary paperwork. However, it is felt by many people that the local press and local observers of the political scene find it much easier to get this information within the State than they do to pick it up from Washington or to have to come out here or to pick it up from an expensive wire service. So while I think the intention of this particular provision was pretty good, I think we are doing the concept of disclosure a disservice. Therefore we should pass this amendment which to reinstate this disclosure provision with the secretaries of state.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. I thank the gentleman for yielding.

Mr. Chairman, without expressing an opinion for or against the amendment, is it not so that if this legislation becomes law, the laws of the several States relating to elections are preempted with respect to Federal elections by this law? Is that the gentleman's understanding?

Mr. FRENZEL. No. As I understand it, the law now provides for preemption of State law by the existing Federal elections law.

Mr. THOMPSON. If the gentleman will yield further, to put it another way, the existing law, as amended by what we are proposing here, does in fact preempt the State laws?

Mr. FRENZEL. The gentleman is correct.

Mr. THOMPSON. So the effect of this amendment would be perhaps that it provides availability of information on the local level, especially in the smaller States, and copies of our reports to the Federal Election Commission would be filed with the secretaries of state of the respective States?

Mr. FRENZEL. Yes, if this amendment is agreed to.

Mr. THOMPSON. If this amendment is agreed to. And it serves no purpose other than that, the secretaries of state not having any control at all over this?

Mr. FRENZEL. The gentleman is correct. The disclosure or the filing is informational in nature only.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentleman from Minnesota (Mr. FRENZEL), not because I am interested in generating extra paperwork—I am not—but because I feel that as long as we are required to file as much detail as we are here with the Federal Election Commission and with the Clerk of the House, et cetera, it is just as helpful to file with the Secretary of State.

In many cases we are required to file some kind of a report with the county registrar of voters. That is true in California.

This merely is a duplication. This procedure will mean that we just duplicate what we file here. It also eliminates the belief that we are in any way trying to withhold information on a local level.

The State of California has a fair practice commission. They have recommended that those of us from California support the amendment offered by my colleague, the gentleman from Minnesota (Mr. FRENZEL), and I favor his amendment because I think it is merely a duplication of what we are already filing anyway.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his contribution.

The CHAIRMAN pro tempore. (Mr. BINGHAM). The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 1 additional minute.)

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I simply want to commend the gentleman for offering his amendment.

I found that the logistical problems involved in finding the reports that were filed in Washington were difficult for me the first time I ran, even though I am from a nearby State. I am sure the problem is intensified for those who are from States farther away than New Jersey.

Mr. Chairman, I support the gentleman's amendment, and I wish to commend him on the variety of the amendments he has offered, many of which I support. I think the gentleman is doing an excellent job in attempting to improve the bill.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for his support.

Mr. HAYS of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have not opposed every amendment the gentleman from Minnesota (Mr. FRENZEL) has offered. I oppose this one strictly on the basis of an experience that happened to the gentleman from Ohio (Mr. DEVINE) and myself as the result of filing with the Secretary of State.

I have talked with some secretaries of state about this, and they say that this is a bad thing. They have no procedure in the State law for handling it. I do not know how they file it. I suppose in some States they file it in file 13 because there is nothing in the law that says they have to preserve it.

At one time I was the victim of a press conference held by a certain individual representing an organization. That organization or at least the president of it, I should say, likes to compare himself to the Almighty. He went to Columbus, Ohio, and held a press conference, and he said that the chairman of the committee and the ranking member of the committee had failed on the first test to comply with the law.

I am not blaming the secretary of state for this, although he is no friend of mine or has not been in the past. I think he is a friend of the gentleman from Ohio (Mr. DEVINE); at least he is from the same political party.

What happened apparently was that whoever received those reports did not know what to do with them. Whatever they should have done, they did not do it, and they did not have them there.

We got an ocean of bad publicity when the reports were there all the time.

The secretary later said that mine arrived a day late. With the U.S. mail the way it is, the U.S. Postal Corporation, I am happy it did not arrive a week late; but the papers the gentleman from Ohio (Mr. DEVINE) also got stuffed under some papers or dropped in the corner or something.

Mr. Chairman, this is just duplica-

tion. We talk about accessibility. There is not a daily newspaper in the United States that I know of, and I have quite a number of them in my district, some having a circulation of as little as 5,000, who do not subscribe to the AP or the UPI. At filing time either the AP or the UPI can get a copy of anybody's report, a xeroxed copy. If the paper out there requests it, they will put it on the wire. It is usually, perhaps, a lot more accurate, because it is a copy of the original, than is what they are going to get from the secretary of state.

Mr. Chairman, I do not think it is a matter of life or death with the Congress, but we just keep adding regulations which generate more paper.

Mr. Chairman, I had predicted, as the chairman of the Select Committee on Excess Paperwork, which former Speaker McCormack insisted I assume, after my futile experience with that in butting my head against the stonewall of bureaucracies, that if this country or this democracy is ever destroyed, it will not be by revolution. It will be drowned in a sea of reports and papers.

Mr. Chairman, this is just one little effort to cut down on a little bit of it in the 50 States.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, is there any place in this bill where we attempt to impose duties on State legislatures or State officials by virtue of the Federal law?

Mr. HAYS of Ohio. No.

Mr. FORD of Michigan. Generally when a person such as a secretary of state or comparable counterpart in other States has a duty to receive something for filing, that duty carries with it the obligation for safekeeping, for making copies, for making them available for public inspection, for doing all sorts of things.

It seems to me that if we are going to simply send some paper to a secretary of state, such as in my State of Michigan, and not call upon him to perform any duties with respect to safekeeping or public display or public access or other requirements, it is a vain and useless act.

It would seem to me that if, on the other hand, this amendment is intended to imply that the secretary of state in Michigan has the duty for safekeeping, the duty for filing, the duty for copying, and so forth, that that is an unconstitutional infringement on the power of the State legislature. I do not understand what it is. It is either a vain and useless act or it is a clear invasion of the province of the State constitutional authority, both in its constitution and in its legislative body.

Mr. HAYS of Ohio. It is probably both, I will say to the gentleman; and it would probably be just as useful to put in here that we send a Christmas greeting.

The CHAIRMAN pro tempore (Mr. BINGHAM). The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROUSSELOT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 293, noes 111, not voting 28, as follows:

[Roll No. 148]

AYES—293

Abdnor	Flowers	Moakley
Abzug	Foley	Moffett
Adams	Forsythe	Montgomery
Alexander	Fountain	Moore
Allen	Fraser	Moorhead, Calif.
Anderson, Calif.	Frenzel	Moorhead, Pa.
Anderson, Ill.	Frey	Morgan
Andrews, N.C.	Fuqua	Mosher
Andrews, N. Dak.	Gilman	Mottl
Archer	Ginn	Myers, Ind.
Armstrong	Goldwater	Myers, Pa.
Ashbrook	Gradison	Natcher
Aspin	Grassley	Neal
Badillo	Gude	Nolan
Bafalis	Hagedorn	Nowak
Baldus	Haley	Oberstar
Baucus	Hamilton	Obey
Bauman	Hammer-schmidt	O'Brien
Beard, R.I.	Hanley	O'Hara
Beard, Tenn.	Hannaford	O'Neill
Bedell	Hansen	Ottinger
Bell	Harkin	Patterson, Calif.
Bennett	Harrington	Pattison, N.Y.
Bergland	Harris	Perkins
Bingham	Hechler, W. Va.	Pettis
Blanchard	Heckler, Mass.	Peyser
Blouin	Hefner	Pike
Boggs	Heinz	Pressler
Boland	Hicks	Preyer
Bonker	Hillis	Pritchard
Bowen	Horton	Quie
Brinkley	Howard	Quillen
Brodhead	Howe	Railsback
Broomfield	Hubbard	Randall
Brown, Mich.	Hughes	Rangel
Brown, Ohio	Jacobs	Rees
Broyhill	Jarman	Regula
Buchanan	Jeffords	Reuss
Burgener	Johnson, Colo.	Rhodes
Burke, Fla.	Jones, Okla.	Richmond
Burton, John	Kasten	Rinaldo
Burton, Phillip	Kastenmeier	Risenhoover
Butler	Kelly	Roberts
Carney	Kemp	Robinson
Carr	Keys	Roe
Carter	Kindness	Rogers
Cederberg	Koch	Roncalio
Chappell	Krebs	Rosenthal
Clausen, Don H.	Krueger	Roush
Clawson, Del	Lagomarsino	Rousselot
Cleveland	Latta	Runnels
Cochran	Leggett	Russo
Cohen	Lent	Santini
Conable	Levitas	Sarasin
Conlan	Litton	Satterfield
Conte	Lloyd, Calif.	Scheuer
Conyers	Lloyd, Tenn.	Schneebeli
Cornell	Long, La.	Schroeder
Cotter	Long, Md.	Schulze
Coughlin	Lott	Sebelius
D'Amours	Lujan	Sharp
Daniel, Dan	Lundine	Shriver
Daniel, R. W.	McClory	Shuster
Dellums	McCloskey	Simon
Devine	McCollister	Skubitz
Dickinson	McCormack	Smith, Iowa
Downey, N.Y.	McDade	Smith, Nebr.
Downing, Va.	McDonald	Snyder
Drinan	McEwen	Solarz
Duncan, Tenn.	McHugh	Spence
du Pont	McKay	Staggers
Early	McKinney	Stanton, J. William
Edgar	Madigan	Stanton, James V.
Edwards, Ala.	Maguire	Stark
Edwards, Calif.	Mann	Steelman
Eilberg	Martin	Steiger, Ariz.
Emery	Matsunaga	Steiger, Wis.
English	Mazzoli	Stephens
Erlenborn	Meeds	Stuckey
Esch	Melcher	Studds
Evans, Colo.	Metcalfe	Symington
Fascell	Meyner	Symms
Fenwick	Mezvinsky	Talcott
Findley	Michel	Taylor, Mo.
Fish	Mikva	Taylor, N.C.
Fisher	Miller, Calif.	Thone
Fithian	Miller, Ohio	Thornton
Flood	Mineta	Traxler
Florio	Mink	Treen
	Mitchell, Md.	Tsongas
	Mitchell, N.Y.	Van Deerlin
		Vander Jagt
		Vander Veen
		Vanik
		Walsh
		Wampler
		Waxman
		Whalen
		Whitehurst
		Wiggins
		Wilson, Bob
		Wilson, Tex.
		Winn
		Wirth
		Wolff
		Wright
		Wydler
		Wylie
		Yates
		Yatron
		Young, Fla.
		Young, Ga.
		Zeferetti

NOES—111

Addabbo	Flynt	Moss
Ambro	Ford, Mich.	Murphy, Ill.
Annunzio	Ford, Tenn.	Murphy, N.Y.
Ashley	Gaydos	Murtha
AuCoin	Giaimo	Nedzi
Bevill	Gibbons	Nichols
Biaggi	Gonzalez	Passman
Bolling	Goodling	Patten, N.J.
Brademas	Hall	Pickle
Breaux	Harsha	Poage
Brooks	Hawkins	Price
Brown, Calif.	Hays, Ohio	Rooney
Burke, Calif.	Heistoski	Rose
Burke, Mass.	Hightower	Rostenkowski
Burleson, Tex.	Holt	Roybal
Burlison, Mo.	Holtzman	Ruppe
Byron	Hungate	Ryan
Clay	Hutchinson	St Germain
Collins, Ill.	Hyde	Seiberling
Collins, Tex.	Ichord	Shipley
Corman	Johnson, Calif.	Sikes
Crane	Jones, Ala.	Sisk
Daniels, N.J.	Jones, N.C.	Slack
Danielson	Jones, Tenn.	Spellman
Davis	Jordan	Steed
de la Garza	Kazen	Stokes
Delaney	Ketchum	Sullivan
Dent	Landrum	Teague
Derrick	Lehman	Thompson
Derwinski	McFall	Ullman
Diggs	Madden	Vigorito
Dingell	Mahon	Waggonner
Duncan, Oreg.	Mathis	Weaver
Eckhardt	Milford	Whitten
Evans, Ind.	Mills	Young, Alaska
Evins, Tenn.	Minish	Young, Tex.
Fary	Mollohan	Zablocki

NOT VOTING—28

Barrett	Hébert	Pepper
Biester	Henderson	Riegle
Breckinridge	Hinshaw	Rodino
Chisholm	Holland	Sarbanes
Clancy	Jenrette	Stratton
Dodd	Johnson, Pa.	Udall
Eshleman	Karth	White
Green	LaFalce	Wilson, C. H.
Guyer	Macdonald	
Hayes, Ind.	Nix	

The Clerk announced the following pairs:

On this vote:

Mr. Stratton for, with Mr. Rodino against.

Mr. Nix for, with Mr. Pepper against.

Mrs. Chisholm for, with Mr. Hébert against.

Mr. POAGE changed his vote from "aye" to "no."

Messrs. CARR, STUCKEY, and SKUBITZ changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. THOMPSON. Mr. Chairman, during general debate yesterday I addressed myself, on the basis of personal knowledge and intent, to the question of corporate and union contributions to candidates and political committees, and I stated that I would expand upon those remarks. My purpose here is to establish legislative history which is so clear that it cannot again be misinterpreted by the Federal Election Commission.

The Federal Election Campaign Act Amendments of 1976, H.R. 12406, specifically corrects the FEC's erroneous interpretation as set forth in advisory opinion No. 23, commonly referred to as SUNPAC. What follows is a background explanation, and appended matters re-

lating directly to it. The material demonstrates the need for the proposed statutory correction of the FEC's mistake.

During debate on the amendment to the United States Code section, upon which section the FEC based its erroneous decision in SUNPAC, I stated the following:

> What the gentleman's amendment will do is simple. It, in effect, incorporates the case law into existing statutory law, and would allow within a very limited area, already existing in the Law, the expenditure of certain treasury moneys, or corporate moneys, for the sole purpose of reaching either union members, or stockholders in the corporation . . . (93 Record 43385).

The case law to which I refer in the above quotation is typified by *United States* v. *U.A.W.*, 352 U.S. 567 (1957).

Innumerable other references during the debate on November 30, 1971, made it clear that business entities were to be allowed to solicit their stockholders using corporate treasury funds in order to create parity with unions, who by reason of the Supreme Court decision in U.S. against UAW cited above, were allowed to solicit their membership using union treasury funds.

The SUNPAC decision (A.O.–23) by the Federal Election Commission changed that law, and allowed business entities to solicit employees in addition to stockholders. By means of an advisory opinion, this independent, nonelected, six-member body usurped the legislative function of the Congress in general, and the House in particular. This unaccountable group of six persons drastically modified the equitable balance which had been the national policy established during the 92d Congress.

The Commission's misinterpretation of existing law has many undesirable facets. But the two most glaring problems created by the erroneous decision are: First, the proliferation of political action committees—PAC's; and second, the coercion inherent in the solicitation of employees by employers.

First, with respect to proliferation, the CONGRESSIONAL RECORD of March 29, 1976, lists the most recent PAC's, and shows the exponential growth in political action committees funded by both the business community and labor unions. It is true that PAC's provide an opportunity for some form of passive participation in the electoral process by contributors. It is a fact, however, that there were a multitude of such committees through which moneys were "laundered" during the Watergate affair, and that the sheer number of such committees provided the opportunity for nonaccountability, and the occasion for the abuses.

The exponential growth of corporate PAC's was occasioned by the SUNPAC advisory opinion, which purportedly legitimized extensive solicitation by the PAC's of corporate employees. Unions reacted to the corporate PAC proliferation by encouraging locals to set up PAC's, and we are now witnessing the seesaw effect of the wholly unnecessary and unjustifiable imbalance created by the Federal Election Commission.

Second, with respect to employee coercion, it is simply a fact that solicitations by an employer, no matter for what purpose, and no matter how well-intentioned, are psychologically coercive. The employee is going to be intimidated and coerced, because the entity soliciting the funds is, for all practical purposes, the same as, or closely related to the one which also gives the salary raises and promotions. This fundamental principle was a major reason for the particular balance established by section 610 in 1971, which the SUNPAC advisory opinion so drastically altered in 1975.

This bill corrects these two Commission-created problems. First, it reestablishes the congressionally determined balance between the interests of the business community and its stockholders, and the interests of the labor community and its membership. And I must say here that it seems ludicrous for the Congress to have to reestablish existing law just because an unelected six-member panel decided to "repeal" the law. Second, it places some rational organizational framework on the proliferation of PAC's by both business and labor, thus avoiding the anonymity of multi-PAC's, and lessening the chances for Watergate-type laundering and other abuses. This reaffirmation of congressional policy provides not only a means of correcting the Commission's most glaring mistake, but produces several affirmative and salutary results.

First, it allows an opportunity for reasonable oversight by the Commission—if there are too many PAC's and not enough investigators, then there is likely to be selective or no enforcement.

Second, it in no way limits the class of contributors, but only the class which may be solicited. This should have the effect of encouraging grassroots level participation by those who wish to participate, while protecting from coercion those who do not wish to participate.

Third, it does not limit the number of PAC's which a corporate or union entity—or its divisions, subdivision, subsidies, or locals—may establish, but only the amount which those PAC's, considered collectively, may contribute to a candidate or an earmarked political committee.

There is another area which needs substantial clarification. That is the significance of "dicta" in the Buckley against Valeo decision. I address the point because, on March 1, 1976, the Chamber of Commerce of the United States issued a memorandum which addressed itself to the Buckley against Valeo decision, and to the substance of this bill. The chamber took dicta, contained in explanatory footnotes of the Supreme Court decision, and elevated that dicta to a constitutional pronouncement of the right of corporations to solicit not only shareholders, but also employees.

First of all, dicta are merely, and I quote from Black's Law Dictionary, "opinions of a judge which do not embody the resolution or determination of the court, and are made without argument, or full consideration of the point, and are not the professed deliberate determinations of the judge himself." Second, the question of corporate solicitation of employees was not even before the Court.

The chamber's memorandum substantially misrepresents the Supreme Court's decision in Buckley. For example, the memorandum at page 2 states that certain provisions of the pending bill "are absolutely contrary to the Supreme Court's interpretation of the law to mean that corporate political action committees may solicit not only their shareholders, but also their employees." This is grossly misleading. The Court, in its discussion of limitations on political contributions by individuals, observed in a footnote that—

> Corporate and union resources . . . may be employed . . . to solicit contributions from employees, stockholders, and union members.

However this random comment is an example of dicta. It cannot by any stretch of the imagination be regarded as a decision of the Court with respect to solicitation rights of either corporations or unions, for such issues were not even before the Court in Buckley.

This kind of misleading analysis is repeated by the Chamber's memorandum in its discussion of multiple political committees sponsored by the same corporation or labor union. On page 4 of the memorandum, following a description of language in the pending legislation which the memorandum says would "prohibit companies from establishing separate PAC's for subsidiaries or divisions," the following statement appears:

> This is contrary to the Supreme Court's decision in *Buckley* v. *Valeo*, which held that corporations and labor organizations may establish multiple political committees . . .

It is true that the Court in the cited footnote observed that—

> The Act places no limit on the number of funds that may be formed through the use of subsidiaries or divisions of corporations. . . .

But this statement by no means constituted a decision of the Court, and again amounted only to an expository statement of the kind familiar to any reader of appellate court opinions.

It is the Sun Oil advisory opinion itself which gave rise to the current controversy over corporate solicitation. In that advisory opinion the FEC indicated its agreement with an interpretation of section 610 advanced by the Sun Oil Co., which interpretation many Members of the Congress regard as flatly contrary to the intent of the original legislation. In any event, neither the FEC's advisory opinion in Sun Oil, nor the Court's dicta in Buckley, can be stretched to the magnitude of a constitutional pronouncement. Both Sun Oil and, a fortiori, the dicta, involved statutory construction.

The Chamber thus first misreads the dicta to be decisions of the Court, and then misreads the alleged decisions to address a subject not even contemplated by the Court.

The following material relates to my statements above, and should be considered by the House for the purposes of debate of H.R. 12406:

[Common Cause, Mar. 10, 1976]

SPECIAL INTEREST GROUPS ACCUMULATE $16.4 MILLION FOR 1976 POLITICAL CAMPAIGNS, UP MORE THAN FORTY PERCENT OVER SIMILAR PERIOD IN 1974, COMMON CAUSE STUDY REVEALS

Special interest groups have accumulated $16.4 million for the 1976 political campaigns, according to a new study released by Common Cause. The $16.4 million political warchest—cash on hand as of January 1976—represents an increase of more than 40 percent over the $11.7 million held by interest groups at a similar early stage of the 1974 elections (February 28, 1974), the study revealed.

"The $16.4 million figure doesn't even begin to tell the story," according to Fred Wertheimer, Common Cause Vice President and Director of its Campaign Finance Monitoring Project. "In one of the most significant developments since the passage of the 1974 campaign finance law, 242 new political giving committees have been es special interest groups during th (See Appendix A for complete of these new interest group comi just begun their drive to accum for the 1976 elections. This mean millions of additional political be raised by the new commit months ahead," Wertheimer said.

According to the study, the 24 mittees now constitute thirty pe interest group committees regis the federal law. The cash, the n tees have accumulated at this ever, amounts to only six percent million total funds accumulated terest group committees.

The new committees so far only $978,000 with $496,000 accu just one group, a new committee with the American Trial Lawye tion.

The study notes that the hug between funds available for old and those available for new comr change dramatically over the cou as the new committees carry out fundraising drives.

BUSINESS-RELATED COMMITT

Almost 75 percent of the 242 new committees have been formed by business-related interests, according to the study. One hundred and seven corporations and 22 banks have established new political committees in the last year, more than doubling the number of corporations and banks with registered committees prior to the 1974 elections. Seventeen oil companies have registered political action committees for the first time, including Atlantic Richfied Co., Cities Service Co., Standard Oil of California, Standard Oil of Ohio, Sun Oil Co. and Texaco. Prior to the 1974 elections, only one oil company, Union Oil of California, had registered a political committee.

Eight steel companies have registered funds for the first time, including ARMCO Steel Co., Lykes-Youngstown, National Steel Corp., Republic Steel Corp. and U.S. Steel.

Four major aerospace corporations—Grumman Corp., Lockheed Aircraft Corp., McDonnell Douglas Corp. and United Technologies (formerly United Aircraft) have also registered committees for the first time.

Other major corporations registering new political committees include American Express Co., Bristol-Myers Co., Continental Can Co., Dow Chemical Co., Litton Industries, Montgomery Ward & Co., Pan American Airlines, Pepsico Inc., R. J. Reynolds Industries and Sears, Roebuck & Co.

The remaining 25 percent of the new committees registering were sponsored by labor organizations and miscellaneous groups. Most of the 36 newly registered labor-related political committees represent additional committees formed by labor unions which already had one or more political committees prior to the 1974 elections. The Communication Workers of America, for example, registered 12 additional committees, and the Machinists registered four additional committees.

"Comprehensive public financing for the 1976 Presidential elections assures that the great bulk of all interest group contributions in 1976—new or old, business or labor, medical or dairy—are destined for the Congressional races," Wertheimer said. "These developments present one of the most compelling cases yet made on the need for Congressional public financing."

"They also demonstrate that it is essential for Congress to make clear that an organization cannot set up a number of political committees and thereby render meaningless the $5,000 limit on what an organization's political committee can give to a candidate. The need for this 'antiproliferation' legislation is strikingly demonstrated by just two

[redacted] creates a labyrinthine plan with so many snares as to discourage individuals from seeking elective office."

"It changes the rules in the middle of the game."

"It makes the Federal Election Commission a mere subcommittee of Congress."

"Congress should only reconstitute the Commission at this time to meet the objections of the Supreme Court."

"We should extend public financing to all congressional elections."

These are examples of just some of the rhetoric currently in vogue.

If we had the luxury of debating and amending this bill for the next year, there would still be some critics who would be dissatisfied. But Congress must take action expeditiously or else chaos will result. The Committee on House Administration has spent much time and effort in drafting the legislation before us. The purpose of the bill is threefold: First, to reconstitute the Commission to meet the objections of the Supreme Court; second, to remedy the actions of the Commission which run counter to the intent of Congress; that is, the SUNPAC advisory opinion; and third, to amend the existing law to provide a more effective procedure of regulating Federal elections.

Notwithstanding what certain critics are saying, this bill represents the work product of the entire Committee on House Administration. Chairman HAYS has been unjustly criticized as having steamrollered his bill through the committee. This just is not so. Every member of the committee had a full opportunity to debate the bill and offer amendments. The bill before us today reflects the compromises reached on the many issues debated during the markup.

In the final analysis, the bill before us seeks to amend existing law to provide a procedure whereby maximum disclosure of the sources of funds and expenditures of a political campaign is available to the electorate. The purpose of the law should not be to establish a game where the candidate who unwittingly may deviate from the rules goes to jail. Instead, the thrust of the law should be to provide the voter with the maximum information about the respective candidates. The bill seeks to accomplish this by repealing certain sections of the criminal law and instead granting the Commission jurisdiction over all aspects of the electoral process, rather than dividing the jurisdiction between the Commission and the Department of Justice. The bill does provide for criminal sanctions for "knowing and willful violations," but, absent these instances, the main purpose of the bill is to seek to remedy any violations by conciliation, with a civil fine where deemed necessary by the Commission. In this manner the candidate whose negligence leads to a violation of the act is given an opportunity to rectify such error without the possibility of facing criminal proceedings. With such a system, how can it honestly be argued that the bill seeks to discourage challengers to the existing incumbents?

In striking down the limitations for both campaign expenditures as well as the so-called independent expenditures, the Supreme Court has limited the manner of regulating Federal elections. Absent complete Federal funding of elections, the only effective way of regulating election behavior relies on a full disclosure of the financial activities of the candidates. At the same time, in invalidating the limitations on "independent expenditures" the Court may have unwittingly created a very serious loophole. Accordingly, the bill does amend existing law to set forth certain requirements to assure that an "independent expenditure" is just that and not merely a subterfuge to get around the contribution limitations.

The action of the Commission in rendering its advisory opinion in the SUNPAC case necessitates two changes: First, an amendment which clearly spells out the congressional intent that Congress never intended the creation of corporation political action committees to pressure their employees to contribute, nor to allow the proliferation of such committees; and second, to provide a method where future actions of the Commission in rendering advisory opinions would be subject to congressional review.

The legislative history of the 1971 and 1974 laws is clear that Congress never intended to allow the SUNPAC situation. Therefore, the bill seeks to establish a

balance between the activities of union and corporate political action committees by providing that contributions by a committee of a subsidiary of a union or corporation shall, for the purpose of the $5,000 limitation, be considered as having been given by the committee of the parent. Additionally, the bill provides that unions may only solicit their members and that corporations may only solicit their stockholders, executive officers and their families, an executive officer being defined as, "an individual employed by a corporation who is paid on a salary rather than an hourly basis and who has policymaking or supervisory responsibilities."

Furthermore, to prevent the Commission from going off on its own and rendering future advisory opinions not in accord with the intent of Congress, the bill provides that all future advisory opinions will have to be included in regulations and submitted for congressional review. This provision seems to have attracted much criticism, but as a practical matter it will only serve to require the Commission to consider issuing advisory opinions only with a certain degree of circumspection. And this is only proper, as advisory opinions should only be given when properly justified. Also, since such opinions should reflect the intent of Congress why should they not be published as a regulation to guide others who may be faced with a similar situation? The fact that congressional disapproval may come after the person seeking the opinion has already acted on it does not prejudice him as he is protected if he acted in good faith.

It may be argued that the number of advisory opinions will be limited, but to this I say that it is the job of Congress to legislate in as specific manner as possible and obviate the need for Commission regulations as much as possible. I do not think anyone wants to see the Federal Elections Commission compete with the Internal Revenue Service in issuing regulations and orders. If such were so, then I would agree with those who content the election law is loaded with traps so as to discourage challengers to the existing officeholders.

As far as the contention that the Commission is a mere subcommittee of the Congress, it must be admitted by such critics that, absent the provision on the review of advisory opinions, the Commission is subject to judicial and not congressional review with respect to its actions. But in the case of advisory opinions, it is certainly the right of Congress to prevent the usurpation of its legislative power by a congressionally created commission. A review of the regulations issued by such Commission is the only safeguard available to prevent such usurpation.

While some critics have suggested merely reconstituting the Commission, other have urged the extension of public financing to all congressional elections. For some the bill goes too far, while for others, the bill does not go far enough. To the latter, I say that to provide for an extension of public financing to congressional elections, without a review of the experience with this year's Presidential election would be premature. The possibility of a one issue candidate in House and Senate campaigns is indeed greater than in the Presidential election. And at this time we do not know how significant a problem we face in the Presidential election.

To those who argue for merely reconstituting the Commission, the amendments contained in the bill before us are necessary to carry out the intent of Congress and provide a procedure for full discloseure of a candidate's financial activities while at the same time preventing the usurpation of the legislative power of Congress by the Federal Election Commission.

I urge my colleagues to give their full support to this bill.

Mr. MAGUIRE. Mr. Chairman, the primary objective of regulating campaign practices should be to insure the public interest, to remove corruption and special interest influence, and to enable candidates to compete more equitably for public office.

The Federal Election Campaign Acts of 1971 and 1974, as initial steps, provided much needed focus on the problem of developing an equitable means for the regulation of campaign procedures. And I think that most people agree that the Federal Election Commission has been a significant and valuable innovation in regulating the electoral process. But the January 30, 1976 Supreme Court decision in BUCKLEY against Valeo—regarding unconstitutional expenditure limitations and the violation of the separation of powers doctrine in the appointment of members of the Federal Election Commission—has renewed interest in altering Federal election law. The new bill, H.R. 12406, from the Committee on House Administration, contains many constructive changes. But it also contains numerous regressive measures which would reduce the independence of the Federal Election Commission and impede its very ability to function.

A provision of H.R. 12406 which provides the most obvious reduction in the independent authority of the Federal Election Commission is the clause concerning the advisory opinion process. Under this section, all advisory opinions issued by the Commission would have to be converted into regulations within 30 days and sent to Congress, where either House would have an additional 30 days to disapprove, and thus nullify, the opinion. Not only could either House nullify an opinion, but either could nullify a regulation in "whole or in part." Thus, if I read the provision correctly, item vetoes of sections or even words are allowed. Through a process of selective editing, Congress could write its own regulations or reverse the Commission's intent.

Several other provisions of the proposed amendments in H.R. 12406 also inhibit the Federal Election Commission from making its own decisions on investigating possible violations of the elections law. One provision removes the Commission's authority to "inquire into or investigate the activities or staff employees of Federal officeholders" without consulting the officeholder. The Commission could then be barred from any further injury if the officeholder signed an affadavit that the staff person is performing "regularly assigned duties." This is an invitation for abuse. The analogy of the fox guarding the henhouse comes to mind. This provision grants virtual "exclusive privilege" to Members of Congress.

Other provisions which represent a serious retreat from refom include: An increase in the threshold for criminal penalties for a knowing and willful violation from $1,000 to $5,000; the removal of a jail penalty for a knowing and willful violation of the limits on cash contributions; an increase in the allowable cash contributions from $100 to $250; the removal of the present requirement for disclosure filings with secretaries of State—a provision local press depend upon to inform the public; and the provision allowing for one-House termination of the Federal Elections Commission. Each of these constitutes renewed opportunity for the corrupt, the practitioners of the expedient, and self-serving special interests to do their own thing.

A major point of controversy with respect to H.R. 12406 lies in the section concerning the prohibition of corporate political action committees from soliciting contributions from nonmanagement employees of corporations. The bill permits corporations to solicit contributions from stockholders, executives and their families. Many contend that corporations should be allowed to solicit their employees in the same manner that labor organizations can solicit all of their members. On the surface, the arguments seem valid and equitable. However, upon closer inspection, it is clear that the owners of the firm, its stockholders—which, of course, include employees who own stock—are those who have a direct interest in the firm's political activities, just as employees who are union members have an interest in the political activities of their union.

Nor, interestingly enough, does this corporation/stockholders union/employees parity give numerical advantage to representatives of employees. American Telephone & Telegraph, for example, has some 2.9 million stockholders, but only 999,796 employees. The New York Stock Exchange Review of 1974 further reveals that there are some 31 million stockholders in the United States today and that the ratio among major corporate concerns with respect to volume of stockholders versus employees is approximately 3 to 2. All in all, the provision now in the bill appears equitable and symmetrical with respect to the rights and privileges of solicitation for funds by corporations and unions.

In sum, if Congress ties the hands of the Federal Election Commission so that it cannot provide quick, understandable answers to candidates and the public respecting compliance with the law, or if the vital oversight and investigatory responsibilities of the Commission are circumscribed by procedures weighted in favor of incumbents, then the American public can come to no other conclusion than that Congress has no intention of creating a commission that can ade-

quately enforce the law and serve the public interest.

We must reform the political process. Congress must take the initiative to restore public confidence in the electoral process. H.R. 12406 is an essential piece of legislation, but it needs some important improvements to safeguard the independence of the Commission and to strengthen the financial, reporting, investigatory, and penalties provisions of the bill.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: Page 39, line 6 strike out everything after the comma beginning with the words "but shall not" up to and including the words "except that" on line 15 and insert in lieu thereof the following: "but shall not include—

"(A) communications by a corporation to its stockholders and executive officers and their families or by a labor organization to its members and their families on any subject, except that expenditures for any such communication on behalf of a clearly identified candidate must be reported with the Commission in accordance with section 304(e) of the Act;

"(B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive officers and their families, or by a labor organization aimed at its members and their families, except that expenditures for any such campaigns must be reported with the Commission pursuant to section 304(e) of the Act;

"(C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: 'except that'."

POINT OF ORDER

Mr. HAYS of Ohio. Mr. Chairman, I make a point of order against the amendment because there is language read in that was not in the rule. I had agreed not to make this point of order, but I cannot depend on who is going to offer an amendment with the messages I get from the other side.

Therefore, in order to teach them a lesson, I intend to make a point of order against the amendment.

The CHAIRMAN. The gentleman from Ohio makes a point of order that the amendment as read by the Clerk includes language that was not in the rule.

Mr. FRENZEL. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman from Minnesota is recognized.

Mr. FRENZEL. Mr. Chairman, the chairman of the committee is correct that there is an extra phrase put into the amendment that was read by the Clerk that was not in the printed rule. It was my opinion that the Committee on Rules intended to print this amendment, my amendment, as was read.

But, in view of the point of order being raised by the chairman of the committee—and I am sorry that he has done this—I ask unanimous consent to withdraw the amendment. I would like to present the amendment again, and the Clerk has it in the form in which it appeared in the rule.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. HAYS of Ohio. Mr. Chairman, in order that we can clear up what is going on, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12406) to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks and to include extraneous matter on the bill, H.R. 12406, Federal Election Campaign Act Amendments of 1976.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AMENDING CHAPTER 33 OF TITLE 44, UNITED STATES CODE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3060) to amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal Officials, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I am not going to object, but I take the time only to ask the gentleman from Indiana (Mr. BRADEMAS) to explain the bill, which the minority does concur in.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, the bill as amended was approved by the Subcommittee on Printing on March 11, 1976, by a vote of 3 to 0—one Member voting present—and by the Committee on House Administration on March 25, 1976, by voice vote.

The bill provides for a 1-year extension of the National Study Commission on Records and Documents of Federal Officials—hereinafter referred to as the "Public Documents Commission"—from March 31, 1976, to March 31, 1977.

Title II of the Presidential Recordings and Materials Preservation Act, which became law on December 19, 1974, established the Public Documents Commission. The Commission was charged with the responsibility of studying the problems involved in the ownership and disposition of records and documents of all Federal officials and recommending appropriate legislation and rules.

The membership of the Commission includes two Members of the House of Representatives; two Senators; three appointees of the President, selected from the public on a bipartisan basis; the Librarian of Congress; one appointee each of the Chief Justice of the United States, the White House, the Secretary of State, the Secretary of Defense, the Attorney General and the Administrator of General Services; and three other representatives, one each, appointed by the American Historical Association, the Society of American Archivists, and the Organization of American Historians.

The first meeting of the Commission was held on December 15, 1975, at the call of the Chairman, Herbert Brownell, the former Attorney General of the United States.

The extension of time is necessitated by the fact that substantial delays occurred in the appointment of the Commission members. The three Commissioners chosen by the President by and with advice and consent of the Senate—including Chairman Brownell—were not confirmed by the Senate until early November 1975. Once confirmed and designated Chairman, Mr. Brownell moved quickly to convene the Commission and to begin the search for a staff director but the statutory deadline was scarcely 5 months away and, obviously, no longer realistic.

Chairman Brownell requested that the Subcommittee on Printing consider two amendments to the bill. The first amendment involves a change in a way one of the members of the Commission is to be chosen. At present, the Commission is to include "one Justice of the Supreme Court, appointed by the Chief Justice." Since the Commission is charged with studying the problems relating to the disposition of the papers of members of the Federal judiciary, a Justice of the Supreme Court was included as a member of the Commission. However, Chief Justice Burger advised the Commission that because of the likelihood that litigation concerning the constitutionality of the Presidential Recordings and Materials Preservation Act would reach the Supreme Court the appointment of a Supreme Court Justice to sit on the Commission would be improper.

The Chief Justice suggested to the Commission that he would prefer to be authorized to appoint another member of the Federal judiciary to the Commission, if that would be acceptable to the Congress. It is the consensus of the Commission that the judiciary should be represented, as Congress intended, and that the Chief Justice's suggestion is sound. Consequently, the amendment suggested by Chairman Brownell would amend the relevant subsection to include on the Commission "one member of the Federal judiciary appointed by the Chief Justice

of the United States." The possible candidates would include all circuit or district judges, inactive or senior status.

The second amendment is of a technical nature. At present the act provides that:

While away from their homes or regular places of business in the performance of service for the Commission, members of the Commission shall be allowed travel expenses in the same manner as persons employed intermittently in the service of the Federal Government are allowed expenses under section 5703(b) of title 5, United States Code.

Because of a 1975 amendment, the provision governing travel expenses for a person employed intermittently in Government service as an expert or consultant is now section 5703 rather than section 5703(b). Accordingly, this amendment would simply substitute "5703" for 5703(b) in the proper subsection of the Presidential Recordings and Materials Preservation Act.

Mr. Speaker, I have tried to explain what the bill does, and I am grateful to the gentleman from Minnesota (Mr. FRENZEL) for allowing me to do so.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding.

Could my colleague, the gentleman from Indiana (Mr. BRADEMAS), tell us how much the annualized cost of this authorization is?

Mr. BRADEMAS. Mr. Speaker, if the gentleman from California will yield, there is no additional authorization provided for in this bill. However, a sum of $110,000 has been advanced to the Commission from the White House Unanticipated Needs Fund. The bill simply allows the Commission to have 1 more year in which to complete its work because it has not been able to do any work before this time.

Mr. ROUSSELOT. I appreciate that, but what is the annualized cost of this Commission?

Mr. BRADEMAS. Mr. Speaker, the total estimated cost of the entire work of the Commission through September 30, 1976 is $350,000.

Mr. Speaker, let me also refer the gentleman to that part of the bill which reads as follows:

While away from their homes or regular places of business in performance of services for the Commission, members of the Commission shall be allowed travel expenses in the same manner as persons employed intermittently in the service of the Federal Government are allowed expenses. Under section 5703(b) of title 5, U.S. Code, except for per diem, subsistence shall be paid only to those members of the Commission who are not full-time officers or employees of the United States or Members of the Congress.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's answer. It is nice to know this is not a budget busting commission.

Mr. Speaker, if my colleague, the gentleman from Minnesota (Mr. FRENZEL) will yield further, are there any nongermane amendments in this bill that is now before us?

Mr. BRADEMAS. No.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's direct answers.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would just like to point out, as the gentleman from Indiana (Mr. BRADEMAS) has already explained to us, that this legislation was unanimously requested by the Commission itself after it discovered they had very little time to carry out their activities in light of the fact that the Supreme Court has not decided on a very basic issue involved with regard to the Nixon papers.

Mr. MEZVINSKY. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Iowa.

Mr. MEZVINSKY. Mr. Speaker, I wish to express my support of the bill. I think this is a reasonable step to take.

The Commission has work to do, and really what we are trying to say here is that it will not cost any more money but it will allow the Commission to go on and do the job it has to do.

Mr. Speaker, I am very glad I can support the bill, and I appreciate the gentleman's yielding.

Mr. FRENZEL. Mr. Speaker, I thank all the Members, especially the gentleman from Indiana (Mr. BRADEMAS), for their contributions, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3060

An act to amend chapter 33 of title 44, United States Code, to change the membership and extend the life of the National Study Commission on Records and Documents of Federal Officials, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 33 of title 44, United States Code, is amended as follows:

(a) Section 3318 of chapter 33 is amended—

(1) by deleting subsection (a)(1)(E) in its entirety and submitting in lieu thereof the following:

"(E) one member of the Federal judiciary appointed by the Chief Justice of the United States."; and

(2) by deleting "section 5703(b) of title 5, United States Code" from subsection (e)(2), and substituting in lieu thereof "section 5703 of title 5, United States Code".

(b) Section 3322 of chapter 33 is amended by deleting "March 31, 1976" and substituting in lieu thereof "March 31, 1977".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table,

A similar House bill (H.R. 11628) was laid on the table.

AUTHORIZING AND DIRECTING AD HOC SELECT COMMITTEE ON THE OUTER CONTINENTAL SHELF TO TRANSMIT FINDINGS AND REPORT TO THE HOUSE

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 1121) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1121

Resolved, That, notwithstanding section 4(a) of House Resolution 412 of the 94th Congress, adopted April 22, 1975, and House Resolution 977 of the 94th Congress, adopted January 26, 1976, the ad hoc Select Committee on the Outer Continental Shelf is authorized and directed to transmit its findings and report to the House on such matter as may have been referred to it and on which it has acted as soon as practicable, but not later than May 4, 1976.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE—SOCIALIST WORKERS 1974 NATIONAL CAMPAIGN COMMITTEE, ET AL., VERSUS HON. W. PAT JENNINGS, ET AL.

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 24, 1976.

HON. CARL ALBERT,
The Speaker, U.S. House of Representatives.

DEAR MR. SPEAKER: I have, in the case of Socialist Workers 1974 National Committee and others, against Edmund L. Henshaw, the Clerk of the House of Representatives and others, (Civil Action No. 74-1338), been served with Plaintiffs Second Interrogatories to Federal Defendants and Plaintiffs' Request for Production of Documents, said pleadings requesting the Clerk of the House of Representatives to answer such interrogatories in writing and to produce certain documents in the possession and under the control of the House of Representatives.

House Resolution 29 of January 14, 1975, and the rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The Plaintiffs' Second Interrogatories and Request for Production are attached herewith, and the matter is presented for such action as the House in its wisdom may see fit to take.

With kind regards, I am

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, U.S. House of Representatives.

The SPEAKER. Without objection, the interrogatories will be printed.

There was no objection.

The interrogatories are as follows:

HOUSE FLOOR DEBATES ON H.R. 12406 APRIL 1, 1976

well as materially. Their apartment is cold and damp and not fit for human living. But they can't afford to live in a better one.

"Dear friends, if at all possible, please help us to come together. Help our children join their parents.

"From the depth of our hearts we wish for you the best of health and success."

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

Mr. HAYS of Ohio. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12406) to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. HAYS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12406, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, March 31, 1976, the bill had been considered as having been read for amendment.

Are there further amendments?

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 39, line 6 strike out everything after the comma beginning with the words "but shall not" up to and including the words "except that" on line 15 and insert in lieu thereof the following: "but shall not include—

"(A) communications by a corporation to its stockholders and executive officers and their families or by a labor organization to its members and their families on any subject, except that expenditures for any such communication on behalf of a clearly identified candidate must be reported with the Commission in accordance with section 304(e) of the Act;

"(B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive officers and their families, or by a labor organization aimed at its members and their families, except that expenditures for any such campaigns must be reported with the Commission pursuant to section 304(e) of the Act;

"(C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: "except that."

(Mr. WIGGINS asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. Mr. Chairman, I urge the Members to pay careful attention to the explanation of this amendment. If adopted, it will close a major loophole in the present statute and will represent a clear reform of our campaign laws.

Section 321 is that portion of the proposed statute which makes it illegal for national banks, corporations, and labor unions to make a contribution or expenditure in connection with any Federal election. For purposes of the prohibition, contributions and expenditures are defined broadly to include all manner of payments of anything of value, including services to a candidate, committee, or political party.

So far, so good.

Exempted from this broad proscription, however, are three major categories of corporation and union expenditures.

First, corporations and labor unions may use their treasury funds to communicate with their stockholders and executive officers and their families, and with their members and their families on any subject.

This first major exemption was included in the law to protect the first amendment rights of both corporations and labor unions to communicate to those who are closely identified with their interests. But it has been clearly and unmistakenly documented that this "communication" exemption has been used by labor unions to pour millions of dollars into campaigns for the specific purpose of insuring the election or defeat of particular candidates. These expenditures are unreported and come directly from union dues—not the voluntary contributions of union members.

This is how it works. A union or group of unions may endorse a particular candidate for Congress. Admittedly, this is their right. The unions will thereupon communicate their endorsement, and the reasons therefor, by one or more mass mailings to their members. The mailings may include a campaign-style brochure of their favored candidate and a stinging denunciation of his opponent. Frequently, many separate unions will combine their efforts so as to achieve blanket coverage immediately before an election.

Since such communications are deemed to be legitimate union business, the mailings are often transmitted under a nonprofit, federally subsidized, mailing permit.

All of this is done, mind you, with treasury funds of the unions and is not reported at all.

The second major exemption permits corporations and unions to conduct nonpartisan registration and get-out-the-vote campaigns aimed at stockholders and executive officers and their families, and union members and their families. This exemption has also been used, primarily by labor unions, to circumvent the nominal proscription against labor treasury money being used for partisan political activity.

The formula is simple. Registration and get-out-the-vote efforts need not be conducted statewide, or even districtwide. The effort is focused upon those precincts most likely to produce the maximum number of votes for the candidates or political party favored by the union. Workers, paid directly from the union treasury, search out and register union members to vote, with a high degree of assurance that the new registrant will vote "right."

Get-out-the-vote campaigns involve even more flagrant abuses. Large phone bank operations are established on election day to call the faithful to the polls. Transportation is provided.

Anyone among us who honestly believes that these massive efforts are conducted, or are even intended to be conducted, on an evenhanded, nonpartisan basis must also honestly believe in the tooth fairy.

And all of this, of course, is paid for directly out of the union treasury and is not required to be reported at all.

Finally, both corporations and unions may utilize their own funds to establish, administer, and solicit voluntary contributions into a separate segregated fund. This is the exemption authorizing the creation of PAC's—political action committees. Although much attention has been focused upon PAC's, it is evident to all knowledgeable persons that the segregated political funds represent only the tiny tip of an enormous and hidden iceberg. The heavy money is spent directly by the unions and is not reported at all.

My amendment does not remove any exemption now enjoyed by a corporation or a labor union. All of the practices which I have described may continue if my amendment is adopted.

It makes only two changes in present law: First, if a corporation or union communication is on behalf of a clearly identified candidate, the cost of the communication must be reported in the same manner as all other political expenditures; and second, the amount expended by a corporation or union for nonpartisan registration and get-out-the-vote campaigns must be reported to the Federal Election Commission.

A communication urging the defeat of a candidate, is understood to be a communication on behalf of his opponent or opponents.

My amendment is a disclosure requirement only, posing no greater burden upon others who seek to influence a Federal election by the expenditure of money.

I can conceive of no rational, objective, nonpartisan basis for opposing this amendment. A similar amendment was adopted in the Senate with bipartisan support.

But, I am told, the unions are lobbying strenuously against its adoption. There can be only one explanation for such opposition: Union leaders desire to hide from the public view the magnitude of their influence on Federal elections.

If they are successful in their efforts, it will be convincing evidence to me that their hidden funds have been spent wisely, not only to purchase elections, but to influence the legislative process in a manner contrary to the public interest as well.

I urge adoption of the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I thank the gentleman for yielding.

In other words, what the gentleman

has told the committee is that the effect of his amendment would be to require the reporting of these so-called interior communications by corporations and unions, but even though the cost of one of those communications amounted to, say, $100,000, the cost of communicating an adverse recommendation with respect to a political candidate, it would not be subject to the limitations that otherwise are contained in the law with respect to political contributions?

Mr. WIGGINS. That is true.

Mr. ANDERSON of Illinois. There is no restriction in that regard; they could continue to expend any amount. The only requirement is that it be reported in connection with section 304(e) of the act?

Mr. WIGGINS. That is true. The amounts, Mr. Chairman, that we are talking about run into the millions of dollars. Such expenditures should be reported. The impact of this money on the election process is significant, and the notion that these expenditures should remain hidden from public view is contrary to the public interest.

Mr. ANDERSON of Illinois. If the gentleman will yield further, I certainly congratulate him on his amendment.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment.

(Mr. THOMPSON asked and was given permission to revise and extend his remarks.)

Mr. THOMPSON. This is, Mr. Chairman, an interesting, intricate, and, in my considered opinion, deceptive amendment. I do not mean to imply that my distinguished colleague, the gentleman from California, is in any way trying to be deceitful. I think—a splendid lawyer even though he is—he just offered a major misinterpretation of the law in this instance.

The amendment would require that corporations and labor unions report to the Federal Election Commission the costs of internal communications made by a labor union to its members, or a corporation to its stockholders, in behalf of a clearly identified candidate; and nonpartisan voter registration and get-out-the-vote drives aimed by a labor union at its members, or a corporation at its stockholders.

First, I might point out that there is no threshold in this amendment and that all expenditures, no matter how minimal, have to be reported. The amendment would have the following effects: First, a labor union which distributed mimeographed "Don't Forget to Vote" messages to its members would have to report the cost of the paper to the FEC, no matter how minimal the cost.

A labor union or a corporation official who called a few friends on company phones asking for support of candidate x would have to report the phone expense, presumably a pro rata share of the monthly phone bill.

Third, a corporation or labor union which included any kind of voter information in a newsletter would have to report that expense.

Note that the amendment appears also to have some holes in it. First, only nonpartisan voter registration and get-out-the-vote drives appear to be covered by the amendment. A corporation or a labor union could do all of the partisan things that it wanted to without having to report anything so long as it stayed away from the mention of a particular candidate.

Second, only communications on behalf of a clearly identified candidate are covered, unlike the truth-in-advertising provision of the independent expenditures section, which covers expenditures on behalf of or against a candidate. "Or against" is carefully eliminated from this amendment. Thus, a corporation or labor union could communicate with its stockholders or members without limit against a candidate without having to report anything. Note carefully the way that the law is written now probably would not require reporting any of this kind of activity under the independent expenditures section, which runs only to communications to the general public.

In addition—and this is the part that rather amazes me—the loopholes in the amendment present some very definite first amendment questions, for to require that even the most minimal communications within a group must be reported to the government gives rise to legal questions involving free speech and freedom of association.

If the likely effect of the amendment is analyzed in terms of real world conditions, it can easily be seen that the intent of the amendment is not so much to create reporting requirements but to make activity of this kind so difficult as to discourage it entirely.

This is what the court referred to as a "chilling effect" on free speech and association, and as such its constitutionality is highly doubtful.

Mr. Chairman, the fact is that the real intent of this amendment would be such as to inhibit enormously the rather limited facilities and activities of organized labor unions which do not have computers to the extent they are owned by large corporations. The large corporations will not mind the requirement that the one exception to the general rule need not to be reported. That of course falls on the unions and corporations. The large corporations will not mind that at all. They have the computers and organization necessary to handle the task but the smaller unions do not.

On its surface the amendment before the House appears to be a proposal to further the purpose of the Federal election law by requiring increased disclosure. In fact it is carefully constructed to favor the big corporations and to stop internal communication on political issues and registration and get out the vote campaigns by local labor unions. I therefore rise in opposition to the amendment.

The 1974 law requires the reporting of "expenditures" as that term is defined in the act of over $100. There are several exceptions to this reporting requirement. There is an exception for unpaid time volunteered to a candidate. There is an exception for editorials broadcast by a newspaper or radio or television station. There is an exception for internal communications by any corporation.

One factor ties all of these exceptions together. It is that the value of these activities is extremely difficult to compute. How does a candidate estimate the value of time of volunteers? How does a newspaper allocate the proportion of its costs attributable to an editorial? How does a union allocate the costs of a meeting, a few minutes of which are devoted to discussion of the reasons why the union has endorsed a candidate? Answering these questions is difficult in the extreme as a theoretical matter and even harder to deal with as a practical matter.

Nevertheless, the amendment before the House makes one exception to the general rule that such costs need not be reported—that exception falls on unions and corporations. The large corporations will not mind this requirement. They have the cost accountants and the computers necessary to handle the task. But, local unions do not. Those behind this amendment are well aware of these facts. It is their expectation that the result will be that only large corporations will engage in such internal communication because they will be the only ones who can deal with the reporting burdens that the amendment would impose on this exercise of a first amendment right. I would have thought that 2 short years after Watergate would be too soon for such a power-grab by the managers of the Gulf Oil Corp. and their colleagues who are presently before the Securities and Exchange Commission for various violations of law.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. THOMPSON was allowed to proceed for 2 additional minutes.)

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding.

I am really shocked that the other side of the House would come in with an amendment that would have the Government further intruding into the private affairs of small enterprises. We know about the problems with OSHA and with EPA, and to have the other side now come in with an amendment that would have the Federal Elections Commission looking into the books of these small businesses is something I cannot comprehend.

I agree with the gentleman's statement.

Mr. THOMPSON. It is not the small businesses that concern the gentleman from New Jersey nearly so much as it is the enormity of the task of reporting and the need for sophisticated computer operations in order to be able to make those reports.

There is a very definite first amendment problem. I would have thought that 2 short years, to use the words of my friend, the gentleman from California (Mr. WIGGINS), after Watergate or Camelot, as he has added to that definition, would be rather too soon to repose with the managers of the huge oil companies and their colleagues this right

which comes at a time when they are before another Federal commission on charges of violations of law.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to my chairman.

Mr. HAYS of Ohio. Mr. Chairman, I would like to say to my friend, the gentleman from California (Mr. WIGGINS), on this Camelot business and the Watergate business, I do not know whether his definition is going to fly, because I have a CB radio in my car and I listen a lot to the truckers, and when they say: "What is your destination?" I do not know if the gentleman knows what this town is called by the truckers. They call it "Watergate City."

Mr. THOMPSON. It is not Camelot City.

Mr. HAYS of Ohio. It is not Camelot City, but Watergate City.

It took me a while to figure out what they meant when they said "Shaky Town," but that is San Francisco, I finally found out.

Mr. VANDER JAGT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

(Mr. VANDER JAGT asked and was given permission to revise and extend his remarks.)

Mr. VANDER JAGT. Mr. Chairman, at the very heart of campaign reform was the desire to limit the impact that special interest groups could have on the outcome of congressional elections, so that no special interest group would have an undue influence on the decisions made by the winning candidate later on. This bill that we are considering, taken together with other legislation on the books, does just the opposite. It is a very precise means to use campaign reform legislation to deliver a very, very special advantage to one very special, special interest group, namely, big labor.

I think it is instructive to note what happened on the Senate floor. The printed bill the Senate was considering gave our two great political parties, our two Senate campaign committees and our two House campaign committees the right to contribute $20,000 to each of the congressional candidates, rather than the $5,000 that all other interest groups are limited to.

Now, I think that was a step in the right direction. What is the purpose of putting a limit on what a group can contribute to a candidate? It is to limit the influence that that group will have on that candidate later on.

I do not believe that any of us can be unduly influenced by the party that we represent. We run under the banner of that party. We run on the platform of that party. I do not believe that any political party should be limited to what it can do to help one of its political candidates. But the Senate was erroneously informed that there was bipartisan support on this side for taking the House campaign committees—and only our committees—back to the $5,000 from the $20,000. And that is what the Senate did.

Now, what is the purpose of keeping our campaign committees down and limiting them, as the chairman properly stated that he was doing in response to press criticism that implied the contrary. What is the purpose of limiting our two great political parties and limiting all special interest groups, except one, to pigmy size? Limiting everyone except labor to pigmy size makes giant labor all the bigger. It makes labor's impact all the more disproportionate. It leaves giant labor—and only giant labor—free to lope unfettered across the political landscape—unregulated, unchecked, and unreported.

The Democratic leadership should receive labor's medal of the year award for the brilliant way they are slipping through special advantage for big labor. They have focused the attention of the press on the dispute of how many people can be solicited in a plant and by whom. That is like arguing about how many peas we can solicit for the peashooter that we are limited to by law while labor continues to be able to fire its cannons without any regulations or any reporting whatsoever.

How does it happen that labor can campaign apart from the law? Labor can conduct in effect a campaign totally outside the scope of all campaign laws. Their campaigns are exempted from campaign reform! Thats what they did in New Hampshire. That was a test-tube campaign. There were not two campaigns for Senator in New Hampshire. There were three, two were regulated, one was not. There was Wyman for Senate, DURKIN for Senate, and labor for DURKIN for Senate. In fact, labor probably spent more to send DURKIN to the Senate than the Durkin campaign spent to send DURKIN to the U.S. Senate. What did they spend their money on under this so-called educational or communication exemption. Labor spent it bringing bus loads of "volunteers" from out-of-State to campaign for DURKIN. They spent it on telephone banks to call people to get them to vote for DURKIN. And they spent it on professional campaign teams. They spent it on "non political" literature. "Nonpolitical" that's a laugh. Tens of thousands of leaflets like the one I hold here, flooded the State of New Hampshire it pictures the candidate and says:

Send a fighter to the U.S. Senate.

Under the law, that is not political. That is not campaigning. That is educational. So it does not count. What does it say?

John Durkin is for placing a lid on inflation, while Wyman helped create it.

That is not political, gentlemen. That is educational, and therefore, it does not count.

John Durkin is for tax justice. Wyman is against it.

That is not political. That is educational under the law.

Listen to this:

This time, lets be sure. Vote for John Durkin for U.S. Senate on September 16.

Under the law, that is not political. That is not campaigning. That is educational. That is ridiculous.

Is it any wonder that the majority would like to keep all this hidden in a deep dark secret corner? It so blatantly favors one special interest group that it practically guarantees that that one special interest will have undue influence over the political process. It is a raw political power play to stack the deck in favor of labor and labor's handpicked candidates.

If I were in the majority, I would not want to let the sunshine in on that, either. Of course, the majority doesn't want public disclosure about that! I do not think we are asking very much in this amendment. We are not asking that the situation be corrected. We are not asking that labor be regulated. We are not asking that labor be limited. All we are asking is that labor, like everybody else in America, report what it spends to impact on the outcome of an election. I do not think that that is asking too much. If this body can't bring itself to vote for fair elections, if this body can't bring itself to vote for equal treatment for all special interest groups, if this body can't vote for sunshine and public disclosure, which is the basis of all meaningful campaign reform, then this body will have demonstrated that that one special interest group already has an undue influence on the decisions of this body. And that will be sad indeed.

Mr. HAYS of Ohio. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I would like to say to my friend, the gentleman from Michigan (Mr. VANDER JAGT), that the gentleman from Michigan and I appear on the same program frequently. I have almost got his speech memorized.

I wish the gentleman would get a new version so that it would not be quite so repetitious. I guess he really felt that defeat in New Hampshire badly because, talking about politics, the Republican filibuster in the Senate would not let the Senate make a decision but wanted to send it back to New Hampshire. When it got back to New Hampshire, the people made a decision, and apparently the gentleman is unhappy with that.

As far as the amendment is concerned, you know, I am not going to worry too much about the corporations, but just let me tell how it would affect them. I have got a coporation in my district that has absolutely been bugging me for a year to come out and go through their plant. I never really had time to do it, and I will not know any more after I go through the plant than I did before because I do not understand the technicalities of what they manufacture, bu I have agreed to go.

But, if this amendment becomes part of the law, the man who escorts me through the corporation will have to determine the cost of his time while he was escorting me through and file a report with the FEC. Maybe when I tell them that they will not want me.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from California.

Mr. WIGGINS. That is not a communication as understood under the law, and will not be reported if this amendment is adopted.

Mr. HAYS of Ohio. Well, if the gentleman says so, that is legislative history, and I guess I will have to go.

What about a management meeting, if a corporation officer asks his colleagues to work for the election of a candidate does that have to be reported?

Mr. WIGGINS. If he in fact works for him, of course, on company time, the law would be violated.

Mr. HAYS of Ohio. If he just gets up in a meeting and asks the question, would that particular 5 minutes have to be reported? I think so.

Mr. WIGGINS. I do not believe so. I do not believe so. No expenditure has been made. There is a present understanding of that statute which has existed for many years as to what constitutes a communication, and it is that understanding which is intended to be perpetuated by my amendment.

Mr. HAYS of Ohio. Well, I think it is fair of the gentleman to interpret his amendment, and if my examples do not lie in his judgment within the purview of the amendment, that is good.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from New Jersey.

Mr. THOMPSON. The chairman has made reference to the establishment of legislative history. Legislative history, I respectfully say to my friend from California, which he is attempting to make, distorts the actual existing law. He is attempting to change the existing law, and in the examples which he cited under his amendment, the time of that person taking the gentleman from Ohio, if he is a candidate, through the plant, would clearly have to be reported minute by minute.

Mr. HAYS of Ohio. Well, I think the gentleman from Michigan (Mr. VANDER JAGT) really put his finger on what his amendment seeks to do, and that is to inhibit labor. Let me tell you what it does do, and this might be of some interest to you; I do not know.

The Sierra Club, which has the "dirty dozen" list and which I understand wants to spend $100,000, it is not touched. It does not have to report; it is not a corporation or a labor union. Common Cause does not have to report; it is neither a corporation nor a labor union. The National Rifle Association—I read in the press, I do not know if it is true or not, that they have more influence around here than anybody—does not have to report.

If that is the way you want it, what about the National Right to Life Committee? They do not have to report.

Mr. WIGGINS. If the gentleman will yield further, as the gentleman knows, we define independent expenditures in the bill, and at the chairman's suggestion, we required that all such independent expenditures be reported. The illustration speaks to independent expenditures made by such an organization, such expenditures must be reported under the bill.

Mr. HAYS of Ohio. Except if they communicate with their members they are not covered.

Mr. WIGGINS. I am telling the gentleman that if he feels that the adoption of this amendment creates some special benefit for those organizations which communicate with their members on various subjects, he is in error. If those organizations communicate to their members or the public on behalf of a clearly identified candidate, under our definition of independent expenditure they must report.

Mr. HAYS of Ohio. In communicating with their members?

Mr. WIGGINS. Yes, sir.

Mr. HAYS of Ohio. Then if that is true, why the amendment at all?

Mr. WIGGINS. Because under existing law, corporations or labor unions are exempt from the duty to report the cost of communications which would otherwise be independent expenditures.

Mr. HAYS of Ohio. I think my interpretation is correct, that if these people are communicating with their members, that they do not have to report it. And maybe we will require a Supreme Court case on that, do not know.

Mr. Chairman, I ask for the defeat of the amendment.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

The CHAIRMAN. The gentleman from Louisiana (Mr. MOORE) is recognized for 5 minutes.

Mr. HAYS of Ohio. Mr. Chairman, I want to see if I can find out how many speakers there are.

Mr. Chairman, I would like to get through with this bill today, if I can.

Mr. Chairman, I ask unanimous consent that all debate on this amendment cease in 20 minutes.

Mr. WIGGINS. Mr. Chairman, reserving the right to object, if those Members who wish to speak on the amendment will rise, it will give me a better understanding of what the demands are on the time.

Mr. HAYS of Ohio. Mr. Chairman, I do not wish to speak.

Mr. ASHBROOK. Mr. Chairman, further reserving the right to object, can we generally agree that we will not transfer time?

Mr. HAYS of Ohio. There are only 2 people standing over here, so I think the Members will have to decide that for themselves.

Mr. WIGGINS. There are 5 Members standing. Under the normal rule, that would take 30 minutes. The gentleman from Ohio (Mr. HAYS) has asked to confine the time to 20 minutes.

Mr. HAYS of Ohio. I will agree to 30 minutes.

Mr. WIGGINS. All right.

Mr. HAYS of Ohio. Mr. Chairman, I ask unanimous consent that all debate on this amendment cease in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous consent request was granted will be recognized for approximately 2½ minutes each.

Mr. MOORE. Mr. Chairman, I thought I had been recognized for 5 minutes. I was on the floor and I was in the well and I had been recognized for 5 minutes.

The CHAIRMAN. The gentleman is correct. The gentleman from Louisiana (Mr. MOORE) is recognized for 5 minutes, without regard to the 30-minute time limit. The remaining time will be worked out.

Mr. MOORE. I thank the Chairman.

The CHAIRMAN. The Chair will allocate the remaining time.

The gentleman from Louisiana is recognized for 5 minutes.

(Mr. MOORE asked and was given permission to revise and extend his remarks.)

Mr. MOORE. Mr. Chairman, I was not in the Congress when all of the election laws were passed, but I ran for Congress under them and I am now a member of the committee which drafted these amendments to them. I am trying to understand them.

It seems to me that, as the gentleman from Michigan (Mr. VANDER JAGT) said a few moments ago, about the only way we can justify all of this paper shuffling we go through is to let the public know just who is giving money and help to a candidate, so the public can then determine whether or not the candidate is subject to undue influence during the election and after he is elected.

Mr. Chairman, if this is the reason we have these laws then, I submit that these laws we presently have and the bill that is before us gives us only half-truths, half the information, and is a sham.

Due to the fact that political "communications" can be made by unions and corporations for or against a candidate, and neither the amount nor on whose behalf they were made has to be reported, we find out that a great deal of money which is being spent on behalf of candidates to get them elected or defeated by corporations and labor unions are not public knowledge, thus defeating the purpose of the laws. I believe the public has the right to know. I believe union members whose dues are being used for political purposes have a right to know. I believe the shareholders of a corporation whose funds are being spent have a right to know.

As an example, if we look at the 1968 Presidential election according to Washington Post reporters Haynes Johnson and Nick Kotz, 4.6 million voters were registered by COPE; 55 million pieces of literature were distributed by them; another 60 million were passed out at local union halls; 638 city phone banks were established, with 8,055 telephones and 24,611 people manning them; canvassers numbered over 72,000 people, and on election day some 94,000 people were working at the expense of COPE all for the benefit of a particular candidate.

None of this was reported. No one has any idea how much that cost, or what candidate got it, and a union member does not know what it cost him in dues.

As another example let us look at the Durkin senatorial campaign and see what was done there. We heard a moment ago the statement that more money was spent there by the unions

on behalf of DURKIN than he spent himself. As a matter of fact, the best figures my staff could come up with in researching this matter through people connected with the campaign showed that $151,900 in union dues was spent by the unions on behalf of Mr. DURKIN and never reported to the members of the union or to the public, in addition to the $90,000 in cash they gave him. And this is just in the one special election; it does not include the earlier primary or general elections.

That totals $242,000, and if we take out the union's cash contributions to Mr. DURKIN'S campaign, his campaign only spent $105,000 in the special election yet the unions spent $151,900 on his behalf or almost 50 percent more than be spent himself.

Mr. Chairman, I do not say this is wrong. We ought to encourage people to be involved in politics, to give money, to help and work for candidates, but we also ought to see that special interest groups efforts are reported because the public has the right to know.

There is no difficulty involved in reporting as if they are sophisticated enought to run an organization like COPE, they are sophisticated enough to know how to report what they are doing; who for, and what it cost.

There are no constitutional problems either. What there is, is a political problem. This is another coverup; it is another sham; another effort to shield special interests from the public's view and only tell half the story of what is really going on.

Mr. Chairman, I urge the Members to vote for this amendment and take away this coverup and hiding of important political facts from the public. How easy it is not to contribute to but spend on behalf of a candidate and thereby make a mockery of the election laws. Members of a union, shareholders of a corporation, and the public have the right to know the full picture which will reveal for the first time where the biggest bulk of special interest support is going and its extent. There can be no defensible objection to this amendment but only special interest cover up politics.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, the gentleman made a big point that none of these things are reported; yet he reeled off statistics involving the unions. If they are not reporting these figures, where did the gentleman get the figures?

Mr. MOORE. Mr. Chairman, we had to dig for them. Members of the public and members of the union should not have to do what I had to do to get them.

The CHAIRMAN pro tempore (Mr. SMITH of Iowa). The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Chairman, I ask unanimous consent that I be permitted to yield my time to the gentleman from Minnesota (Mr. FRENZEL).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. ASHBROOK. Mr. Chairman, I object. I believe we established that we would not yield our time to one another.

The CHAIRMAN pro tempore. Objection is heard.

Mr. STEIGER of Wisconsin. Mr. Chairman, in that event I will reclaim my time.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

(Mr. STEIGER of Wisconsin asked and was given permission to revise and extend his remarks.)

Mr. STEIGER of Wisconsin. Mr. Chairman, I rise in support of the amendment.

The amendment offered by the gentleman from California (Mr. WIGGINS), Mr. Chairman, is, of course, not a new amendment. It was adopted in the other body; it is known there as the Packwood amendment. It is a perfectly rational, reasonable, not unconstitutional, and not unclear exercise of the authority of the Congress to make sure that items that are expended in the campaign under the guise of a nonpartisan label ought to be listed. That kind of a contribution that is available now to a corporation or to a labor union ought to be made public.

The public ought to have the opportunity to make a judgment about the extent to which either a corporation or a labor union decides to use funds for promoting a particular candidate or cause. That is all the amendment offered by the gentleman from California (Mr. WIGGINS) does.

Mr. Chairman, I think it is sensible, I think it ought to be adopted, and I hope we will vote "aye" when the time for that vote comes.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

(Mr. ANDERSON of Illinois asked and was given permission to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr. Chairman, I have asked for this time merely out of a desire to reply to the argument that was made by my friend and colleague, the gentleman from New Jersey (Mr. THOMPSON), that somehow the amendment that has been offered by the gentleman from California (Mr. WIGGINS) suffers from a grave constitutional disability and that to adopt this amendment is going to have, to use his words, a chilling effect.

When the gentleman from California (Mr. WIGGINS) was explaining his amendment, I took a moment or two to elicit from him the clear response that all his amendment would accomplish is simply to require disclosure, and nothing more.

There is no limitation whatever on the amount that could be spent. He went on to suggest that millions and millions of dollars could be expended on communications of this type, and the only requirement of his amendment is to demand and require that under the law they be disclosed.

Mr. Chairman, I have read the opinion in Buckley against Valeo which the Supreme Court handed down on the 30th of January of this year. It is true that they used that expression "chilling effect," but nowhere in that opinion did they use that phrase to describe any part of the law that dealt with the disclosure features of the 1974 Campaign Act. They used that approach to refer to certain limitations that had been made upon spending, not upon disclosure.

Then the gentleman from New Jersey (Mr. THOMPSON), in a well-known oratorical device, tries to resort to what I would have to call a reductio ad absurdum by suggesting that some group, some labor union would be required to report the price of the paper that they use in simply sending out a simple flyer to get out the vote.

Mr. Chairman, I would have thought that the gentleman from New Jersey (Mr. THOMPSON), above all Members of this body, was more familiar than that with the kind of communications that a union sends out to its members. I can assure him, if he is not already well aware of the fact, that they do not simply stop there. They go on to indicate precisely the candidates that ought to be supported and the candidates that ought to be defeated.

Mr. Chairman, this is an expenditure for a political purpose. The American people have made it perfectly clear that they want disclosure. They want campaign expenditures reported to a responsible body of the Federal Government, and I think that that is all we are asking for in this amendment that has been offered by the gentleman from California (Mr. WIGGINS).

Without it, Mr. Chairman, this bill is sadly deficient. I strongly urge the adoption of the amendment.

The CHAIRMAN. The Chair now recognizes the gentleman from Minnesota (Mr. FRENZEL).

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, I think that the Wiggins amendment may be the most important amendment to this bill that we will consider. Without it, we will leave enormous sums of money which are now being spent to elect and defeat candidates totally undisclosed. And, we will have made a sham of our entire disclosure laws for election financing.

Mr. Chairman, I, too, would like to talk about the discussion of the gentleman from New Jersey (Mr. THOMPSON), who said that one would have to report every scrap of paper.

Mr. Chairman, the amendment clearly refers to section 403(e), which requires the reporting of contributions and expenditures only of over $100.

It was also said that when something is published in a union newspaper, it would have to be disclosed and prorated. Under section 301 of the act, any kind of statements in newpapers or periodicals of regular circulation are exempt from reporting. Under the act the payment of a monthly phone bill comes under the personal exemption. Everybody

knows that the tour guide taking a Member of Congress through a corporation certainly would not come under this act.

Mr. Chairman, the Wiggins amendment clearly says that it has to be a communication on behalf of a clearly identified candidate, so what we are hearing today is a mass of red herrings poured over a most necessary amendment which will provide one thing:

It will provide disclosure. Remember, we are not talking about disclosure of COPE moneys. We are not talking about political action committee voluntary contributions. We are talking about involuntary contributions, involuntary dues money paid to unions. And we are talking about corporate funds that belong to all the stockholders on the part of corporations.

Mr. Chairman, if the Members want to know exactly what we are talking about, we are talking about communications such as I hold in my hand. Here is one in favor of the most recently elected Member of Congress, a NYSUT brochure telling all about him to all union members in the 39th Congressional District.

It says:

Dear Brother and Sister Members:

Your New York State AFL–CIO, representing more than two million union men and women workers, has endorsed Mayor Stanley N. Lundine for Congress in the 39th District.

Then the letter goes on to say that for these reasons they encourage and they recommend a vote for Lundine for Congress.

Now, that is wonderful. It is nice to have friends. On the other hand, how many tens of thousands of these went out into the district in direct support of a congressional candidate?

That is perfectly legal of course, but would it not be nice to know what the unions were willing to spend on that particular candidate?

In addition, it is all fun when only the unions are doing it, but I must remind all the Members on that side of the aisle that, under the law, the corporations have exactly the same rights. I heard from the Stock Exchange this morning and they said that there are some 25 million individual shareholders in the United States. So, what is sauce for the goose is likely to be sauce for the gander.

It seems to me that the very least all of us can do is to make sure that these funds are at least identified. My personal preference would be to make them illegal because they are not volunteered moneys, they are corporate funds and they are union treasury moneys.

In fact, there is so much money in this one particular treasury that they did not use a stamp for the Lundine mailing, which was a nonprofit organization stamp financed by every taxpayer in the United States. They had so much money in the treasury that they stuck it into an envelope and paid for a 13 cent stamp so we know they spent about 20 cents a letter.

And we have not yet counted the phone bank. You hire a phone bank for the union or for a corporation and you can call all the stockholders or all the union members, and you can spend literally tens of thousands of dollars or, as in the New Hampshire example, hundreds of thousands of dollars which was not reported. No one would deny that this spending is definitely part of the political process.

So, please do not be confused by the thought that there is some constitutional problem here. We have put restriction on every participant in the political process, political parties, candidates, committees, harmless bystanders, independent committees. The only people we have exempted so far are corporations and unions. It is about time we stopped that. Let us adopt the Wiggins amendment.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. DENT) is recognized for 5 minutes to close the debate.

(Mr. DENT asked and was given permission to revise and extend his remarks.)

Mr. DENT. Mr. Chairman and members of the committee, this is a peculiar amendment. It clearly says what it wants to do, it just wants labor to report what they spend in their educational programs. Who is going to decide what is educational and what is not educational? They say it is not educational if they identify the candidate. Well, labor and the corporations have the courage to at least say when they identify a candidate, they say they are for or against that candidate. But what do we do when an article like the one that was printed in a local paper lately by another political organization, labeled TRIM, and prints their view of your record. This is new organization. We were finally able to identify it. It is the political arms of the Right to Work group. They did not identify a candidate and say that they are in favor of him or against him or that they want people to vote against him or to vote for him. But they have put pictures in the free news items, very proudly displayed, I thought, in a nice quiet part of the paper, right next to the obituaries.

They said:

Your Member of Congress had six key votes.

And they said:

On the six key votes he voted wrong on three. Not voting on another. Our organization rated these votes as to what they thought was good for the public.

One of the votes was consumerism. I was rated as wrong because I voted right for consumerism. They said I voted for foreign aid. They were against that. But I voted against foreign aid. They were wrong in both instances. But do you think that anybody in my home district did not know whom they wanted defeated?

I go to the large department stores during my campaigns, at their request, and they have me come in either an hour early before the store opens or an hour after the store is closed and they have all of their employees there. They are not endorsing me, they do not have to report that they spend money if they spend any. It is the corporation's money if they do they have the whole group of employees before me and they let me talk to them. As managers they recognize it is good practice to allow candidates present their views.

If we continue the course were following in the legislation on the floor these public spirited businesses will be forced to stop these public affairs seminars.

I go to production plants, I meet with the inspectors and executives of those plants. They serve a lunch. Sometimes they serve a drink. It is perfectly all right; I enjoy it very much. But that is an expenditure in favor of somebody. We cannot draw these lines as clearly as we are trying to make them. Who is going to say what is purely a meeting with these public officials. They never try to influence anybody. It is really an information meeting. The ADA gave me a bad rating in the State of Pennsylvania. On that rating they have praised those who have 100 percent record for their views. They do not say anything about me, but they have got me on the bottom part of the preferred candidates. If you are at the top, you are good, and when you are on the bottom, you are bad. Does anybody think anyone is fooled as to whom they want defeated?

On legislation dealing with welfare. They may rate a candidate 65 percent in favor of their welfare views. That educational, or is it political propaganda? TRIM, I understand, means tax reduction immediately mandated, or something like that. Circulars that we get from Common Cause, for instance give out ratings.

They do not have to report but it is intended and often does influence an election.

Our friend, the gentleman from Illinois, has the top rating. Is this a campaign contribution or is it educational? I am running against someone, and I am on the bottom of the rating. Are they for me or for my opponent. You know well enough who they favor for election.

Is it all right for them to say, "We favor this Congressman because he stands behind us; he is for our views even if its contrary to his own district's welfare. They are a great Common Cause, but I cannot find the cause they label common. I never heard them come in and plead and die for the minimum wage worker to get him a reasonable wage rate. That is a common cause for the little people. I never heard of this organization coming out in favor of voting for payments for compensation for a black-lung miner who has worked in the mine for 30, 40, or 50 years. What is their common cause? Their common cause is measured by how we obey the dictates of Common Cause. And when they send out their circulars and criticize an incumbent because he does not vote with them, it is a political gesture intended to influence the election. Is there any question as to whom they want defeated?

So we are going to have to include everybody who mentions a name of a Congressman in any kind of a rating that they put out, because that rating many times is worse than an outright indictment of the candidate, because on the same issue I have been rated as being right by some organizations, but on the same vote it has been decided that I was

wrong by others. So if we are going to do anything and do it honestly, make everybody report.

I will go along with real sunshine not the adulterated kind that only lets the light in on their issues and turns out the lights on issues for all the people.

The CHAIRMAN. The time of the gentleman has expired. All time has expired.

The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WIGGINS. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 220, not voting 37, as follows:

[Roll No. 151]

AYES—175

Abdnor	Frenzel	Myers, Pa.
Anderson, Ill.	Frey	Nichols
Archer	Gilman	Nowak
Armstrong	Ginn	O'Brien
Ashbrook	Goldwater	Ottinger
Bafalis	Goodling	Passman
Bauman	Gradison	Pettis
Beard, Tenn.	Grassley	Poage
Bennett	Gude	Pressler
Bevill	Hagedorn	Pritchard
Breckinridge	Hamilton	Quie
Brinkley	Hammer-schmidt	Quillen
Broomfield	Hansen	Railsback
Brown, Mich.	Harsha	Regula
Brown, Ohio	Hechler, W. Va.	Rhodes
Broyhill	Heinz	Robinson
Buchanan	Hightower	Rogers
Burgener	Hillis	Roush
Burke, Fla.	Holt	Rousselot
Burleson, Tex.	Hughes	Runnels
Butler	Hutchinson	Ruppe
Byron	Hyde	Sarasin
Carter	Ichord	Satterfield
Cederberg	Jarman	Schneebeli
Clancy	Jeffords	Schulze
Clausen, Don H.	Johnson, Colo.	Sebelius
Clawson, Del	Kasten	Sharp
Cleveland	Kelly	Shriver
Cochran	Kemp	Shuster
Cohen	Ketchum	Skubitz
Collins, Tex.	Kindness	Smith, Nebr.
Conable	LaFalce	Snyder
Conlan	Lagomarsino	Spence
Conte	Latta	Stanton, J. William
Coughlin	Lent	Steelman
Crane	Lujan	Steiger, Ariz.
Daniel, Dan	McClory	Steiger, Wis.
Daniel, R. W.	McCloskey	Stephens
Derrick	McCollister	Studds
Derwinski	McDade	Symms
Devine	McDonald	Talcott
Dickinson	McEwen	Taylor, Mo.
Duncan, Tenn.	McHugh	Taylor, N.C.
du Pont	Madigan	Teague
Edgar	Mahon	Thone
Edwards, Ala.	Mann	Traxler
Emery	Martin	Treen
Erlenborn	Mathis	Vander Jagt
Esch	Mazzoli	Waggonner
Eshleman	Michel	Walsh
Evans, Ind.	Milford	Wampler
Fenwick	Miller, Ohio	Whitehurst
Findley	Mitchell, N.Y.	Wiggins
Fish	Montgomery	Winn
Fisher	Moore	Wydler
Florio	Moorhead, Calif.	Wylie
Flowers	Mosher	Young, Alaska
Forsythe	Myers, Ind.	Young, Fla.
Fountain		

NOES—220

Abzug	Andrews, N.C.	Badillo
Addabbo	Andrews, N. Dak.	Baldus
Alexander	Annunzio	Baucus
Allen	Ashley	Beard, R.I.
Ambro	Aspin	Bedell
Anderson, Calif.	AuCoin	Bergland
Blanchard	Hicks	Patterson, Calif.
Blouin	Holtzman	Pattison, N.Y.
Boggs	Horton	Perkins
Boland	Howard	Pickle
Bolling	Howe	Pike
Bonker	Hubbard	Preyer
Bowen	Hungate	Price
Brademas	Jacobs	Randall
Brodhead	Jenrette	Rangel
Brooks	Johnson, Calif.	Rees
Brown, Calif.	Jones, Ala.	Reuss
Burke, Calif.	Jones, N.C.	Richmond
Burlison, Mo.	Jones, Okla.	Riegle
Burton, John	Jones, Tenn.	Rinaldo
Burton, Phillip	Jordan	Risenhoover
Carney	Kastenmeier	Roberts
Carr	Kazen	Roe
Chappell	Keys	Roncalio
Collins, Ill.	Koch	Rooney
Conyers	Krebs	Rose
Corman	Landrum	Rosenthal
Cornell	Leggett	Rostenkowski
Cotter	Lehman	Roybal
D'Amours	Levitas	Russo
Daniels, N.J.	Litton	Ryan
Danielson	Lloyd, Calif.	St Germain
Davis	Lloyd, Tenn.	Santini
de la Garza	Long, La.	Scheuer
Delaney	Long, Md.	Schroeder
Dellums	Lott	Seiberling
Dent	Lundine	Shipley
Diggs	McCormack	Sikes
Dingell	McFall	Simon
Dodd	McKay	Sisk
Downey, N.Y.	Madden	Smith, Iowa
Drinan	Maguire	Solarz
Duncan, Oreg.	Matsunaga	Spellman
Early	Meeds	Staggers
Edwards, Calif.	Melcher	Stanton, James V.
Eilberg	Metcalfe	Stark
English	Meyner	Steed
Evans, Colo.	Mezvinsky	Stokes
Evins, Tenn.	Mikva	Stuckey
Fary	Miller, Calif.	Symington
Fascell	Mills	Thompson
Flood	Mineta	Thornton
Flynt	Minish	Tsongas
Foley	Mink	Ullman
Ford, Tenn.	Mitchell, Md.	Van Deerlin
Fraser	Moakley	Vander Veen
Fuqua	Moffett	Vanik
Gaydos	Mollohan	Vigorito
Giaimo	Moorhead, Pa.	Waxman
Gibbons	Morgan	Weaver
Gonzalez	Moss	Whalen
Green	Mottl	Whitten
Haley	Murphy, Ill.	Wilson, Tex.
Hall	Murphy, N.Y.	Wirth
Hanley	Murtha	Wolff
Hannaford	Natcher	Wright
Harkin	Neal	Yates
Harrington	Nedzi	Yatron
Harris	Nolan	Young, Tex.
Hawkins	Oberstar	Zablocki
Hays, Ohio	Obey	Zeferetti
Heckler, Mass.	O'Hara	
Hefner	O'Neill	
Helstoski	Patten, N.J.	

NOT VOTING—37

Adams	Guyer	Peyser
Barrett	Hayes, Ind.	Rodino
Bell	Hébert	Sarbanes
Biester	Henderson	Slack
Bingham	Hinshaw	Stratton
Breaux	Holland	Sullivan
Burke, Mass.	Johnson, Pa.	Udall
Chisholm	Karth	White
Clay	Krueger	Wilson, Bob
Downing, Va.	McKinney	Wilson, C. H.
Eckhardt	Macdonald	Young, Ga.
Fithian	Nix	
Ford, Mich.	Pepper	

The Clerk announced the following pairs:

On this vote:

Mr. Krueger for, with Mr. Eckhardt against.

Mr. Breaux for, with Mr. Burke of Massachusetts against.

Mr. Hebert for, with Mr. Bingham against.

Mr. Guyer for, with Mr. Rodino against.

Mr. Bob Wilson for, with Mrs. Chisholm against.

Mr. Henderson for, with Mr. Nix against.

Mr. Downing of Virginia for, with Mr. Macdonald of Massachusetts against.

Mr. HOWE changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 47, begininng line 5, strike section 114 in its entirety.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, this amendment strikes section 114. When it is disposed of, I intend to offer an amendment to strike section 115. After that, I do not intend to offer my substitute made in order by the rule, but, rather, reserve it for the minority as part of the motion to recommit. That at least is the present intention, and we think it will save some time.

Mr. Chairman, this striking of section 114 simply removes an unnecessary feature from the bill. Under the present law, a campaign committee may only make expenditures on behalf of the single candidate for which it was formed. The bill, in section 114, says that—

Any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of the preceding sentence.

That is what I want to strike. What the bill will allow is for any of us who have a campaign committee to be able to make transfers from that campaign committee to some other candidate. What this section will do is to delude some people who think they are contributing to a particular candidate's campaign and not let them know that some of that money is going to be transferred to somebody else.

In other words, it lets some of our stronger candidates solicit money and transfer it to some of the weaker ones who are not being able to raise the money itself. It is a sort of revenue sharing between the attractive candidates and the weaker candidates.

I do not think it needs a lot of discussion. It is not a terribly important amendment. But what the language of the bill does in this case is to weaken the intent of the reforms of 1974, and it is a retrenchment from that reform.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. FRENZEL. I yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Chairman, I read in the public press from time to time that certain Members of the majority party in a leadership status have campaign coffers that they fill from various sources and then dole out to other Members of the majority party. This seems to be a sort of circuitous way of getting the funds from the original donor to the ultimate recipient.

But apparently there attaches to it a certain obligation on the part of the receiving Member of the majority party.

I assume the gentleman's amendment

would address this sort of double contribution which may even play a part in future elections for party leadership posts on the majority side.

Mr. FRENZEL. Mr. Chairman, I think the gentleman from Maryland (Mr. BAUMAN) makes a good point which I did not raise. There may be some obligation incurred by the weaker candidate to the stronger candidate. That is obviously possible. That provides an extra reason why we should certainly remove this section. We would thereby remove any of the suspicion that one candidate may be carrying others into the Congress with him or her for whatever reasons.

Mr. Chairman, I urge the adoption of my amendment.

[Mr. HAYS of Ohio addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 39, noes 76.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: On page 47, beginning line 11, Strike Section 115 in its entirety.

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, this is another amendment which, in my judgment, is essential to the integrity and the independence of the Federal Election Commission.

Section 115, which appears on page 47 and half of page 48 in the printed bill, provides that the Election Commission can be put out of business by a vote of either House after March 31, 1977.

Mr. Chairman, when the Supreme Court decision was announced, it was suggested that it might be a good idea to reconstitute the Election Commission and have some kind of self-destruct feature which would force the Congress to take another full look at the election law.

Since we have decided to review the whole election law, 58 pages of new and revised and recodified law, there does not exist much reason for destruction any more, other than to cow the Election Commission.

Mr. Chairman, if this amendment is not adopted, the bill will allow the destruction by either House of the Election Commission next year. It means, of course, that if the Election Commission does not do what we want it to do, it is under threat of extinction.

Mr. Chairman, this is a very simple amendment. I think the section in the bill is very simple, and I am not going to belabor it. It is just a question of whether we want an independent Commission which can count on existence or whether we want a Commission that depends for its very existence on its ability to be nice to Congress.

Therefore, Mr. Chairman, I request and urge that the amendment be adopted.

[Mr. HAYS of Ohio addressed the Committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. WIGGINS. Mr. Chairman, I rise in support of the amendment.

(Mr. WIGGINS asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. Mr. Chairman, in the debate over my amendment several minutes ago, the question was raised as to the constitutionality of the duty to report. I viewed that concern as being unfounded, but I wish to assure the Members that there is a real constitutional problem with the section of the bill which this amendment seeks to strike.

Mr. Chairman, this Commission is created by an act of Congress. It takes the House and the Senate acting together, with the President of the United States adding his signature, to create the Commission.

What we have here, Mr. Chairman, is a bill which permits the Commission to be disbanded upon the action of one House of Congress. We cannot repeal laws by the action of one House of Congress. It takes the Congress and the President to repeal a statute. Yet, we have here what purports to be an attempt to grant to either House, by something called appropriate action, the right to determine that the Commission shall cease to exist on March 31, 1977. Otherwise it will continue.

Mr. Chairman, I do not believe that a statute can delegate to the House of Representatives the responsibility of the Senate, nor can the House delegate to the Senate its responsibility, nor can both of them deny the President the right to act on a law. This provision should be stricken in order to save at least this portion of the bill from constitutional attack.

Mr. Chairman, I urge the adoption of the amendment.

Mr. THOMPSON. Mr. Chairman, I move to strike the requisite number of words.

(Mr. THOMPSON asked and was given permission to revise and extend his remarks.)

Mr. THOMPSON. Mr. Chairman, I will not take all of my 5 minutes.

The gentleman from Washington (Mr. MCCORMACK) I understand has a question which relates to each and every one of us and which I think should be made clear in the record.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman from New Jersey for yielding me this time.

Mr. Chairman, I received yesterday in the mail a letter from the Public Disclosure Commission in my State of Washington which reads as follows:

Some time ago you received from this office a copy of a memorandum to me from Assistant Attorney General James M. Vache in which he informally opined on the extent to which the Federal Elections Campaign Act Amendments of 1974 would supersede and pre-empt the State's Open Government Law (Initiative 276). The substance of that memorandum was reviewed by the Public Disclosure Commission at its March 16, 1976 meeting. The discussion concluded with a motion in which the Commission has expressed its doubt that the Federal law can supersede or pre-empt this state law. Enclosed herewith is a news release giving the content of the Commission's motion.

The desired Attorney General's Opinion has been formally requested. We look forward to an early response.

The Public Disclosure Commission then said:

The Commission is in doubt as to the effect of the Federal Election Campaign Act of 1974, particularly paragraph 453 of that act relating to its implementation upon the State's public disclosure law. Therefore, until this doubt is removed by receiving a definitive Attorney General's opinion from its counsel, the Commission expects that all incumbents, candidates and political committees supporting and/or opposing incumbents and candidates for such Federal office will voluntarily continue to report under the more exacting provisions of RCW 42.17—among the Nation's first effective public disclosure law.

My question to the gentleman from New Jersey is: Since the opinion of any attorney general could impact upon every Member of the Congress from every State, what is the actual status of the public law, with respect to preemption by the Federal Election Campaign Act of laws of the various States?

Mr. THOMPSON. Mr. Chairman, in response to the inquiry of the gentleman from Washington, let me state that it astounds me really that such an interpretation could come the gentleman's way. Section 453 of the 1974 act which was retained in this act, 2 U.S. Code, section 453, has a specific effect on State law. The precise language of section 453 follows: "The provisions of this chapter and the rules prescribed under this chapter supersede and preempt any provision of State law with regard to elections to Federal office." Nothing could be more clear.

Further, there is in case law a whole body of history which would support this specific section.

In a colloquy with the gentleman from Minnesota (Mr. FRENZEL) on yesterday, that gentleman and I agreed that this law does indeed preempt all State laws.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I thank the gentleman for yielding. I would say that my attorney general in Texas ruled exactly the opposite of what your attorney general ruled. He held that this law did supersede State law. We do not have to comply with the State law as far as the entire election code is concerned. We do have to comply with those provisions of State law governing the placing of our names on the ballot, filing fees and deadlines, things of that kind, but not with provisions in the State code concerning reporting of contributions expenditures, campaign committees and other such matters.

Mr. THOMPSON. Mr. Chairman, I believe that the chairman of the committee has a comment to make and I yield to the gentleman from Ohio for that purpose.

Mr. HAYS of Ohio. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I understood that the attorney general of the State of Washington had not as yet ruled?

Mr. McCORMACK. That is correct.

Mr. HAYS of Ohio. I will tell you what an attorney general's opinion is worth. I was one time in the senate in Ohio and was also the mayor of the village of Flushing. One of my political opponents got the attorney general of Ohio, who was then a Republican, to rule that I could not hold both offices. He argued the law, and he sent me a nasty letter. I replied and I said, "I received both of your letters and," I said, "Let me give you my opinion, and my opinion is that your opinion isn't worth the paper it is written on. Get a court order." That is the last I heard from him.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. McCORMACK, and by unanimous consent, Mr. THOMPSON was allowed to proceed for 2 additional minutes.)

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentleman from Washington.

Mr. McCORMACK. I want to make it clear that the attorney general of the State of Washington has issued a tentative opinion agreeing that the Federal law preempts State laws. What has happened is that the State public disclosure commission has chosen to ignore this tentative opinion by the attorney general.

Mr. THOMPSON. The gentleman from New Jersey can state that the gentleman from Washington in turn can ignore the State agency's letter. It is perfectly clear that the Federal law preempts the laws of the 50 States with respect to Federal elections.

Mr. McCORMACK. If the gentleman will yield further, I want to observe that yesterday we in this body accepted an amendment to the bill requiring that we file copies of our campaign finance statements as required by Federal law, with our respective secretaries of State. I voted for that. I think it is appropriate.

Mr. THOMPSON. Copies of the statements or reports of the candidates will be filed with the secretaries of state. Mr. Chairman, I yield back the remainder of my time.

Mr. ANNUNZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Frenzel amendment. As the sponsor of this particular section, section 409 on page 47, I would like to inform the Members of the House that originally my amendment provided for the disestablishment of the Commission commencing with March 31 of 1977, and the next day I reintroduced this section which passed the committee by a sizable vote. The reason that this is a good section is because we hear so much conversation about oversight. All we are saying in the amendment—and it has nothing to do with the independency of the Commission—is that either the Election Committee or the House Committee or the Committee on Rules on the Senate side, commencing with the date of January 3, 1977, conduct a study of the work of the entire Commission as to all the various aspects of the law, including public financing, contributions and limitations, and that the Election Committee responsible for this law report to the full committee its findings, and then the full committee would report to the House its particular findings, and the Senate would have that same responsibility.

I feel it is a good section, and I urge my colleagues to vote down the Frenzel amendment. What we need in the House is more oversight of the actions that involve the future of each and every one of the Members of this House.

Mr. MIKVA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment because, while I strongly favor the oversight doctrine that my colleague, the gentleman from Illinois, has suggested, this is more than oversight. I am in favor of the Committee on House Administration, and the Senate Rules Committee, doing all they can to review how this Commission functions and what ought to be straightened out and what ought not be straightened out. This provision does more than that. Whether it is constitutional or not, it is clearly a deviation from normal policy to say that either House, either this House or the other body, has the power to totally repeal an act of Congress that has been signed by the President. I think it is very bad policy. I think it will be construed as an interference with the independence of the Commission, whether it is intended to be or not.

I think the notion of going through all of the travail and tribulation that we have gone through to reestablish the Commission, and then to say that on March 31, 1977, less than 5 months after the next election, either House can have the opportunity to drop the hatchet and wipe it out, is a suggestion that the Commission had better toe the line and do what we think they ought to do, or else we are going to put them out of business.

I am particularly concerned about how this will be perceived. We ought to have learned a long time ago that laws are not only what they say and do but what they appear to be. I think this kind of a device, if allowed to remain in the law, will be the single most telltale sign that the Congress really did not have its heart in election reform and did not really want to set up an independent, efficient, self-sustaining commission.

I can only say to my colleague, the gentleman from Illinois, that if the Commission does not work out, then the way to get rid of this Commission is the same way we ought to get rid of any other regulatory agency—by a repeal or revision of the law. The repeal or revision ought to pass both Houses of Congress and be signed by the President.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to my colleague, the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Chairman, I appreciate my colleague, the gentleman from Illinois, yielding.

I have the highest regard for his legal opinion as to the constitutionality of this section, just as I have the highest regard for the opinion of the gentleman from California (Mr. WIGGINS). The Supreme Court has already ruled. They have declared that this Commission constituted the way it was in the old law was unconstitutional. And the world did not come to an end. We are still doing business. The candidates have received their money up to this date, and if this section is taken to court and they find it unconstitutional, that is our job in the Congress: to take care of it. That is what we will do. We will take act as we are doing today.

In the meantime I want the gentleman to know I firmly, firmly believe that this House should have oversight because this particular law does affect each and every one of us and does affect our personal future. The least little complaint can destroy us and we should have the oversight.

Mr. MIKVA. I think the oversight is independent of destruction, and if we are going to repeal the law which set up this Commission it ought to be done in a bicameral body by both Houses and by the President rather than in this shortcut procedure which I think is unwise.

I urge support of the Federal amendment.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Georgia.

Mr. MATHIS. Mr. Chairman, is not our distinguished friend, the gentleman from Illinois, the author of a bill to provide for an expiration date on all agencies?

Mr. MIKVA. Yes; and under my bill any agency which has been in existence for 10 years ought to go out of business unless the Congress or the President affirm that it should remain. We do not provide that the House can put it out of existence by itself. That is an important difference.

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, the gentleman might as well save the paper his bill is printed on. That is never going to happen. If he wants to get a bill out that will pass he could say the agencies will go out of business unless both Houses and the President say that they ought to stay in business.

Mr. MIKVA. But there is a great deal of difference between 5 months and 10 years, and that difference ought to be perceived.

I will say we ought to vote for the Frenzel amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL).

The question was taken; and the

Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 276, noes 120, not voting 36, as follows:

[Roll No. 152]

AYES—276

Abdnor	Ford, Tenn.	Miller, Ohio
Abzug	Forsythe	Mineta
Adams	Fountain	Minish
Ambro	Fraser	Mink
Anderson, Calif.	Frenzel	Mitchell, Md.
	Frey	Mitchell, N.Y.
Anderson, Ill.	Fuqua	Moakley
Andrews, N.C.	Gilman	Moffett
Andrews, N. Dak.	Ginn	Moorhead, Calif.
	Goldwater	
Archer	Goodling	Moorhead, Pa.
Armstrong	Gradison	Mosher
Ashley	Grassley	Mottl
Aspin	Green	Myers, Ind.
AuCoin	Gude	Myers, Pa.
Badillo	Hagedorn	Neal
Bafalis	Hamilton	Nichols
Baldus	Hammer-schmidt	Nolan
Baucus		Nowak
Beard, R.I.	Hanley	Oberstar
Beard, Tenn.	Hannaford	Obey
Bedell	Harkin	O'Brien
Bergland	Harrington	O'Hara
Blanchard	Harris	O'Neill
Blouin	Harsha	Ottinger
Boland	Hawkins	Patterson, Calif.
Bonker	Hechler, W. Va.	
Brademas	Heckler, Mass.	Pattison, N.Y.
Breckinridge	Hefner	Pettis
Brinkley	Heinz	Pickle
Brodhead	Helstoski	Pike
Broomfield	Hicks	Pressler
Brown, Calif.	Hillis	Preyer
Brown, Mich.	Holtzman	Pritchard
Brown, Ohio	Horton	Quie
Broyhill	Howard	Railsback
Buchanan	Howe	Randall
Burgener	Hughes	Rangel
Burke, Calif.	Hutchinson	Regula
Burke, Fla.	Hyde	Reuss
Burton, John	Jacobs	Rhodes
Burton, Phillip	Jarman	Richmond
Butler	Jeffords	Riegle
Carney	Jenrette	Rinaldo
Carr	Jones, Okla.	Robinson
Carter	Jordan	Roe
Cederberg	Kasten	Rogers
Clancy	Kastenmeier	Rose
Clausen, Don H.	Kelly	Rosenthal
	Kemp	Roush
Cochran	Ketchum	Roybal
Cohen	Keys	Ruppe
Conable	Kindness	Russo
Conlan	Koch	Santini
Conte	Krebs	Sarasin
Conyers	LaFalce	Scheuer
Coughlin	Lagomarsino	Schneebeli
D'Amours	Latta	Schroeder
Daniel, Dan	Leggett	Schulze
Daniel, R. W.	Lehman	Sebelius
Dellums	Lent	Seiberling
Derrick	Levitas	Sharp
Derwinski	Litton	Shriver
Dodd	Lloyd, Tenn.	Shuster
Downey, N.Y.	Lott	Simon
Drinan	Lujan	Skubitz
Duncan, Tenn.	Lundine	Smith, Iowa
du Pont	McCloskey	Smith, Nebr.
Early	McCollister	Snyder
Edgar	McCormack	Solarz
Edwards, Ala.	McDade	Spellman
Edwards, Calif.	McEwen	Spence
Eilberg	McHugh	Stanton, J. William
Emery	McKay	
English	McKinney	Steelman
Erlenborn	Madigan	Steiger, Ariz.
Esch	Maguire	Steiger, Wis.
Eshleman	Mann	Stuckey
Evans, Colo.	Martin	Studds
Evans, Ind.	Matsunaga	Symington
Fascell	Mazzoli	Talcott
Fenwick	Meeds	Taylor, Mo.
Findley	Melcher	Thompson
Fish	Meyner	Thone
Fisher	Mezvinsky	Thornton
Fithian	Michel	Traxler
Florio	Mikva	Treen
Foley	Miller, Calif.	Tsongas
Van Deerlin	Weaver	Wydler
Vander Jagt	Whalen	Wylie
Vander Veen	Whitehurst	Yates
Vanik	Wiggins	Yatron
Walsh	Winn	Young, Fla.
Wampler	Wirth	
Waxman	Wolff	

NOES—120

Addabbo	Giaimo	Passman
Alexander	Gibbons	Patten, N.J.
Allen	Gonzalez	Perkins
Annunzio	Haley	Poage
Ashbrook	Hall	Price
Bauman	Hansen	Quillen
Bennett	Hays, Ohio	Rees
Bevill	Hightower	Risenhoover
Biaggi	Holt	Roberts
Boggs	Hubbard	Roncalio
Bolling	Hungate	Rooney
Bowen	Ichord	Rostenkowski
Brooks	Johnson, Calif.	Rousselot
Burleson, Tex.	Johnson, Colo.	Runnels
Burlison, Mo.	Jones, Ala.	Ryan
Byron	Jones, N.C.	St Germain
Chappell	Jones, Tenn.	Satterfield
Clawson, Del	Kazen	Shipley
Cleveland	Landrum	Sikes
Collins, Ill.	Lloyd, Calif.	Sisk
Collins, Tex.	Long, La.	Slack
Corman	Long, Md.	Staggers
Cornell	McClory	Stanton, James V.
Cotter	McDonald	
Crane	McFall	Steed
Daniels, N.J.	Madden	Stephens
Danielson	Mahon	Stokes
Davis	Mathis	Symms
de la Garza	Metcalfe	Taylor, N.C.
Delaney	Milford	Teague
Dent	Mills	Ullman
Devine	Mollohan	Vigorito
Dickinson	Montgomery	Waggonner
Diggs	Moore	Whitten
Dingell	Morgan	Wright
Duncan, Oreg.	Moss	Young, Alaska
Fary	Murphy, Ill.	Young, Tex.
Flood	Murphy, N.Y.	Zablocki
Flynt	Murtha	Zeferetti
Ford, Mich.	Natcher	
Gaydos	Nedzi	

NOT VOTING—36

Barrett	Guyer	Peyser
Bell	Hayes, Ind.	Rodino
Biester	Hébert	Sarbanes
Bingham	Henderson	Stark
Breaux	Hinshaw	Stratton
Burke, Mass.	Holland	Sullivan
Chisholm	Johnson, Pa.	Udall
Clay	Karth	White
Downing, Va.	Krueger	Wilson, Bob
Eckhardt	Macdonald	Wilson, C. H.
Evins, Tenn.	Nix	Wilson, Tex.
Flowers	Pepper	Young, Ga.

Messrs. McKINNEY, RANGEL, EARLY, SPENCE, O'NEILL, McCORMACK, SKUBITZ, and CARR changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: Page 58, after line 16, insert the following new sections:

SEC. 309. CONGRESSIONAL ELECTION CAMPAIGN FUND.

(a) Subtitle H of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new chapter:

"Chapter 97—CONGRESSIONAL ELECTION CAMPAIGN FUND

"SEC. 9051. SHORT TITLE.

"This chapter may be cited as the 'Congressional Election Campaign Fund Act'.

"SEC. 9052. DEFINITIONS.

"For purposes of this chapter—

"(1) the term 'authorized committee' means, with respect to a candidate for Federal office, any political committee which is authorized in writing by such candidate to incur expenses to further the nomination for election or election of such candidate. The authorization shall be addressed to the treasurer of such political committee, and a copy of the authorization shall be filed by such candidate with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization;

"(2) the term 'candidate' means an individual who seeks election to Federal office. For purposes of this paragraph an individual is considered to seek election if he/she (a) takes the action necessary under the law of a State to qualify for election; (b) receives contributions or incurs campaign expenditures; or (c) gives his/her consent for any other person to receive contributions or to incur campaign expenditures on his/her behalf;

"(3) the term 'Commission' means the Federal Election Commission;

"(4) the term 'contribution' means a gift of money made (a) by a written instrument which identifies the person making the contribution by full name or (b) in cash up to $100: *Provided*, That the candidate and his/her authorized committees maintain and file reports in the form prescribed by the Commission, which show the date and amount of each such contribution and the full name and mailing address of the person making such contribution; but does not include a subscription, loan, advance, or deposit of money, or a contribution of products or services or anything else of value;

"(5) the term 'eligible candidate' means a candidate for election to Federal office who is eligible under Section 9053, to receive payments under this title;

"(6) the term 'Federal office' means the Federal office of Senator or Representative;

"(7) the term 'general election' means any regularly scheduled or special election held for the purpose of electing a candidate to Federal office;

"(8) the term 'matching payment period' means the period beginning on January 1 of each general election year for Federal races and ending on the date on which such general election is held: *Provided*, That for purposes of a special election held to elect a candidate to Federal office, 'matching payment period' means the period beginning on the day after the incident occurred which created a vacancy in the Federal office being sought and ending on the day in which the special election is held;

"(9) the term 'qualified campaign expenses' means only those expenses incurred by a candidate, or by his/her authorized committee in connection with his/her campaign for general election which are for the use of—

"(i) broadcasting stations to the extent that they represent direct charges for air time;

"(ii) newspapers, magazines, and outdoor advertising facilities to the extent that they represent direct charges for advertising space;

"(iii) direct mailings;

"(iv) telephones to the extent that they represent lease and use charges for equipment, and telegrams;

"(v) rental of campaign headquarters: *Provided*, That the funds are not used to pay rent to the candidate, a relative of the candidate, or a business entity in which the candidate or relatives of the candidate have a 10-percent or greater ownership interest; and

"(vi) brochures, buttons, signs, and other printed campaign material: *Provided*, That the term 'qualified campaign expense' shall not include any payment which constitutes a violation of any law of the United States. For purposes of this paragraph, an expense is incurred by a candidate or by an authorized committee if it is incurred by a person specifically authorized in writing by the candidate or committee, as the case may be, to

incur such expense on behalf of the candidate or committee.

"(10) the term 'Representative' means a Member of the House of Representatives, and the Delegates from the District of Columbia, Guam, and the Virgin Islands;

"(11) the term 'State' means each State of the United States, the District of Columbia, Guam, and the Virgin Islands;

"(12) the term 'voting age population' means the voting age population certified under section 320(e) of the Act; and

"(13) the term 'non-Federal office' means all offices other than those Federal offices as defined in paragraph (4) of this section.

"SEC. 9053. ELIGIBILITY FOR PAYMENTS.

"(a) To be eligible to receive any payments under section 9057 for use in connection with his/her general election campaign, a candidate shall certify to the Commission—

"(1) that the candidate is the nominee of a political party for election to Federal office of Representative or is otherwise qualified on the ballot as a candidate in the general election for such office and the candidate and his/her authorized committees have received contributions in connection with that campaign which, in the aggregate, exceed 10 percent of the total amount he/she may spend in the general election under section 9055;

"(2) that the candidate is the nominee of a political party for election to the Federal office of Senator or is otherwise qualified on the ballot as a candidate in the general election for such office and the candidate and his/her authorized committees have received contributions in connection with that campaign which, in the aggregate, exceed 10 percent of the total amount he/she may spend in the general election under section 9055;

"(3) that the candidate and his/her authorized committees will not incur qualified campaign expenses in excess of the limitations on such expenses under section 9054, and expenditures in excess of the limitations on such expenditures under section 9055;

"(4) that the candidate is seeking election to a specific Federal office.

"(b) In determining the amount of contributions received for purposes of subsection (a) and of section 9054—

"(1) no contribution from any person to a candidate or his/her authorized committees shall be taken into account to the extent that it exceeds $100 when added to the amount of all other contributions made by that person to or for the benefit of that candidate in connection with his/her general election campaign;

"(2) no contribution from any person to a candidate or his/her authorized committees shall be taken into acount unless it is dated and received during the matching payment period.

"SEC. 9054. ENTITLEMENT TO PAYMENTS.

"Every candidate who is eligible to receive payments under section 9053 in connection with his/her general election campaign is entitled to payments under section 9057 in an amount equal to the aggregate contributions received by such candidate in connection wih such campaign: *Provided,* That the total amounts of payments to which a candidate is entitled under this subsection may not exceed 50 percent of the sum of the expenditure limitation applicable to such candidate for the specific campaign under section 9055(d)(1) plus the fundraising allowance provided in section 9055(d)(2).

"SEC. 9055. LIMITATIONS.

"(a) Funds received by a candidate or his/her authorized committees under this chapter shall be used only for qualified campaign expenses incurred for the period beginning on the date on which the nominating process is complete in the candidate's State for the Federal office being sought, and ending on the day of the general election, or in the case of a special election beginning on the day after the incident occurred which created a vacancy in the Federal office being sought and ending on the day on which the special election is held.

"(b) No candidate or his/her authorized committees shall be entitled to receive any funds under section 9054 until the candidate and at least one opponent qualified for the ballot under State law as candidates for the general election.

"(c) All payments received under this chapter shall be deposited at a National or State bank in a separate checking account which contains only those funds received under this chapter. No expenditures of any payments received under this chapter shall be made except by checks drawn on this separate checking account at a National or State bank. The Commission may require such reports on the expenditures of these funds as it deems appropriate.

"(d)(1) No candidate for the office of Representative or Senator who receives payments from the Secretary of the Treasury or his delegate under section 9057 may make expenditures in excess of—

"(A) in the case of any campaign for general election by a candidate for the office of Senator or by a candidate for the office of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 12 cents multiplied by the voting age population of the State (as certified under section 320(e)); or

"(ii) $150,000;

"(B) $70,000, in the case of any campaign for general election by a candidate for the office of Representative in any other State, Delegate from the District of Columbia, or Resident Commissioner; or

"(C) $15,000, in the case of any campaign for general election by a candidate for the office of Delegate from Guam or the Virgin Islands.

"(2) For purposes of this subsection—

"(A) An expenditure is made on behalf of a candidate if it is made by—

"(i) an authorized committee or any agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(B) Expenditure does not include any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limits set forth in paragraph (1) of this subsection.

"(C)(i) At the beginning of each calendar year (commencing in 1976) as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the per centum difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established in paragraph (1) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"(ii) For purposes of paragraph (i)—

"(I) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(II) the term 'base period' means calendar year 1974.

"(e)(1) No candidate for the office of Representative or Senator who receives payments from the Secretary of the Treasury or his delegate under section 9057 may make expenditures from his/her personal funds, or the personal funds of his/her immediate family in the case of any campaign for general election in excess of, in the aggregate—

"(A) $35,000 in the case of a candidate for the office of Senator or for the office of Representative from a State which is entitled to only one Representative; or

"(B) $25,000 in the case of a candidate for the office of Representative.

"(2) For purposes of this subsection, 'immediate family' means a candidate's spouse and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

"(3) No candidate or his/her immediate family may make loans or advances from their personal funds in connection with his/her campaign for general election unless such loan or advance is evidenced by a written instrument fully disclosing the terms and conditions of such loan or advance.

"(4) For purposes of this subsection, any such loan or advance shall be included in computing the total amount of such expenditure only to the extent of the balance of such loan or advance outstanding or unpaid.

"(f) Notwithstanding any other provision of this chapter, no amount more than the sum of the allowable expenditure limit for a candidate in a given general election race plus the additional fundraising allowance, which are set forth in subsection (e) of this section, shall be paid under this chapter to all eligible candidates in that given election.

"(g) The Secretary of the Treasury shall make distribution of the funds provided under section 9054(a) in the same sequence in which the initial and subsequent certifications are received pursuant to section 9056.

"Sec. 9056. Certification by commission

"(a) INITIAL CERTIFICATION.—Not later than 10 days after a candidate establishes his/her eligibility under section 9053 to receive payments under section 9057, the Commission shall certify to the Secretary of the Treasury for payment to such candidate under section 9057 payment in full of amounts to which such candidate is entitled under section 9054. The Commission shall make such additional certifications as may be necessary to permit candidates to receive payments for contributions under section 9057, and in accordance with regulations promulgated by the Commission shall make such certifications in the same sequence in which the candidates have made submissions to the Commission regarding contributions received within the meaning of section 9052(4).

"(b) FINALITY OF DETERMINATIONS.—Initial certifications by the Commission under subsection (a), and all determinations made by it under this chapter are final and conclusive, except to the extent they are subject to examination and audit by the Commission under section 9058 and judicial review under section 9060.

"SEC. 9057. PAYMENTS TO ELIGIBLE CANDIDATES.

"(a) ESTABLISHMENT OF ACCOUNT.—The Secretary shall maintain in the Presidential Election Campaign Fund established under section 9006(a), in addition to any account which he maintains under such section and section 9037, a separate account to be known as the Congressional Election Payment Account. The Secretary shall deposit into such account, for use by candidates who are eligible to receive payments under section 9053, the amount available after the Secretary determines that adequate amounts are available for payments under sections 9006(c), 9008(b)(3), and 9037(b).

"(b) Notwithstanding subparagraphs (a), in each of the 2 years following a Presidential election, the Secretary shall deposit into the Congressional Election Payment

Account that portion of the annual amounts designated by taxpayers under section 6096 that equals the excess above 25 percent of the total amount made available in the last Presidential election in allocating funds under section 9006. The moneys in this Payment Account shall remain available without fiscal limitation.

"(c) PAYMENTS FROM THE CONGRESSIONAL ELECTION PAYMENT ACCOUNT.—Upon receipt of a certification from the Commission under section 9056, but not before the beginning of the matching payment period, the Secretary or his delegate shall, within 10 days after receiving such certification or after the beginning of the matching payment period, whichever is later, transfer the amount certified by the Commission from the account to the candidate. The Secretary shall make distribution of the funds available under subsection (a) in the same sequence in which the initial and subsequent certifications are received under section 9056.

"SEC. 9058. EXAMINATION AND AUDITS: REPAYMENTS.

"(a) After each general election, the Commission is authorized to conduct an examination and audit of the campaign contributions raised for purposes of obtaining matching funds and the qualified campaign expenditures made by all candidates for Federal office who received payments under this chapter.

"(b)(1) If the Commission determines that any portion of the payments made to an eligible candidate under section 9057 was in excess of the aggregate amount of the payments to which the recipient was entitled, it shall so notify that recipient, and the recipient shall pay to the Secretary of the Treasury an amount equal to the excess amount.

"(2) If the Commission determines that any portion of the payments made to a candidate under section 9057 for use in a general election campaign was used for any purpose other than for qualified campaign expenses in connection with that campaign, the Commission shall so notify the candidate and the candidate shall pay an amount equal to three times that amount to the Secretary.

"(3) Amounts received by a candidate under this chapter may be retained for 60 days after the general election for the purpose of liquidating all obligations to pay qualified campaign expenses which were incurred for the period beginning with the day on which the candidate's nominating process was completed and ending on the day on which the general election is held. After the 60-day period following the election, all remaining Federal funds not yet expended on qualified campaign expenses shall be promptly repaid by the candidate to the Payment Account.

"(4) If the Commission determines that any candidate who has received funds under this chapter is convicted of violating any provision of this chapter, the Commission shall notify the candidate and the candidate shall pay to the Secretary of the Treasury the full amount received under this chapter.

"(c) No notification shall be made by the Commission under subsection (b) with respect to a campaign more than 2 years after the day of the election to which the campaign related.

"(d) All payments received by the Secretary under subsection (b) shall be deposited by him in the Congressional Election Payment Account.

"SEC. 9059. REPORTS TO CONGRESS, REGULATIONS.

"(a) The Commission shall, as soon as practicable after the close of each calendar year, submit a full report to the Senate and House of Representatives setting forth—

"(1) the qualified campaign expenses (shown in the detail the Commission deems necessary) incurred by each candidate and his/her authorized committees who received payments under section 9057;

"(2) the amounts certified by it under section 9056 for payment to each candidate and his/her authorized committees; and

"(3) the amount of payments, if any, required from that candidate under section 9058, and the reasons for each payment required. Each report submitted pursuant to this section shall be printed as a House or Senate document and made available in sufficient numbers for the general public.

"(b) REGULATIONS.—

"(1) The Commission is authorized to prescribe regulations to carry out the provisions set forth in this chapter. The Commission, before prescribing any such regulation, shall transmit a statement with respect to such regulation to the Senate and to the House of Representatives in accordance with the provisions of this subsection. Such statement shall set forth the proposed regulation and shall contain an explanation and justification of such regulation.

"(2) If either such House does not, through appropriate action, disapprove the proposed regulation set forth in such statement no later than 30 legislative days after the receipt of such statement, then the Commission may prescribe such regulation. The Commission may not prescribe any such regulation which is disapproved by either such House under this paragraph.

"(3) For purposes of this subsection, the term 'legislative days' does not include any calendar day on which both Houses of the Congress are not in session.

"SEC. 9060. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCE BY COUNSEL.—The Commission is authorized to appear in and defend against any action instituted under this section, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter XX of subchapter III of chapter 53 of such title.

"(b) RECOVERY OF CERTAIN PAYMENTS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute action in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary or his delegate as a result of an examination and audit made under section 9058.

"(c) INJUNCTIVE RELIEF.—The Commission is authorized through attorneys and counsel described in subsection (a) to petition the courts of the United States for such injunctive relief as is appropriate to implement any provision of this chapter.

"(d) APPEAL.—The Commission is authorized on behalf of the United States to appeal from and to petition the Supreme Court for certiorari to review judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 9061. JUDICIAL REVIEW.

"(a) REVIEW OF AGENCY ACTION BY THE COMMISSION.—Any agency action by the Commission made under the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition field in such court within 30 days after the agency action by the Commission for which review is sought.

"(b) REVIEW PROCEDURES.—The provisions of chapter 7 of title 5, United States Code, apply to judicial review of any agency action, as defined in section 551(13) of title 5, United States Code, by the Commission.

"SEC. 9062. UNLAWFUL USE OF PAYMENTS.

"It shall be unlawful for any person who receives payment under this chapter or to whom any portion of such payment is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than for the specific purposes authorized by this chapter.

"SEC. 9063. FALSE STATEMENTS.

"It shall be unlawful for any person knowingly and willfully with intent to deceive to (a) furnish any false, fictitious, or fraudulent evidence, books, or sworn material testimony to the Commission under this chapter or to (b) include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the supervisory officer under section 9058.

"SEC. 9064. KICKBACKS AND ILLEGAL PAYMENTS.

"It shall be unlawful for any person knowingly and willfully to give or accept any kickback or make any illegal payment in connection with any payments received under this chapter or in connection with any expenditures of payments received under this chapter.

"SEC. 9065. PENALTY FOR VIOLATIONS.

"Any knowing and willful violation of any provision of this chapter is punishable by a fine of not more than $25,000, or imprisonment for not more than one year, or both.".

SEC. 310. If any provision of this title, or the application thereof to any person or circumstances, is held invalid, the validity of the remainder of the title and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 311. The amendments made by this Act apply with respect to elections which are held after January 1, 1978.

SEC. 312. At every place in the Federal Election Campaign Act Amendments of 1976 where the words "Chapter 95 or 96 of the Internal Revenue Code of 1954" are used, substitute the words "Chapter 95, 96, or 97 of the Internal Revenue Code of 1954".

Mr. PHILLIP BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I just wish to ask this of the gentleman from California: This amendment comprises exactly the text of H.R. 12780?

Mr. PHILLIP BURTON. The gentleman is correct.

Mr. BAUMAN. With no changes in it?

Mr. PHILLIP BURTON. No changes at all.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, I will ask the gentleman this: This is on the matter of public financing for Members of the House and Senate? Is that right?

Mr. PHILLIP BURTON. The gentleman is correct.

Mr. HAYS of Ohio. Mr. Chairman, in view of the fact that all the Members know the issues and all the Members probably know how they will vote, I ask unanimous consent that all debate on this amendment and all amendments thereto conclude at 3 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HAYS of Ohio. Mr. Chairman, I move that all debate on this amendment and all amendments thereto finish at 3 p.m.

The CHAIRMAN. The question is on the motion offered by the gentleman from Ohio (Mr. HAYS).

The question was taken; and on a division (demanded by Mr. HAYS of Ohio) there were—ayes 93, noes 48.

RECORDED VOTE

Mr. STEIGER of Wisconsin. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 187, not voting 45, as follows:

[Roll No. 153]

AYES—200

Abzug	Ford, Tenn.	Mottl
Adams	Forsythe	Murphy, Ill.
Addabbo	Fountain	Murphy, N.Y.
Alexander	Fuqua	Murtha
Allen	Gaydos	Myers, Ind.
Annunzio	Giaimo	Natcher
Ashbrook	Ginn	Nedzi
Ashley	Haley	Nichols
Badillo	Hall	Nolan
Baldus	Hamilton	Oberstar
Beard, R.I.	Hanley	Obey
Bedell	Harrington	O'Neill
Bennett	Harris	Ottinger
Bevill	Hawkins	Passman
Biaggi	Hays, Ohio	Patten, N.J.
Blouin	Heckler, Mass.	Pattison, N.Y.
Boggs	Hefner	Perkins
Boland	Helstoski	Pickle
Bowen	Hicks	Pike
Brademas	Hightower	Preyer
Breckinridge	Holtzman	Price
Brinkley	Horton	Quillen
Brooks	Howe	Railsback
Brown, Calif.	Hubbard	Rangel
Burke, Calif.	Johnson, Calif.	Rees
Burke, Fla.	Jones, Ala.	Reuss
Burleson, Tex.	Jones, N.C.	Rhodes
Burton, John	Jones, Okla.	Risenhoover
Burton, Phillip	Jones, Tenn.	Roberts
Byron	Jordan	Robinson
Carney	Kastenmeier	Rogers
Carter	Landrum	Roncalio
Chappell	Latta	Rose
Clancy	Leggett	Rostenkowski
Cochran	Lehman	Runnels
Collins, Ill.	Levitas	Ryan
Corman	Lloyd, Calif.	St Germain
Cornell	Long, La.	Santini
Cotter	Long, Md.	Satterfield
D'Amours	Lujan	Seiberling
Daniel, Dan	Lundine	Shipley
Daniel, R. W.	McClory	Shuster
Daniels, N.J.	McCormack	Sikes
Danielson	McFall	Simon
Davis	McKay	Sisk
de la Garza	Madden	Slack
Dent	Madigan	Smith, Iowa
Derrick	Maguire	Snyder
Devine	Mahon	Staggers
Dodd	Mathis	Stark
Downey, N.Y.	Metcalfe	Steed
Drinan	Meyner	Steiger, Ariz.
Eilberg	Mezvinsky	Stephens
English	Milford	Stokes
Eshleman	Mills	Stuckey
Evans, Colo.	Minish	Taylor, N.C.
Evins, Tenn.	Mink	Teague
Fary	Mitchell, Md.	Thompson
Fascell	Moakley	Thornton
Fisher	Mollohan	Traxler
Flood	Montgomery	Tsongas
Flynt	Morgan	Ullman
Ford, Mich.	Moss	Van Deerlin
Vander Veen	Whitten	Yatron
Vigorito	Wilson, C. H.	Zablocki
Waggonner	Wright	Zeferetti
Whitehurst	Wylie	

NOES—187

Abdnor	Goodling	Myers, Pa.
Ambro	Gradison	Neal
Anderson, Ill.	Grassley	Nowak
Andrews, N.C.	Green	O'Brien
Andrews, N. Dak.	Gude	O'Hara
Archer	Hagedorn	Patterson, Calif.
Armstrong	Hammer-schmidt	Pettis
Aspin	Hannaford	Poage
AuCoin	Hansen	Pressler
Bafalis	Harkin	Pritchard
Baucus	Harsha	Quie
Bauman	Hechler, W. Va.	Randall
Beard, Tenn.	Heinz	Regula
Bergland	Hillis	Richmond
Blanchard	Holt	Riegle
Brodhead	Howard	Rinaldo
Broomfield	Hughes	Roe
Brown, Mich.	Hungate	Rooney
Brown, Ohio	Hutchinson	Rosenthal
Broyhill	Hyde	Roush
Buchanan	Ichord	Rousselot
Burgener	Jacobs	Roybal
Burlison, Mo.	Jarman	Ruppe
Carr	Jeffords	Russo
Cederberg	Jenrette	Sarasin
Clausen, Don H.	Johnson, Colo.	Scheuer
Clawson, Del	Kasten	Schneebeli
Cleveland	Kazen	Schroeder
Cohen	Kelly	Schulze
Collins, Tex.	Kemp	Sebelius
Conable	Ketchum	Sharp
Conlan	Keys	Shriver
Conte	Kindness	Skubitz
Conyers	Koch	Smith, Nebr.
Coughlin	Krebs	Solarz
Crane	LaFalce	Spellman
Delaney	Lagomarsino	Spence
Dellums	Lent	Stanton, J. William
Derwinski	Litton	Steelman
Dingell	Lloyd, Tenn.	Steiger, Wis.
Duncan, Oreg.	Lott	Studds
Duncan, Tenn.	McCloskey	Symington
du Pont	McCollister	Symms
Early	McDade	Talcott
Edgar	McDonald	Taylor, Mo.
Edwards, Ala.	McEwen	Thone
Edwards, Calif.	McHugh	Treen
Emery	McKinney	Vander Jagt
Erlenborn	Mann	Vanik
Esch	Martin	Walsh
Evans, Ind.	Matsunaga	Wampler
Fenwick	Mazzoli	Whalen
Findley	Michel	Wiggins
Fish	Mikva	Winn
Fithian	Miller, Calif.	Wirth
Florio	Miller, Ohio	Wolff
Fraser	Mineta	Wydler
Frenzel	Mitchell, N.Y.	Yates
Frey	Moffett	Young, Alaska
Gibbons	Moore	Young, Fla.
Gilman	Moorhead, Calif.	Young, Tex.
Goldwater	Moorhead, Pa.	
Gonzalez	Mosher	

NOT VOTING—45

Anderson, Calif.	Eckhardt	Pepper
Barrett	Flowers	Peyser
Bell	Foley	Rodino
Biester	Guyer	Sarbanes
Bingham	Hayes, Ind.	Stanton, James V.
Bolling	Hébert	Stratton
Bonker	Henderson	Sullivan
Breaux	Hinshaw	Udall
Burke, Mass.	Holland	Waxman
Butler	Johnson, Pa.	Weaver
Chisholm	Karth	White
Clay	Krueger	Wilson, Bob
Dickinson	Macdonald	Wilson, Tex.
Diggs	Meeds	Young, Ga.
Downing, Va.	Melcher	
	Nix	

Mr. RUSSO and Mr. KEMP changed their vote from "aye" to "no."

So the motion was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. With the permission of the Committee, the Chair would like to make a brief statement.

The Committee has just limited the time on this amendment and all amendments thereto to 3 o'clock. The gentleman from California (Mr. PHILLIP BURTON) had been recognized for 5 minutes. That will leave approximately 6 minutes to be allocated.

The precedents provide under chapter 29, section 31, of Deschler's Procedures that the Chair has discretion in distributing the time. Due to the obvious impossibility of satisfying all Members the Chair proposes to allocate 3 minutes to the gentleman from Ohio (Mr. HAYS) and 3 minutes to the gentleman from California (Mr. WIGGINS), whereby they may yield time.

The Chair now recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. HAYS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. Mr. Chairman, since the gentleman from Wisconsin (Mr. STEIGER) was made to put the people on that side of the aisle in this predicament by having an unnecessary rollcall, I will try to be magnanimous and ask unanimous consent that the time be extended to 3:15, instead of 3 o'clock.

Mr. BAUMAN. Mr. Chairman, reserving the right to object, it was not the gentleman from Wisconsin that put us in this predicament, but the gentleman that made the motion, the distinguished chairman of the committee.

Mr. HAYS of Ohio. Mr. Chairman, I withdraw my request.

Mr. BAUMAN. Good; it is a good thing the gentleman did.

The CHAIRMAN. The gentleman from California (Mr. PHILLIP BURTON) is now recognized for 4 minutes.

Mr. PHILLIP BURTON. Mr. Chairman, as we all know, this is the proposal to extend to congressional general elections the voluntary money in the election trust fund, limit the matching up to $100 per contribution for the general election—effective January 1, 1978. The provisions extend only to the general elections only.

In order to qualify as a candidate eligible for matching funds, one must raise $10,000 in hundred-dollar amounts or less. A candidate need not accept the funding, even though eligible; but a candidate who does accept the matching funds are then subject to the identical expenditure limits that were a part of the statute prior to the Supreme Court decision a few months ago.

Mr. Chairman, this matter has been discussed by a great number of our colleagues.

There are two pending amendments, one of which will be withdrawn and the other amendment by the gentleman from Colorado (Mr. WIRTH), that provided a simplified pro rata matching mechanism, is acceptable to me.

Mr. Chairman, I now yield to the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Chairman, I thank the gentleman from California for yielding.

Mr. Chairman, as our colleagues may know, I had originally planned to offer an amendment to the amendment of the gentleman from California to extend the principle of public financing from gen-

eral elections to primaries as well. In view of the fact that a great majority of the seats in the House, and a substantial number of the seats in the Senate, are effectively under the control of one party, it seemed to me that public financing should be available for primaries too. However, after the Executive Board of the Democratic Study Group came out against it the other day on the grounds that, in the unlikely event my amendment were adopted, it might compromise the prospects for the passage of the Burton amendment itself, I came to the conclusion that, however dim the chances were for my amendment originally, they were virtually nonexistent now.

I certainly have no desire to require any of my friends from the DSG, or some of the other progressive precincts in the House, to compromise their good government credentials because of essentially tactical considerations. So, on the theory that the great Chinese philosopher, John F. Kennedy, was right when he said "A journey of a thousand miles begins with a single step," I will refrain from offering my amendment this afternoon.

Mr. WIGGINS. Mr. Chairman, I yield myself 30 seconds.

I oppose the amendment and I want to give the Members seven quick reasons why it would be a bad law:

First, Senator LLOYD M. BENTSEN, JR., $511,022.61.

Second, Senator FRANK CHURCH, $231,380.78.

Third, Former Senator Fred Harris, $493,278.50.

Fourth, Ellen McCormack, $169,043.90.

Fifth, Terry Sanford, $246,388.32.

Sixth, Governor Milton J. Shapp, $278,010.60.

Seventh, R. Sargent Shriver, $264,582.74.

Mr. HAYS of Ohio. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I want to tell the Members why I basically oppose this amendment, and why I think they might really want to vote against it when I am finished.

About 30 States permit people to go to the election without going through a primary by getting a few signatures on a petition and paying the filing fee. My State is one. I can be purely objective about this because it will not apply to elections and to my plan to run for something else in 1978, so I can be purely objective. They want a Democratic governor in Ohio. But what we could have if this becomes law, we could have 25 or 35 candidates running in every district, and I can tell you that in my district you would have them because I know 25 or 30 people who would figure out some way to get that matching money and keep it, like the seven reasons the gentleman from California mentioned. We could have a Congressman sitting in this House with literally 15 percent of the vote that was cast in the district.

If you want to destroy our two-party system, if you want to fragment the American system, 200 years of which we are celebrating; if you want to destroy it, this is a good way to start and is all you have to do, my friends.

Take a look at what has happened in Italy—and we are all worried about that. It has happened because of a multiparty system, and the only way they can vote against the Government, because it is a coalition, is to vote Communist.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I will yield the rest of my time because the gentleman is going to use it anyway.

Mr. PHILLIP BURTON. The gentleman from California anticipated the gentleman's possible criticism, and if the gentleman had read the provision of the bill, the gentleman would know that there is an absolute limit in each congressional district. If there are 45 candidates running in the gentleman's district, the most money anybody can get, if they raise $10,000 in $100 contributions or less, is $2,000.

Mr. HAYS of Ohio. I have 45 people in my district who would do it for $2,000.

Mr. WIGGINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, I too have more than seven good reasons to oppose public financing for Congressional elections. I endorse the statement of our distinguished chairman, the gentleman from Ohio, and I am glorying in the fact that I am now finally in agreement with him on an important issue in this bill.

Mr. Chairman, I rise in opposition to the Burton amendment which would provide public financing for congressional elections.

I am not going to discuss the usual objections to public financing, but I will list them in passing:

First. Under publicly financed systems, the old, otherwise-unconstitutional expense limitations are reinstated, and challengers are placed totally at the mercy of incumbents. No wonder Members of Congress often favor public financing. It is another self-protection scheme.

Second. Federal financing schemes inhibit private contributions. It will reduce the amount of participation in Federal elections, because people can say that they are participating through the Federal contribution.

Third. Public financing strikes down the "market test" of the popularity of any candidate. Candidates do not have to be attractive. They only need a cause and a few friends and they become a federally propped up candidate.

Fourth. Public financing causes unexciting elections with lowered voter turnouts, because it attracts lots of candidates who are not really serious. In a large field, of course, the incumbent stands out, and the advantages are increased.

Fifth. Public financing represents an unnecessary waste of the taxpayers' money. We have established the section of a check-off, but no taxpayer is donating 1 cent more in income taxes for public financing. Most taxpayers do not check-off, and in America a majority is supposed to rule.

Sixth. The taxpayers' money is certified for candidates by the Federal Elections Commission. Since the FEC has been reduced to the status of a sort of subcommittee of House Administration, guess who is going to get the favorite treatment—the incumbent or the challenger? Giving control of financing, the lifeblood of elections, to the bureaucracy would be foolish even if the FEC were totally independent. The people may never regain control of their own elections.

Seventh. Party responsibility will wither under public financing. Candidates can thumb their noses at their parties, since they can get their money from somebody else, the beleaguered taxpayer.

Eighth. More money will be spent on elections. Most of the big money is spent on the most hotly contested 50 or 60 congressional elections. The onset of free money will create an "amateur night" in every congressional district. Members who have not been opposed before will surely attract opponents under this system.

Nine. Minor party candidates, independents and third parties are always had under public financing schemes. Despite the best efforts, nobody yet has devised a public financing scheme fair to independents.

That is the horrible list, but today I want to talk about other aspects.

Firts, we are in the middle of a Presidential public financing experiment. No matter how poorly that is working out, it should neither be terminated nor extended until we have the experience of a full campaign behind us. Therefore, the Burton amendment, in addition to its other failings, is premature.

Second, public financing was supposed to be a means of purifying the election process. Has anyone noticed any purer spending in the Presidential elections this year? Money is all the same color, whether it comes from the taxpayers or from private sources. And it is buying the same crummy old campaign gimmicks. I do not see any improvement in the balloons, emery boards or bumper stickers. In short, public financing has not cleaned up anything.

Next, the people are more than a little upset with the use of their money for private political candidates. It was bad enough when every squirrel in the cage announced for Presidency this year. Fourteen candidates have qualified for Federal funds; 134 candidates are seeking the presidency. Many candidates who should have been eliminated in early primaries have been propped up by the Federal money and stayed in when they should have sunk from sight. Others have temporarily sunk from sight retaining their Federal funds and are currently enjoying the use of those funds even when they are not bona fide candidates. Anyone who wants to extend this kind of misery to the congressional political campaigns does not have much respect for the taxpayer's dollar or their patience. And remember, two-thirds of the taxpayers do not check off and have apparently voted against this system.

Additionally, Federal financing of elections is an expensive overhead item. The

FEC now employs about 135 people. That is slightly less than the Clerk, the GAO and the Secretary of the Senate employed for the last election, but it is many more people than would be needed without public financing.

In testimony before a House Appropriations subcommittee, Commission members indicated that its staff might have to be increased to as many as 500 additional people, if congressional public financing were to be added. As a matter of fact, during the first 8 months of the commission's existence, 17,000 man days were spent solely on the public financing aspect of the law. It is far and away the most expensive part of the FEC operation. If you want to see the FEC grow in personnel and expenses, by all means vote for public financing for congressional elections.

Mr. Chairman, there are many more reasons to be opposed to public financing of congressional elections, but there is not time enough to toll the dreadful litany. It is better that we simply vote down this proposition and be prepared to analyze the results of this year's Presidential public financing after we have had the experience.

Mr. WIGGINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. McCLORY).

(Mr. McCLORY asked and was given permission to revise and extend his remarks.)

Mr. McCLORY. Mr. Chairman, I am opposed to all allocations of public funds for political campaigns including the campaigns of candidates for President.

Mr. Chairman, on October 10, 1974, Members of the House of Representatives recorded an historic vote. By 365 to 24, they approved landmark legislation designed to improve dramatically and fundamentally the way in which Americans elect their Presidents.

I was one of those voting "aye" for the conference report that day which enacted amendments to the Federal Election Campaign Act of 1971. Among the most far reaching of those amendments was public support through tax dollars of primary and general campaigns for Presidential candidates.

I said in part, then, Mr. Chairman, to—

Let public financing achieve in practice the lofty goals which its advocates forecast, before extending it to all Federal campaigns.

Mr. Chairman, today we are debating further amendments to the Federal Election Campaign Act. The time is several months after the beginning of the primary elections. The initial field of candidates was large. It was, in fact, somewhat of a mob scene at the starting gate.

Now the drop-outs have begun, and yet some of their "campaigns"—and I put that word in quotes—go on, even though their headquarters are shuttered, their staffs dismissed, their volunteers gone. They go on, we are told, so as not to betray those delegates who have voted for them. They also continue, we learn, so that additional Federal moneys may be collected to ease campaign debts. As recently as March 22, I understand, payments were authorized by the Federal Election Commission to three such candidates.

One such candidate left the hustings with one pledged delegate, according to the latest Congressional Quarterly figures. So did another. A third numbers 11 delegates behind him, now that he no longer is running. These 3 gentlemen among them boast a total of 13 delegates, far behind the uncommitted tally of 39, yet little more than a week ago they continued to receive Federal payments for what only by the most torturous definition of the language can be called "campaigns."

Another candidate, also receiving Federal tax moneys, is for all practical purposes a one-issue candidate. What that issue is makes no difference here. That is not the question.

So as we consider these new amendments, my misgivings about our actions of more than 2 years ago grow.

Have tax dollars led to a meaningless proliferation of the primaries? Have we made it too seductively simple for persons without the remotest chance of achieving their party's Presidential nomination to have a primary fling for purposes of prestige or national recognition or whatever reason may lie close to their heart?

Have we played into the hands of the longshot bettors as long as the citizenry will help hedge the bets? Have we, without intent and with high purpose, helped mock a political system already under such close and pessimistic scrutiny by the American people?

I fear we erred, although I voted not only for the conference version of the amendments, but also for the House version which passed August 8, 1974.

Mr. Chairman, in my view, it has not worked as we hoped it would. The public financing portion of the amendments were designed to help eliminate abuses in national political campaigns which then dominated the news and the conscience of the country and the Congress.

Other provisions of those amendments passed in 1974 I still firmly support. But Mr. Chairman, I think that taxpayer support of candidacies already has proven unworkable. The Congress, in voting for morality, for integrity, and for lofty goals, appears to have reaped chaos.

Mr. WIGGINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Idaho (Mr. SYMMS).

(Mr. SYMMS asked and was given permission to revise and extend his remarks.)

Mr. SYMMS. Mr. Chairman, the public is sick and tired of Congress continually voting itself more and more favors. During the last 3 years we have increased our salaries, voted more money of office allowances, for more postal patron mailings, and for staff salary and also increases, and now this under a gag rule, an outrage.

Federal financing of campaigns, with equal and fixed spending limits, is a blantant move toward self-perpetuation of the Government and more specifically of incumbents. When equal amounts of money are given to an incumbent and to a challenger the incumbent has the advantage of the free postal patron mailings, the advantage of more news coverage, etc. Also, consider the effects of newspaper editorial policy under these circumstances. Oftentimes the only way a candidate can counter unfavorable editorials and newspaper endorsements is to buy advertising. Furthermore, the use of more paid advertising is the only way a nonincumbent challenger can overcome the various advantages granted an incumbent. In summary, when incumbent legislators are making laws governing the intricacies of political campaigns they are naturally going to make subtle provisions that work to their advantage. This is the self-perpetuation aspect. How can the people change the policies of Government when the Government makes the rules as to how it is to be done?

Related to the second point is the question of the federal system. It would seem that if laws are to be made governing the election of U.S. Senators and Representatives and Presidential electors, then these laws should be made by the States; not the Federal Government. Under the Constitution the States are given the responsibility of governing elections and making election laws. Senators and Representatives are chosen to represent the people of a particular State in the National Congress; therefore, the people of that State should determine how this is to be done—consistent with the U.S. Constitution.

Another very important question is: Do we have the right, through taxpayer supported Government financing, to force an individual to contribute to a candidate or to a cause to which he does not subscribe? Second, who is going to determine which candidate is qualified to receive funds? What about independent or "minority party" candidates? It seems that public financing actually closes the system to the average man rather than opening the system as Common Cause would have us believe. The only way to open up the system is to allow free expression in a free society. I urge a no vote.

Mr. WIGGINS. Mr. Chairman, having no further requests for time, I indicate my own opposition to the amendment.

AMENDMENT OFFERED BY MR. WIRTH TO THE AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. WIRTH. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. WIRTH to the amendment offered by Mr. PHILLIP BURTON: Page 14, immediately after section 9057(c) of the Internal Revenue Code of 1954, as added by the amendment offered by Mr. Phillip Burton, insert the following:

"(d) IMITATION.—The Commission shall, not later than April 1 of each election year, determine whether the amount of moneys in the Congressional Election Payment Account will be sufficient to make all payments to which candidates will be entitled under this chapter during such election year. If the Commission determines the amount of moneys in the Payment Account will not be sufficient, the Commission shall ratably reduce the maximum amounts to which candidates are entitled under this chapter by a fraction, the numerator of which shall be the sum of moneys then in the Payment Account

and moneys estimated to be deposited in the Payment Account before the general election, and the denominator of which shall be the sum of the estimated amounts to which all candidates whom the Commission determines are likely to seek payments under subsection (c) would be entitled under this chapter if the moneys in the Payment Account were sufficient. The Commission, no later than 15 days after June 1, August 1, and October 1 of each year in which a general election for Federal office is held, shall complete a review of (1) the amount of moneys in the Payment Account and the estimated amount of moneys which will be deposited in the Payment Account before the general election involved; and (2) the number of candidates whom the Commis- this chapter if the moneys in the Payment under subsection (c). Such review shall apply to the 60-day period ending June 1, August 1, or October 1, as the case may be. If the Commission determines, upon conducting such review, that additional moneys are available for payments under this chapter during such election year, such payments as may have been reduced in accordance with the second sentence of this subsection shall be increased on the same basis as they were reduced.

POINT OF ORDER

Mr. BAUMAN (during the reading). Mr. Chairman, I have heard the Clerk read the amendment, and that was not the amendment that was printed in the RECORD of March 29, 1976.

Mr. Chairman, I make a point of order against the amendment on the grounds that it violates the rule that the House passed.

The CHAIRMAN. Does the gentleman from Colorado (Mr. WIRTH) desire to be heard?

Mr. WIRTH. Mr. Chairman, it is the same amendment that was printed in the RECORD.

The CHAIRMAN. Will the gentleman from Maryland (Mr. BAUMAN) advise the Chair in what respect he considers it different?

Mr. BAUMAN. Mr. Chairman, rule XXIII, clause 6, says, in part:

Material placed in the RECORD pursuant to this provision shall indicate the full text of the proposed amendment, the name of the proponent Member, the number of the bill to which it will be offered and the point in the bill or amendment thereto where the amendment is intended to be offered, and shall appear in a portion of the RECORD designated for that purpose.

Mr. Chairman, on page H2500, of the March 29 RECORD, to which the rule specifically makes mention, this particular Wirth amendment appears as the beginning line with the page blank. Immediately after subsection 9057(c) there is no page 14 designated, and the Clerk just read page 14.

Mr. Chairman, it is not the same amendment.

The CHAIRMAN. The Chair has examined the situation. To the best of his knowledge, there are no precedents. Under the circumstances, it would have been difficult if not impossible for the gentleman to have had the page number which he printed his amendment in the RECORD, and the Chair believes that the omission of the page number alone does not keep the amendment from being in substantial compliance with the rule. In all other respects, the amendment printed in the RECORD does indicate the point at which the amendment is to be inserted into the amendment of the gentleman from California.

The Chair overrules the point of order.

The Chair recognizes the gentleman from Colorado (Mr. WIRTH) for 5 minutes in support of his amendment.

Mr. BAUMAN. Mr. Chairman, has the amendment been read?

The CHAIRMAN. The gentleman is correct. The Clerk will complete the reading of the amendment.

Mr. WIRTH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, in view of the fact that there was one minor change apparently made in the amendment, can the gentleman assure us that the amendment is the same in all respects as it appears on page H2500 of the RECORD?

Mr. WIRTH. If the gentleman will yield, I can assure the gentleman from Maryland that the amendment is the same.

Mr. BAUMAN. Mr. Chairman, the gentleman is a man of great integrity and I accept his word.

Mr. Chairman, I withdraw my reservation of objection.

Mr. SNYDER. Mr. Chairman, reserving the right to object, I do so for the purpose of making a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SNYDER. Mr. Chairman, in view of the fact that it is 3 o'clock, if the amendment is not read, will the gentleman be able to explain it?

The CHAIRMAN. It has been printed in the RECORD, and under the rule the gentleman will have 5 minutes to explain his amendment.

Mr. SNYDER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

(Mr. WIRTH asked and was given permission to revise and extend his remarks.)

Mr. WIRTH. Mr. Chairman, as I think all of the Members know, under the Burton public financing bill, funds for public financing would not come out of general revenue. They would come out of the voluntary checkoff fund established on the first page of everybody's income tax return. The amount of money in this fund has grown every year, and the best estimate made by the Treasurer and by the Library of Congress is that in any given year approximately 30 percent of the income tax returns filed will have checked off the public financing box. That will raise every year something in the neighborhood of $30 million to $45 million.

Against that, were this amendment to be agreed to, in each 4 years we would be paying for one Presidential election, 66 senatorial elections, and 870 congressional elections. In each election year that would come to approximately $38 million which would have to be in the Treasury.

The purpose of this amendment is to assure that if there is not enough money in the fund to cover that $38 million each year, a method is established for allocating that money or what money does exist in the voluntary fund fairly across each one of the candidates. Mine is a technical amendment to the Burton approach. It goes directly to the voluntary nature of this and the fair distribution of the voluntary checkoff funds.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I commend the gentleman for anticipating the possible problem, and I think this is in our best traditions.

I think the gentleman would also like to assure our colleagues that this leaves completely undisturbed the current priorities in the current law. This in no way affects one way or the other the matching in the Presidential primaries that he mentions or the general election matters; it only assures that no public funds will be used in any way, only the voluntary checkoff money, and that if there is not enough, there will be a proration among the various contestants.

Mr. WIRTH. Mr. Chairman, the gentleman is absolutely correct.

Again it is important to underline that in our examination of the Burton proposal we see that there is no general fund money to be allocated to election funds. All the money which will be allocated comes from voluntary checkoffs from millions of American taxpayers, who, as I am, are sick and tired of a world in which a few special interests are able to purchase politicians and then have an undue effect on political outcomes. We are all tired of having that happen.

Mr. Chairman, it is important that we all understand the reasons for voting for public financing: public financing would reduce the dependence of congressional candidates on wealthy givers and special interest money by providing incentive—50-percent matching funds—for candidates to seek a large number of small, $100 or less, contributions.

Public financing would equalize access to public office for all candidates by placing a reasonable ceiling, approximately $100,000 in the House, on the amount that could be spent by candidates who seek public financing. In Buckley against Valeo the Supreme Court made clear that the only constitutional way to place a ceiling on campaign spending is to make eligibility for matching funds contingent on adherence to spending limits. Without a public financing provision, we will continue to have unchecked spending in House and Senate campaigns.

The system would be totally voluntary. The only money that could be used to finance congressional races would be dollars voluntarily checkedoff on income tax returns. If the congressional checkoff account should not have enough money to cover all races, general reve-

nues could not be used. A candidate's decision to seek public financing would also be completely voluntary. Candidates who choose not to seek public financing could spend as much money as they want.

There would be little potential for abuse. Each House candidate would have to raise at least 10 percent of the general spending limit—approximately $10,000—in order to qualify for Federal matching funds. This threshold would prevent frivolous candidates from receiving Federal funds. Since public financing would be available in general elections only, the specter of a dozen candidates receiving matching funds in a single race would also be eliminated.

Matching payment money could only be spent for qualified campaign expenditures such as broadcast air time, advertising, direct mail and telephone costs. Any person who knowingly and willfully misused Federal matching funds would be subject to criminal prosecution.

Lastly, and perhaps most importantly, public financing would not begin until the 1978 congressional elections. This should underscore the fact that public financing is not an "incumbents' bill" but rather a measure to eliminate the influence of big money, put challengers and incumbents alike on equal footing, and encourage greater public participation in the electoral process.

The Burton amendment is a modified version of H.R. 9100, the Burton-Anderson public financing bill, which more than half the Members of the House have cosponsored.

Following is a summary of the major provisions of the Burton amendment:

SUMMARY

1. Coverage: General elections only, beginning with 1978 congressional elections. Provides public funds only for candidates, and not for political party campaign committees.

2. Public funds: Limited to funds derived from voluntary dollar tax checkoff on income tax returns. No use of general revenue funds.

3. Matching amount: Contributions to candidates of up to $100 per person would be matched with funds derived from the voluntary dollar checkoff.

4. Spending limits: Candidates who accept public financing would be subject to the same overall spending limits and limits on a candidate's own personal funds, originally enacted in the 1974 campaign finance law. The Supreme Court in Buckley against Valeo held that in providing public funds for campaign Congress could condition the availability of such funds on agreeing to campaign spending limits. (For the 1978 Congressional elections, the general election spending limit would be approximately $100,000).

5. Eligibility threshold: Each candidate would have to raise at least 10 percent of the applicable spending limit in amounts of $100 or less per contribution to be eligible for any public funds.

6 Matching payment limit: A candidate could not receive more than 50 percent of his/her applicable spending ceiling in public funds. In addition, all candidates in a given race could not receive public funds totaling more than 100 percent of the applicable spending ceiling in the race.

7. Qualified expenditures: Matching payment money would be limited to qualified campaign expenditures including such items as broadcast air time; newspaper magazine, and billboard advertising space; direct mail; and telephone costs.

8. Matching payment period: Only funds raised after January 1st of the general election year would be eligible for matching. Matching funds received by candidates have to be placed in a special account, may be spent only for general election purposes and no actual disbursements may be made until the candidate and at least one opponent are certified for the general ballot.

The executive committee of the New Members Caucus voted unanimous to support a public financing bill (H.R. 12123). Most of the provisions of this bill have been adopted in the Burton amendment.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield so I may ask a question?

Mr. WIRTH. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the amendment requires a ratable reduction, so the money is equally distributed to those qualified; is that correct?

Mr. WIRTH. The gentleman is correct.

Mr. BAUMAN. So the more candidates, Independents, Republicans or Democrats, who file for Congress, the lesser the amounts will be to those who are qualified?

Mr. WIRTH. The gentleman is correct.

Mr. BAUMAN. Then this will encourage nearly everyone in the United States to file, will it not, if they would like to receive some extra money from the U.S. Treasury.

Mr. WIRTH. Mr. Chairman, the gentleman will find that is not true if he will read the Burton proposal. In order to be eligible, one must qualify for general elections only, and one must be a valid candidate for Federal office.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, one must raise $10,000 in order to qualify for amounts of $100 or less.

Mr. HAYS of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it would probably be odd to accept this amendment, because I think it would point up the absurdity of the whole situation. The gentleman from Colorado (Mr. WIRTH) has made a calculation which I think is totally invalid, and that is that there would only be 830 or so—actually I suppose 870 is the right number—candidates for Congress every 2 years.

I can guarantee that if this amendment becomes law, there will be more like 15,000 candidates for Congress every 2 years. This is only the foot in the door, and then when they cannot get enough money from the voluntary check-offs, they will look for more. People more and more are getting fed up with the Senators and others who are dropping off some free money that they run on. They are getting fed up with this sort of thing. There will be fewer people checking off, and the next Congress will be asked to appropriate money out of general revenues, and that is the way these things usually go.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, the gentleman knows full well that I joined with the gentleman last year in opposing any general fund use. I believed the voluntary check-off would provide the money, and it has.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I think we ought to understand that this is money from the general fund. It is money that would be in the general fund if we had not decided to mark it off, because they do not pay it.

The situation is completely misunderstood because everybody thinks this is public financing. The only real public financing is when an individual says, "I want to help you in your campaign. Here is a check for $10, $100, or $1,000."

Mr. Chairman, that is public financing. What we are doing and have been doing is taking it out of the general fund, where it should be, to pay the education bill, to pay for the social security structure, and so forth that we have in this country, and not to give it to politicians in any way, shape, or form.

Mr. HAYS of Ohio. Mr. Chairman, somebody did not get to read far enough, but the thing that really upsets me more than anything is the fact that this grade B unemployed movie actor from California got $1,679,124.19.

Mr. ALEXANDER. Mr. Chairman, the bill we are considering today goes to the very core of our political system—the question of campaign financing.

The campaign finance issue was addressed head on by the 93d Congress. The American public clamored for campaign reform and the Congress responded in passage of the Federal Election Campaign Act Amendments of 1974. That legislation established an overall ceiling for candidate spending, set limits on individual and group contributions, created an independent Federal Elections Commission to administer and monitor Federal campaigns and provided for public financing of Presidential campaigns.

I voted for that bill because it adequately filled a void in defining the atmosphere in which political campaigns should be conducted in this Nation. I also support the bill presented for debate today as I believe it adequately addresses the objections which the Supreme Court has made with regard to the composition of the membership of an independent Federal Election Commission, as well as refining the 1974 law.

I have always subscribed to the belief that a wide base of financial support is consistent with the principles of representative government embodied in our Constitution.

A viable Federal Election Commission is imperative, in my estimation, if we are to reduce the corrupting influence of big money in politics and insure an atmosphere that fosters widespread participation in our election process.

H.R. 12406 reconstitutes the Federal Election Commission—FEC—to be com-

posed of six members appointed by the President and confirmed by the Senate. No more than three Commission members of the same political party.

Any major action initiated by FEC would require an affirmative vote of four of the six Commission members. The bill empowers the Commission to initiate investigations, bring judicial actions, and issue advisory opinions. In every case, the Commission must give due and advance notice to parties under investigation or subject to Commission action. Detailed appeals procedures are also included in the bill's provisions.

The Congress, under the terms of the bill, could veto, in toto, or item by item, advisory opinions issued by the Commission.

H.R. 12406 requires the FEC to enter into conciliation with apparent violators of all but criminal proceedings. The bill redefines a criminal violation as any "knowing or willful" violation which involves the "making, receiving, or reporting" of any contribution or expenditure having an aggregate value of greater than $5,000 during a calendar year. All other election law violators would be noncriminal or civil violations.

The bill eases expenditure reporting and contribution requirements in nonelection years and gives the Congress the option to abolish the Commission after 1 year.

The bill further states that locals of a union and subsidiaries of a corporation are to be treated as part of the parent corporation with respect to the $5,000 limitation on contributions to any one candidate or political committee.

While the bill does not alter the ability of corporations and labor unions to organize political action committees, it does prohibit corporations from soliciting contributions from other than stockholders, executive officers and their families. Labor unions are allowed to solicit contributions from their members.

With regard to Presidential candidates, the bill makes ineligible for matching funds any candidate who spends more than $50,000 of his or his immediate family's personal funds.

It also stipulates that, should the Secretary of the Treasury determine that no moneys exist in the checkoff fund to make payments to candidates, no moneys would be made available to make such payments from other sources. And, candidates ceasing to actively campaign may receive no further matching funds and must return to the Treasury remaining funds not used for legitimate expenditures in closing out the campaign.

I believe that amendment to this bill to make the financing of congressional elections the responsibility of the U.S. Treasury is not in the best interest of the American people.

It is estimated that Federal financing for congressional elections will cost between $20 to $25 million in 1976 alone. And while proponents may argue that sufficient moneys will be available through the checkoff fund, we have no firm assurance that the checkoff fund will be able to meet even the demands of Presidential candidates for matching funds, much less a drain on the Treasury for congressional campaigns.

Perhaps the most disturbing shortcoming of a proposal to publicly finance congressional campaigns is that it will force taxpayers to support candidates with whom they disagree.

I believe we need to await the outcome of our first experience with Federal financing of campaigns to see if public financing of Presidential campaigns has a positive effect on the electoral process.

Democracy, as an institution, is in jeopardy throughout the world. We need look no further than France or Spain or India to see this trend. It is more important now than ever before for individuals to become involved in their choice.

A law with teeth in it to govern the conduct of political campaigns in this country is in the best interest of every American taxpayer and voter.

I urge my colleagues to support the committee bill.

Mr. MURTHA. Mr. Chairman, I do not believe public financing of congressional campaigns will improve our candidates, political education, or citizen participation, and I rise in opposition to this amendment.

I believe there are several reasons to oppose it.

First, let us face it, despite the fact that this is financing from the voluntary checkoff, it will appear to many people that Congress is voting money from the public treasury to finance our own reelection campaigns. With the present standing of Congress in the eye of the public, we do not need that kind of misunderstanding.

Second, the result of public financing of general election congressional campaigns will be more campaign inflation. More TV and radio ads, more bumper stickers, more billboards. I have seen no evidence that the matching funds in the Presidential primaries have been used to increase voter education. They have been used for the traditional campaign practices, and allowing more money to be spent for these things in congressional campaigns may increase name recognition, but I do not see it increasing voter knowledge.

As far as this amendment removing influence of contributors, I doubt that will be the case. First, under the Supreme Court ruling a candidate need not accept the ceiling and matching funds. Second, matching funds alone will not handle all the spending.

We still have contribution limits; we still have disclosure of contributions and spending. Let us leave the facts to the citizens through disclosure, and let them decide. They do not need public matching funds to make that decision.

Finally, Mr. Chairman, I recently took a poll of my area on this question. The results showed 28 percent favored public funding of congressional campaigns; 71 percent opposed it; and 1 percent was undecided. Even more important than the numbers, though, were the comments of the respondents. They showed that the people are tired of a multitude of candidates and messages. They are tired of year-round campaigning. With this amendment the scramble for funds will start just after the primary with more ads, billboards, and campaigning being assured.

We are already turning off more people to the political system than we are turning on to politics. In my poll the people are saying they want fewer frills, shorter campaigns, and less money being spent on politics. This amendment furthers none of those goals.

I urge a "no" vote.

Mr. ROSTENKOWSKI. Mr. Chairman, I must rise in strong opposition to the Burton public financing amendment which we are considering at this time. In the 93d Congress I voted against the public financing of congressional elections. Since that time, many rationalizations have been put forth to justify this concept. I have found none to be convincing. The amendments before us today embody an overeager attempt to implement public financing before its impact can be anticipated. It is a classic case of putting the cart before the horse.

I personally feel that public financing is an ill-fated experiment. Should public financing be adopted, we are in effect saying that we are willing to learn by our mistakes. This particular mistake would cost our taxpayers millions upon millions of their hard-earned dollars without improving the quality of elections.

I have heard many estimates of the cost of financing congressional campaigns with public moneys. Last Tuesday, during the general debate on this bill, I suggested that my own computations indicate that in the next general election year the costs of the program may be well in excess of the $40 million dollars some point to as an upper cost ceiling.

If we assume that each incumbent and his major party opposition candidate qualifies for only $35,000 of the matchable $45,000—or 75 percent—and that there will be only two single issue or fringe party candidates in each district who qualify for half that much, or $17,500—39 percent—the proposal will cost the taxpayers $45,675,000.

If the amendment is adopted and the benefits of public financing are extended to include primary elections the costs will go absolutely out of sight.

The legislation also provides for a cost-of-living escalator, which will increase my estimates even further. While some may argue that these figures are high and that my assumptions are incorrect, the fact remains that we do not have any model on which to base our cost estimates. Therefore, one set of assumptions is just as valid as another. Those who argue in this area are just supporting the contentions I made on Tuesday that we just do not have enough information, study and analysis of the Presidential public financing program that would allow us to make an intelligent and informed decision today on extending the program to include congressional elections.

Mr. MEZVINSKY. Mr. Chairman, continued abuses of the election laws, attempts to coerce contributions and support, and the frenzy of spending serve as emphatic statements that our campaign laws need to be seriously revised.

Since the January 30 decision of the Supreme Court, Congress has been given another opportunity to enact meaningful campaign reform laws. The legislation before us today goes beyond reconstituting the Federal Elections Commission, as mandated by the Supreme Court, and addresses other issues such as corporate political action committees, the structure of candidates' campaign committees, and limitations of cash contributions. All of these are important measures but do not reach the core of campaign reform—eliminating money as the operative element of the political system.

My friend and colleague, the gentleman from California, has offered an amendment today which will help us meet that goal. His amendment, carefully drafted to preserve free speech and civil liberties guaranteed by the Supreme Court ruling, can finally put a lid on spending in an arena where spending has been king. Under this proposal a candidate will have a choice—either to accept a spending limit with matching funds for small contributions or to spend as much money as can be raised with no Federal contribution. Although I believe that a vast majority of candidates will accept matching contributions, I think it is equally important that a candidate have the right to select whichever course he chooses to take.

If this amendment is adopted, candidates will be forced to rely less on their money-raising talents and must instead focus on their appeal to the public. We have accepted this concept in our Presidential campaigns and should be able to accept it in congressional races where the issue and impact of money is even more important.

This public financing proposal is both fiscally and philosophically sound. There will be no additional dollar investment by the public. Under this plan, funding will be limited to funds that are already now being collected in the income tax checkoff system. Each campaign is strictly limited and dollar ceilings are set.

I believe that, at a time when our political process is so widely criticized, we must be willing to accept this reform, if only as an experiment in good government. Congress must make certain that American voters have a chance to choose their representatives on the most important factor of all—their worth to hold public office. I urge my colleagues to support this effort.

Mr. MAGUIRE. Mr. Chairman, the methods used to finance congressional political campaigns have been a subject of considerable controversy and heated debate during the last decade.

The central question is the degree to which large donations from limited numbers of people should be permitted to influence the political process. We have already limited the maximum amount an individual can spend on one campaign. We must now decide whether or not to go a step further in curbing the distorting impact of powerful special interests on the political process by introducing matching funds checked off for that purpose by the public—a reform we have already made with respect to Presidential campaigns.

In recent years, an increasing gap has emerged between the realities of running for public office and the vision of the democratic electoral process originally intended. In 1972, 18 wealthy individuals supplied the Committee to Re-Elect the President with nearly $7.5 million in personal contributions. The experiences of 1972 taught us that public disclosure alone is insufficient. The electoral process must be purged of the very source of distorting influences and pressures—big money. The special interests are not prone to parting with their money out of the goodness of their hearts; if they provide a large contribution to a political candidate, it is due to anticipation of something of greater value in return. If there is a single problem which is more responsible than any other for the inability or unwillingness of Washington to serve the interests of the ordinary American and the public interest, it is this: The undue influence of powerful, but narrow, self-serving special interests. The system itself needs to be changed. Public financing is needed, and it is needed now.

The principal objectives of a system of public financing are widely agreed upon:

It should liberate candidates from the special interests and from the onerous and degrading task of raising money in large contributions.

It should prevent one candidate from gaining an artificial advantage over opponents because he is able to raise more money through large contributions or due to incumbency.

It should put all serious candidates in a position to effectively communicate with voters.

The Burton amendment—which is similar to a bill I introduced jointly with Congressman McHUGH early last year—proposes the kind of equitable changes we need in congressional campaigns.

We cannot limit reforms to the Presidential aspirants, leaving our own House literally in disorder. It is imperative that Congress take immediate action so that future campaign years will not see abuses similar to those from which the Nation suffered in 1972. Let us take the unique opportunity which this elections bill offers us today to remove from the political process the corrupting effect of large special interest money—money which has been so responsible for the suspicion and distrust with which so many Americans now regard their own democratic process. Now is the time to take the initiative to provide for the kind of electoral system that eliminates back room favoritism, opens the front door to all Americans, and conforms to and serves the public interest.

The Burton amendment provides financial assistance on a matching fund basis beginning in 1978. It provides funding from the voluntary income tax checkoff as is presently done for the presidential campaign. The proposal would impose spending limitations for candidates accepting public financing—approximately $90,000 for House candidates and 12 cents per voter for Senate candidates. Candidates could not receive more than half the applicable ceiling in matching funds. To qualify, a candidate would be required to raise 10 percent of the applicable limit in contributions of $100 or less, and only contributions of $100 or less would be matched with corresponding Federal funds.

In considering various reform measures, we must not lose sight of our objectives: to allow for fair competition between the best people for any national office; to insure an informed electorate with a maximum of public participation in the political process; and ultimately to reenforce the faith and confidence of the electorate. The Burton amendment is a vital step in this direction.

Mr. PHILLIP BURTON. Mr. Speaker, inserted below are copies of letters from various organizations in support of my amendment to H.R. 12406 to provide congressional public financing on a matching fund basis for general elections:

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW

March 26, 1976.

DEAR REPRESENTATIVE: The UAW urges most strongly that you support H.R. 12406 to reconstitute the Federal Election Commission to meet the constitutional deficiencies which prompted the recent Supreme Court decision. As reported by the House Administration Committee, the bill also contains loophole closing provisions necessitated by the Court's decision.

It is our understanding that an amendment will be offered during consideration of H.R. 12406 to authorize public financing in congressional campaigns. For many years, the UAW has favored public financing, and we urge you to vote for the amendment when it is offered next week.

As reported, the bill's principal objective is to reconsttiute the Commission consistent with constitutional requirements. It would also restore more equal treatment of labor union and corporate political activities as clearly set forth in the Federal Election Campaign Act of 1971. In its advisory opinion in the so-called SUNPAC matter, the FEC deviated sharply from congressional intent regarding political activity of labor unions and corporations. H.R. 12406 simply would restore the intent of Congress that such activities be treated fairly and equally. The bill also prohibits proliferation of political committees by both corporations and labor unions.

H.R. 12406 is well drafted, equitable and essential legislation. Time is of the essence; the FEC must be reconstituted if chaos is to be avoided in the Presidential campaign.

We believe H.R. 12406 at this time is an essential step. The adoption of the public financing amendment would constitute another positive step in the continuing effort to achieve meaningful campaign reform.

H.R. 12406 deserves your enthusiastic support; we hope you will vote for it and against weakening amendments. Your consideration of the UAW position on this major legislation will be appreciated.

Sincerely,

STEPHEN I. SCHLOSSBERG,
General Counsel.

DICK WARDEN,
Legislative Director.

PUBLIC CITIZEN,

March 30, 1976.

DEAR REPRESENTATIVE: The House will soon consider H.R. 12406, the Federal Election

Campaign Act Amendments of 1976, which reconstitutes the Federal Election Commission and makes some needed reforms in existing federal election law.

We strongly support the amendment for public financing of congressional campaigns to be offered by Mr. Phillip Burton of California. This proposal, originally introduced last year as a separate bill with 220 co-sponsors, provides for federal matching funds for candidates to the House of Representatives. These funds would be available in general elections only, would match only small contributions, and would be tied to the candidate's acceptance of a spending limitation. Federal funds could never account for more than one-half of the funds spent by a candidate. Based on the successful provision for federal funding of Presidential candidates, matching funding for Congressional candidates would not start until the Congressional elections of 1978, to avoid the possibility of injecting confusion into this year's races

Public financing of campaigns was upheld by the Supreme Court in *Buckley* v. *Valeo*. The Court accepted the strong arguments in favor of public financing of presidential campaigns. Surely the same arguments support the constitutionality of public financing of Congressional campaigns.

Public financing of Congressional campaigns will serve three salutory purposes. First, it will release candidates from the stranglehold which fat cat and special interest contributors often have on them. The practice of exchanging commitments on specific issues for large cash contributors can be put to an end. Candiates will have to seek support from the people in their district, not just to those who might give large contributions. Second, public fundng can relieve some of the burden of raising funds. Congressional candidates frequently complain about the amount of time they must spend in raising money. Time spent in this way is time taken from discussing the issues with the voters. By reducing the need to raise funds, public funding can refocus campaigns on the crucial issues of the day. Third, public funding, tied as it is to limitations on expenditures, can equalize the amount spent by each candidate for office. If all the candidates in a particular race for Congress accept federal funds, all will be subject to the same spending limitation. Although candidates will still have the option of refusing federal money and spending unlimited amounts to seek election, this system of federal matching funds provides a strong incentive to accede to limitations on expenditures.

We strongly urge you to support the Burton public financing amendment to H.R. 12406.

Sincerely yours,

JOAN CLAYBROOK.

SUPPORT FOR THE FEDERAL ELECTION CAMPAIGN ACT AND PUBLIC FINANCING
STEELWORKERS LEGISLATIVE APPEAL,
Washington, D.C., March 31, 1976.

We urge your support for HR--12406, the Federal Election Campaign Act Amendments as reported by the House Administration Committee, and for the Burton amendment to provide public financing of congressional campaigns.

In addition to reconstituting the Federal Election Commission, the impact of the committee bill is the equalization of treatment of corporate and union political activities, the prevention of employer macing, and the strengthening of FEC procedures as necessary to make its regulatory function effective. It is appropriate that Congress address those issues in conjunction with the reconstitution of the Commission, and we oppose all amendments designed to weaken or strike those important sections.

Furthermore, we strongly oppose any provisions similar to the so-called Packwood amendment which are specifically designed to cripple local union political activities through onerous and discriminatory reporting requirements.

The committee bill would breathe new life into a key component of Congress' most recent political reform effort, as well as establish important new reforms. But Congress must dealize that true, comprehensive reform will not be possible until we begin to lessen the importance of private money in the political process. That is the thrust of the Burton amendment to establish public financing of congressional elections, and we urge your support of it.

COMMON CAUSE,
Washington, D.C., March 23, 1976.

DEAR REPRESENTATIVE: When the House considers H.R. 12406, Representative Philip Burton will introduce an amendment to provide for public financing of Congressional campaigns. We strongly urge your support for this key proposal.

The Burton amendment is essentially the same legislation cosponsored in this Congress by more than 200 House Members. It is also very similar to the public financing proposal debated and narrowly defeated by the House in 1974. In the last Congress, the Senate twice passed a comprehensive Congressional public financing measure.

The absence of Congressional public financing is the vital mising link in our campaign finance laws. In upholding the constitutionality of Presidential public financing, the Supreme Court said, ". . . Congress was legislating for the general welfare—to reduce the deleterious influence of large contributions on our political process, to facilitate communication by candidates with the electorate, and to free candidates of the rigors of fundraising." The same arguments hold true for Congressional public financing.

Recent Common Cause studies have revealed the dangerous growth of special interest money in Congressional campaigns. When Congress in 1974 provided public financing for Presidential races, one might have predicted a marked increase in the special interest money flowing to Congressional races—and that is precisely what is going to happen. As of January 1976, special interest groups already had $16 million cash on hand, more than 40 percent above the amount held at a similar stage in 1974.

It is essential that we move to a system of financing Congressional campaigns that is less dependent on special interest money, and more dependent on small private donations. Public financing is the means of accomplishing that transition. The Burton proposal would establish a matching system for Congressional candidates in the general election. Candidates could not receive public funds unless they were able to raise a threshold amount of small contributions. There would be an overall limit on the total amount of public funds that could go to candidates in any one race. Public funds would be matched against small private contributions of up to $100 each. The public funds could only be derived from voluntary funds checked off by taxpayers on thier income tax returns.

The evidence to date clearly establishes that the matching system is working well at the Presidential level. Adoption of the Burton amendment would provide the same historic breakthrough for Congressional campaign financing that the 1974 Act has provided for Presidential campaign financing. We urge you to vote for this crucial legislation.

Sincerely,

JOHN W. GARDNER,
Chairman.

PREFERENTIAL MOTION OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. BAUMAN moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

(Mr. BAUMAN asked and was given permission to revise and extend his remarks.)

Mr. BAUMAN. Mr. Chairman, I have a great deal of affection and respect for the gentleman from California (Mr. PHILLIP BURTON), who has offered this amendment. I certainly admire his use of power and his ability to present his case as he has in this instance in his usual articulate manner.

I sympathize with his desire to provide public funding to enhance the ranks on his side of the aisle. Two-thirds of the membership is really not enough to do what he wants to do in the House of Representatives, apparently. I must say that I think he does a political disservice to the Members on his side of the aisle, particularly those in marginal districts. How can they go home and explain a vote for this amendment?

Mr. Chairman, this Congress has raised its own salaries, has tied its pay to the cost-of-living index, has increased the number of its staff, has increased its stationery allowance 24 percent, has increased its district office allowance 43 percent and has increased its telecommunications allowance. Its office staff allowance has been increased, in overall funding, by $32,000 per office. It has increased the number of office staff members from 16 to 18. It has given itself two newsletters annually, which cost $5,000 to print.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield, I wonder whether he has used all of that himself?

Mr. BAUMAN. No, this gentleman has turned back many of these allowances the gentleman from New Jersey has made possible.

Mr. THOMPSON. I thank the gentleman.

Mr. BAUMAN. Mr. Chairman, all of these additional allowances added together mean that in 2 years the cost of maintaining one Member of Congress has gone from $376,000 to $488,000, up 30 percent. In the last 20 years, while the United States has increased its population only 30 percent, the dollar has gone down in value 83 percent, and the cost of running the Congress has increased by about 560 percent. And now we come to the Burton amendment.

Mr. Chairman, in my calculation, if this amendment is adopted, we will be subtracting from the Treasury every 2 years $30,550,000 if there are just two congressional candidates who qualify in each district. There will probably be at least three or four candidates who qualify in each district so that we can add to that an additional sum, as well as funding for elections in the other body.

I think it will be difficult for any of us to go back and explain to our constituencies why we were willing to vote ourselves campaign funds on top of what we already have received. We have gone literally from the ballot box to the cash box, and it will be the congressional hand

that will be in that cash box if this amendment passes.

Mr. Chairman, I regret that the gentleman from California (Mr. PHILLIP BURTON) has seen fit to offer this amendment and I urge its rejection.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield

Mr. BAUMAN. I yield to the distinguished gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I thank the gentleman for yielding.

As the gentleman well knows, this bill is drafted in such a manner that it cannot be considered to be self-serving. No incumbent Member of this House can receive $1 of that matching money until the electorate decides to send that money back. We are not changing the rules in any way.

Mr. BAUMAN. Mr. Chairman, one of the country newspapers on the Eastern Shore of Maryland, the Talbot Banner of Easton, Md., the other day summed up my view, as follows:

In our view, the spectacle of a small army of presidential candidates running around the country on the taxpayer's dollar in this election year has soured the public already to the concept of Federal financing of political campaigns. The thought of an even larger army of subsidized congressional candidates is, frankly, nauseating.

Mr. Chairman, this is not just the Burton amendment, it is the nauseating amendment.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the other distinguished gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding.

I would only say this: If the public is so fed up, why are the checkoff moneys in the Treasury for the 1975 taxes double the estimates?

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

It was said that about 30 percent of the public checkoff, and it does not cost any of them a single dime. This means that 70 percent of the public do not want the "dumb" thing.

Mr. JOHN L. BURTON. If the gentleman will yield further, it is up double what it was, as everybody knows.

Mr. BAUMAN. Mr. Chairman, I hope both amendments are soundly defeated.

Mr. HAYS of Ohio. Mr. Chairman, I rise in opposition to the preferential motion offered by the gentleman from Maryland (Mr. BAUMAN) to strike the enacting clause.

(Mr. HAYS of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HAYS of Ohio. Mr. Chairman, I almost never read the horoscopes, but last night I happened to turn to that page and read my horoscope for today and it said, "You had better stay in bed."

You know, I had this thing defeated and then my friend the gentleman from Maryland (Mr. BAUMAN) had to get up to support me. And I just beg of you, I beg of you to act like he had not talked and go ahead and vote it down.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Maryland (Mr. BAUMAN).

The preferential motion was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. WIRTH) to the amendment offered by the gentleman from California (Mr. PHILLIP BURTON).

The question was taken; and on a division (demanded by Mr. BAUMAN), there were—ayes 74, noes 87.

So the amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PHILLIP BURTON).

The question was taken.

RECORDED VOTE

Mr. MOORE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 121, noes 274, not voting 37, as follows:

[Roll No. 154]

AYES—121

Abzug	Fisher	Mitchell, Md.
Adams	Florio	Mitchell, N.Y.
Ambro	Foley	Moakley
Anderson, Ill.	Fraser	Moffett
Aspin	Giaimo	Mottl
AuCoin	Gilman	Neal
Badillo	Green	Nolan
Baucus	Gude	Oberstar
Bedell	Hamilton	Ottinger
Bergland	Hanley	Patten, N.J.
Bingham	Hannaford	Patterson, Calif.
Blanchard	Harkin	Pattison, N.Y.
Blouin	Harrington	Rangel
Boland	Harris	Rees
Bolling	Heinz	Reuss
Bonker	Helstoski	Richmond
Brademas	Holtzman	Riegle
Brodhead	Howard	Rosenthal
Brown, Calif.	Jacobs	Roush
Burke, Calif.	Jordan	Santini
Burton, John	Kastenmeier	Scheuer
Burton, Phillip	Keys	Schroeder
Carr	Koch	Seiberling
Cochran	Krebs	Sharp
Cohen	Leggett	Simon
Conte	Lehman	Smith, Iowa
Conyers	Levitas	Solarz
Corman	Lundine	Spellman
Cornell	McCloskey	Stark
Coughlin	McHugh	Stokes
Dellums	McKinney	Studds
Dodd	Maguire	Thompson
Downey, N.Y.	Matsunaga	Tsongas
Drinan	Mazzoli	Vander Veen
Duncan, Oreg.	Melcher	Waxman
du Pont	Metcalfe	Weaver
Edgar	Meyner	Whalen
Edwards, Calif.	Mezvinsky	Wirth
Eilberg	Mikva	Wolff
Fascell	Miller, Calif.	
Fenwick	Mineta	

NOES—274

Abdnor	Bennett	Carter
Addabbo	Bevill	Cederberg
Alexander	Biaggi	Chappell
Allen	Boggs	Clancy
Anderson, Calif.	Bowen	Clausen, Don H.
Andrews, N.C.	Brinkley	Clawson, Del
Andrews, N. Dak.	Brooks	Cleveland
Annunzio	Broomfield	Collins, Ill.
Archer	Brown, Mich.	Collins, Tex.
Armstrong	Brown, Ohio	Conable
Ashbrook	Broyhill	Conlan
Ashley	Buchanan	Cotter
Bafalis	Burgener	Crane
Baldus	Burke, Fla.	D'Amours
Bauman	Burleson, Tex.	Daniel, Dan
Beard, R.I.	Burlison, Mo.	Daniel, R. W.
Beard, Tenn.	Butler	Daniels, N.J.
	Byron	Danielson
	Carney	Davis
	Kazen	Roberts
	Kelly	Robinson
	Kemp	Roe
	Ketchum	Rogers
	LaFalce	Roncalio
	Lagomarsino	Rooney
	Latta	Rose
	Lent	Rostenkowski
	Litton	Rousselot
	Lloyd, Calif.	Roybal
	Lloyd, Tenn.	Runnels
	Long, La.	Ruppe
	Long, Md.	Russo
	Lott	Ryan
	Lujan	St Germain
	McClory	Sarasin
	McCollister	Satterfield
	McCormack	Schneebeli
	McDade	Schulze
	McDonald	Sebelius
	McEwen	Shipley
	McFall	Shriver
	McKay	Shuster
	Madden	Sikes
	Madigan	Sisk
	Mahon	Skubitz
	Mann	Slack
	Martin	Smith, Nebr.
	Mathis	Snyder
	Michel	Spence
	Milford	Staggers
	Miller, Ohio	Stanton, J. William
	Mills	Steed
	Minish	Steelman
	Mink	Steiger, Ariz.
	Mollohan	Steiger, Wis.
	Montgomery	Stephens
	Moore	Stuckey
	Moorhead, Calif.	Symington
	Moorhead, Pa.	Symms
	Morgan	Talcott
	Mosher	Taylor, Mo.
	Moss	Taylor, N.C.
	Murphy, Ill.	Teague
	Murphy, N.Y.	Thone
	Murtha	Thornton
	Myers, Ind.	Traxler
	Myers, Pa.	Treen
	Natcher	Ullman
	Nedzi	Van Deerlin
	Nichols	Vander Jagt
	Nowak	Vanik
	Obey	Vigorito
	O'Brien	Waggonner
	O'Hara	Walsh
	O'Neill	Wampler
	Passman	Whitehurst
	Perkins	Whitten
	Pettis	Wiggins
	Pickle	Wilson, C. H.
	Pike	Wilson, Tex.
	Poage	Winn
	Pressler	Wright
	Preyer	Wydler
	Price	Wylie
	Pritchard	Yates
	Quie	Yatron
	Quillen	Young, Alaska
	Railsback	Young, Fla.
	Randall	Young, Tex.
	Regula	Zablocki
	Rhodes	Zeferetti
	Rinaldo	
	Risenhoover	

NOT VOTING—37

Barrett	Hayes, Ind.	Pepper
Bell	Hébert	Peyser
Biester	Henderson	Rodino
Breaux	Hinshaw	Sarbanes
Breckinridge	Holland	Stanton, James V.
Burke, Mass.	Johnson, Pa.	Stratton
Chisholm	Karth	Sullivan
Clay	Kindness	Udall
Diggs	Krueger	White
Downing, Va.	Landrum	Wilson, Bob
Eckhardt	Macdonald	Young, Ga.
Flowers	Meeds	
Guyer	Nix	

The Clerk announced the following pairs:

On this vote:

Mr. Eckhardt for, with Mr. Krueger against.

Mr. Rodino for, with Mr. Stratton against.

Mrs. Chisholm for, with Mr. Hébert against.

Mr. Clay for, with Mr. Breaux against.

Mr. Nix for, with Mr. Burke of Massachusetts against.

Mr. RINALDO and Mr. EMERY changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. STEIGER of Wisconsin. Mr. Chairman, I move to strike the requisite number of words.

(Mr. STEIGER of Wisconsin asked and was given permission to revise and extend his remarks.)

Mr. STEIGER of Wisconsin. Mr. Chairman, I have, with one exception, not participated in the debate on this bill; yet, I recognize I bear some of the responsibility for the fact this bill is here. I was one of those who joined as a plaintiff with former Senator McCarthy, Senator BUCKLEY, the New York Civil Liberties Union, Human Events, the Mississippi Republican Party and the Libertarian Party in bringing this suit against the Federal Election Campaign Act of 1974.

The Supreme Court decision in Buckley versus Valeo, which is the reason we have spent these days debating this bill, quite clearly and forthrightly enunciated some of the principles all of us ought to pay more attention to, but my regret is that in the debate of this bill we once again, I am afraid, are seeing the House head down the road of attempting to restrain the first amendment rights of the American people. If this bill passes in its present form, Mr. Chairman, we are once more asking for another set of plaintiffs to bring a suit against a bill passed by the Congress.

Obviously, I hope this bill does not pass in its present form. Obviously, if it does, my hope is that the President will have enough wisdom and, yes, enough courage to veto the bill. This bill is a bad bill; not just because of the reasons that are enunciated so clearly in the views expressed by the gentleman from Minnesota (Mr. FRENZEL), but let me suggest two thoughts to the Members concerned about the rights and privileges of those we have the honor to represent.

Section 109 of the bill—take a look at section 109, page 19, lines 12 through 16, and also page 26, lines 5 through 11. The Members will see in those sections an obvious restriction on the ability of an individual to freely express his or her views. That is, no investigation shall be made public; that is to say, if a candidate knows his or her opponent is under investigation, he cannot say so. That, I think, is clearly a restriction on the speech of an individual.

Section 112 of the bill on page 32, Mr. Chairman, is another inhibition. It says that if an individual independently spends, on his own, money for "the dissemination, distribution or republication, in whole or in part, of any broadcast or any written, graphic or other materials" prepared by the candidate, he can spend no more than $1,000. The Supreme Court said we cannot write such a law. If there were any one message in the Buckley versus Valeo decision, it was that we cannot—cannot, underlined—by an act of Congress inhibit the ability of the American people to spend money freely in elections.

Thus, Mr. Chairman, the motion to recommit ought to be adopted. That will give this body a chance to hold its head high, to say that we really do believe in the constitutional rights we have sworn to uphold. If the motion fails, we will have done a disservice to the Constitution, to ourselves, and to our constituents.

Mr. HAYS of Ohio. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto, including pro forma amendments, close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 3⅓ minutes each.

The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

(Mr. ROUSSELOT asked and was given permission to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to this bill. I think the debate has now convinced me thoroughly that it is bad legislation.

In January of this year, the Supreme Court held, in a significant and important decision, that the Federal Elections Commission—FEC—was unconstitutionally structured under current law for the purpose of administering Federal election financing. The Court gave Congress 30 days, and subsequently another 20 days, to restructure the FEC along prescribed constitutional lines. Regretfully, instead of acting, Congress has turned the Supreme Court decision into a field day for undoing much-needed election reform. And they have accomplished this feat—appropriately and timely enough—in the middle of a Presidential and congressional election year.

Mr. Speaker, I personally fully acknowledge the need for thorough, well-considered and thought-out amendments and improvements to the present law—reforms that will not only meet the specifications identified by the recent Supreme Court decision—but that will guarantee the proper and prudent administration of Federal elections in the future. The bill that is now being considered, however, goes wildly beyond these purposes and amounts to a shoddily prepared bag of dirty tricks.

Only the first two pages of H.R. 12406 address the task assigned by the Court of restructuring the FEC. The remaining 56 pages of the bill, more than reconstituting the Federal Elections Commission, promote the establishment of an "Incumbent Protection Agency." Among the most offensive provisions of the bill are those which:

First. Further corrode a campaign law which is already biased toward the protection of incumbents;

Second. Give special advantage to labor union political action committees while denying the rights of political expression to the vast majority of workers—70 million—in this country who are unorganized; and

Third. Make dozens of other changes which serve to weaken or otherwise negate the legitimate reforms accomplished in the 1974 act.

It is very unfortunate that this Congress, which has so self-righteously identified itself as the reform Congress, above the Watergate morality and with an anticorruption backlash, would enact such a measure which has been so craftly put together by and solely for the incumbent. They have done it without hearings or consultation with outside experts, witnesses or challengers.

In an editorial that appeared in the March 9 edition of the Washington Star, columnist James J. Kilpatrick has colorfully summed up the problems associated with the heavily biased election reform legislation and calls the whole process that brought about H.R. 12406 a "sorry performance." I include the Kilpatrick editorial at this point in the RECORD and respectfully commend it to my colleagues for their consideration:

[From the Washington Star, Mar. 9, 1976]

MAKING A POOR CAMPAIGN LAW EVEN WORSE

(By James J. Kilpatrick)

Everyone who spends time in a kitchen knows about the leftover problem. Now and then you can do something pretty good with the remains of a leftover roast. But if what you start with is leftover hash, that's what you end with, too. This is the problem Congress faces with the Federal Election Campaign Act.

In January the Supreme Court made hash of that act. Toward the end of its long opinion, the Court toyed briefly with the idea of throwing out the law altogether. Unfortunately, prudence and custom prevailed. The Court made a deferential bow to the supposed wisdom of the House and Senate, and threw the hash back in their laps.

Now a couple of short-order chefs—Wayne Hays in the House and Howard Cannon in the Senate—are doing a dirty apron job. They are about to make bad matters worse, and the lamentable prospect is that they have the votes to prevail. In the months after Watergate, Congress went through great spasms of morality; now the convulsions have subsided, and the Congress is quite itself again. Election reform is a bore.

Under the terms of the Supreme Court's opinion, the most urgent problem had to do with the Federal Election Commission that had been created by the 1974 act. Under the law, the six members were to be named by the House and Senate. No way, said the Court. The Constitution plainly vests such appointive power in the President. If the commission were to survive beyond a 30-day grace period (later extended by 20 days), the commission would have to be reconstituted.

If the Congress had wanted to proceed along rational lines, a two-page bill could have been whipped up to accomplish that and nothing more. Everything else could have been left for later action. But few persons ever have charged the Congress with rational behavior. Any such simple procedure would have reflected poorly on the congressional capacity for the devious.

What we have, therefore—what we had a few days ago, at least—is a 46-page bill that is technically by "Mr. Hays of Ohio," but is more truly the prose composition of Mr. Meany of the AFL–CIO. The key provision of this interesting work of art is intended to nullify an even-handed ruling of the commission pursuant to the original act. The purpose is to restore to organized labor the political clout that Mr. Meany conceives as rightfully his.

Under the original law, as the commission

decreed in response to an inquiry from the Sun Oil Co., unions and corporations were to be treated equally. Unions could solicit their members for political contributions. Corporations similarly could solicit their employes.

Under the Hays-Meany revision, unions naturally could continue to solicit their members and their families, but a corporation could communicate politically only with "its stockholders and executive officers and their families." The term "executive officer" would be defined to include only those salaried persons with both policymaking and supervisory responsibilities.

The Senate Rules Committee met on a recent afternoon for what is known as a "mark-up session." Remarkably, the committee was not marking up its own bill, for it had none; it was marking up the Hays-Meany House bill, copies of which had been thoughtfully provided. Over the vehement protests of Republicans Robert Griffin and Hugh Scott, Chairman Cannon guided the steamroller down its appointed path. The Democrats had five votes, the Republicans only four, and as the old story tells us, that do make a difference.

The revised provisions represent a sorry performance by too many high-handed cooks. It is a case of hashes to hashes, and crust to crust. Scott predicts a veto if the Hays-Meany bill passes, but so much money is riding upon the commission's continued existence that a veto might well be overridden. "Making law is like making baloney," says Sen. Griffin. "It takes a strong stomach to watch either process."

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. FRENZEL. Mr. Chairman, as I have previously stated in this Committee, I am not going to move the substitute H.R. 11736, which was made in order in the rule and is therein numbered 4, for the reason that that amendment will be offered as a part of the motion to recommit.

We have come to this determination because we think it is unnecessary and wasteful of time to debate this matter twice. We think the matter can be settled in the vote on the motion to recommit.

Mr. Chairman, I do, however, want to say that this bill has 73 cosponsors, and a total of about 100 Members have signed this bill or others very much like it. It calls for a simple reconstitution of the Federal Elections Commission on a constitutional basis, as suggested by the Supreme Court. It is a 3-page bill.

What we have before us is a 58-page monster.

This bill simply does what is necessary now. It does not change the rule in the middle of the stream. It does not recodify the election code. It does not reduce the independence of the Election Commission. It does not have any self-serving Congressional favoritism in it. In fact, it does nothing except reconstitute the Election Commission, as was suggested by the administration and as was suggested by Common Cause, by the League of Women Voters and by other interested political observers.

Mr. Chairman, I think we can save ourselves lots and lots of trouble if we support the motion to recommit and vote against this bill.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. HAYS).

(Mr. HAYS of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HAYS of Ohio. Mr. Chairman, I do not propose to use the entire three minutes. I just want to reply briefly to the gentleman from Wisconsin (Mr. STEIGER). I do not think, really, if the Members stop to think about what he said, that he needs much reply.

Mr. Chairman, there is an old saying that politics makes strange bedfellows. That was quite a bedfull the gentleman was in bed with.

If the Members listened to what he said, he mentioned the Mississippi Democratic Party, human events, ex-Senator McCarthy was a nice fellow, he does not know where he was running from or where he was going.

If the gentleman from Wisconsin (Mr. STEIGER) and some others of the same ilk do not like this bill, he can file another lawsuit. He has lots of money, as I understand it, and I know of no better way to get rid of it than to share the wealth among lawyers. They lobbied the no-fault insurance to death over in the Senate because they thought there was not enough business for it. And if the gentleman wants to share some of his wealth with them, that is okay with me.

Mr. Chairman, I will speak to the motion to recommit at the proper time. I understand each side has 5 minutes.

I do not propose to take any more time, and I yield back the balance of my time.

Ms. ABZUG. Mr. Chairman, I rise in support of H.R. 12406—the Federal Election Campaign Amendments of 1976—a measure whose passage is vital to the political health of our country.

While we all recognize the necessity for reconstituting the Federal Election Commission, so that it can continue disbursing matching funds to Presidential candidates this year, there are a number of important reforms in this bill that go beyond the 1976 elections.

This bil would limit the proliferation of political committees by either corporations or trade unions, requiring that only one political committee—with a limitation of $5,000 per candidate—could be organized under the organization's aegis.

It should be noted that abuses in the creation of PAC's has been exclusively corporate in nature, and that these practices which were exposed in the last few years are a blight on our national political life.

In contrast the contributions of labor—particularly the AFL-CIO COPE fund have been clearly reported and tied to the trade union's identified issue—positions whch are both known and publicized to its members and the public.

Given that fact, I do find it strange that some of my colleagues are suggesting that these trade unions be required to report all their expenditures on internal communications to their own members.

I would remind my colleagues that there are no such requirements for the many lobbying groups which communicate with this Congress and their own membership.

I question why the labor movement should be required to report every phone call made or newsletter mailed, involving political issues or candidates.

In view of the inequity of this proposal, I urge my colleagues to vote against this requirement.

There are a number of other flaws in this legislation which should be corrected, if we are to produce a significant reform bill. I believe that it is not in the public interest to eliminate the requirement that candidates file reports in their own State, with the secretary of state. Citizens should have the right to easy access to this information and its storage, only in Washington, places a burden on the private citizens, journalists or organizations who wish to inspect the report.

The increase in the ceiling on cash contributions opens the door again to potential error or abuse. I favor maintenance of the $100 cash ceiling.

The special procedure for handling complaints against congressional employees promulgates a double standard of justice and should be deleted. The intent of the law is to insure fair and proper treatment—not special privilege for Members of this House and their staff.

Finally, I wish to point out the importance of coming to grips with the issue of public financing of congressional races. In 1975 over 200 Members of this House have gone on record in support of this concept, yet we have made no progress on this important issue.

The same concerns which motivated our support for public subsidization of Presidential campaigns hold true for congressional races. In fact, it is at that level where public financing would make the most difference in freeing public servants of special interest influence. There is some evidence that more corporate money is flowing into congressional races this year because of the limitations on contributions to the Presidential candidate, making it all the more important that we take action now which will at least cover the 1978 elections.

As a founder of the National Women's Political Caucus, I have watched and encouraged the efforts of women all over this country to use their leadership talent in the political arena.

One of the greatest obstacles to the emergence of more women candidates—and more minority candidates—and more youthful candidates—is the burden of financing a properly organized campaign.

Women are not part of the corporate establishment.

The woman who does not have independent means or a wealthy family is at a particular disadvantage in attempting to enter the political system—although clearly all of us who are not wealthy suffer from the fact that the cost of campaigning has become excessive for all who are not millionaires.

If we are serious in our stated commit-

ment to opening the political process to all groups in our society then we must institute a supervised system of public financing which begins to equalize political opportunity.

I believe that this measure is not only desirable but necessary to change the climate of American public opinion. Most of you, I am sure, have noted with concern the falling off of the voter figures in recent elections and the apathetic attitude toward the political process which has become more pronounced.

The aftermath of Watergate has left the American people profoundly distrustful of politicians and wary of even the most dedicated public servants.

The restoration of confidence in our own political system requires that we make it possible for citizens to compete for office without the prerequisite of individual wealth or corporate identification. We cannot allow special interest money to continue to dominate our political life for that pattern has only served to destroy belief in our system and its leaders.

Mr. BADILLO. Mr. Chairman, within a few minutes the House will vote on the final passage of H.R. 12406, the Federal Elections Campaign Act Amendments of 1976. I shall vote for the measure—we must continue the life of the Election Commission—I shall do so with deep reluctance and disappointment.

When this legislation was first proposed I, and a number of others, thought that it represented a step in the right direction. Although by no means perfect, it was capable of improvement and a number of excellent amendments were being prepared. I was particularly impressed by the one advanced by the gentleman from California (Mr. BURTON) which proposed to extend public financing to congressional elections.

The Burton proposal, originally cosponsored by more than 200 Members of the House, sought to establish a system of matching public financing for congressional general elections starting with 1978. It proposed to provide funds for candidates, not political parties, and would have limited monies spent strictly to funds derived from voluntary dollar tax checkoffs on income tax returns. No use of general revenues was contemplated or proposed.

If stipulated that contributions to candidates of up to $100 per person would be matched by funds derived from the voluntary checkoff program; imposed overall spending limits, as well as limits on a candidate's own personal fund expenditures similar to the ceilings set in the 1974 campaign finance law; and mandated that participating candidates raise at least 10 percent of the applicable spending limit in amounts of $100 or less per contribution in order to be eligible for public funding.

It barred a candidate from receiving more than 50 percent of his or her applicable spending limit from public funds; it placed strict restrictions on the use of such funds which could be expended only for such expense items as broadcasting, air-time, newspaper, magazine and billboard advertising space, and direct mail and telephone costs.

Only funds raised after January 1 of a general election year would have been eligible for matching.

Mr. Chairman, this was a good amendment. We all know that public financing of our Presidential and congressional elections is imperative. Without such financing we can look forward to increased corruption in our political life, and a de facto disenfranchisement of our rank and file citizens as powerful and wealthy interest groups utilize their all too ample resources to elect candidates pledged to guard their interests.

The public is aware of this danger and its determination to guard against it is amply demonstrated by the overwhelming support it gave to the checkoff system of earmarking a portion of its Federal taxes for the public financing of Presidential elections. But safeguarding the integrity of Presidential elections is not enough. We must make sure that the representatives of the people on all levels of government are indeed representative. It is for this reason that we needed the Burton amendment.

Unfortunately, that amendment, although originally cosponsored by more than 200 Members, went down to defeat 121 to 274 just a few moments ago. I am deeply disturbed by this vote and believe that it constituted a disservice to all those in our Nation who trusted us in Congress to safeguard their interests and assure clean, representative politics.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 12406) to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes, pursuant to House Resolution 1115, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. WIGGINS. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WIGGINS moves to recommit the bill (H.R. 12406) to the Committee on House Administration with instructions to report the same to the House forthwith with the following amendment: Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. The provisions of this Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 2. (a) Section 310(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)) is amended to read as follows:

"SEC. 310. (a)(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and 6 members appointed by the President, by and with the advice and consent of the Senate. No more than 3 members appointed by the President may be affiliated with the same political party.".

(b)(1) Subparagraph (A) and subparagraph (D) of section 310(a)(2) of the Act (2 U.S.C. 437(a)(2)(A), 437c(a)(2)(D) each are amended by striking out "of the members appointed under paragraph (1)(A)".

(2) Subparagraph (B) and subparagraph (E) of section 310(a)(2) ofthe Act (2 U.S.C. 437c(a)(2)(B), 437c(a)(2)(E)) each are amended by striking out "of the members appointed under paragraph (1)(B)".

(3) Subparagraph (C) and subparagraph (F) of section 310(a)(2) of such Act (2 U.S.C. 437c(a)(2)(C), 437c(a)(2)(F)) each are amended by striking out "of the members appointed under paragraph (1)(C)".

SEC. 2. (a) The terms of the persons serving as members of the Federal Election Commission upon the enactment of this Act shall terminate upon the appointment and confirmation of members of the Commission pursuant to this Act.

(b) The persons first appointed under the amendments made by the first section of this Act shall be considered to be the first appointed under section 310(a)(2) of the Act 2 U.S.C. 437(a)(2), as amended herein, for purposes of determining the length of terms of those persons and their successors.

(c) The provision of section 310(a)(3) of the Act (2 U.S.C. 437c(a)(3)) forbidding appointment to the Federal Election Commission of any person currently elected or appointed as an officer or employee in the executive, legislative, or judicial branch of the Government of the United States, shall not apply to any person appointed under the amendments made by the first section of this Act solely because such person is a member of the Commission on the date of enactment of this Act.

SEC. 3. It is the sense of Congress that the importance of the Federal Election Commission and the orderly implementation of Federal election campaign laws in this election year require that the appointments authorized by the amendments made by this Act be made as soon as possible after the enactment of this Act.

Mr. WIGGINS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion to recommit be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. WIGGINS) for 5 minutes in support of his motion to recommit.

Mr. WIGGINS. Mr. Speaker, the motion to recommit contains the text of H.R. 11736, which was introduced in this

House by the gentleman from Minnesota (Mr. FRENZEL) and the gentleman from Illinois (Mr. MIKVA), along with 73 of their colleagues as cosponsors.

All the motion to recommit does is to reconstitute the Commission on a constireconstitute the Commission on a constitutional basis and no more. It is best, I believe, that this House go to conference with the Senate with a bill that works a minimum change in the law. This will, in my opinion, give the House conferees the maximum flexibility in dealing with the Senate bill.

Mr. Speaker, I want the Members to know what this body hath wrought over the last several days. It has produced a bill which makes each one of us vulnerable to the charge that we do not support an independent Election Commission, because the bill that the committee approved is clearly devastating to the independence of the Commission.

The bill which we have reported out contains a clear bias in favor of organized labor. That may not trouble some of the Members, but we are all going to have to stand up and take a position on whether we believe in fairness in our election laws. If we do, if we are going to take that position in public, then we cannot defend the bias in this bill in favor of union expenditures.

Moreover, there was little debate during our consideration of this bill in committee about the PAC language. The bill takes the position that union members belong to the union for purposes of solicitation of funds and that executives and stockholders belong to a corporation for purposes of soliciting funds. A limitation on the right to solicit is a direct affront to the right to participate in political activity. It is contrary, in my opinion, to the first amendment, and it will produce a legal challenge to the bill which the Members have supported this afternoon in committee.

Given the infirmities in the bill, given the effect it has on the independence of this Commission, and given the bias contained in the bill in favor of one strong political faction, the better part of wisdom now is simply to meet the mandate of the Supreme Court and reconstitute the Commission. That is all we should do.

If you vote for the motion to recommit, that will be the effect of your action—action, I might say, which has been supported, as the Chairman has noted, by so-called strange bedfellows, including myself, the gentleman from Illinois (Mr. MIKVA), Common Cause at one time, the League of Women Voters, and assorted others.

I have the highest regard for all of them. I only observe that it is a strange congregation assembled under the covers of one bed.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Speaker, I want to say to my colleague, the gentleman from California (Mr. WIGGINS), that I supported the original bill with the gentleman from Minnesota (Mr. FRENZEL) because at that time there was great concern that we would get no Commission at all.

There has been and continues to be opposition to the Commission. I think the committee has done a good job on the bill. I think the Committee of the Whole House has done a better job. Many of the amendments supported by my colleague, the gentleman from California (Mr. WIGGINS), and the gentleman from Minnesota (Mr. FRENZEL) have been adopted, with much help from this side of the aisle. I think there is a sufficient bill here with which to go to conference.

Mr. Speaker, I intend to vote against the motion to recommit and to support the bill. I think we have a better bill than I had reason to hope was possible, and it ought to be supported.

Mr. WIGGINS. Mr. Speaker, in answer to the gentleman from Illinois (Mr. MIKVA), I can only say there was a time when the gentleman from Illinois supported the very bill which I offer without change as a motion to recommit.

Mr. Speaker, each Member's vote is going to be understood and should be understood as his personal commitment to fair and objective elections and to an independent commission to interpret the laws regulating that election. Each Member is going to be asked to stand up and be recorded in just a moment on those two issues. I trust that each Member will do the correct thing. In my judgment, that is to vote for the motion to recommit and simply reconstitute the Commission.

Mr. HAYS of Ohio. Mr. Speaker, I rise in opposition to the motion to recommit.

(Mr. HAYS of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HAYS of Ohio. Mr. Speaker and Members of the House, for 3 days the House has worked on this bill. Although my views did not prevail in every instance, I think we have come out with a product which is workable and which is fair and which will permit the conferees to go to conference with a Senate bill which is, perhaps, more of a monster than this one, to use the words of someone on the other side.

Mr. Speaker, I have a great deal of respect for my friend, the gentleman from California (Mr. WIGGINS). I respect his legal judgment. He and I work amicably together in committee, and I am sorry that I have to oppose him on this.

However, he makes a big thing about an independent commission and says that all his bill does is reconstitute an independent commission.

Mr. Speaker, what his bill does is to reconstitute the part that the court threw out, that the Commission can hand out the dollars, and it leaves it totally free to do whatever it wants to do to Members of Congress.

Mr. Speaker, we can bet our bottom dollar that there will never be any supervision of the executive elections because the Commission is totally appointed by the President and will be, in my judgment, three Republicans and three House Democrats. I might say to the minority that when the situation changes next January 20, it will be perhaps three Democrats and three House Republicans, as they come out.

Mr. Speaker, do the Members believe what I am saying? Let me give some evidence. We had two Members in this House who, I believe inadvertently and unknowingly, took some corporate funds from the Gulf Oil Co. One was our colleague from Oklahoma who got $1,000. The other one was our colleague from Pennsylvania on the other side, who got $6,000.

Our colleague from Oklahoma was prosecuted on an information charge but with respect to the gentleman from Pennsylvania, they allowed the statute of limitations to run. The Deputy Attorney General, who is also from Pennsylvania and also from Pittsburgh according to the press said:

> He is a friend of mine. I could not prosecute him.

That is the kind of independent Justice Department that we have.

The gentleman says we would have an independent commission if this thing were set up and the President could appoint it and the Commission were left intact to do whatever it wanted, without any supervision, with almost no oversight, and without any restraints. Mr. Speaker, I think the people on my side know what we would be handing ourselves by doing that, and I do not think the Members on our side want to do it.

You on the minority do not want to do it because this is a shifting political scene. No one has said that a commission should be a headhunting or witch-hunting commission, it can be independent as all commissions are under legislative oversight. That is the way we have constructed this bill. I ask the Members to vote down the motion to recommit.

Mr. ANDERSON of Illinois. Mr. Speaker, I think the most honest, decent and cleanest way to deal with this whole mess at this late stage in the game—and it has been a most cynical game in my opinion—is to vote for the Frenzel substitute and put a strong and independent Federal Election Commission back on its feet.

The Supreme Court gave us a very simple task to perform back on January 30, and that was to reconstitute the Federal Election Commission so that all of the commissioners would be appointed by the President, subject to confirmation by the Senate. A bill to comply with that simple mandate was introduced on February 5 by Congressmen FRENZEL and MIKVA. It only runs three pages. On February 9, 4 days later, I introduced House Resolution 1027, an emergency rule to discharge the bill from the House Administration Committee so that this House could meet the 30-day deadline set by the Court. The Supreme Court has since extended that deadline by 20 days, and still we have failed to meet it.

The original strategy of the opponents of the FEC was to simply let that deadline lapse and shift its authority to distribute Presidential matching payments to the GAO. When that strategy came under heavy fire from the public and press, a miraculous conversion supposedly occurred somewhere on the road between here and Miami, and those who

got religion turned back to the basic text of our Federal election law and began to revise and extend and extend. What finally emerged was a 58-page apocrypha. The revelatory source of these new writings is of questionable authorship. But one thing is clear: they spelled apocalypse for the Federal Election Commission, in no less than three ways. First, if they were accepted, the FEC would be virtually reduced to being an arm of the Congress—the regulators would become the captives of the regulated, contrary to our original intentions and the mandate of the Supreme Court. Second, these writings were purposely designed to be veto bait, thus furthering the cause of dooming the FEC. And third, the new devices thrown into this bill clearly invited another challenge in the courts, again jeopardizing the future existence of the FEC. In short, this bill was a triple boobytrap for the FEC.

Mr. Speaker, while we have managed somewhat in the past 2 days to clean up this bill a little, that triple boobytrap remains essentially intact. I think it is most appropriate that we should be culminating this debate on April Fool's Day because this bill is an April Fool's joke of the first magnitude if ever there was one.

But I suspect that when all is said and done, we will not have fooled the American people, and we will only have made ourselves look foolish. The joke will be on us. We have taken a very simple task and made it extremely complex. Some of the complex aspects of this bill are well intentioned, but they nevertheless contribute to the dead weight we have thrown around the neck of the FEC in this legislation. And now we are being cynically asked to throw it in the water to see if it floats.

Mr. Speaker, I would submit that at this point there is only one way to keep this package from sinking, and that is to throw off the dead weight and adopt the Frenzel substitute for a straight reconstitution of the FEC. Oh, it will be said that this would defeat the enactment of the few features of this bill which actually do make necessary improvements in the election law. But I would submit that those redeeming provisions are already in the bipartisan leadership compromise bill passed by the other body. The soundest and most expeditious way we can now insure a speedy and reasonable conference report would be to send a sturdy, bare bones bill to conference in the first place.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appear to have it.

RECORDED VOTE

Mr. WIGGINS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 246, not voting 33, as follows:

[Roll No. 155]

AYES—153

Abdnor	Frey	Myers, Pa.
Anderson, Ill.	Goldwater	O'Brien
Andrews, N. Dak.	Goodling	Pettis
	Gradison	Pickle
Archer	Grassley	Poage
Armstrong	Gude	Pressler
Bafalis	Hagedorn	Pritchard
Beard, Tenn.	Hammer-schmidt	Quie
Bennett		Quillen
Bowen	Harsha	Railsback
Broomfield	Hechler, W. Va.	Randall
Brown, Calif.	Heckler, Mass.	Regula
Brown, Mich.	Heinz	Rhodes
Brown, Ohio	Hillis	Roberts
Broyhill	Holt	Robinson
Buchanan	Horton	Rogers
Burgener	Hutchinson	Runnels
Burke, Fla.	Hyde	Ruppe
Burleson, Tex.	Jacobs	Ryan
Butler	Jarman	Sarasin
Byron	Jeffords	Schneebeli
Carter	Jones, Okla.	Schulze
Cederberg	Kasten	Sebelius
Chappell	Kazen	Shriver
Clancy	Kelly	Shuster
Clausen, Don H.	Kemp	Skubitz
	Ketchum	Smith, Nebr.
Clawson, Del	Kindness	Snyder
Cleveland	Lagomarsino	Spence
Cochran	Latta	Stanton, J. William
Cohen	Lent	
Collins, Tex.	Levitas	Steelman
Conable	Lott	Steiger, Ariz.
Conlan	Lujan	Steiger, Wis.
Coughlin	McClory	Stuckey
Daniel, R. W.	McCloskey	Talcott
Derwinski	McCollister	Taylor, Mo.
Devine	McEwen	Taylor, N.C.
Dickinson	McKinney	Thone
Duncan, Tenn.	Madigan	Thornton
du Pont	Mahon	Treen
Edwards, Ala.	Mann	Vander Jagt
Emery	Martin	Walsh
English	Michel	Wampler
Erlenborn	Milford	Whitehurst
Esch	Miller, Ohio	Wiggins
Eshleman	Mitchell, N.Y.	Winn
Fenwick	Montgomery	Wydler
Findley	Moore	Wylie
Fish	Moorhead, Calif.	Young, Alaska
Forsythe		Young, Fla.
Fountain	Mosher	Young, Tex.
Frenzel	Myers, Ind.	

NOES—246

Abzug	Cornell	Hall
Adams	Cotter	Hamilton
Addabbo	Crane	Hanley
Alexander	D'Amours	Hannaford
Allen	Daniel, Dan	Hansen
Ambro	Daniels, N.J.	Harkin
Anderson, Calif.	Danielson	Harrington
	Davis	Harris
Andrews, N.C.	de la Garza	Hawkins
Annunzio	Delaney	Hays, Ohio
Ashbrook	Dellums	Hébert
Ashley	Dent	Hefner
Aspin	Derrick	Helstoski
AuCoin	Diggs	Hicks
Badillo	Dingell	Hightower
Baldus	Dodd	Holtzman
Baucus	Downey, N.Y.	Howard
Bauman	Drinan	Howe
Beard, R.I.	Duncan, Oreg.	Hubbard
Bedell	Early	Hughes
Bergland	Edgar	Hungate
Bevill	Edwards, Calif.	Ichord
Biaggi	Ellberg	Jenrette
Bingham	Evans, Colo.	Johnson, Calif.
Blanchard	Evans, Ind.	Johnson, Colo.
Blouin	Evins, Tenn.	Jones, Ala.
Boggs	Fary	Jones, N.C.
Boland	Fascell	Jones, Tenn.
Bolling	Fisher	Jordan
Bonker	Fithian	Kastenmeier
Brademas	Flood	Keys
Breckinridge	Florio	Koch
Brinkley	Flynt	Krebs
Brodhead	Foley	LaFalce
Brooks	Ford, Mich.	Landrum
Burke, Calif.	Ford, Tenn.	Leggett
Burlison, Mo.	Fraser	Lehman
Burton, John	Fuqua	Litton
Burton, Phillip	Gaydos	Lloyd, Calif.
Carney	Giaimo	Lloyd, Tenn.
Carr	Gibbons	Long, La.
Collins, Ill.	Gilman	Long, Md.
Conte	Ginn	Lundine
Conyers	Gonzalez	McCormack
Corman	Haley	McDade
McDonald	O'Hara	Sikes
McFall	O'Neill	Simon
McHugh	Ottinger	Sisk
McKay	Passman	Slack
Madden	Patten, N.J.	Smith, Iowa
Maguire	Patterson, Calif.	Solarz
Mathis		Spellman
Matsunaga	Pattison, N.Y.	Staggers
Mazzoli	Perkins	Stark
Melcher	Pike	Steed
Metcalfe	Preyer	Stephens
Meyner	Price	Stokes
Mezvinsky	Rangel	Studds
Mikva	Rees	Symington
Miller, Calif.	Reuss	Symms
Mills	Richmond	Teague
Mineta	Riegle	Thompson
Minish	Rinaldo	Traxler
Mink	Risenhoover	Tsongas
Mitchell, Md.	Roe	Ullman
Moakley	Roncalio	Van Deerlin
Moffett	Rooney	Vander Veen
Mollohan	Rose	Vanik
Moorhead, Pa.	Rosenthal	Vigorito
Morgan	Rostenkowski	Waggonner
Moss	Roush	Waxman
Mottl	Rousselot	Weaver
Murphy, Ill.	Roybal	Whalen
Murphy, N.Y.	Russo	Whitten
Murtha	St Germain	Wilson, Tex.
Natcher	Santini	Wirth
Neal	Sarbanes	Wolff
Nedzi	Satterfield	Wright
Nichols	Scheuer	Yates
Nolan	Schroeder	Yatron
Nowak	Seiberling	Zablocki
Oberstar	Sharp	Zeferetti
Obey	Shipley	

NOT VOTING—33

Barrett	Hayes, Ind.	Rodino
Bell	Henderson	Stanton, James V.
Biester	Hinshaw	
Breaux	Holland	Stratton
Burke, Mass.	Johnson, Pa.	Sullivan
Chisholm	Karth	Udall
Clay	Krueger	White
Downing, Va.	Macdonald	Wilson, Bob
Eckhardt	Meeds	Wilson, C. H.
Flowers	Nix	Young, Ga.
Green	Pepper	
Guyer	Peyser	

The Clerk announced the following pairs:

Mr. Henderson with Mr. Charles H. Wilson of California.

Mr. Krueger with Mr. Eckhardt.

Mrs. Sullivan with Mr. Stratton.

Mr. Holland with Mrs. Chisholm.

Mr. Pepper with Mr. Burke of Massachusetts.

Mr. Barrett with Mr. Macdonald of Massachusetts.

Mr. Flowers with Mr. Nix.

Mr. Rodino with Mr. Clay.

Mr. Young of Georgia with Mr. Green.

Mr. Breaux with Mr. Udall.

Mr. White with Mr. Karth.

Mr. Hayes of Indiana with Mr. Bell.

Mr. Downing of Virginia with Mr. Biester.

Mr. Guyer with Mr. Johnson of Pennsylvania.

Mr. Peyser with Mr. Meeds.

Mr. Bob Wilson with Mr. James V. Stanton.

Mr. GOLDWATER changed his vote from "no" to "aye."

Mr. CRANE changed his vote from "Aye" to "No."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 241, nays 155, not voting 36, as follows:

[Roll No. 156]

YEAS—241

Abzug	Fuqua	Murphy, N.Y.
Adams	Gaydos	Murtha
Addabbo	Giaimo	Natcher
Alexander	Gibbons	Neal
Allen	Gilman	Nedzi
Ambro	Ginn	Nichols
Anderson, Calif.	Gonzalez	Nolan
	Gude	Nowak
Andrews, N.C.	Haley	Oberstar
Andrews, N. Dak.	Hall	Obey
	Hamilton	O'Hara
Annunzio	Hanley	O'Neill
Ashley	Hannaford	Ottinger
Aspin	Harkin	Patten, N.J.
AuCoin	Harrington	Patterson, Calif.
Badillo	Harris	
Baldus	Hawkins	Pattison, N.Y.
Baucus	Hays, Ohio	Perkins
Bedell	Heckler, Mass.	Pickle
Bergland	Hefner	Pike
Bevill	Heinz	Preyer
Biaggi	Helstoski	Price
Bingham	Hicks	Rangel
Blanchard	Hightower	Rees
Blouin	Holtzman	Reuss
Boggs	Horton	Richmond
Boland	Howard	Riegle
Bolling	Howe	Rinaldo
Bonker	Hubbard	Roe
Brademas	Hughes	Roncalio
Breckinridge	Jenrette	Rooney
Brinkley	Johnson, Calif.	Rose
Brodhead	Jones, Tenn.	Rosenthal
Brooks	Jordan	Rostenkowski
Brown, Calif.	Kastenmeier	Roush
Burke, Calif.	Kazen	Roybal
Burlison, Mo.	Keys	Russo
Burton, John	Koch	St Germain
Burton, Phillip	Krebs	Santini
Carney	LaFalce	Sarbanes
Carr	Landrum	Scheuer
Cleveland	Leggett	Schroeder
Collins, Ill.	Lehman	Seiberling
Conte	Levitas	Sharp
Conyers	Litton	Shipley
Corman	Lloyd, Calif.	Sikes
Cornell	Lloyd, Tenn.	Simon
Cotter	Long, La.	Sisk
D'Amours	Long, Md.	Smith, Iowa
Daniels, N.J.	Lundine	Solarz
Danielson	McCormack	Spellman
de la Garza	McDade	Staggers
Delaney	McFall	Stark
Dellums	McHugh	Stephens
Dent	McKay	Stokes
Diggs	McKinney	Stuckey
Dingell	Madden	Studds
Dodd	Maguire	Symington
Downey, N.Y.	Mahon	Taylor, N.C.
Drinan	Mann	Thompson
Duncan, Oreg.	Mathis	Thornton
du Pont	Matsunaga	Traxler
Early	Mazzoli	Tsongas
Edgar	Melcher	Ullman
Edwards, Calif.	Metcalfe	Van Deerlin
Eilberg	Meyner	Vander Veen
Esch	Mezvinsky	Vanik
Evans, Colo.	Mikva	Vigorito
Evans, Ind.	Miller, Calif.	Waxman
Evins, Tenn.	Mills	Weaver
Fary	Mineta	Whalen
Fascell	Minish	Whitten
Fisher	Mink	Wilson, Tex.
Fithian	Mitchell, Md.	Wirth
Flood	Moakley	Wolff
Florio	Moffett	Wright
Flynt	Mollohan	Yates
Foley	Moorhead, Pa.	Yatron
Ford, Mich.	Morgan	Zablocki
Ford, Tenn.	Moss	Zeferetti
Fountain	Motti	
Fraser	Murphy, Ill.	

NAYS—155

Abdnor	Butler	Davis
Anderson, Ill.	Byron	Derrick
Archer	Carter	Derwinski
Armstrong	Cederberg	Devine
Ashbrook	Chappell	Dickinson
Bafalis	Clancy	Duncan, Tenn.
Bauman	Clausen, Don H.	Edwards, Ala.
Beard, Tenn.		Emery
Bennett	Clawson, Del	English
Bowen	Cochran	Erlenborn
Broomfield	Cohen	Eshleman
Brown, Mich.	Collins, Tex.	Fenwick
Brown, Ohio	Conable	Findley
Broyhill	Conlan	Fish
Buchanan	Coughlin	Forsythe
Burgener	Crane	Frenzel
Burke, Fla.	Daniel, Dan	Frey
Burleson, Tex.	Daniel, R. W.	Goldwater
Goodling	McCollister	Ryan
Gradison	McDonald	Sarasin
Grassley	McEwen	Satterfield
Hagedorn	Madigan	Schneebeli
Hammer-schmidt	Martin	Schulze
	Michel	Sebelius
Hansen	Milford	Shriver
Harsha	Miller, Ohio	Shuster
Hébert	Mitchell, N.Y.	Skubitz
Hechler, W. Va.	Montgomery	Slack
Hillis	Moore	Smith, Nebr.
Holt	Moorhead, Calif.	Snyder
Hungate		Spence
Hutchinson	Mosher	Stanton, J. William
Hyde	Myers, Ind.	
Ichord	Myers, Pa.	Steed
Jacobs	O'Brien	Steiger, Ariz.
Jarman	Passman	Steiger, Wis.
Jeffords	Pettis	Symms
Johnson, Colo.	Poage	Talcott
Jones, Ala.	Pressler	Taylor, Mo.
Jones, N.C.	Pritchard	Teague
Jones, Okla.	Quie	Thone
Kasten	Quillen	Treen
Kelly	Railsback	Vander Jagt
Kemp	Randall	Waggonner
Ketchum	Regula	Walsh
Kindness	Rhodes	Wampler
Lagomarsino	Risenhoover	Whitehurst
Latta	Roberts	Wiggins
Lent	Robinson	Wydler
Lott	Rogers	Wylie
Lujan	Rousselot	Young, Alaska
McClory	Runnels	Young, Fla.
McCloskey	Ruppe	Young, Tex.

NOT VOTING—36

Barrett	Hayes, Ind.	Stanton, James V.
Beard, R.I.	Henderson	
Bell	Hinshaw	Steelman
Biester	Holland	Stratton
Breaux	Johnson, Pa.	Sullivan
Burke, Mass.	Karth	Udall
Chisholm	Krueger	White
Clay	Macdonald	Wilson, Bob
Downing, Va.	Meeds	Wilson, C. H.
Eckhardt	Nix	Winn
Flowers	Pepper	Young, Ga.
Green	Peyser	
Guyer	Rodino	

The Clerk announced the following pairs:

On this vote:

Mr. Burke of Massachusetts for, with Mr. Breaux against.

Mr. Green for, with Mr. Steelman against.

Mr. Charles H. Wilson of California for, with Mr. Guyer against.

Mr. Stratton for, with Mr. Henderson against.

Until further notice:

Mr. James V. Stanton with Mr. White.

Mrs. Chisholm with Mr. Bell.

Mr. Pepper with Mr. Holland.

Mr. Nix with Mr. Johnson of Pennsylvania.

Mr. Krueger with Mrs. Sullivan.

Mr. Eckhardt with Mr. Peyser.

Mr. Udall with Mr. Bob Wilson.

Mr. Rodino with Mr. Flowers.

Mr. Clay with Mr. Biester.

Mr. Barrett with Mr. Downing of Virginia.

Mr. Hayes of Indiana with Mr. Winn.

Mr. Macdonald of Massachusetts with Mr. Young of Georgia.

Mr. Karth with Mr. Meeds.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAYS of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS of Ohio. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a)(1) The second sentence of section 309(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)), as redesignated by section 105 (hereinafter in this Act referred to as the "Act"), is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and eight members appointed by the President of the United States, by and with the advice and consent of the Senate:".

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as redesignated by section 105, is amended to read as follows: "No more than three members of the Commission appointed under this paragraph may be affiliated with the same political party, and at least two members appointed under this paragraph shall not be affiliated with any political party.".

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of eight years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977,

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979,

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981, and

"(iv) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1983.

"(B) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(C) Any vacancy occurring in the membership of the Commission shall be filed in the same manner as in the case of the original appointment.".

(c)(1) Section 309(b) of the Act (2 U.S.C. 437c(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive and primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be con-

strued to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(2) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as redesignated (e)), as redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: ", except that the affirmative vote of five members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates".

(e)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until a majority of the members of the Commission are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section. Until a majority of the members of the Commission are appointed and qualified under the amendments made by this Act, members serving on such Commission on the date of enactment of this Act may exercise only such powers and functions as are consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75-436, 75-437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

(g)(1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Federal Election Campaign Act of 1971 as such title existed on January 1, 1976, or under any other provision of law are transferred to the Federal Election Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2)(A) Except as provided in subparagraph (B) of this paragraph, personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for one year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remains in full force and effect. All orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1) shall continue in effect to the same extent as if such transfer had not occurred.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission at the time this section takes effect.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within twelve months after the date of enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to' and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract".

(c) Section 301(e)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting after "purpose" the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

(d) Section 301(e)(5) is amended—

(1) by striking out "or" at the end of clause (E),

(2) by inserting "or" at the end of clause (F), and

(3) by inserting after clause (F) the following new clause:

"(G) a loan of money by a National or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loans—

"(i) shall be reported in accordance with the requirements of section 304(b); and

"(ii) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors;".

(e) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended by striking out "individual" where it appears after clause (G) and inserting in lieu thereof "person".

(f) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by inserting before the semicolon in clause (B) the following: ", or partisan activity designed to encourage individuals to register to vote, or to vote, conducted by the national committee of a political party, or a subordinate committee thereof, or the State committee of a national party, but such partisan activity shall be reported in accordance with the requirements of section 304",

(2) by striking out "or" at the end of clause (F) and at the end of clause (G); and

(3) by inserting immediately after clause (H) the following new clauses:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304(b);

"(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rending such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provision of this title or of chapter 95 or 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b); or

"(K) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loan shall be reported in accordance with section 304(b);".

(g) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out "and" at the end of paragraph (m);

(2) by striking out the period at the end of paragraph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraph:

"(o) 'Act' means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976.".

ORGANIZATION OF POLITICAL COMMITTEES

S53. 103. (a) Section 302(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(b) Section 302(c)(2) of such Act (2 U.S.C. 432(c)(2)) is amended by striking out "$10" and inserting in lieu thereof "$100".

(c) Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following: "In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceeds $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidates principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of expenditures in excess of $100 by a political committee other than an authorized committee of a candidate expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9), stated in a manner which indicates whether the expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and".

(4) Section 304(b) of the Act (2 U.S.C. 434(b)) is further amended by inserting immediately after paragraph (14) the following new paragraph:

"(15) when committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, they shall be deemed to be in compliance with this subsection.".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 within a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) A corporation, labor organization, or other membership organization which explicitly advocates the election or defeat of a clearly identified candidate through a communication with its stockholders or members or their families shall, notwithstanding the provisions of section 301(f)(4)(C), report such expenditures in excess of $1,000 per candidate per election under paragraph (1) to the extent that they are directly attributable to such communications.

"(3) Any person who makes a contribution in response to a solicitation under section 321(b)(3)(B) which, when added to all other contributions made by him to the same recipient during the calendar year, exceeds $100 shall report to the recipient the total amount of such contributions made to such recipient for that year. Paragraph (4) does not apply to reports under this paragraph.

"(4) Statements required by this subsection shall be filed on the dates on which rreports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such expenditure is made in cooperation, consultation, or concert, with, or at the request or suggesting of, any candidate or any authorized committee or agent of such candidate. Any expenditure, including but not limited to those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than forty-eight hours, before any election shall be reported within forty-eight hours of such expenditure.

"(5) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including but not limited to those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely preelection basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431–441) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

POWERS OF COMMISSION

SEC. 106. (a) Section 310(a) of the Act (2 U.S.C. 437(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a)(9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end theroef the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ENFORCEMENT

SEC. 107. Section 313 of the Act (2 U.S.C. 437g), as redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) The Commission, upon receiving a complaint under paragraph (1), or if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

"(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate. Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reason to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute an absolute bar to any further action by the Commission with respect to the violation which is the subject of the agreement, including bringing a civil proceeding under paragraph (B) of this section.

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district

in which the person against whom such action is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under paragraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation under section 328(a), or a knowing and willful violation of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to the limitations set forth in subparagraph (A) of this paragraph.

"(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or chapter 95 or 96 of the Internal Revenue Code of 1954 has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $10,000; or (ii) an amount equal to 300 percent of the amount of any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committeed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(7) The Commission shall make available to the public the results of any conciliation attempt, including any conciliation agreement entered into by the Commission, and any determination by the Commission that no violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954 has occurred.

"(8) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 300 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(9) In any action brought under paragraph (5) or paragraph (8) of this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(10)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within ninety days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any action under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than sixty days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than sixty days after the ninety-day period specified in subparagraph (A).

"(C) In such proceeding the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with that declaration within thirty days, failing which the complainant may bring in his own name a civil action to remedy the violation complained of.

"(11) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(12) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(13) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5), it may petition the court for an order to adjudicate that person in civil contempt, or, if it believes the violation to be knowing and willful, it may instead petition the court for an order to adjudicate that person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than sixty days after the date the Commission refers any apparent violation, and at the close of every thirty-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.".

PROHIBITION ON CONVERSION OF CONTRIBUTIONS TO PERSONAL USE

SEC. 107A. Section 317 of the Act (2 U.S.C. 439a) is amended by inserting after "other lawful purpose" the following: ", except that no such amount may be converted to any personal use".

DUTIES OF COMMISSION

SEC. 108. (a) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political commitee qualifies to make expenditures under section 320, and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(b) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)), as redesignated by section 105, is amended by striking out "30 legislative days" in the first sentence and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 109. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS; OTHER LIMITATIONS

SEC. 110. Title III of the Act (2 U.S.C. 431-455) is amended—

(1) by inserting "(a)" before "No" in section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act;

(2) by adding the following new subsection at the end of section 318 (2 U.S.C. 439b), as redesignated by section 105 of this Act:

"(b) Notwithstanding any other provision of law, no Senator, Representative, Resident Commissioner, or Delegate shall mail as franked mail under section 3210 of title 39, United States Code, any general mass mailing when such mailing is mailed at or delivered to any postal facility less than sixty days prior to the date of any primary or general election in which such Senator, Representative, Resident Commissioner, or Delegate is a candidate for Federal office. For purposes of this subsection the term 'general mass mailing' means newsletters and similar mailings of more than five hundred pieces the content of which is substantially identical and which are mailed to or delivered to any postal facility at the same time or several different times.";

(3) by striking out section 320 (2 U.S.C. 441), as redesignated by section 105 of this Act; and

(4) by inserting after section 319 (2 U.S.C. 439c), as redesignated by such section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a)(1) No person shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized political committee of any candidate, in any calendar year which, in the aggregate, exceed $25,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

"(2) No multi-candidate political committee shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

"(B) to any political committee established and maintained by a political party, which is not the authorized committee of any candidate in any calendar year, which, in the aggregate, exceed $25,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $10,000.

The limitations on contributions contained in paragraph (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of this paragraph, the term 'multi-candidate political committee' means a political committee which has been registered under section 303 for a period of not less than six months, which has received contributions from more than fifty persons, and, except for any State political party or-

ganization, has made contributions to five or more candidates for Federal office.

"(3) For purposes of the limitations under paragraphs (1) and (2), all contributions made by political committees established, financed, maintained, or controlled by any person or persons, including any parent, subsidiary, branch, division, department, affiliate, or local unit of such person, or by any group of persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fundraising efforts; (B) this sentence shall not apply so that contributions made by a political party through a single national committee and contributions by that party through a single State committee in each State are treated as having been made by a single political committee; and (C) a political committee of a national organization shall not be precluded from contributing to a candidate or committee merely because of its affiliation with a national multicandidate political committee which has made the maximum contribution it is permitted to make to a candidate or a committee.

"(4) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

"(5) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(6) The limitations imposed by paragraphs (1) and (2) of this subsection (other than the annual limitation on contributions to a political committee under paragraph (2)(B)) shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(7) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b)(1) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of —

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a Vice Presidential candidate, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c)(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

"(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multipled by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, eighteen years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for Presidential nomination for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"(h) Notwithstanding any other provision of this Act, amounts totaling not more than $20,000 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, in connection with any primary election or political convention, or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"(b)(1) For the purposes of this section 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. As used in this

section and in section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 791(h)), the phrase 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; or the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization, or by a membership organization, cooperative, or corporation without capital stock.

"(2) It shall be unlawful—

"(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financal reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

"(B) for an employee to solicit a subordinate employee;

"(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

"(D) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

"(3)(A) Except as provided in subparagraphs (B) and (C), it shall be unlawful—

"(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

"(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

"(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make two written solicitations for contributions during the calendar year from any stockholder, officer, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addresse to the stockholder, officer, or employee at his residence, and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution as a result of such solicitation and who does not.

"(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

"(4) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations.

"(5) Any corporation that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, that method, to a labor organization representing any members working for that corporation.

"(6) For purposes of this section, the term 'executive or administrative personnel' means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking or supervisory responsibilities.

"(7) For purposes of this section, the term 'stockholder' includes any individual who has a legal or vested beneficial interest in stock, including, but not limited to, an employee of a corporation who participates in a stock bonus, stock option, or employee stock ownership plan.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"SEC. 322. (a) It shall be unlawful for any person—

"(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 321 applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails, and other similar types of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or

"(2) if not authorized by a candidate, his authorized, political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303(b)(2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

"(b) As used in this section, the term 'foreign national' means—

"(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTION OF CURRENCY

"SEC. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 327. No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) willfully and knowingly to participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

"PENALTY FOR VIOLATIONS

"SEC. 328. (a) Any person, following the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of

any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both. A willful and knowing violation of section 321(b)(2), including such a violation of the provisions of such section as applicable through section 322(b), is punishable by a fine of not more than $50,000, imprisonment for not more than 2 years, or both. In the case of a knowing and willful violation of section 325 or 326, the penalties set forth in this section shall apply to a violation involving an amount having a value in the aggregate of $250 or more during a calendar year. In the case of a knowing and willful violation of section 327, the penalties set forth in this section shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more was involved.

"(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect.

"(c) In any criminal action brought for a violation of a provision of this Act, or of a provision of chapter 95 or 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the offense and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

"(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313,

"(2) the conciliation agreement is in effect, and

"(3) the defendant is, with respect to the violation for which the defense is being asserted, in compliance with the conciliation agreement.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 111. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: "There are authorized to be appropriated to the Federal Election Commission $8,000,000 for the fiscal year ending June 30, 1976, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for the fiscal year ending September 30, 1977.".

SAVING PROVISION

SEC. 112. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 113. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(d)(1) Section 301(e)(5)(F) of the Act (2 U.S.C. 431(e)(5)(F)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(2) Section 301(f)(4)(H) of the Act (2 U.S.C. 431(f)(4)(H)) is amended by striking out "the first paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(e) Section 314(a) of the Act (2 U.S.C. 437h(a)), as redesignated by section 105, is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code" in the first sentence of such section and by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code" in the second sentence of such subsection.

(f)(1) Section 406(a) of the Act (2 U.S.C. 455(a)) is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code".

(2) Section 406(b) of the Act (2 U.S.C. 455(b)) is amended by striking out "or section 608, 610, 611, or 613 of title 18, United States Code,".

(g) Section 591 of title 18, United States Code, is amended—

(1) by striking out "608(c) of this title" in subsection (f)(4)(H) and inserting in lieu thereof "section 320(b) of the Federal Election Campaign Act of 1971";

(2) by striking out "by section 608(b)(2) of this title" in subsection (f)(4)(I) and inserting in lieu thereof "under section 320(a)(2) of the Federal Election Campaign Act of 1971"; and

(3) by striking out "310(a)" in subsection (k) and inserting in lieu thereof "309(a)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES FOR PAYMENTS

SEC. 301. (a) Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in a Presidential election shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) For purposes of applying section 9004(d) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

PAYMENTS TO ELIGIBLE CANDIDATES

SEC. 302. Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

REVIEW OF REGULATIONS

SEC. 303. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

(b) Section 9039(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended by striking out "30 legislative days" and inserting in lieu thereof the following: "30 calendar days or 15 legislative days, whichever is later,".

ELIGIBILITY FOR PAYMENTS

SEC. 304. Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "LIMITATION" and inserting in lieu thereof "LIMITATIONS";

(2) by inserting "(a) EXPENDITURE LIMITATION.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess or, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9530 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations.".

(c) For purposes of applying section 9035(a) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of enactment of this Act shall not be taken into account.

TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT

SEC. 306. Section 9037 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates in primary campaigns) is amended by adding at the end thereof the following new subsection:

"(c) TERMINATION OF PAYMENTS FOR LACK OF DEMONSTRABLE SUPPORT.—

"(1) GENERAL RULE.—Notwithstanding any other provision of this chapter, no payment shall be made under this chapter to any candidate more than 30 days after the date of the second consecutive primary election in which such candidate receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election if the candidate permitted or authorized the appearance

of his name on the ballot unless the candidate certifies to the Commission that he will not be an active candidate in the primary. If the primary elections are held in more than one State on the same date, a candidate shall, for purposes of this subsection, be treated as receiving that percentage of the votes on that date which he received in the primary election conducted on such date in which he received the greatest percantage vote. The provisions of this section shall apply as of the date of enactment of the Federal Election Campaign Act Amendments of 1976.

"(2) REINSTATEMENT OF PAYMENTS.—Notwithstanding the provisions of paragraph (1), a candidate whose payments have been terminated under paragraph (1) may again receive payments (including amounts he would have received but for paragraph (1)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 307. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 302(c) of such Act".

(b) Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISION OF LEGAL AND ACCOUNTING SERVICES.—For purposes of this section, the payment by any person, including the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services, of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on Presidential nominating convention expenses.".

(c) Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 302(b)(1)(A) of the Federal Election Campaign Act of 1971".

(d) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(e) Section 9004(a)(1) of the Internal Revenue Code of 1954 (relating to entitlements of eligible candidates to payments) is amended by striking out "608(c)(1)(B) of title 18, United States Code" and inserting in lieu thereof "320(b)(1)(B) of the Federal Election Campaign Act of 1971".

(f) Section 9007(b)(3) of the Internal Revenue Code of 1964 (relating to repayments) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

(g) Section 9012(b)(1) of the Internal Revenue Code of 1954 (relating to contributions) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

TITLE IV—COMMISSION TO STUDY PRESIDENTIAL NOMINATING PROCESS

DECLARATION OF POLICY

SEC. 401. It is hereby declared to be the policy of the United States to improve the system of nominating candidates for election to the office of the President of the United States by studying such system in a broad manner never before attempted in the two-hundred-year history of this Nation.

ESTABLISHMENT OF COMMISSION

SEC. 402. (a) There is established the Bicentennial Commission on Presidential Nominations (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members to be appointed as follows:

(1) six members shall be appointed by the President pro tempore of the Senate, on the recommendation of the majority and minority leaders, of whom at least two shall be Members of the Senate and at least two shall be elected or appointed State officials;

(2) six members shall be appointed by the Speaker of the House of Representatives, of whom at least two shall be Members of the House and at least two shall be elected or appointed State officials;

(3) six members shall be appointed by the President; and

(4) two members shall be the chairman of the two national political parties and shall serve as ex officio members.

(c) At no time shall more than three members appointed under paragraph (1), (2), or (3) of subsection (b) be individuals who are of the same political affiliation.

(d) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made, subject to the same limitations with respect to party affiliations as the original appointment.

(e) Twelve members shall constitute a quorum, but a lesser number may conduct hearings. The Chairman of the Commission shall be selected by the members from among the members, other than ex officio members.

FUNCTIONS OF THE COMMISSION

SEC. 403. (a) The Commission shall make a full and complete investigation with respect to the Presidential nominating process. Such investigation shall include but not be limited to a consideration of—

(1) the manner in which States conduct primaries for the expression of a preference for the nomination of candidates for election to the office of President of the United States and caucuses for the selection of delegates to the national nominating conventions of political parties;

(2) State laws and the rules of national political parties which govern the participation of voters and candidates in such primaries and caucuses;

(3) the financing of campaigns for the nomination of candidates for election to the office of the President of the United States;

(4) the relationship between candidates for election to the office of the President of the United States and the news media, including how candidates achieve public recognition and whether such candidates should be guaranteed access to the television media;

(5) the interrelationship of the elements described in paragraphs (1) through (4) of this section;

(6) alternative nominating systems, including but not limited to a national or regional primary system for the expression of a preference for the nomination of candidates for election to the office of President of the United States and variations on the present nominating system;

(7) the manner in which candidates are nominated for election to the office of Vice President of the United States; and

(8) the extent to which State laws and the Federal Election Campaign Act of 1971 promote or retard independent candidacies for election to the office of President.

(b) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than one year after the enactment of this title, a final report of its study and investigation based upon a full consideration of alternatives to our current Presidential nominating system, including an analysis of the strengths and weaknesses of all such alternatives studied, together with its recommendations as to the best system to establish for the 1980 Presidential elections. The Commission shall cease to exist sixty days after its final report is submitted.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 404. (a) The Commission may, in carrying out the provisions of this title, sit and act at such times and places, hold such hearings, take such testimony, request the attendance of such witnesses, administer oaths, have such printing and binding done, and commission studies by any Federal agency or executive department, as the Commission deems advisable.

(b) Per diem and mileage allowances for witnesses requested to appear under the authority conferred by this section shall be paid from funds appropriated to the Commission.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification in General Schedule pay rates, but at such rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

COMPENSATION OF MEMBERS

SEC. 405. (a) Members of the Commission who are otherwise employed by the Federal Government shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(b) Members of the Commission not otherwise employed by the Federal Government shall receive per diem at the maximum daily rate for GS-18 of the General Schedule when they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

TIMELINESS OF APPOINTMENTS

SEC. 406. It is the sense of the Congress that the appointments of individuals to serve as members of the Commission be completed within ninety days after the enactment of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 407. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE V—MISCELLANEOUS PROVISIONS

USE OF FRANKED MAIL BEFORE ELECTIONS

SEC. 501. Section 3210(a)(5)(D) of title 39, United States Code, is amended by striking out "28" and inserting in lieu thereof "60".

FINANCIAL DISCLOSURE OF FEDERAL OFFICERS AND EMPLOYEES

SEC. 502. (a) Each person referred to in subparagraph (b) herein shall file annually with the Comptroller General of the United States on or before Februrary 15 of each year a full and complete report of net worth as of the end of the preceding calendar year, such report to consist of a statement of assets (and of their reasonable market value) owned by him, or jointly by him and

his spouse, and of liabilities owed by him, or jointly by him and his spouse, together with a full and complete statement of income for the preceding calendar year, such statement of income to consist of a list of the identity of each source of income and a list of the amount paid by each source of income to him, or jointly to him and his spouse, during the preceding calendar year, except that in lieu of such statement of income, each individual referred to in subparagraph (b) may file with the Comtproller General of the United States a copy of such person's Federal income tax report for such calendar year.

(b) The provisions of this section shall apply to any person who as an officer or employee of the United States within the executive, legislative, or judicial branch of the Government of the United States received compensation at a gross annual rate in excess of $25,000 during the year 1976 or any subsequent year. The provisions of this section also apply to any individual not described in the preceding sentence who is a candidate within the meaning of section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)), except that the report required by subsection (a) shall be filed within thirty days after the date on which he becomes a candidate within the meaning of such section, and on each February 15 thereafter so long as he is such a candidate.

(c) The report required by this section shall be in such form and shall contain such information as the Comptroller General may prescribe in order to meet the provisions of this section. Notwithstanding any provision of law to the contrary, all reports filed under this section shall be maintained by the Comptroller General as public records, open to inspection by members of the public, and copies of such records shall be furnished upon request at a reasonable fee. Any report filed under this section shall be retained by the Comptroller General for a period of five years.

(d) All reports required hereunder shall be certified as being correct by the person filing the same and shall be duly sworn to and properly notarized.

MOTION OFFERED BY MR. HAYS OF OHIO

Mr. HAYS of Ohio. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HAYS of Ohio moves to strike out all after the enacting clause of the Senate bill (S. 3065) and to insert in lieu thereof the provisions of H.R. 12406, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a)(1) The second sentence of section 309(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 473c(a)(1)), as so redesignated by section 105, hereinafter in this Act referred to as the "Act", is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and 6 members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as so redesignated by section 105, is amended to read as follows: "No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.".

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as so redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

"(i) one shall be appointed for a term of 1 year;

"(ii) one shall be appointed for a term of 2 years;

"(iii) one shall be appointed for a term of 3 years;

"(iv) one shall be appointed for a term of 4 years;

"(v) one shall be appointed for a term of 5 years; and

"(vi) one shall be appointed for a term of 6 years; as designated by the President at the time of appointment, except that of the members first appointed under this subparagraph, no member affiliated with a political party shall be appointed for a term that expires 1 year after another member affiliated with the same political party.

"(B) A member of the Commission may serve on the Commission after the expiration of his term until his successor has taken office as a member of the Commission.

"(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c)(1) Section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as so redesignated by section 105, is amended by adding at the end thereof the following new sentences: "Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity no later than 1 year after beginning to serve as such a member.".

(2) Section 309(b) of the Act (2 U.S.C. 437c(b)), as so redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(3) The first sentence of section 309(c) of the Act (2 U.S.C. 437(c)), as so redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following ", except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as so redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)) as so redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may ocntinue to serve as such members until members are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as so redesignated by section 105 and as amended by this section, except that until appointed and qualified under this Act, members serving on such Commission on such date of enactment may, beginning on March 1, 1976, exercise only such powers and functions as may be consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75-436, 75-437) (January 30, 1976).

(e) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as so redesignated by section 105, which prohibit any member of the Federal Election Commisison from being an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by srtiking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract", and by striking out "expressed or implied,".

(c)(1) Section 301(e)(4) of the Act (2 U.S.C. 431 (e)(4)) is amended by inserting immediately before the semicolon the following: ", except that this subparagraph shall not apply (A) in the case of any legal or accounting services rendered to or on behalf of the national committee of a political party, other than any legal or accounting services attributable to activity which directly furthers the election of any designated candidate to Federal office; or (B) in the case of any legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(2) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended—

(A) in clause (E) thereof, by striking out "or" at the end thereof;

(B) in clause (F) thereof, by inserting "or" immediately after the semicolon at the end thereof; and

(C) by inserting immediately after clause (F) the following new clause:

"(G) a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with section 304(b);".

(d)(1) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(A) by striking out "or" at the end of clause (F) and at the end of clause (G);

(B) by inserting "or" immediately after the semicolon at the end of clause (H); and

(C) by inserting immediately after clause (H) the following new clause:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), except that all such costs shall be reported in accordance with section 304(b).".

(2) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)), as amended by paragraph (1), is further amended—

(A) by redesignating clause (F) through clause (I) as clause (G) through clause (J), respectively; and

(B) by inserting immediately after clause (E) the following new clause:

"(F) the payment, by any person other than a candidate or a political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of any designated candidate to Federal office, or by legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954;".

(e) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) in paragraph (m) thereof, by striking out "and" at the end thereof;

(2) in paragraph (n) thereof, by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(o) 'Act' means the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976;

"(p) 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

"(q) 'clearly identified' means (1) the name of the candidate appears; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate is apparent by unambiguous reference.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1)(C) of the Act (2 U.S.C. 434(a)(1)(C) is amended by inserting immediately before the period at the end thereof the following: "except that, in any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures totaling in excess of $10,000, and such reports shall be complete as of the close of such calendar quarter (except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph)".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of an independent expenditure in excess of $100 by a political committee, other than an authorized committee of a candidate, expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule; (A) any information required by paragraph (9) stated in a manner which indicates whether the independent expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or independent expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 during a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or independent expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in coopeartion, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any independent expenditure, including those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than 24 hours, before any election shall be reported within 24 hours of such independent expenditure.

"(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate bases, all expenditures separately, including those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely preelection basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431 et seq.) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320 respectively.

CAMPAIGN DEPOSITORIES

SEC. 106. The second sentence of section 403(a)(1) of the Act (2 U.S.C. 347b(a)(1)), as so redesignated by section 205, is amended by striking out "a checking account" and inserting in lieu thereof "one or more checking accounts, at the discretion of any such committee,".

POWERS OF COMMISSION

SEC. 107. (a) Section 310(a) of the Act (2 U.S.C. 437(a)), as so redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954; and"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437c(a)(6)), as so redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory or other appropriate relief) defend (in the case of any civil action brought under section 313(a)(9)) or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as so redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ADVISORY OPINIONS

SEC. 108. (a) Section 312(a) of the Act (2 U.S.C. 437f(a)), as so redesignated by section 105, is amended to read as follows:

"SEC. 313. (a) Upon written request to the Commission by any individual holding Federal office, any candidate for Federal office, any political committee, or the national committee of any political party, the Commission shall render an advisory opinion, in writing, within a reasonable time with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954. No advisory opinion shall be issued by the Commission or any of its employees except in accordance with the provisions of this section.".

(b) Section 312(b) of the Act (2 U.S.C. 437(b)), as so redesignated by section 105, is amended to read as follows:

"(b)(1) Notwithstanding any other provision of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (2)(A) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(2)(A) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by (i) any person involved in the specific transaction or activity with re-

spect to which such advisory opinion is rendered; and (ii) any person involved in any specific transaction or activity which is similar to the transaction or activity with respect to which such advisory opinion is rendered.

"(B)(1) The Commission shall, no later than 30 days after rendering an advisory opinion of general applicability with respect to a request received under subsection (a), transmit to the Congress proposed rules or regulations relating to the transaction or activity involved if such transaction or activity is not subject to any existing rule or regulation prescribed by the Commission.

"(ii) Any rule or regulation prescribed by the Commission under this subparagraph shall be subject to the provisions of section 315(c).".

(c) Section 315(c)(1) of the Act (2 U.S.C. 438(c)(1)), as so redesignated by section 105, is amended by inserting "or under section 312(b)(2)(B)" immediately after "under this section".

(d) The amendments made by this section shall apply to any advisory opinion rendered by the Federal Election Commission after October 15, 1974.

ENFORCEMENT

SEC. 109. Section 313 of the Act (2 U.S.C. 437g), as so redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) The Commission, if it has reasonable cause to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, shall notify the person involved of such apparent violation and shall make an investigation of such violation in accordance with the provisions of this section.

"(3)(A) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate.

"(B) Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any other person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall, at the request of any person who receives notice of an apparent violation under paragraph (2), afford such person a reasonable opportunity to demonstrate that no action shall be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reasonable cause to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor for a period of not less than 30 days to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved, except that, if the Commission has reasonable cause to believe that—

"(i) any person has failed to file a report required to be filed under section 304(a)(1)(C) for the calendar quarter occurring immediately before the date of a general election;

"(ii) any person has failed to file a report required to be filed not later than 10 days before an election; or

"(iii) on the basis of a complaint filed less than 45 days but more than 10 days before an election, any person has committed a knowing and willful violation of this Act of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall make every effort, for a period of not less than one-half the number of days between the date upon which the Commission determines there is reasonable cause to believe such a violation has occurred and the date of the election involved, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission, including the bringing of a civil proceeding under subparagraph (B).

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under subparagraph (B), the court shall grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater or $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation subject to and as defined in section 328 has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitation set forth in subparagraph (A).

"(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has been committed, any conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or Chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(C) The Commission shall make available to the public (i) the results of any conciliation attempt, including any conciliation agreement entered into by the Commission; and (ii) any determination by the Commission that no violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred.

"(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 200 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(8) In any action brought under paragraph (5) or paragraph (7), subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(9)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within 90 days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any petition under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than 60 days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than 60 days after the 90-day period specified in subparagraph (A).

"(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with such declaration within 30 days, failing which the complainant may bring in his own name a civil action to remedy the violation involved in the original complaint.

"(10) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5) it may petition the court for an order to adjudicate such person in civil contempt, except that if it believes the violation to be knowing and

willful it may petition the court for an order to adjudicate such person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 30-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.

"(c) Any member of the Commission, any employee of the Commission, or any other person who violates the provisions of subsection (a)(3)(B) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subsection (a)(3)(B) shall be fined not more than $5,000.".

DUTIES OF COMMISSION

SEC. 110. (a)(1) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as so redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320(a)(2), and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(2) Section 315(a)(8) of the Act (2 U.S.C. 438(a)(8)), as so redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to give priority to auditing and field investigating the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(b) Section 315(c)(2) of the Act (2 U.S.C. 438(c)(2)), as so redesignated by section 105, is amended—

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the second sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(c) Section 315 of the Act (2 U.S.C. 438), as so redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) In any proceeding, including any civil or criminal enforcement proceeding against any person charged with violating any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, no rule, regulation, guideline, advisory opinion, opinion of counsel or any other pronouncement by the Commission or by any member, officer, or employee thereof (other than any rule or regulation of the Commission which takes effect under subsection (c)) shall be used against any person, either as having the force of law, as creating any presumption of violation or of criminal intent, or as admissible in evidence against such person, or in any other manner whatsoever.".

ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 111. Section 407(a) of the Act (2 U.S.C. 456(a)) is amended by inserting immediately after "such title III," the following: "the Commission shall (1) make every endeavor for a period of not less than 30 days to correct such failure by informal methods of conference, conciliation, and persuasion; or (2) in the case of any such failure which occurs less than 45 days before the date of the election involved, make every endeavor for a period of not less than one-half the number of days between the date of such failure and the date of the election involved to correct such failure by informal methods of conference, conciliation, and persuasion, except that no action may be taken by the Commission with respect to any complaint filed with the Commission during the 5-day period immediately before an election until after the date of such election. If the Commission fails to correct such failure through such informal methods, then".

CONTRIBUTION AND EXPENDITURE LIMITATIONS; PENALTIES

SEC. 112. (a) Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105, is further amended by striking out section 320, as so redesignated by section 105, and by inserting immediately after section 319 the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a)(1) Except as otherwise provided by paragraphs (2) and (3), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed $1,000, or to any political committee in any calendar year which exceed, in the aggregate, $1,000.

"(2) No political committee (other than a principal compaign committee) shall make contributions to (A) any candidate with respect to any election for Federal office which, in the aggregate, exceed $5,000; or (B) to any political committee in any calendar year which, in the aggregate, exceed $5,000. Contributions by the national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by the preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term 'political committee' means an organization registered as a political committee under section 303 for a period of not less than 6 months which has received contributions from more than 50 persons and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office. For purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fundraising efforts; and (B) for purposes of the limitations provided by paragraph (1) and this paragraph, all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations provided by paragraph (1) and this paragraph.

"(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution was made is considered to be made during the calendar year in which such election is held.

"(4) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his authorized political committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(5) The limitations imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b)(1) No candidate for the office of President of the United States who has established his eligibility under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury or his delegate may make expenditures in excess of—

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed twice the greater of 8 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $100,000; or

"(B) $20,000,000, in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered

to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a candidate for the office of Vice President, if it is made by—

"(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c)(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statitics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average over a calendar year of the Consumer of Labor Statistics; and

"(B) the term 'base period' means the calendar year 1974.

"(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of the President of the United States.

"(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, 18 years of age or older.

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for nomination for election to the office of President for use in two or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank, or any officer of any labor organization, to consent to any contribution or expenditure by such corporation, national bank, or labor organization, as the case may be, which is prohibited by this section.

"(b)(1) For purposes of this section the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"(2) For purposes of this section, the term 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section, but shall not include (A) communications by a corporation to its stockholders and executive officers and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive officers and their families, or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization, except that (i) it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal, or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction; (ii) it shall be unlawful for a corporation or a separate segregated fund established by a corporation to solicit contributions from any person other than its stockholders, executive officers, and their families, for an incorporated trade association or a separate segregated fund established by an incorporated trade association to solicit contributions from any person other than the stockholders and executive officers of the member corporations of such trade association and the families of such stockholders and executive officers (to the extent that any such solicitation of such stockholders and executive officers, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation has not approved any such solicitation by more than one such trade association in any calendar year, or for a labor organization or a separate segregated fund established by a labor organization to solicit contributions from any person other than its members and their families; (iii) nothwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted to corporations, shall also be permitted to labor organizations; and (iv) any corporation which utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available, on written request, such method to a labor organization representing any members working for such corporation.

"(3) For purposes of this section the term 'executive officer' means an individual employed by a corporation who is paid on a salary rather than hourly basis and who has policymaking or supervisory responsibilities.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

"SEC. 322. (a) It shall be unlawful for any person who enters—

"(1) into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for seling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under, or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

"(c) For purposes of this section, the

term 'labor organization' has the meaning given it by section 321.

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing any communication expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or other similar type of general public political advertising, such communication—

"(1) if authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that such communication has been so authorized; or

"(2) if not authorized in accordance with paragraph (1), shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that such communication is not authorized by any candidate, and state the name of the person that made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization as stated in section 303(b)(2).

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or implicitly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office, or for any person to solicit, accept, or receive any such contribution from any such foreign national.

"(b) As used in this section, the term 'foreign national' means—

"(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

"SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTIONS OF CURRENCY

"SEC. 326. (a) No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"(b) Any person who knowingly and willfully violates the provisions of this section shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution involved, imprisonment for not more than one year, or both.

"ACCEPTANCE OF EXCESSIVE HONORARIUMS

"SEC. 327. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

"(1) any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

"(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $15,000 in any calendar year.

"PENALTY FOR VIOLATIONS

"SEC. 328. Any person who knowingly and willfully commits a violation of any provision or provisions of this Act, other than the provisions of section 326, which involves the making, receiving, or reporting of any contribution or expenditure having a value, in the aggregate, of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than one year, or both.".

(b) Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105 and subsection (a), is further amended by inserting immediately after section 315 the following new section:

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

"SEC. 316. No person, being a candidate for Federal office or an employee or agent of such a candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).".

SAVINGS PROVISION RELATING TO REPEALED SECTIONS

SEC. 113. Title III of the Act (2 U.S.C. 431 et seq.), as amended by section 105 and section 112, is further amended by adding at the end thereof the following new section:

"SAVING PROVISION RELATING TO REPEALED SECTIONS

"SEC. 329. Except as otherwise provided by this Act, the repeal by the Federal Election Campaign Act Amendments of 1976 of any provision or penalty or penalties shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under such provision or penalty, and such provision or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.".

PRINCIPAL CAMPAIGN COMMITTEES

SEC. 114. Section 302(e)(1) of the Act (2 U.S.C. 432(e)(1)), as so redesignated by section 103, is amended by adding at the end thereof the following new sentence: "Any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of the preceding sentence.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 115. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304"(a)(1)(C)," the following: "304(c),".

(b)(1) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as so redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

CHANGES IN DEFINITIONS

SEC. 202. (a) Section 591 of title 18, United States Code, is amended by striking out "602, 608, 610, 611, 614, 615, and 617" and insert in lieu thereof "and 602".

(b) Section 591(e)(4) of title 18, United States Code, is amended by inserting immediately before the semicolon the following: ", except that this subparagraph shall not apply (A) in the case of any legal or accounting services rendered to or on behalf of the national committee of a political party, other than any legal or accounting services attributable to any activity which directly furthers the election of any designated candidate to Federal office; or (B) in the case of any legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this chapter, the Federal Election Campaign Act of 1971, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(c) Section 591(f)(4) of title 18, United States Code, is amended—

(1) by redesignating clause (F) through clause (I) as clause (G) through clause (J), respectively; and

(2) by inserting immediately after clause (E) the following new clause:

"(F) the payment, by any person other than a candidate or a political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party, other than services attributable to activities which directly further the election of any designated candidate to Federal office, or for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this chapter, the Federal Election Campaign Act of 1971, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954;".

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT TO ELIGIBLE CANDIDATES TO PAYMENTS

SEC. 301. Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate shall not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000. For purposes of this subsection, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent,

brother, or sister of the candidate, and the spouses of such persons.".

PAYMENTS TO ELIGIBLE CANDIDATES; INSUFFICIENT AMOUNTS IN FUND

SEC. 302. (a) Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (a) and subsection (c), respectively.

(b) Section 9006(c) of the Internal Revenue Code of 1954 (relating to insufficient amounts in fund), as so redesignated by subsection (a), is amended by adding at the end thereof the following new sentence: "In any case in which the Secretary or his delegate determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.".

PROVISION OF LEGAL OR ACCOUNTING SERVICES

SEC. 303. Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISION OF LEGAL OR ACCOUNTING SERVICES.—For purposes of this section, the payment, by any person other than the national committee of a political party, of compensation to any person for any legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such national committee with respect to the presidential nominating convention of the political party involved.".

REVIEW OF REGULATIONS

SEC. 304. (a) Section 9009(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolutions relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(b) Section 9089(c)(2) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) by inserting ", in whole or in part," immediately after "disapprove"; and

(2) by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

ELIGIBILITY FOR PAYMENTS

SEC. 305. Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 306. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "LIMITATION" and inserting in lieu thereof "LIMITATIONS";

(2) by inserting "(a) EXPENDITURE LIMITATIONS.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"Sec. 9035. Qualified campaign expense limitations.".

RETURN OF FEDERAL MATCHING PAYMENTS

SEC. 307. (a)(1) Section 9002(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States, in more than one State.".

(2) Section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(d) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9002(2), such individual—

"(1) shall no longer be eligible to receive any payments under section 9006; and

"(2) shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses.".

(b)(1) Section 9032(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.".

(2) Section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(c) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2), such individual—

"(1) shall no longer be eligible to receive any payments under section 9037; and

"(2) notwithstanding the provisions of section 9038(b)(3), shall pay to the Secretary, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9037 which are not used to defray qualified campaign expenses.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 308. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971,"; and

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code" and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(c) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as so redesignated by section 306(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code" and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

Amend the title so as to read "An Act to amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 12406) was laid on the table.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 606. ATLANTIC CONVENTION

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1085 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1085

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 606) to call an Atlantic Convention. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

(Mr. SISK asked and was given permission to revise and extend his remarks.)

Mr. SISK. Mr. Speaker, House Resolution 1085 provides for consideration of House Joint Resolution 606 to create an Atlantic Convention delegation. This is a simple 1-hour open rule with time

equally divided and controlled by the chairman and ranking minority member of the Committee on International Relations.

House Joint Resolution 606 creates an 18-member delegation to organize and participate in a convention of North Atlantic Treaty parliamentary democracies as well as any other parliamentary democracies which the convention might wish to invite. The purpose of the convention is to explore the possibility of arriving at some common goal to create greater unity among the Atlantic nations.

Resolutions to create a delegation and to call an Atlantic Convention have been introduced in a number of Congresses since 1949. In the 94th Congress, 110 Members sponsored or cosponsored House Joint Resolution 606 and its companion measures indicating a broad bipartisan support.

Mr. Speaker, I urge my colleagues to adopt House Resolution 1085 so that we may proceed to consideration of House Joint Resolution 606.

Mr. Speaker, I had hoped, of course, that we might go ahead and adopt this rule rather quickly and permit the Committee on International Relations to discuss the merits of the bill. However, I have had some requests for time; and therefore, apparently there will be some discussion. I would hope that we can stay away from the merits of the bill, though, and discuss procedure because really that is all we have involved at this particular point, which is whether or not the House should have the opportunity to actually discuss this Atlantic Convention issue.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

(Mr. ANDERSON of Illinois asked and was given permission to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr. Speaker and Members of the House, in view of the late hour, it is with some reluctance that I undertake to discuss the substantive nature of the resolution which would be made in order under House Resolution 1085, namely, the joint resolution calling for an Atlantic Convention. However, I have been informed that there may be an effort to defeat the rule, which would make it impossible, of course, for us to undertake a more thorough discussion of the question.

There, Mr. Speaker, in a few minutes I would hope to explain why I think we should today adopt the rule which makes in order consideration of House Joint Resolution 606, which provides for the convening of an Atlantic Convention.

Mr. Speaker, House Resolution 1085 is a simple 1-hour open rule making in order House consideration of House Joint Resolution 606 which provides for the convening of an Atlantic Convention.

Mr. Speaker, I have been a longtime supporter and cosponsor of the Atlantic Convention resolutions authored by my good friend and colleague from Illinois (Mr. FINDLEY), in the past four Congresses. In this Congress, the resolution has been cosponsored by 110 Members of this body.

Mr. Speaker, this resolution has had rough sledding in past Congresses mainly because there has been considerable misunderstanding and misinformation about what it would do. Contrary to some reports spread about this resolution, the delegates to the Atlantic Convention could not barter away our sovereignty or enter into any binding agreements with other parties to the convention. The language of the resolution is quite explicit in this regard, and I quote:

> The convention's recommendations shall be submitted to the Congress for action under constitutional process.

Moreover, the resolution makes quite clear that our delegates will not be acting in an official capacity for the U.S. Government in the sense that they will be acting under instructions from the President or State Department. To quote from the relevant provision:

> All members of the delegation shall be free from official instructions, and free to speak and vote individually in the convention.

So I think it should be quite clear from any objective reading of the resolution that this will be a purely advisory and recommendatory body, and that any recommendations which flow from the Convention must be submitted to the Congress under normal constitutional processes and procedures.

What then is the purpose of this resolution and the Atlantic Convention it authorizes our participation in? Essentially it is to bring together delegates from North Atlantic Treaty parliamentary democracies and other democracies to explore the possibility of agreement on transforming our present relationship "into a more effective unity based on Federal or other democratic principles." The Convention would be convened to draft a declaration embodying this goal, a timetable for its attainment, and to propose a commission or other means to facilitate this transition.

Mr. Speaker, the question naturally arises, is there a need for such an Atlantic Convention? I think there clearly is. I read with interest an article in last Saturday's New York Times by Drew Middleton based on an interview with Gen. Alexander M. Haig, the commander of allied forces in Europe. General Haig expressed concern about Soviet expansionist policies and said the "important objective" is to develop a Western consensus and "hopefully to achieve some corrective action and policies with respect to these global events." General Haig went on to say, and I quote:

> To the degree that the United States is perceived as unreliable or hibernated, its understandable that West Europeans should grope for some other framework, some other structure to provide what they perceive to be their essential security needs.

The general added that the West cannot indulge in competitive arrangements but needs, and I quote:

> The collective resources of the entire Atlantic community to meet this growing global Soviet threat.

Mr. Speaker, I think the Atlantic Convention proposed by this resolution can assist in that goal of bringing the Western democracies into closer unity to preserve and protect those cherished democratic principles which we commonly hold.

Mr. Speaker, our former U.N. Ambassador, Mr. Moynihan, often expounded on the shrinking number of democratic nations around the world and the fact that democracy is under attack today. The remaining democratic nations are having significant internal problems as well. I am reminded of a report by the Trilateral Commission's Task Force on the Governability of Democracies which was released in May of last year. The task force concluded that the democratic political systems in the trilateral regions—Europe, United States, Japan—have "entered a more difficult and uncertain phase, particularly in Europe and the United States. The demands on democratic government have grown, while the capacity of democratic government seems to have shrunk." In short, these democratic nations are becoming increasingly ungovernable. The task force recommended seven "arenas for action" in strengthening our political systems and securing their democratic foundations. One of these recommendations was the "creation of new institutions for the cooperative promotion of democracy" so that democratic countries could "learn from each other's experience how to make democracy function more effectively in their societies." To quote from the task force report:

> Such mutual learning experiences are familiar phenomena in the economic and military fields; they must also be encouraged in the political field.

Mr. Speaker, I think the proposed Atlantic Convention and the recommendations which flow from it can help to perform this function of achieving the cooperative promotion of democracy which is under stress from without and from within. I find it difficult to comprehend that there are those who oppose this resolution on the grounds that it is somehow going to weaken our democracy or reduce our sovereignty. If anything, it should bring about the opposite effect of helping to shore up and strengthen western democratic institutions and thereby increase their abilities to resist totalitarian advances and to govern themselves more effectively.

In conclusion, Mr. Speaker, while I appreciate that this resolution is no panacea for solving the problems of Western democracies, I do think it is an important first step in that direction and a very worthwhile undertaking. I strongly support the resolution and urge its adoption.

Mr. Speaker, I support the resolution and I hope, therefore, that the Members will adopt the rule so that not only the author of the resolution, my friend, the gentleman from Illinois (Mr. FINDLEY), but his cosponsors as well may have the opportunity of an hour of general debate to further explain their rationale in support of this proposition.

Mr. SISK. Mr. Speaker, I yield 7 minutes to the gentleman from Texas (Mr. KAZEN).

(Mr. KAZEN asked and was given permission to revise and extend his remarks.)

Mr. KAZEN. Mr. Speaker, I rise in

REPORT OF COMMITTEE OF CONFERENCE

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94-1057

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

APRIL 28, 1976.—Ordered to be printed

Mr. HAYS of Ohio, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 3065]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a)(1) The second sentence of section 309(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)), as redesignated by section 105 (hereinafter in this Act referred to as the "Act"), is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and 6 members ap-

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pointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as redesignated by section 105, is amended to read as follows: "No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.".

(b) Section 309(a)(2) of theAct (2 U.S.C. 437c(a)(2)), as redesignated by section 105, is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977;

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) A member of the Commission may serve on the Commission after the expiration of his term until his successor has taken office as a member of the Commission.

"(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds.

"(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c)(1) Section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, is amended by adding at the end thereof the following new sentences: "Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity no later than 1 year after beginning to serve as such a member.".

(2) Section 309(b) of the Act (2 U.S.C. 437c(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive primary jurisdiction with respect to the civil enforcement of such provisions.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(2) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: ", except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any

action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service".

(e)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309 (a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until new members are appointed and qualified under section 309 (a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, except that until appointed and qualified under this Act, members serving on such Commission on such date of enactment may, beginning on March 23, 1976, exercise only such powers and functions as may be consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75-436, 75-437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c (a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual serving as a member of such Commission on the date of the enactment of this Act.

(g)(1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Act as such title existed on January 1, 1976, or under any other provision of law, are transferred to such Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

(2)(A) Except as provided in subparagraph (B), personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for 1 year after such transfer.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this

Act, remain in full force and effect. All orders, determinations, rules, and opinions made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1), and which are consistent with the amendments made by this Act, shall continue in effect to the same extent as if such transfer had not occurred. Any rule or regulation proposed by such Commission before the date of the enactment of this Act shall be prescribed by such Commission only if, after such date of enactment, the rule or regulation is submitted to the Senate or the House of Representatives, as the case may be, in accordance with the provisions of section 315(c) of the Act (as redesignated by section 105), and it is not disapproved by the appropriate House of the Congress.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission on the date of the enactment of this Act.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within 12 months after the date of the enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract" and by striking out "expressed or implied,".

(c) Section 301(e)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting after "purpose" the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services ren-

dered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

(d) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended—

(1) by striking out "or" at the end of clause (E); and

(2) by inserting after clause (F) the following new clauses:

"(G) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loans—

"(i) shall be reported in accordance with the requirements of section 304(b); and

"(ii) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors;

"(H) a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with section 304(b); or

"(I) any honorarium (within the meaning of section 328);".

(e) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)), as amended by subsection (d), is amended by striking out "individual" where it appears after clause (I) and inserting in lieu thereof "person".

(f) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by inserting before the semicolon in clause (C) the following: ", except that the costs incurred by a membership organization, including a labor organization, or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed $2,000 per election, be reported to the Commission";

(2) by striking out "or" at the end of clause (F) and at the end of clause (G); and

(3) by inserting immediately after clause (H) the following new clauses:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a

candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304(b);

"(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b); or

"(K) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loan shall be reported in accordance with section 304(b);".

(g) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out "and" at the end of paragraph (m);

(2) by striking out the period at the end of paragraph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(o) 'Act' means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976;

"(p) 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

"(q) 'clearly identified' means that (1) the name of the candidate appears; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate is apparent by unambiguous reference.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 302(b) of the Act (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$50".

(b) Section 302(c)(2) of the Act (2 U.S.C. 432(c)(2)) is amended by striking out "$10" and inserting in lieu thereof "$50".

(c) Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

(d) Section 302(e)(1) of the Act, as redesignated by subsection (c), is amended by adding at the end thereof the following new sentence: "Any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of the preceding sentence.".

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following new sentence: "In any year in which a candidate is not on the ballot for election to Federal office such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceeds $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee."

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14);

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of an independent expenditure in excess of $100 by a political committee, other than an authorized committee of a candidate, expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9), stated in a manner which indicates whether the independent expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and"; and

(4) by adding at the end thereof the following new sentence: "When committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, they shall be deemed to be in compliance with this subsection.".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or independent expenditures expressly

advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 during a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

"(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or independent expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any independent expenditure, including those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than 24 hours, before any election shall be reported within 24 hours of such independent expenditure.

"(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely pre-election basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431 et seq.) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

CAMPAIGN DEPOSITORIES

SEC. 106. The second sentence of section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)), as redesignated by section 105, is amended by striking out "a checking account" and inserting in lieu thereof the following: "a single checking account and such other accounts as the committee determines to maintain at its discretion".

POWERS OF COMMISSION

SEC. 107. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code;" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954; and"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a)(9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ADVISORY OPINIONS

SEC. 108. (a) Section 312(a) of the Act and section 312(b) of the Act (2 U.S.C. 437f(a), 437f(b)), as redesignated by section 105, are amended to read as follows:

"SEC. 312. (a) The Commission shall render an advisory opinion, in writing, within a reasonable time in response to a written request by any individual holding Federal office, any candidate for Federal office, any political committee, or the national committee of any political party concerning the application of a general rule of law stated in the Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or a general rule of law prescribed as a rule or regulation by the Commission, to a specific factual situation. Any such general rule of law not stated in the Act or in chapter 95 or chapter 96 of the Internal Revenue Code of 1954 may be initially proposed by the Commission only as a rule or regulation pursuant to the procedures established by section 315(c). No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

"(b)(1) Notwithstanding any other provision of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (2) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(2) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.".

(b) The Commission shall, no later than 90 days after the date of the enactment of this Act, conform the advisory opinions issued before such date of enactment to the requirements established by section 312(a) of the Act, as amended by subsection (a) of this section. The provisions of section 312(b) of the Act, as amended by subsection (a) of

this section, shall apply with respect to all advisory opinions issued before the date of the enactment of this Act as conformed to meet the requirements of section 312(a) of the Act, as amended by subsection (a) of this section.

ENFORCEMENT

SEC. 109. Section 313 of the Act (2 U.S.C. 437g), as redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

"(2) The Commission, upon receiving a complaint under paragraph (1), and if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or, if the Commission, on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, has reason to believe that such a violation has occurred, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

"(3)(A) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate.

"(B) Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reasonable cause to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor for a period of not less than 30 days to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved, except that if the Commission has reasonable cause to believe that—

"(i) any person has failed to file a report required to be filed under section 304(a)(1)(C) for the calendar quarter occurring immediately before the date of a general election;

"(ii) any person has failed to file a report required to be filed no later than 10 days before an election; or

"(iii) on the basis of a complaint filed less than 45 days but more than 10 days before an election, any person has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall make every effort, for a period of not less than one-half the number of days between the date upon which the Commission determines there is reasonable cause to believe such a violation has occurred and the date of the election involved, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission, including the bringing of a civil proceeding under subparagraph (B).

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

"(C) In any civil action instituted by the Commission under subparagraph (B), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation subject to and as defined in section 329, or a knowing and willful violation of a provision of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitation set forth in subparagraph (A).

"(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has been committed, a conciliation agreement entered into by the Commismission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has

been committed, a conciliation agrement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(C) The Commission shall make available to the public (i) the results of any conciliation attempt, including any conciliation agreement entered into by the Commission; and (ii) any determination by the Commission that no violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred.

(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 200 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement.

"(8) In any action brought under paragraph (5) or paragraph (7), subpenas for witnesses who are required to attend a United States district court may run into any other district.

"(9)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within 90 days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia.

"(B) The filing of any petition under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than 60 days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than 60 days after the 90-day period specified in subparagraph (A).

"(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with such declaration within 30 days, failing which the complainant may bring in his own name a civil action to remedy the violation involved in the original complaint.

"(10) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court

shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5) it may petition the court for an order to adjudicate such person in civil contempt, except that if it believes the violation to be knowing and willful it may petition the court for an order to adjudicate such person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 30-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.

"(c) Any member of the Commission, any employee of the Commission, or any other person who violates the provisions of subsection (a)(3)(B) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subsection (a)(3)(B) shall be fined not more than $5,000.".

DUTIES OF COMMISSION

SEC. 110. (a)(1) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320(a)(2), and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

(2) Section 315(a)(8) of the Act (2 U.S.C. 438(a)(8)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to give priority to auditing and field investigating of the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

(b) Section 315(c) of the Act (2 U.S.C. 438(c)), as redesignated by section 105, is amended—

(1) by inserting immediately after the second sentence of paragraph (2) the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order

(even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to."; and

(2) by adding the following new paragraph at the end thereof:

"(5) For purposes of this subsection, the term 'rule or regulation' means a provision or series of interrelated provisions stating a single separable rule of law.".

ADDITIONAL ENFORCEMENT AUTHORITY

SEC. 111. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS; OTHER LIMITATIONS

SEC. 112. Title III of the Act (2 U.S.C. 431–441) is amended—

(1) by striking out section 320 (2 U.S.C. 441), as redesignated by section 105; and

(2) by inserting immediately after section 319 (2 U.S.C. 439c), as redesignated by section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a) (1) No person shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

"(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed $20,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

"(2) No multicandidate political committee shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

"(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed $15,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

"(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.

"(4) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political com-

mittees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of paragraph (2), the term 'multicandidate political committee' means a political committee which has been registered under section 303 for a period of not less than 6 months, which has received contributions from more than 50 persons, and, except for any state political party organization, has made contributions to 5 or more candidates for Federal office.

"(5) For purposes of the limitations provided by paragraph (1) and paragraph (2), all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fundraising efforts; (B) for purposes of the limitations provided by paragraph (1) and paragraph (2), all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by a State committee of a political party shall not be considered to have been made by a single political committee; and (C) nothing in this section shall limit the transfer of funds between the principal campaign committee of a candidate seeking nomination or election to a Federal office and the principal campaign committee of that candidate for nomination or election to another Federal office if (i) such transfer is not made when the candidate is actively seeking nomination or election to both such offices; (ii) the limitations contained in this Act on contributions by persons are not exceeded by such transfer; and (iii) the candidate has not elected to receive any funds under chapter 95 or chapter 96 of the Internal Revenue Code of 1954. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations provided by paragraph (1) and paragraph (2).

"(6) The limitations on contributions to a candidate imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(7) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B) (i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a

candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

"*(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and*

"*(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.*

"*(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.*

"*(b)(1) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—*

"*(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000; or*

"*(B) $20,000,000 in the case of a campaign for election to such office.*

"*(2) For purposes of this subsection—*

"*(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and*

"*(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by—*

"*(i) an authorized committee or any other agent of the candidate for purposes of making any expenditure; or*

"*(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.*

"*(c)(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months*

preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

"*(2) For purposes of paragraph (1)—*

"*(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and*

"*(B) the term 'base period' means the calendar year 1974.*

"*(d) (1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.*

"*(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.*

"*(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—*

"*(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—*

"*(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or*

"*(ii) $20,000; and*

"*(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.*

"*(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, 18 years of age or older.*

"*(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a*

candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for presidential nomination for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"(h) Notwithstanding any other provision of this Act, amounts totaling not more than $17,500 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribition or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"(b)(1) For purposes of this section the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"(2) For purposes of this section and section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 79l(h)), the term 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section, but shall

not include (A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

"(3) It shall be unlawful—

"(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

"(B) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

"(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

"(4)(A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful—

"(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

"(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

"(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of $50 or less as a result of such solicitation and who does not make such a contribution.

"(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or

corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

"*(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.*

"*(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.*

"*(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.*

"*(7) For purposes of this section, the term 'executive or administrative personnel' means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.*

"*CONTRIBUTIONS BY GOVERNMENT CONTRACTORS*

"*SEC. 322. (a) It shall be unlawful for any person—*

"*(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under; or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or*

"*(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.*

"(b) *This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation, labor organization, membership organization, cooperative, or corporation without capital stock for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 321 applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.*

"(c) *For purposes of this section, the term 'labor organization' has the meaning given it by section 321(b)(1).*

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. *323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication—*

"(1) *if authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or*

"(2) *if not authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303(b)(2).*

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. *324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.*

"(b) *As used in this section, the term 'foreign national' means—*

"(1) *a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 (b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or*

"(2) *an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).*

"*PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER*

"*SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.*

"*LIMITATION ON CONTRIBUTION OF CURRENCY*

"*SEC. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.*

"*FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY*

"*SEC. 327. No person who is a candidate for Federal office or an employee or agent of such a candidate shall—*

"*(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or*

"*(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).*

"*ACCEPTANCE OF EXCESSIVE HONORARIUMS*

"*SEC. 328. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—*

"*(1) any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article; or*

"*(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $25,000 in any calendar year.*

"*PENALTY FOR VIOLATIONS*

"*SEC. 329. (a) Any person, following the date of the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than 1 year, or both. In the case of a knowing and willful violation of section 321(b)(3), including such a violation of the provisions of such section as applicable through section 322(b), of section 325, or of section 326, the penalties set forth in this section shall apply to a violation involving an amount having a value in the aggregate of $250 or more during a calendar year. In the case of a knowing and willful*

violation of section 327, the penalties set forth in this section shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more is involved.

"(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect.

"(c) In any criminal action brought for a violation of a provision of this Act, or of a provision of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the offense and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

"(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313;

"(2) the conciliation agreement is in effect; and

"(3) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 113. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: "There are authorized to be appropriated to the Commission $6,000,000 for the fiscal year ending June 30, 1976, $1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $6,000,000 for the fiscal year ending September 30, 1977.".

SAVINGS PROVISION

SEC. 114. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 115. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)".

(d)(1) Section 301(e)(5)(F) of the Act (2 U.S.C. 431(e)(5)(F)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(2) Section 301(f)(4)(H) of the Act (2 U.S.C. 431(f)(4)(H)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(e) Section 314(a) of the Act (2 U.S.C. 437h(a)), as redesignated by section 105, is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code" in the first sentence of such subsection and by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code," in the second sentence of such subsection.

(f)(1) Section 406(a) of the Act (2 U.S.C. 455(a)) is amended by striking out "or section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code".

(2) Section 406(b) of the Act (2 U.S.C. 455(b)) is amended by striking out "or section 608, 610, 611, or 613 of title 18, United States Code,".

(g) Section 591 of title 18, United States Code, as amended by section 202(c), is amended—

(1) by striking out "608(c) of this title" in paragraph (f)(4)(I) and inserting in lieu thereof "section 320(b) of the Federal Election Campaign Act of 1971";

(2) by striking out "by section 608(b)(2) of this title" in paragraph (f)(4)(J) and inserting in lieu thereof "under section 320(a)(2) of the Federal Election Campaign Act of 1971"; and

(3) by striking out "310(a)" in paragraph (k) and inserting in in lieu thereof "309(a)".

(h) Section 301(n) of the Act (2 U.S.C. 431(n)) is amended by striking out "302(f)(1)" and inserting in lieu thereof "302(e)(1)".

(i) The third sentence of section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)), as redesignated by section 105, is amended by striking out "97" and inserting in lieu thereof "96".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

CHANGES IN DEFINITIONS

SEC. 202. (a) Section 591 of title 18, United States Code, is amended by striking out "602, 608, 610, 611, 614, 615, and 617" and inserting in lieu thereof "and 602".

(b) Section 591(e)(4) of title 18, United States Code, is amended by inserting immediately before the semicolon the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of the Federal Election Campaign Act of 1971 or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b) of the Federal Election Campaign Act of 1971".

(c) Section 591(f)(4) of title 18, United States Code, is amended—

(1) by redesignating clause (F) through clause (I) as clause (G) through clause (J), respectively; and

(2) by inserting immediately after clause (E) the following new clause:

"(F) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of the Federal Election Campaign Act of 1971 or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b) of the Federal Election Campaign Act of 1971;".

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

SEC. 301. (a) Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections:

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major,

minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000. For purposes of this subsection, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) For purposes of applying section 9004(d) of the Internal Revenue Code of 1954, as added by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of the enactment of this Act shall not be taken into account.

PAYMENTS TO ELIGIBLE CANDIDATES; INSUFFICIENT AMOUNTS IN FUND

SEC. 302. (a) Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

(b) Section 9006(c) of the Internal Revenue Code of 1954 (relating to insufficient amounts in fund), as redesignated by subsection (a), is amended by adding at the end thereof the following new sentence: "In any case in which the Secretary or his delegate determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.".

PROVISION OF LEGAL OR ACCOUNTING SERVICES

SEC. 303. Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

> *"(4) PROVISION OF LEGAL OR ACCOUNTING SERVICES.—For purposes of this section, the payment, by any person other than the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services) of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on presidential nominating convention expenses.".*

REVIEW OF REGULATIONS

SEC. 304. (a) Section 9009(c) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) in paragraph (2) thereof, by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to."; and

(2) by adding at the end thereof the following new paragraph:

"(4) For purposes of this subsection, the term 'rule or regulation' means a provision or series of interrelated provisions stating a single separable rule of law.".

(b) Section 9039(c) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) in paragraph (2) thereof, by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to."; and

(2) by adding at the end thereof the following new paragraph:

"(4) For purposes of this subsection, the term 'rule or regulation' means a provision or series of interrelated provisions stating a single separable rule of law.".

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended—

(1) in the heading thereof, by striking out "**LIMITATION**" and inserting in lieu thereof "**LIMITATIONS**";

(2) by inserting "(a) EXPENDITURE LIMITATIONS.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item:

"*Sec. 9035. Qualified campaign expense limitations.*".

(*c*) *Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations".*

(*d*) *For purposes of applying section 9035(a) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of the enactment of this Act shall not be taken into account.*

RETURN OF FEDERAL MATCHING PAYMENTS

SEC. 306. (*a*)(*1*) *Section 9002(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States, in more than one State.".*

(*2*) *Section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) is amended by adding at the end thereof the following new subsection:*

"(*d*) *WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last sentence of section 9002(2), such individual—*

"(*1*) *shall no longer be eligible to receive any payments under section 9006, except that such individual shall be eligible to receive payments under such section to defray qualified campaign expenses incurred while actively seeking election to the office of President of the United States or to the office of Vice President of the United States in more than one State; and*

"(*2*) *shall pay to the Secretary or his delegate, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses.*".

(*b*)(*1*) *Section 9032(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.".*

(*2*) *Section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) is amended by adding at the end thereof the following new subsection:*

"(*c*) *TERMINATION OF PAYMENTS.—*

"(*1*) *GENERAL RULE.—Except as provided by paragraph (2), no payment shall be made to any individual under section 9037—*

"(*A*) *if such individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2); or*

"(*B*) *more than 30 days after the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of votes cast for all candi-*

dates of the same party for the same office in such primary election, if such individual permitted or authorized the appearance of his name on the ballot, unless such individual certifies to the Commission that he will not be an active candidate in the primary involved.

"(2) QUALIFIED CAMPAIGN EXPENSES; PAYMENTS TO SECRETARY.—*Any candidate who is ineligible under paragraph (1) to receive any payments under section 9037 shall be eligible to continue to receive payments under section 9037 to defray qualified campaign expenses incurred before the date upon which such candidate becomes ineligible under paragraph (1).*

"(3) CALCULATION OF VOTING PERCENTAGE.—*For purposes of paragraph (1)(B), if the primary elections involved are held in more than one State on the same date, a candidate shall be treated as receiving that percentage of the votes on such date which he received in the primary election conducted on such date in which he received the greatest percentage vote.*

"(4) REESTABLISHMENT OF ELIGIBILITY.—

"(A) *In any case in which an individual is ineligible to receive payments under section 9037 as a result of the operation of paragraph (1)(A), the Commission may subsequently determine that such individual is a candidate upon a finding that such individual is actively seeking election to the office of President of the United States in more than one State. The Commission shall make such determination without requiring such individual to reestablish his eligibility to receive payments under subsection (a).*

"(B) *Notwithstanding the provisions of paragraph (1)(B), a candidate whose payments have been terminated under paragraph (1)(B) may again receive payments (including amounts he would have received but for paragraph (1)(B)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.*".

(c) *The amendments made by this section shall take effect on the date of the enactment of this Act.*

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 307. (a) *Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended—*

(1) *by striking out "section 608(c) and section 608(f) of title 18, United States Code." and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and*

(2) *by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".*

(b) *Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".*

(c) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code" and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971".

(d) Section 9004(a)(1) of the Internal Revenue Code of 1954 (relating to entitlements of eligible candidates to payments) is amended by striking out "608(c)(1)(B) of title 18, United States Code" and inserting in lieu thereof "320(b)(1)(B) of the Federal Election Campaign Act of 1971".

(e) Section 9007(b)(3) of the Internal Revenue Code of 1954 (relating to repayments) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

(f) Section 9012(b)(1) of the Internal Revenue Code of 1954 (relating to contributions) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same.

And the House agree to the same.

WAYNE L. HAYS,
JOHN H. DENT,
JOHN BRADEMAS,
DAWSON MATHIS,
MENDEL J. DAVIS,
CHARLES E. WIGGINS,
Managers on the Part of the House.

HOWARD W. CANNON,
CLAIBORNE PELL,
ROBERT C. BYRD,
HUGH SCOTT,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

The Senate bill, the House amendment, and the conference substitute provide that this legislation may be cited as the "Federal Election Campaign Act Amendments of 1976".

AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

Senate bill

Section 101 of the Senate bill amended the Federal Election Campaign Act of 1971 (hereinafter in this statement referred to as the "Act") to provide that the Federal Election Commission (hereinafter in this statement referred to as the "Commission") is to consist of the Secretary of the Senate, the Clerk of the House, both ex officio and without the right to vote, and 8 members appointed by the President by and with the advice and consent of the Senate. No more than 3 members of the Commission at any time may be affiliated with the same political party, and at least 2 members shall not be affiliated with any party.

The bill provided for 8-year terms for members with the terms of 2 members, not affiliated with the same political party, expiring every 2 years, beginning in 1977, so that members are not reap-

pointed in an election year. Vacancies are filled only for the remainder of the term during which the vacancy occurred. Reappointment is to be made in the same manner as the appointment.

Section 101(c)(1) provided that the Commission has exclusive and primary jurisdiction with respect to the civil enforcement of the Federal Election Campaign Act and of the provisions of the Internal Revenue Code of 1954 relating to the public financing of presidential elections. This section also recited a reservation of congressional prerogatives reserved to the Congress under the Constitution.

Section 101(c)(2) provided that the Commission may not establish guidelines, initiate civil actions, render advisory opinions, make regulations, conduct investigations, or report apparent violations of law without an affirmative vote of 5 members of the Commission.

Section 101(d) of the Senate bill exempted Commission staff appointments from the provisions of title 5, United States Code, relating to the competitive service, classification, and General Schedule pay rates. This provision maintained the present exempt status of Commission appointments.

Section 101(e) related to the appointment of new members. It urged the expeditious appointment of new members, provided that the first appointments to the new Commission are not appointments to fill unexpired terms, provided that the terms of all the present members end when a majority of the new members are appointed and qualified, and gave statutory recognition to the limited power of the reconstituted Commission under the decision of the Supreme Court in *Buckley v. Valeo* (Nos. 75-436, 75-437, January 30, 1976).

Section 101(f) permitted the present members to be appointed to the new Commission by waiving the prohibition against the appointment of individuals to the Commission presently holding Federal office.

Section 101(g) of the Senate bill was designed to facilitate the transition between the Commission as presently constituted and the Commission as reconstituted by the Senate bill by providing for the transfer of personnel, liabilities, contracts, property, and records employed, held, or used primarily in connection with the functions of the Commission as presently constituted. It provided that the transfer of personnel from the old Commission to the new Commission would be without reduction in classification or compensation for one year after such transfer. Thus, no person's salary or position would be reduced solely because of the transfer. This provision does not bar a dismissal or reduction in salary by the Commission for reasons other than the transfer. This section also preserved all actions, suits, and other proceedings commenced by or against the Commission or any officer or employee thereof acting in his official capacity. It also preserved all orders, determinations, rules, advisory opinions, and opinions of counsel made, issued, or granted by the Commission before its reconstitution.

House amendment

Section 101(a)(1) amended section 309(a)(1) of the Act, as so redesignated by section 105 of the House amendment, to provide that the Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives ex officio and without the right to vote,

and 6 members appointed by the President of the United States, by and with the advice and consent of the Senate.

Section 101(a)(2) amended section 309(a)(1) of the Act, as so redesignated by section 105 of the House amendment, to provide that no more than 3 members of the Commission appointed by the President may be affiliated with the same political party.

Section 101(b) amended section 309(a) of the Act, as so redesignated by section 105, by rewriting paragraph (2). Section 309(a)(2)(A) provides that members of the Commission shall serve for terms of 6 years, except that members first appointed shall serve for staggered terms as designated by the President. In making such designations, the President may not appoint an individual affiliated with any political party for a term which expires 1 year after the term of another member affiliated with the same political party.

Section 309(a)(2)(B) provides that a member of the Commission may serve after the expiration of his term until his successor has taken office.

Section 309(a)(2)(C) provides that an individual appointed to fill a vacancy occurring other than by the expiration of a term of office may be appointed only for the unexpired term of the member he succeeds.

Section 309(a)(2)(D) provides that a vacancy in the Commission shall be filled in the same manner as the original appointment.

Section 101(c)(1) amended section 309(a)(3) of the Act, as so redesignated by section 105 of the House amendment, to provide that members of the Commission shall not engage in any other business, vocation, or employment. Members are given 1 year to terminate or liquidate any such activities.

Section 101(c)(2) amended section 309 of the Act, as so redesignated by section 105 of the House amendment, by rewriting subsection (b). Section 309(b)(1) requires the Commission to administer and formulate policy regarding the Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission is given exclusive primary jurisdiction regarding the civil enforcement of such provisions.

Section 309(b)(2) provides that the provisions of the Act do not limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress regarding elections to Federal office.

Section 101(c)(3) of the House amendment amended section 309(c) of the Act, as so redesignated by section 105 of the House amendment, to require an affirmative vote of 4 members of the Commission in order for the Commission to establish guidelines for compliance with the Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action under (1) section 310(a)(6) of the Act, as so redesignated by section 105 of the House amendment, relating to the initiation of civil actions; (2) section 310(a)(7) of the Act, relating to the rendering of advisory opinions; (3) section 310(a)(8) of the Act, relating to prescribing forms and to rule-making authority; or (4) section 310(a)(10) of the Act, relating to investigations and hearings.

Section 101(d)(1) provided that the President shall appoint members of the Commission as soon as practicable after the date of the enactment of the House amendment. Subsection (d)(2) provided that the first appointments made by the President shall not be considered appointments to fill the unexpired terms of members serving on the Commission on the date of the enactment of the House amendment.

Subsection (d)(3) provided that members of the Commission serving on the date of the enactment of the House amendment may continue to serve as such members until members are appointed and qualified under section 309(a) of the Act, as amended by the House amendment, except that, beginning on March 1, 1976, they may exercise only such powers and functions as may be consistent with the determinations of the Supreme Court of the United States in *Buckley* v. *Valeo*.

Section 101(e) provided that members serving on the Commission on the date of the enactment of the House amendment shall not be subject to the provisions of section 309(a)(3) of the Act, as so redesignated by section 105 of the House amendment, which prohibit any member of the Commission from being an elected or appointed officer or employee of any branch of the Federal Government.

Conference substitute

The conference substitute is the same as the House amendment, except as follows:

1. The provision relating to the staggered terms for members of the Commission first appointed is the same as the Senate bill, except that the provision relating to the expiration of terms on April 30, 1983, is omitted from the conference substitute.

2. With regard to the provision relating to members of the Commission engaging in any other business, vocation, or employment, the conferees agree that the requirement is intended to apply to members who devote a substantial portion of their time to such business, vocation, or employment activities. The conferees, however, do not intend the requirement to apply to the operation of a farm, for example, if a substantial portion of time is not devoted to such operation. The conferees further agree that the members of the Commission are expected to engage in their service on the Commission on a full-time basis, in order to prevent any conflicts of interest on the part of such members. It is the expectation of the conferees, for example, that members of the Commission would not participate in full-time law practices while serving on the Commission. The purpose of the 1-year period included in the conference substitute is to give members an opportunity to liquidate participation in such business, vocation, or employment activities.

3. The conference substitute provides that personnel of the Commission may be appointed without regard to the provisions of title 5, United States Code, relating to the competitive service. Such personnel, however, are made subject to the classification and pay provisions of title 5, United States Code. The conferees agree that the Commission, in transmitting its budget requests to the Congress, would be required to include information relating to the number of persons employed by the Commission, the job descriptions of such persons, and grade classifications assigned to such persons for congressional review.

4. The conference substitute changes the provision of the House

amendment relating to the authority of current members of the Commission to continue to serve on the Commission. The conference substitute clarifies that this provision will continue the authority of such current members until new members of the Commission are appointed and qualified. The conference substitute also provides that such current members may exercise only such powers and functions as may be consistent with *Buckley* v. *Valeo* beginning on March 23, 1976, rather than on March 1, 1976, as provided by the House amendment. The conference substitute makes such change in the date in order to conform to the extension granted by the Supreme Court regarding the expiration of the authority of the Commission to perform executive functions.

5. The conference substitute adopts the transfer provisions of the Senate bill except that the orders, determinations, rules, and opinions of the Commission made before its reconstitution under the amendments made by the conference substitute remain in effect if they are consistent with such amendments. The conferees agree that if any portion of an order, determination, rule, or opinion of the Commission is invalid under such amendments, the Commission must conform such portion to such amendments as required under section 108(b) of the conference substitute. The conference substitute also provides that any rule or regulation proposed by the Commission before the amendments made by the conference substitute take effect must be submitted to the Congress under the procedures described in section 315 of the Act, as added by the conference substitute.

6. Regarding the provision of the conference substitute which gives the Commission exclusive primary jurisdiction with respect to the civil enforcement of Federal election laws, the conferees agree with the discussion of the term "exclusive primary jurisdiction" included in the report of the Committee on House Administration (see page 4 of House Report No. 94–917).

Changes in Definitions in Federal Election Campaign Act of 1971

A. ELECTION

Senate bill

Section 102(a) of the bill amended the definition of "election" in section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)), relating to nominating conventions and caucuses, by changing "held to nominate a candidate" in present law to "which has authority to nominate a candidate.".

House amendment

Section 102(a) of the House amendment amended section 301(a)(2) of the Act to provide that the term "election" includes any caucus or convention of a political party which has authority to nominate a candidate.

Conference substitute

The conference substitute is the same as the House amendment and the Senate bill.

B. CONTRIBUTION

Senate bill

Section 102(b) of the Senate bill amended the definition of "contribution" in section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) where it

says "contribution means a contract, promise, or agreement, expressed or implied, whether or not legally enforceable, to make a contribution" by inserting the word "written" before the word "contract".

Section 102(c) amended the definition of "contribution" to exclude legal and accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the employer of the individual rendering such services) which do not directly further the candidacy of a particular candidate. Also excluded are such services rendered to or on behalf of any candidate or political committee for the purpose of complying with the requirements of the Act and chapters 95 and 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the employer of the individual rendering such services). The section requires the latter amounts paid or incurred to be reported and disclosed but permits them to be ignored in determining contribution and expenditure limitations.

Section 102(d) transferred from section 591(e)(1) of title 18, United States Code, the exception from the definition of contribution, for limitation purposes, a loan of money by a bank in the ordinary course of business. Such a loan would be required to be reported, however, as in existing law. Section 102(f)(3) did the same with respect to the definition of expenditure.

The Senate bill also provided that the $500 ceiling on activities under section 301(e)(5) of the Act would apply to activities by any person, rather than by any individual. The effect of this amendment would be to include partnerships, committees, associations, corporations, labor organizations, and other organizations or groups, as well as individuals, under the terms of the provision.

House amendment

Section 102(b) amended section 301(e)(2) of the Act to provide that a contract, promise, or agreement to make a contribution must be in writing in order to be considered a contribution. The House amendment also struck the phrase "expressed or implied" from section 301(e)(2), in order to conform to the requirement that the agreement be in writing.

Section 102(c)(1) amended section 301(e)(4) of the Act to provide that the definition of contribution shall not apply to (1) legal or accounting services rendered to or on behalf of the national committee of a political party, other than legal or accounting services attributable to any activity which directly furthers the election of a designated candidate for Federal office; or (2) legal or accounting services rendered to or on behalf of a candidate or political committee for the sole purpose of ensuring compliance with the Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Subsection (c)(2) added a new clause (G) to section 301(e)(5) of the Act. Clause (G) provides that the term contribution shall not include a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee or a State committee of a political party which is for the sole purpose of defraying any cost incurred for the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candi-

date in any particular election for Federal office. Clause (G) requires that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, must be reported in accordance with section 304(b) of the Act.

Conference substitute

The conference substitute is the same as the House amendment, except as follows:

1. The conference substitute includes a modified version of the provision of the Senate bill which provides that legal or accounting services are considered contributions if the person paying for the services is a person other than the "regular" employer of the individual rendering the services.

2. The conference substitute follows the Senate bill in requiring the reporting of such services when they are rendered to a candidate.

3. The conference substitute includes the amendment made by the Senate bill exempting bank loans made in the regular course of business from the definition of contributions except for reporting purposes.

4. The conference substitute includes the amendment made by the Senate bill to the limitation on certain exempt activities by individuals so that limit would apply to all persons rather than just to individuals.

5. The conference substitute provides that the term "contribution" does not include any honorarium within the meaning of section 328 of the Act, as amended by the conference substitute.

C. EXPENDITURE

Senate bill

Section 102(f) amended the definition of "expenditure" to exclude certain fund-raising costs and payments for legal and accounting services (under the circumstances discussed above). The exclusion of some fund-raising costs for purposes of the limits on expenditures by publicly financed presidential candidates conforms to present law and was made necessary by the transfer of the provisions setting forth those limits to the Act. Section 102(f) also excluded from the definition of "expenditure" for limitation purposes partisan activity designed to encourage individuals to register to vote, or to vote, conducted by the national committee of a political party, or a subordinate committee thereof, or the State committee of a national party. Such activity would, however, be required to be reported.

House amendment

Section 102(d)(1) amended section 301(f)(4) of the Act by adding a new clause (I). Clause (I) provides that the term "expenditure" does not include any costs incurred by a candidate in connection with any solicitation of contributions by the candidate. Clause (I) does not apply, however, to costs incurred by a candidate in excess of an amount equal to 20 percent of the applicable expenditure limitation under section 320(b) of the Act. All costs incurred by a candidate in connection with the solicitation of contributions shall be reported in accordance with section 304(b).

Subsection (d)(2) amended section 301(f)(4) of the Act by adding a new clause (F). Clause (F) provides that the term "expenditure" does not include the payment, by any person other than a candidate or

a political committee, of compensation for (1) legal or accounting services rendered to or on behalf of the national committee of a political party, other than legal or accounting services attributable to any activity which directly furthers the election of a designated candidate for Federal office; or (2) legal or accounting services rendered to or on behalf of a candidate or political committee for the sole purpose of ensuring compliance with the Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Conference substitute

The conference substitute is the same as the Senate bill, except that (1) the provision of the Senate bill relating to legal or accounting services is modified by the conference substitute to provide that legal or accounting services are considered expenditures if the person paying for the services is a person other than the "regular" employer of the individual rendering the services; and (2) the exclusion for partisan registration and get-out-the-vote activity is not retained in the conference substitute, resulting in no change in existing law.

D. OTHER DEFINITIONS

Senate bill

Section 102(g) of the Senate bill amended section 301 of the Act to define the term "Act" to mean the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976.

House amendment

Section 102(e) amended section 301 of the Act by adding the following new definitions:

1. The term "Act" was defined to mean the Federal Election Campaign Act of 1971, as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976.

2. The term "independent expenditure" was defined to mean any expenditure by a person which expressly advocates the election or defeat of a clearly identified candidate, which is made without cooperation or consultation with any candidate, or any authorized committee or agent of the candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of the candidate.

3. The term "clearly identified" was defined to mean (a) the name of the candidate involved appears; (b) a photograph or drawing of the candidate appears; or (c) the identity of the candidate is apparent by unambiguous reference.

Conference substitute

The conference substitute is the same as the House amendment. The conferees agree, with respect to the definition of the term "independent expenditure", that advocacy of the election or defeat of a candidate or a general request for assistance in a speech to a group of persons by itself should not be considered to be a "suggestion" that such persons make an expenditure to further such election or defeat. The definition of the term "independent expenditure" in the conference substitute is intended to be consistent with the discussion of independent political expenditures which was included in *Buckley* v. *Valeo*

Organization of Political Committees

Senate bill

Subsections (a) and (b) of section 103 of the Senate bill amended section 302 of the Act (2 U.S.C. 432(b)) to reduce the accounting and recordkeeping requirements applicable to political committees by requiring that records be kept only on contributions in excess of $100, instead of in excess of $10.

Section 103(c) struck out section 302(e) of the Act (2 U.S.C. 432(e)) which requires that notice of unauthorized activities by political committees be disclosed on the literature and advertisements circulated by those committees. The subject is covered by a new section 323 of the Act added by section 110 of the Senate bill.

House amendment

Section 103 of the House amendment amended section 302 of the Act by striking out subsection (e), relating to a requirement that political committees raising contributions or making expenditures on behalf of a candidate without being authorized to do so by the candidate must indicate this lack of authority on any campaign literature and campaign advertisements. Section 323 of the Act, as added by the House amendment, contains a similar provision.

Conference substitute

The conference substitute is the same as the Senate bill except that the conference substitute changes the recordkeeping requirements so that political committees must keep records only for contributions of $50 or more.

The conferees agree that where a political committee is not required to record the identity of the contributor of a particular contribution, and it does not do so, and if, as a result, such committee has no knowledge that this particular contribution, when aggregated with other contributions from the same contributor, amounts to over $100, the committee is not required to report the identity of such contributor under section 304 of the Act. If, however, a committee has knowledge of a contribution, the full reporting requirements of section 304 of the Act must be complied with.

Reports by Political Committees and Candidates

Senate bill

Section 104(a) of the Senate bill amended the reporting and disclosure provisions of section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) to provide that, in nonelection years, a candidate and his authorized committees must file quarterly reports only for quarters in which an aggregate of more than $5,000 in contributions, expenditures, or a combination thereof is received or spent. This provision does not affect the obligation to file year-end reports in nonelection years.

Section 104(b) amended section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) to require that only political committees authorized by a candidate must file their reports with the candidate's principal campaign committee.

Section 104 (c) amended section 304(b) of the Act—

(1) to add a new requirement that political committees which are not authorized candidates' committees which make expendi-

tures in excess of $100 to advocate expressly the election or defeat of a clearly identified candidate report to the Commission whether the expenditure was intended to advocate the election or the defeat of a candidate and to certify to the Commission, under penalty of perjury, that the expenditure was not made in cooperation, consultation, or concert with a candidate's campaign nor was it made in response to a request or suggestion by the candidate or his agent; and

(2) to provide that when committee treasurers and candidates show that best efforts have been used to comply with the reporting requirements the treasurers and candidates are considered to have complied with the requirements of the Act.

Section 104(d) amended section 304(e) of the Act—

(1) to conform the independent expenditure reporting requirement contained in that subsection to the requirements of the Constitution set forth in *Buckley* v. *Valeo* with respect to the express advocacy of election or defeat of clearly identified candidates;

(2) to require corporations, labor organizations, and membership organizations which spend more than $1,000 per candidate per election to advocate the election or defeat of a clearly identified candidate in communications with their stockholders or members or their families to report the expenditures to the Commission;

(3) to require a person whose contributions exceed a total of $100 during the calendar year to a separate segregated fund as a result of the special twice yearly solicitation by mail permitted under section 321 of the Act (as amended by the Senate bill) to notify the recipient when the total amount of his contributions exceeds $100; and

(4) to require the Commission to prepare and periodically issue indices of expenditures reported under section 304(e) on a candidate-by-candidate basis.

House amendment

Section 104(a) amended section 304(a)(1)(C) of the Act to provide that in any year in which a candidate is not on the ballot for election to Federal office, the candidate and his authorized committees must file a report not later than the tenth day after the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures which aggregate a total of more than $10,000. Each report must be complete as of the close of the calendar quarter, except that any report which must be filed after December 31 of any calendar year in which a report must be filed under section 304(a)(1)(B) shall be filed as provided in section 304(a)(1)(B).

Section 104(b) amended section 304(a) of the Act by rewriting paragraph (2). Paragraph (2) provides that each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on behalf of the candidate, other than the principal campaign committee of the candidate, must file reports with the principal campaign committee of the candidate (rather than with the Commission).

Section 104(c) amended section 304(b) of the Act by adding a new paragraph (13). Paragraph (13) requires each report to include, in the case of an independent expenditure in excess of $100 by a political committee, other than an authorized committee of a candidate, expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (1) any information required by section 304(b)(9), stated in a manner which indicates whether the independent expenditure is in support of, or in opposition to, a candidate; and (2) under penalty of perjury, certification whether the independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of the candidate. If such expenditure is made with such cooperation, consultation, or concert, or as a result of such request or suggestion, it no longer would qualify as an independent expenditure.

Section 104(d) amended section 304 of the Act by rewriting subsection (e). Subsection (e)(1) requires every person (other than a political committee or a candidate) who makes independent expenditures of more than $100 in a calendar year to file a statement with the Commission containing the information required of a person who makes contributions of more than $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

Subsection (e)(2) provides that statements required by subsection (e) must be filed on dates for the filing of reports by political committees. The statements must include (1) the information required by section 304(b)(9), stated in a manner which indicates whether the contribution or independent expenditure is in support of, or in opposition to, a candidate; and (2) under penalty of perjury, certification whether the independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or any authorized committee or agent of the candidate.

Any independent expenditure, including independent expenditures described in section 304(b)(13), of $1,000 or more which is made after the fifteenth day, but more than 24 hours, before any election must be reported within 24 hours of the independent expenditure.

Subsection (e)(3) requires the Commission to prepare indices regarding expenditures made with respect to each candidate. The indices must be issued on a timely preelection basis.

Conference substitute

The conference substitute is the same as the House amendment, except as follows:

1. With respect to quarterly reports in nonelection years, the conference substitute is the same as the Senate bill.

2. The conference substitute replaces the provision of the Senate bill relating to corporations, labor organizations, and other membership organizations issuing communications to their stockholders and members with an amendment to section 301(f)(4)(C) of the Act which—

(a) requires reporting of such communications devoted to express advocacy of the election or defeat of a clearly identified candidate;

(b) provides that the cost of a communication will not be reportable if the communication is primarily devoted to subjects other than the advocacy of the election or defeat of a candidate; and

(c) applies only to costs which exceed $2,000 per election.

With respect to determining whether a communication is covered by this provision, the conferees intend that communications dealing primarily with subjects other than the express advocacy of the election or defeat of a candidate would not be covered. An editorial advocating the election or defeat of a candidate which appears in a regularly published newsletter which deals primarily with other subjects would not be a covered communication. This exclusion is designed to eliminate the difficult allocation problems that would otherwise have been presented. For the same reason, the conference substitute requires the reporting only of costs directly attributable to the express advocacy of the election or defeat of a candidate. The paper, stamps, etc. for a mimeographed covered communication would be reportable but not a share of the membership organization's building, mimeograph machine, etc., expenses.

The distribution of a reprint of the type of editorial described above would be a covered communication. Further, a special edition of a newsletter which primarily advocates the election or defeat of candidates would not be exempt from reporting.

The conferees also intend that the $2,000 limit on excluded communications would apply without regard to the number of candidates mentioned in the communication. If, for example, a communication refers to 3 candidates and the cost of the communication is $3,000, the person making the communication would not be permitted to allocate the cost on the basis of the number of candidates mentioned in the communication. Since the communication cost more than $2,000 it would be reported regardless of the number of candidates mentioned in the communication.

3. The conference substitute includes the provision of the Senate bill which stated that political committee treasurers and candidates would be considered to be in compliance with reporting requirements if they demonstrate that their best efforts have been used to obtain required information.

Reports by Certain Persons

Senate bill

Section 105 of the Senate bill amended ttitle III of the Act by striking out section 308, relating to reports by certain persons.

House amendment

Section 105 of the House amendment amended title III of the Act by striking out section 308, relating to reports by certain persons.

Conference substitute

The conference substitute is the same as the House amendment and the Senate bill.

Campaign Depositories

Senate bill

No provision.

House amendment

Section 106 amended section 308(a)(1) of the Act, as so redesignated by section 105 of the House amendment, to provide that it is within the discretion of political committees to maintain one or more checking accounts at banks which they designate as campaign depositories.

Conference substitute

The conference substitute is the same as the House amendment, except that it provides that political committees may maintain a single checking account and such other accounts as they may desire at banks which they designate as campaign depositories. It is the intent of the conferees that the term "such other accounts", as it appears in the conference substitute, includes checking accounts, savings accounts, certificates of deposit, and other accounts.

POWERS OF COMMISSION

Senate bill

Section 106 of the Senate bill amended section 310 of the Act (2 U.S.C. 437d) and added to the Commission's powers of authority to formulate general policy, prescribe forms and regulations, the power to bring civil actions to enforce the provisions of the Internal Revenue Code of 1954 relating to public financing of presidential elections. This section also provides that, with the exception of actions brought by an individual aggrieved by an action by the Commission, the power of the Commission to initiate civil actions is the exclusive civil remedy for the enforcement of the provisions of the Act.

House amendment

Section 107(a) amended section 310(a) of the Act, as so redesignated by section 105 of the House amendment, by combining paragraph (10) with paragraph (8). Paragraph (10) relates to the authority of the Commission to develop forms for the filing of reports.

Section 107(b)(1) amended section 310(a) of the Act, as so redesignated by section 105 of the House amendment, by rewriting paragraph (6). Paragraph (6) gives the Commission authority to initiate, defend, and appeal civil actions.

Subsection (b)(2) amended section 310 of the Act, as so redesignated by section 105 of the House amendment, by adding a new subsection (e) which provides that the civil action authority of the Commission is the exclusive civil remedy for enforcing the Act, except for actions which may be brought under section 313(a)(9) of the Act, as added by the House amendment.

Conference substitute

The conference substitute is the same as the House amendment and the Senate bill.

ADVISORY OPINIONS

Senate bill

No provision.

House amendment

Section 108(a) amended section 312 of the Act, as so redesignated by section 105 of the House amendment, by rewriting subsection (a).

Subsection (a) provides that the Commission shall render a written advisory opinion upon the written request of any individual holding a Federal office, any candidate for Federal office, any political committee, or any national committee of a political party. Any such advisory opinion must be rendered within a reasonable time after the request is made and shall indicate whether a specific transaction or activity would constitute a violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954. Subsection (a) prohibits the Commission or any of its employees from issuing any advisory opinion except in accordance with the provisions of section 312.

Section 108(b) amended section 312 of the Act, as so redesignated by section 105, by rewriting subsection (b). Subsection (b)(1) provides that any person who relies on an advisory opinion and who acts in good faith in accordance with the advisory opinion may not be penalized under the Act or under chapter 95 or chapter 96 of the Internal Revenue Code of 1954 as the result of any such action.

Subsection (b)(2) provides that an advisory opinion may be relied upon by (1) any person involved in the transaction or activity with respect to which the advisory opinion is rendered; and (2) any person involved in any similar transaction or activity.

The Commission is required to transmit to the Congress proposed rules and regulations based on an advisory opinion of general applicability if the transaction or activity involved is not already covered by any rule or regulation of the Commission. Any rule or regulation which the Commission proposes under subsection (b) is subject to the congressional review procedures of section 315(c) of the Act.

Section 108(c) made a conforming amendment to section 315(c)(1) of the Act.

Section 108(d) provided that the amendments made by section 108 apply to any advisory opinion rendered by the Commission after October 15, 1974.

Conference substitute

The conference substitute is the same as the House amendment, except as follows:

1. The conference substitute provides that an advisory opinion shall relate to the application of a general rule of law which is stated in the Act or chapter 95 or 96 of the Internal Revenue Code of 1954, or which already has been prescribed as a rule or regulation, to a specific fact situation.

2. The conference substitute provides that general rules of law may be initially proposed by the Commission only as rules and regulations subject to congressional review and disapproval and not through the advisory opinion procedure.

3. Thus, under the conference substitute, if the request for an advisory opinion does not state a specific fact situation and if such request would necessarily require the Commission to state a general rule of law which is not set forth in a prescribed rule or regulation, the Commission could not issue the opinion requested.

4. While the rules just stated govern all opinions of an advisory nature, these provisions do not preclude the distribution by the Commission of other information consistent with the Act.

5. The conference substitute provides that a person involved in a transaction or activity other than a transaction or activity with re-

spect to which an advisory opinion has been rendered may rely upon such advisory opinion only if the transaction or activity in which such person is involved is indistinguishable in all its material aspects from the transaction or activity with respect to which the advisory opinion was rendered.

6. The provision of the House amendment which required the Commission to submit advisory opinions of general applicability to the Congress as proposed rules and regulations is not included in the conference substitute.

7. The provision of the House amendment which made the amendments applicable to any advisory opinion rendered after October 15, 1974, is not included in the conference substitute. Section 101(g)(3) of the conference substitute requires that advisory opinions in effect on the date of the enactment of the conference substitute must be conformed to amendments made by the conference substitute. (See the discussion of section 101(g)(3) of the conference substitute in this statement.)

8. The conference substitute provides that the Commission shall, no later than 90 days after the date of the enactment of the conference substitute, conform advisory opinions in effect before such effective date to the requirements established by the amendments made by the conference substitute. The provisions of section 312(b) of the Act, as added by the conference substitute, relating to good faith reliance upon advisory opinions, will apply to advisory opinions in effect before the date of the enactment of the conference substitute after such advisory opinions have been conformed in accordance with the requirements of the conference substitute.

Enforcement

Senate bill

Section 107 of the Senate bill amended the enforcement provisions of section 313 of the Act (2 U.S.C. 437g). Under the amendments made by section 107 of the Senate bill the Commission can investigate a complaint only if the complaint is signed and sworn to by the person filing the complaint and the complaint is notarized. The Commission may not conduct any investigation solely on the basis of an anonymous complaint. The Commission must conduct all investigations expeditiously and afford the person who receives notice of the investigation a reasonable opportunity to show that no action should be taken against such person by the Commission.

If, after investigation, the Commission determines that there is reason to believe a violation of the Act or of the public financing provisions of the Internal Revenue Code of 1954 has been committed, or is about to be committed, it is required to make every endeavor to correct or prevent the violation by informal methods prior to instituting any civil action.

If the Commission enters into a conciliation agreement with a person, it is prohibited from bringing a civil action or recommending prosecution to the Justice Department with respect to that violation as long as the conciliation agreement is not violated. If the Commission is unable to correct the violation informally, it is authorized to bring a civil action. The Commission may refer a violation directly to the

Attorney General without going through the voluntary compliance procedure if it determines there is probable cause to believe that a knowing and willful violation involving the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more in any calendar year has occurred or that a knowing and willful violation of the public financing provisions of the Internal Revenue Code has occurred.

The Commission is authorized, as part of a conciliation agreement, to require that a person pay a civil penalty of $10,000 or 3 times the amount involved, whichever is greater, when it believes there is clear and convincing proof that a knowing and willful violation has occurred. The Commission is further authorized to require the payment of a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of the contribution or expenditure involved if it believes a violation has been committed.

The Commission is required to make public the results of any conciliation attempt as well as the provisions of any conciliation agreement.

In any civil action brought by the Commission where the Commission establishes through clear and convincing proof that the person involved in the action committed a knowing and willful violation of law, the court is authorized to impose a civil penalty of $10,000 or 3 times the amount of the contribution or expenditure involved, whichever is greater. The court is also authorized to impose a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved where the violation is not a knowing and willful violation. The Commission may institute a civil action if it believes there has been a violation of any provision of a conciliation agreement.

A person aggrieved by the Commission's dismissal of his complaint, or by the Commission's failure to act on the complaint within 90 days after it was filed, may petition the United States District Court for the District of Columbia for relief. The petition must be filed with the court within 60 days after the dismissal of the complaint or within 60 days after the end of the 90-day period during which no action was taken. The court may direct the Commission to proceed on the complaint within 30 days after the court's decision. If the Commission fails to take action within that period, the complainant may bring an action to remedy the violation complained of.

House amendment

Section 109 of the House amendment amended title III of the Act by rewriting section 313, as so redesignated by section 105 of the House amendment.

Section 313(a)(1) permits any person who believes that the Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been violated to file a written complaint with the Commission. The complaint must be notarized and signed and sworn to by the person filing the complaint. The person shall be subject to the provisions of section 1001 of title 18, United States Code (relating to false or fraudulent statements).

The Commission is prohibited from conducting any investigation, or taking any other action, solely on the basis of an anonymous complaint.

Subsection (a)(2) provides that, if the Commission has reasonable cause to believe that a person has violated the Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission is required to notify the person and to conduct an investigation of the violation.

Subsection (a)(3) requires the Commission to conduct any investigation expeditiously and to include in the investigation an additional investigation of any reports and statements filed with the Commission by the complainant involved, if the complainant is a candidate for Federal office. Subsection (a)(3) prohibits the Commission and any person from making public any investigation or any notification made under subsection (a)(2) without the written consent of the person receiving the notification or the person under investigation.

Subsection (a)(4) requires the Commission, upon request, to permit any person who receives notification under subsection (a)(2) to demonstrate that the Commission should not take any action against such person under the Act.

Subsection (a)(5) requires the Commission to seek to correct or prevent any violation of the Act by informal methods of conference, conciliation, and persuasion during the 30-day period after the Commission determines there is reasonable cause to believe that a violation has occurred or is about to occur. The Commission also is required to seek to enter into a conciliation agreement with the person involved in such violation. If, however, the Commission has reasonable cause to believe that—

(1) a person has failed to file a report required under section 304(a)(1)(C) of the Act for the calendar quarter ending immediately before the date of a general election;

(2) a person has failed to file a report required to be filed no later than 10 days before an election; or

(3) on the basis of a complaint filed less than 45 days but more than 10 days before an election, a person has committed a knowing and willful violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall seek to informally correct the violation and to enter into a conciliation agreement with the person involved for a period of not less than one-half the number of days between the date upon which the Commission determines that there is reasonable cause to believe a violation has occurred and the date of the election involved.

Any conciliation agreement entered into by the Commission and a person involved in a violation shall constitute a complete bar to any further action by the Commission, unless the person involved violates the conciliation agreement.

Subsection (a)(5) also provides that the Commission may institute a civil action for relief if the Commission is unable to correct or prevent a violation by informal methods and if the Commission determines there is probable cause to believe that the violation has occurred or is about to occur. The relief sought in any civil action may include a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in the violation. The civil action may be

brought in the district court of the United States for the district in which the person against whom the action is brought is found, resides, or transacts business.

The court involved shall grant the relief sought by the Commission in a civil action brought by the Commission upon a proper showing that the person involved has engaged or is about to engage in a violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Subsection (a)(5) also permits the Commission to refer an apparent violation to the Attorney General of the United States if the Commission determines that there is probable cause to believe that a knowing and willful violation subject to and as defined in section 328 of the Act has occurred or is about to occur. In order for such a referral to be made, the violation or violations must involve the making, receiving, or reporting of any contribution or expenditure having a value, in the aggregate, of $1,000 or more during a calendar year. The Commission is not required to engage in any informal conciliation efforts before making any such referral.

Subsection (a)(6) permits the Commission to include a civil penalty in a conciliation agreement if the Commission believes that there is clear and convincing proof that a knowing and willful violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred. The civil penalty may not exceed the greater of (1) $10,000; or (2) an amount equal to 200 percent of the amount of any contribution or expenditure involved in the violation. If the Commission believes that a violation has occurred which is not a knowing and willful violation, the conciliation agreement may require the person involved to pay a civil penalty which does not exceed the greater of (1) $5,000; or (2) an amount equal to the amount of the contribution or expenditure involved in the violation.

Subsection (a)(6) also requires the Commission to make available to the public (1) the results of any conciliation efforts made by the Commission, including any conciliation agreement entered into by the Commission; and (2) any determination by the Commission that a person has not committed a violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Subsection (a)(7) permits a court to impose a civil penalty greater than that permitted by subsection (a)(5) in any civil action for relief brought by the Commission if the court determines that there is clear and convincing proof that a person has committed a knowing and willful violation of the Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954. The civil penalty may not exceed the greater of (1) $10,000; or (2) an amount equal to 200 percent of the contribution or expenditure involved in the violation.

In any case in which a person against whom the court imposes a civil penalty has entered into a conciliation agreement with the Commission, the Commission may bring a civil action if it believes that the person has violated the conciliation agreement. The Commission may obtain relief if it establishes that the person has violated, in whole or in part, any requirement of the conciliation agreement.

Subsection (a)(8) provides that subpenas for witnesses in civil actions in any United States district court may run into any other district.

Subsection (a)(9) permits any party to file a petition with the United States District Court for the District of Columbia if the party is aggrieved by an order of the Commission dismissing a complaint filed by the party or by a failure on the part of the Commission to act on the complaint within 90 days after the complaint is filed. The petition must be filed (1) in the case of a dismissal by the Commission, no later than 60 days after the dismissal; or (2) in the case of a failure on the part of the Commission to act on the complaint, no later than 60 days after the initial 90-day period.

The court may declare that the dismissal or failure to act is contrary to law and may direct the Commission to take any action consistent with the declaration no later than 30 days after the court makes the declaration. If the Commission fails to act during the 30-day period, the party who filed the original complaint may bring in his own name a civil action to remedy the violation involved.

Subsection (a)(10) provides that any judgment of a district court may be appealed to the court of appeals. Any judgment of a court of appeals which affirms or sets aside, in whole or in part, any order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

Subsection (a)(11) provides that any action brought under subsection (a) shall be advanced on the docket of the court involved and put ahead of all other actions, other than actions brought under subsection (a) or under section 314.

Subsection (a)(12) permits the Commission to petition a court for an order to adjudicate a person in civil contempt if the Commission determines after an investigation that the person has violated an order of the court entered in a proceeding brought under subsection (a)(5). If the Commission believes that the violation is a knowing and willful violation, the Commission may petition the court for an order to adjudicate the person in criminal contempt.

Section 313(b) requires the Attorney General to report to the Commission regarding apparent violations referred to the Attorney General by the Commission. The reports must be transmitted to the Commission no later than 60 days after the date of the referral, and at the close of every 30-day period thereafter until there is final disposition. The Commission may from time to time prepare and publish reports relating to the status of such referrals.

Section 313(c) imposes a penalty against any member of the Commission, any employee of the Commission, or any other person who reveals the identity of any person under investigation in violation of section 313(a)(3)(B). Any such member, employee, or other person is subject to a fine of not more than $2,000 for any such violation. If the violation is knowing and willful the maximum fine is $5,000.

Conference substitute

The conference substitute is the same as the House amendment, except as follows:

1. The conference substitute provides that the Commission may investigate a violation only if it receives a properly verified complaint and it has reason to believe a violation has occurred, or if the Commission, based on information obtained in the normal course of carry-

ing out its duties under the Act, has reason to believe a violation has occurred. The conferees agree that any person, including a member or employee of the Commission, may file a verified complaint, and agree also that the Commission may not react solely to an anonymous source for the purpose of instituting an investigation of an alleged violation of the Act or of chapter 95 or 96 of the Internal Revenue Code of 1954.

2. The conference substitute follows the Senate bill with respect to affording a person against whom a complaint has been made an opportunity to show that no action should be taken.

3. The conferees agree that if the Commission reaches an agreement with any person regarding an alleged violation, such agreement should be made available to the public immediately so that the 30-day conciliation period, otherwise required by the Act, is immediately terminated.

4. The conference substitute makes the referral procedures for knowing and willful violations applicable to violations of chapters 95 and 96 of the Internal Revenue Code of 1954.

5. The conferees agree that a conciliation agreement shall be a complete bar to any further action by the Commission only with respect to any violation which is a subject of the conciliation agreement.

6. The conferees' intent is that a violation within the meaning of section 313(c) occurs when publicity is given to a pending investigation, but does not occur when actions taken in carrying out an investigation lead to public awareness of the investigation.

Conversion of Contributions to Personal Use

Senate bill

Section 107A of the Senate bill amended section 317 of the Act to provide that excess contributions received by a candidate, and amounts contributed to an individual to support his activities as a Federal office holder, which, under existing law, may be used for certain purposes, may not be converted to any personal use.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the House amendment, resulting in no change in existing law.

Duties of Commission

Senate bill

Section 108(a) of the Senate bill amended section 315(a)(6) of the Act to require the Commission to maintain a separate cumulative index of multicandidate political committee reports and statements to enable the public to determine which political committees are qualified to make $5,000 contributions to candidates or their authorized committees.

Section 108(b) amended present law to provide for a 15-legislative-day or 30-calendar-day period, whichever is later, during which a proposed rule or regulation must be disapproved, as set forth in 2 U.S.C. 438(c)(2).

House amendment

Section 110(a)(1) amended section 315(a)(6) of the Act, as so redesignated by section 105 of the House amendment, to require the Commission to compile and maintain a separate cumulative index of reports and statements filed by the political committees supporting more than one candidate. The index must include a listing of the date of registration of such political committees and the date upon which such political committees qualify to make expenditures under section 320(a)(2) of the Act. The Commission was required to revise the index on the same basis and at the same time as other cumulative indices required under section 315(a)(6).

Section 110(a)(2) amended section 315(a)(8) of the Act to require the Commission to give priority to auditing and conducting field investigations requiring the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Section 110(b) amended section 315(c)(2) of the Act to provide that the Congress may disapprove proposed rules and regulations of the Commission in whole or in part. The amendment also provided that, whenever a committee of the House of Representatives reports any resolution relating to a proposed rule or regulation of the Commission, it is in order at any time (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Although the motion to proceed to the consideration of the resolution is not debatable, debate may be conducted with respect to the contents of the resolution.

Section 110(c) amended section 315 of the Act by adding a new subsection (e). Subsection (e) provides that, in any civil or criminal proceeding to enforce the Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, no rule, regulation, guideline, advisory opinion, opinion of counsel, or any other pronouncement by the Commission or by any member, officer, or employee of the Commission may be used against the person against whom the proceeding is brought. No such rule, regulation, guideline, advisory opinion, opinion of counsel, or other pronouncement (1) shall have the force of law; (2) may be used to create any presumption of violation or of criminal intent; (3) shall be admissible in evidence against the person involved; or (4) may be used in any other manner. The provisions of subsection (e) do not apply to any rule or regulation of the Commission which takes effect under section 315(c).

Conference substitute

The conference substitute is the same as the House amendment, except as follows:

1. The conference substitute provides that, for purposes of reviewing regulations proposed by the Commission, the Congress may disapprove any provision or series of interrelated provisions which states a single separable rule of law.

The conferees agree that this provision does not give the Congress the power to revise proposed regulations by disapproving a particular

word, phrase, or sentence, but only gives each House of the Congress the power to determine which proposed regulations of the Commission constitute distinct regulations which can only be disapproved in whole. This provision is intended to permit disapproval of discrete self-contained sections or subdivisions of proposed regulations and is not intended to permit the rewriting of regulations by piecemeal changes.

2. The conference substitute does not include the provision in the House amendment which makes rules, regulations, guidelines, advisory opinions, opinions of counsel, and other Commission pronouncements inapplicable in any civil or criminal proceeding, thereby resulting in no change in existing law.

Additional Enforcement Authority

Senate bill

Section 109 of the Senate bill repealed section 407 of the Act, relating to additional enforcement authority.

House amendment

Section 111 amended section 407(a) of the Act to establish conciliation procedures regarding the enforcement of section 407. The amendment provided that, if a candidate for Federal office fails to file a report required by title III of the Act, the Commission shall (1) make every effort for a period of not less than 30 days to correct the failure by informal methods of conference, conciliation, and persuasion; or (2) in the case of any failure to file which occurs less than 45 days before the date of an election, make every effort to correct the failure by informal methods for a period of not less than one-half the number of days between the date of the failure and the date of the election.

Conference substitute

The conference substitute is the same as the Senate bill.

Mass Mailings as Franked Mail

Senate bill

Section 110 of the Senate bill amended section 318 of the Act, as redesignated by section 105 of the Senate bill, to provide that Members of the Congress are prohibited from mailing as franked mail any general mass mailing less than 60 days before an election. The term "general mass mailing" was defined to mean newsletters and similar mailings of more than 500 pieces with similar content mailed at the same time or different times.

Section 501 of the Senate bill amended section 3210(a)(5)(D) of title 39, United States Code, to change the 28-day provision relating to franked mass mailings before an election to 60 days.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the House amendment, resulting in no change in existing law.

CONTRIBUTION AND EXPENDITURE LIMITATIONS; OTHER PROHIBITIONS; PENALTIES

A. LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

Senate bill

Section 110 of the Senate bill added a new section 320 to the Act relating to limitations on contributions and expenditures. The text of this section is substantially similar to the provisions presently contained in section 608 of title 18, United States Code, which is transferred to the Act by this section, with some changes in the law to provide additional limitations on certain contributions by persons and by political committees.

(1) A person (as defined in the Act), including a political committee which does not qualify for the $5,000 contribution limit as a multicandidate political committee, may not contribute more than $1,000 per election to any candidate for Federal office. As under present law, earmarked contributions, and contributions made to a candidate's authorized political committees, are considered to be contributions to that candidate rather than contributions to that committee. A person also may not make contributions to any political committee established and maintained by a political party, which is not the authorized political committee of any candidate, which in the aggregate exceed $25,000 in a calendar year. A person is further prohibited from making contributions to any other political committee which in the aggregate exceed $5,000 in a calendar year.

(2) A political committee which has been registered as such for at least 6 months, which has received contributions from more than 50 persons, and which has made contributions to 5 or more candidates for Federal office, defined as a "multicandidate political committee", may contribute a total of $5,000 to a Federal candidate and his authorized political committee in any election campaign. A multicandidate political committee may not make contributions to any political committee established and maintained by a political party, which is not the authorized committee of any candidate, which in the aggregate exceed $25,000 in a calendar year. A multicandidate political committee is further prohibited from making contributions to any other political committee which in the aggregate exceed $10,000 in a calendar year. (The above limitations on contributions by multicandidate political committees do not apply to transfers between and among political committees which are national, State, district, or local committees of the same political party.)

(3) The section contains a provision establishing a rule which treats, for purposes of the foregoing limitations, as a single political committee, all political committees which are established, financed, maintained, or controlled by a single person or group of persons. This rule, however, does not apply to transfers of funds between political committees raised in joint fundraising efforts. It would also not apply so that contributions made by a political party through a single national committee and contributions by that party through a single State committee in each State are treated as having been made by a single political committee. The above rule, which is intended to curtail the

vertical proliferation of political committee contributions, would not preclude, however, a political committee of a national organization from contributing to a candidate or committee merely because of its affiliation with a national multicandidate political committee which has made the maximum contribution it is permitted to make to a candidate or a committee.

(4) As in existing law, an individual may not make contributions totaling more than $25,000 during any calendar year.

(5) This section also establishes rules for determining when a contribution made to a political committee is considered to be a contribution to a candidate, and when certain expenditures shall be considered to be contributions to a candidate, and subject to the limitations of the Act.

(6) The remaining provisions of this section transfer into the Act those provisions of 18 U.S.C. 608 which imposed expenditure limitations on presidential candidates, conditioning their application, in accordance with the Supreme Court's decision in *Buckley* v. *Valeo*, upon the acceptance of public financing. The expenditure limitations on national and State committees of political parties in 18 U.S.C 608(f) are also transferred into the Act.

(7) A final provision in new section 320 of the Act permits the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees, notwithstanding any other provision of the Act, to contribute amounts totaling not more than $20,000 to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate.

House amendment

Section 112(a) amended title III of the Act by striking out section 320, as so redesignated by section 105 of the House amendment, and by adding new sections 320 through 328.

Section 320(a)(1) prohibits any person from making contributions (1) to any candidate in connection with any election for Federal office which, in the aggregate, exceed $1,000; or (2) to any political committee in any calendar year which exceed, in the aggregate, $1,000.

Subsection (a)(2) prohibits any political committee (other than a principal campaign committee) from making contributions to (1) any candidate in connection with any election for Federal office which, in the aggregate, exceed $5,000; or (2) any political committee in any calendar year which, in the aggregate, exceed $5,000. Contributions by the national committee of a political party serving as the principal campaign committee of a presidential candidate may not exceed the limitation described in the preceding sentence with respect to any other candidate for Federal office.

The term "political committee" was defined to mean an organization which (1) is registered as a political committee under section 303 of the Act for a period of not less than 6 months; (2) has received contributions from more than 50 persons; and (3) except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

Subsection (a) (2) also provides that, for purposes of the limitations provided by subsection (a) (1) and subsection (a) (2), all contributions made by political committees which are established, financed, maintained, or controlled by any corporation, labor organization, or any other person (including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person), or by any group of such persons, shall be considered to have been made by a single political committee, except that (1) the amendment made by the House amendment does not limit transfers between political committees of funds raised through joint fundraising efforts; and (2) for purposes of the limitations provided by subsection (a) (1) and subsection (a) (2), all contributions made by a single political committee which is established, financed, maintained, or controlled by a national committee of a political party and by a single political committee established, financed, maintained, or controlled by the State committee of a political party, shall not be considered to have been made by a single political committee.

Subsection (a) (2) also provides that, in any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish, finance, maintain, or control more than one separate segregated fund, all such funds shall be treated as a single separate segregated fund for purposes of the limitations provided by subsection (a) (1) and subsection (a) (2).

Subsection (a) (3) prohibits any individual from making contributions which, in the aggregate, exceed $25,000 in any calendar year. Any contribution which is made to a candidate in a year other than the calendar year in which the election involved is held, is considered to be made during the calendar year in which the election is held.

Subsection (a) (4) provides that (1) any contribution to a named candidate which is made to any political committee authorized by the candidate to accept contributions on behalf of the candidate shall be considered to be contributions made to the candidate; (2) any expenditure which is made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate or any authorized political committee or agent of the candidate shall be considered to be a contribution to the candidate; (3) any expenditure to finance publication of any campaign broadcast or any other campaign materials prepared by a candidate or any authorized political committee or agency of the candidate shall be considered to be a contribution to that candidate; and (4) contributions made to a vice presidential nominee shall be considered to be contributions to the presidential nominee of the party involved.

Subsection (a) (5) provides that the contribution limitations established by subsection (a) (1) and subsection (a) (2) shall apply separately to each election, except that all elections in any calendar year for the office of President (except a general election for such office) shall be considered to be one election.

Subsection (a) (6) provides that all contributions made by a person on behalf of a particular candidate, including contributions which are earmarked or directed through an intermediary or conduit to such

candidate, shall be treated as contributions from the person involved to the candidate. The intermediary or conduit is required to report the original source of the contribution and the intended recipient of the contribution to the Commission and to report the original source of the contribution to the intended recipient. This provision is identical to existing law.

Section 320(b)(1) prohibits any candidate for the office of President who has established his eligibility to receive payments under section 9003 of the Internal Revenue Code of 1954 or under section 9033 of the Internal Revenue Code of 1954 from making expenditures in excess of (1) $10,000,000, in the case of a campaign for nomination for election to the office of President; or (2) $20,000,000 in the case of a campaign for election to the office of President. In the case of campaigns for nomination, the aggregate of expenditures in any one State may not exceed twice the greater of (1) 8 cents multiplied by the voting age population of the State; or (2) $100,000.

Subsection (b)(2) provides that (1) expenditures made by a vice-presidential nominee shall be considered to be expenditures made by the presidential nominee of the same political party; and (2) an expenditure is made on behalf of a candidate if it is made by (A) a committee or agent of the candidate authorized to make expenditures; or (B) any person authorized or requested by the candidate or an authorized committee or agent of the candidate to make the expenditure involved.

Section 320(c)(1) provides that, at the beginning of each calendar year (beginning in 1976), as there become available necessary data from the Bureau of Labor Statistics, the Secretary of Labor shall certify to the Commission the percentage difference between the price index from the 12-month period preceding the calendar year and the price index for the base period. The term "price index" is defined to mean the average over a calendar year of the Consumer Price Index (all items—United States city average), and the term "base period" is defined to mean the calendar year 1974. Each limitation established by section 320(b) and section 320(d) shall be increased by such percentage difference.

Section 320(d)(1) provides that the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office.

Subsection (d)(2) provides that the national committee of a political party may not make expenditures in connection with the general election campaign of a candidate for the office of President which exceed an amount equal to 2 cents multiplied by the voting age population of the United States. Any expenditures under subsection (d)(2) are considered as an addition to expenditures by a national committee of a political party which is serving as the principal campaign committee of a candidate for the office of President.

Subsection (d)(3) provides that the national committee of a political party and that the State committee of a political party, including any subordinate committee of a State committee, may each make expenditures in connection with the general election campaign of a candi-

date for Federal office in any State which do not exceed (1) in the case of candidates for election to the office of Senator (or of Representative from a State which is entitled to only one Representative), the greater of (A) 2 cents multiplied by the voting age population of the State; or (B) $20,000; and (2) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

Section 320(e) requires the Secretary of Commerce, during the first week of January 1975, and each subsequent year, to certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district, as of the first day of July next preceding the date of certification. The term "voting age population" was defined to mean resident population, 18 years of age or older.

Section 320(f) prohibits candidates and political committees from knowingly accepting any contribution or knowingly making any expenditure in violation of section 320. Subsection (f) also prohibits any officer or employee of a political committee from knowingly accepting a contribution made to a candidate, or knowingly making an expenditure on behalf of a candidate in violation of section 320.

Section 320(g) requires the Commission to prescribe rules under which expenditures by a candidate for presidential nomination for use in 2 or more States shall be attributed to the expenditure limits of such candidate in each State involved. The attribution shall be based on the voting age population in each State which can reasonably be expected to be influenced by the expenditure.

Conference substitute

The conference substitute is the same as the Senate bill with regard to limitations on contributions by any person and by any multicandidate political committee, except as follows:

1. Each person may contribute not more than $20,000 in a calendar year to the political committees established and maintained by a national political party and which are not authorized political committees of candidates.

2. A multicandidate political committee may contribute only $15,000 in a calendar year to the political committees established and maintained by a national political party (other than authorized candidates' committees) and $5,000 in a calendar year to any other political committee.

The conferees' decision to impose more precisely defined limitations on the amount an individual may contribute to a political committee, other than a candidate's committees, and to impose new limits on the amount a person or a multicandidate committee may contribute to a political committee, other than candidates' committees, is predicated on the following considerations: first, these limits restrict the opportunity to circumvent the $1,000 and $5,000 limits on contributions to a candidate; second, these limits serve to assure that candidates' reports reveal the root source of the contributions the candidate has received; and third, these limitations minimize the adverse impact on the statutory scheme caused by political committees that appear to be separate entities pursuing their own ends, but are actually a means for advanc-

ing a candidate's campaign. The conferees also determined that it is appropriate to set a higher limit on contributions from persons to political committees of national political parties in order to allow the political parties to fulfill their unique role in the political process. In this connection, the term "political committee established or maintained by a national political party" includes the Senate and House Campaign Committees.

The conferees also agree that the same limitations on contributions that apply to a candidate shall also apply to a committee making expenditures solely on behalf of such candidate.

The conference substitute is the same as the provision of the House amendment which states that segregated funds established or controlled by a corporation and its subsidiaries or by a labor organization and its local organizations are considered to be one segregated fund.

The anti-proliferation rules established by the conference substitute are intended to prevent corporations, labor organizations, or other persons or groups of persons from evading the contribution limits of the conference substitute. Such rules are described as follows:

1. All of the political committees set up by a single corporation and its subsidiaries are treated as a single political committee.

2. All of the political committees set up by a single international union and its local unions are treated as a single political committee.

3. All of the political committees set up by the AFL–CIO and all its State and local central bodies are treated as a single political committee.

4. All the political committees established by the Chamber of Commerce and its State and local Chambers are treated as a single political committee.

5. The anti-proliferation rules stated also apply in the case of multiple committees established by a group of persons.

These anti-proliferation rules, however, permit political committees which solicit contributions in their joint names, and on the understanding that the money collected through that joint fundraising effort will be divided among the participating committees, to make such a division. In adddition, for the purpose of these rules, contributions to a candidate or to a political committee by the political committees of a national committee of a political party or by the political committees of a State committee of a political party are treated separately and are not regarded as contributions by one committee.

The conference substitute provides that the limitations on contributions under section 320 do not limit transfer of funds between the principal campaign committee of a candidate for nomination or election to a Federal office and the principal campaign committee of the same candidate for nomination or election to another Federal office if the transfer is not made when the candidate is actively seeking nomination or election to both such offices, the transfer would not result in a violation, for any person who has contributed to both such committees, of the limitations on contributions by a person to such a principal campaign committee, and the candidate has not accepted any public campaign financing funds.

The conference substitute is the same as the House amendment with regard to applying contribution limitations to each separate election.

The conference substitute is the same as the House amendment and the Senate bill with regard to an overall limitation of $25,000 on contributions by an individual in a calendar year and with regard to defining "contribution".

This definition distinguishes between independent expressions of an individual's views and the use of an individual's resources to aid a candidate in a manner indistinguishable in substance from the direct payment of cash to a candidate.

The conference substitute is the same as the House amendment and the Senate bill with regard to contributions made through intermediaries.

The conference substitute is the same as the House amendment and the Senate bill regarding limitations on expenditures by a candidate who is eligible to receive public campaign financing funds, except that the conference substitute uses the language of the Senate bill with regard to the eligibility requirement.

The conference substitute is the same as the House amendment and the Senate bill with regard to political party expenditures on behalf of the party's candidates. This limited permission allows the political parties to make contributions in kind by spending money for certain functions to aid the individual candidates who represent the party during the election process. Thus, but for this subsection, these expenditures would be covered by the contribution limitations stated in subsections (a) (1) and (a) (2) of this provision.

The conference substitute is the same as the Senate bill with regard to contributions by the Republican or Democratic senatorial campaign committee, except that the amount of such contributions is limited to $17,500 per candidate.

It is the conferees' intent that the additional calendar year contribution limitations imposed by section 320 of the Act shall apply in the first instance to the period beginning on the date of the enactment of the conference substitute and extending through December 31, 1976. Thereafter, of course, the term "calendar year" will be accorded its normal meaning.

B. CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

Senate bill

Section 610 of title 18, United States Code, prohibiting contributions by corporations and labor organizations, was transferred by the Senate bill from title 18 to the Act as new section 321 of the Act. The following changes from existing law are noted:

(1) The penalty provisions are removed from the section and replaced by a general penalty provision contained in a new section 328 of the Act which includes a separate provision making it a felony to violate the anticoercion provisions of this section. Violations of this section would also be subject to the civil enforcement powers of the Commission and the courts under the Senate bill.

(2) Corporations are prohibited from soliciting contributions from persons who are not stockholders, executive or administrative personnel, or the families of such persons, and labor organizations are pro-

hibited from soliciting contributions from persons other than members of the organization and their families. The term "executive or administrative personnel" is defined as individuals who are paid by salary rather than on an hourly basis, and who have policymaking or supervisory responsibilities. The term "stockholder" is defined to include any individual who has a legal, vested, or beneficial interest in stock, including, but not limited to, employees of a corporation who participate in a stock bonus, stock option, or employee stock ownership plan.

(3) Corporations, labor organizations, or separate segregated funds of such corporation or labor organization may in addition to (2) above, make 2 written solicitations for contributions during a calendar year from any stockholder, officer, or employee of a corporation or the families of such persons. Such solicitations may be made only by mail to such person's residence and designed so that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution as a result of such solicitation and who does not.

(4) A membership organization, cooperative, or corporation without capital stock or a separate segregated fund established by such organizations may solicit contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

(5) Any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund permitted to corporations shall also be permitted to labor organizations.

(6) A corporation which uses any particular method for soliciting or facilitating the making of voluntary contributions to a separate segregated fund is required to make that method available to a labor organization representing employees of that corporation upon written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby.

House amendment

Section 321(a) of the Act, as added by the House amendment, makes it unlawful for any national bank or any Federal corporation to make any contribution or expenditure in connection with (1) any election to any political office; or (2) any primary election or political convention or caucus held to select candidates for any political office. Subsection (a) also prohibits any corporation or labor organization from making a contribution or expenditure in connection with (1) any general election for Federal office; or (2) any primary election or political convention or caucus held to select candidates for any Federal office.

Subsection (a) also prohibits any candidate, political committee, or other person from knowingly accepting or receiving any contribution which is prohibited by section 321. It is also unlawful for any officer or director of a corporation or national bank, or any officer of a labor organization, to consent to any contribution or expenditure which is prohibited by section 321.

Section 321(b)(1) defines the term "labor organization" to mean any organization or any agency or employee representation committee or plan in which employees participate and which exists for the purpose of dealing with employers regarding grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

Subsection (b) (2) defines the term "contribution or expenditure" to include any payment or other distribution of money, services, or anything of value (except a lawful loan by a national or State bank in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any Federal office.

Such term, however, does not include—

(1) communications on any subject by a corporation to its stockholders and executive officers and their families, or by a labor organization to its members and their families;

(2) nonpartisan registration and voting campaigns conducted by a corporation with respect to its stockholders and its executive officers and their families, or by a labor organization with respect to its members and their families; and

(3) the establishment, administration, and solicitation of contributions to a separate segregated fund to be used for political purposes by a corporation or labor organization, except that—

(A) it is unlawful for such a fund to make a contribution or expenditure through the use of money or anything of value secured by (i) physical force; (ii) job discrimination; (iii) financial reprisal; (iv) the threat of force, job discrimination, or financial reprisals; (v) dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment; or (vi) moneys obtained in any commercial transaction;

(B) it is unlawful for a corporation or a separate segregated fund established by a corporation to solicit contributions from any person other than stockholders and executive officers of such corporation and their families, for an incorporated trade association or a separate segregated fund established by such an association to solicit contributions from any person other than the stockholders and executive officers of the member corporations of such trade association and the families of stockholders and executive officers (to the extent that any such solicitation has been separately and specifically approved by the member corporation involved, and such member corporation has not approved any such solicitation by more than one such trade association in any calendar year), or for a labor organization or a separate segregated fund established by a labor organization to solicit contributions from any person other than the members of the labor organization and their families;

(C) any method of soliciting voluntary contributions, or of facilitating the making of voluntary contributions, to a separate segregated fund established by a corporation which may be used by a corporation also may be used by labor organizations; and

(D) a corporation which uses a method of soliciting voluntary contributions or facilitating the making of voluntary contributions shall make such method available to a labor organization representing any members who work for the corporation, upon written request by the labor organization.

The House amendment was intended to acknowledge the use by corporations of various methods, such as check-off systems, to solicit voluntary contributions or to facilitate the making of such contributions to separate segregated political funds. If a corporation uses such a method, the House amendment extended the same right to labor organizations. The House amendment, however, also would permit a corporation to allow a labor organization to use a method even though the corporation has chosen not to use such method. The House amendment also intended to authorize such methods notwithstanding any other provision of law.

In any instance in which a corporation uses a method (such as the use of computer data) to solicit voluntary contributions or to facilitate the making of contributions to separate segregated political funds, the House amendment also was intended to require that the corporation make such method available to a labor organization if the labor organization represents members who work for the corporation, and the labor organization makes a written request for the use of the method involved. The labor organization would be required to reimburse the corporation for any expense incurred in connection with the use of the method by the labor organization.

Subsection (b)(3) defines the term "executive officer" to mean an individual employed by a corporation who is paid on a salary rather than an hourly basis and who has policymaking or supervisory responsibilities.

Conference substitute

The conference substitute is the same as the House amendment, except as follows:

1. The conference substitute follows the Senate bill in applying the definition of the term "contribution or expenditure" contained in section 321 to section 791(h) of the Public Utility Holding Company Act.

2. The conference substitute follows the Senate bill in using the term "executive or administrative personnel" throughout section 321 rather than "executive officer". The conference substitute defines that term to mean an employee who is paid on a salary, rather than hourly, basis and who has policymaking, managerial, professional, or supervisory responsibilities. The term "executive or administrative personnel" is intended to include the individuals who run the corporation's business, such as officers, other executives, and plant, division, and section managers, as well as individuals following the recognized professions, such as lawyers and engineers, who have not chosen to separate themselves from management by choosing a bargaining representative; but is not intended to include professionals who are members of a labor organization, or foremen who have direct supervision over hourly employees, or other lower level supervisors such as "strawbosses".

3. The conference substitute follows the Senate bill in requiring that when a corporation solicits its executive and administrative personnel as permitted by subsection (b)(4)(B), for a contribution to a separate segregated fund, the employee being solicited must be informed at the time of the solicitation of the political purposes of the fund and that he may refuse to contribute.

4. The conference substitute follows the Senate bill in permitting under certain circumstances written solicitations by corporations and labor organizations of stockholders, executive or administrative personnel, members of labor organizations, and other employees (and their families) of a corporation. It is the conferees' intent that in order to assure the ananymity of those who do not wish to respond or who wish to respond with a small contribution the mail solicitations shall be conducted so that an independent third person, who acts as fiduciary for the separate segregated fund, receives the return envelopes, keeps the necessary records, and provides the fund only with information as to the identity of individuals who make a single contribution of over $50 or multiple contributions that aggregate more than $100. The conference substitute follows the House amendment with regard to the solicitation by a trade association of stockholders and executive or administrative personnel (and their families) of a member corporation of such trade association. The conference substitute contains the provision of the Senate bill permitting a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by such organizations, to solicit contributions to such a fund from members of such organization, cooperative, or corporation without capital stock. In light of the fact that subsection (b)(4)(D) governs solicitations by a trade association of the stockholders and executive or administrative personnel of a member corporation, the term "membership organization" in subsection (b)(4)(C) is not intended to include a trade association which is made up of corporations.

The conferees' intent is also noted with regard to the following additional points:

1. Subparagraphs (B) and (C) of section 301(f)(4), and subparagraphs (A) and (B) of section 321(b)(2), which were added to the law at different times, overlap in that both make exceptions to the term "expenditure" for internal communications and for nonpartisan registration and get-out-the-vote activity. The dual reference to internal communications is intended to permit corporations to write, or call, or address their stockholders and executive or administrative personnel and their families (and unions to reach their members and their families in the same ways), to communicate a partisan or nonpartisan political message, subject only to the reporting requirement added by the conference substitute and already discussed. (The conferees agree that section 301(f)(4)(C), as amended by the conference substitute, makes reporting requirements applicable to certain communications which are not expenditures under this section but which expressly advocate the election or defeat of a clearly identified candidate.) The conferees' intent with regard to the interrelationship between sections 301(f)(4)(B) and 321(b)(2)(B) which permit such activities as assisting eligible voters to register and to get to the polls, so long as these services are made available without regard to the voter's political preference, is the following: these provisions should be read together to permit corporations both to take part in nonpartisan registration and get-out-the-vote

activities that are not restricted to stockholders and executive or administrative personnel, if such activities are jointly sponsored by the corporation and an organization that does not endorse candidates and are conducted by that organization; and to permit corporations, on their own, to engage in such activities restricted to executive or administrative personnel and stockholders and their families. The same rule, of course, applies to labor organizations.

2. With regard to subparagraphs (B) and (C) of section 321 (b) (3), which provide certain protections to employees solicited by their employer, it is intended that the general rule inherent in the plan of the entire section—that unions insofar as they are employers, stand in the same shoes as corporations—shall apply. In addition, while the conference substitute permits corporations in connection with an overall solicitation of stockholders to solicit employee-stockholders, such a solicitation would, of course, have to be in conformity with the requirements of subparagraphs (B) and (C) of section 321(b) (3). The same rule, of course, applies to labor organizations in the solicitation of their members.

3. The conferees agree that subsections (b) (4) (B) and (b) (6), taken together, require a corporation to make available to the labor organization any method utilized by such corporation to make the written solicitation of employees and of stockholders who are not employees. However, if the corporation does not desire to relinquish or disclose to the labor organization the names and addresses of individuals to be solicited, it is the conferees' intent that an independent mailing service shall be retained to make the mailing for both the corporation and the labor organization. Finally, it is intended that in a situation in which there are several labor organizations, rather than one, with members at a single corporation, the unions as a group shall have no greater right to make solicitations than a single union would. It is the conferees' intent that corporations and labor organizations are entitled to utilize such method solely for a mail solicitation for contributions to their separate segregated fund and not for any other purpose.

4. Subsection (b) (5), as opposed to (b) (6), merely eliminates any legal impediment to the use by a labor organization of any method permitted by law to a corporation with regard to the solicitation of its stockholders and executive or administrative personnel, or with regard to facilitating the making of contributions by stockholders and executive and administrative personnel, and does not automatically make such methods available to unions.

5. The conference substitute does not define the term "stockholder". It is intended that in this regard the normal concepts of corporate law shall be controlling.

C. CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

Senate bill

The prohibitions against contributions by government contractors contained in 18 U.S.C. 611 were transferred to the Act as new section 322, absent the existing penalty provisions, which are replaced by the penalty and enforcement provisions under new sections 313 and 328

of the Act. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 321 is made applicable to a corporation, labor organization, or separate segregated fund to which section 322(b) applies.

House amendment

Section 322(a) of the Act, as added by the House amendment, makes it unlawful for any person who enters into certain contracts with the United States to make any contribution, or to promise to make any contribution, to any political party, committee, or candidate for public office, or to any person for any political purpose or use, or to solicit any such contribution from any such person. The prohibition applies during the period beginning on the date of the commencement of negotiations for the contract involved and ending on the later of (1) the completion of performance under the contract; or (2) the termination of negotiations for the contract.

The prohibition applies with respect to any contract with the United States or any department or agency of the United States for (1) the performance of personal services; (2) furnishing any materials, supplies, or equipment; or (3) selling any land or building. The prohibition, however, applies only if payment under the contract is to be made in whole or in part from funds appropriated by the Congress.

Section 322(b) provides that section 322 does not prohibit the operation of a separate segregated fund by a corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit the operation of such fund.

Section 322(c) defines the term "labor organization" by giving it the same meaning as in section 321.

Conference substitute

The conference substitute is the same as the Senate bill, except the conference substitute makes it clear that the provisions of section 322 (c) of the Act, as added by the conference substitute, also apply to membership organizations, cooperatives, and corporations without capital stock.

D. PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

Senate bill

Section 323 of the Act, as added by the Senate bill, provides that, whenever a person makes an expenditure to finance a communication which advocates the election or defeat of a clearly identified candidate through a broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or other type of general public political advertising, such communication (1) if authorized by a candidate or an authorized political committee or agent of a candidate, shall state that such communication has been so authorized; or (2) if not authorized by a candidate, or an authorized political committee or agent of a candidate, shall state (A) that the communication is not so authorized; and (B) the name of the person making or financing the expenditure for the communication, including (in the case of a political committee) the name of any affiliated organization as stated in section 303(b) (2) of the Act.

House amendment

Section 323 of the Act, as added by the House amendment, provides that, whenever a person makes an expenditure to finance a communication which advocates the election or defeat of a clearly identified candidate through a broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or other type of general public political advertising, such communication (1) if authorized by a candidate or an authorized political committee or agent of a candidate, shall state that such communication has been so authorized; or (2) if not authorized by a candidate, or an authorized political committee or agent of a candidate, shall state (A) that the communication is not so authorized; and (B) the name of the person making or financing the expenditure for the communication, including (in the case of a political committee) the name of any affiliated organization as stated in section 303(b)(2) of the Act.

Conference substitute

The conference substitute is the same as the House amendment and the Senate bill.

E. CONTRIBUTIONS BY FOREIGN NATIONALS

Senate bill

Section 324(a) of the Act, as added by the Senate bill, makes it unlawful for a foreign national to make any contribution in connection with (1) any election to any political office; or (2) any primary election, convention, or caucus held to select candidates for any political office. It is also unlawful for any person to solicit, accept, or receive any such contribution from a foreign national.

Section 324(b) defines the term "foreign national" to mean (1) a foreign principal, as defined by section 1(b) of the Foreign Agents Registration Act of 1938, except that the term "foreign national" does not include any individual who is a citizen of the United States; or (2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act.

Section 324 incorporates the provisions of 18 U.S.C. 613, replacing the criminal penalties under section 613 with the penalty and enforcement provisions under sections 313 and 328 of the Act, as added by the Senate bill.

House amendment

Section 324(a) of the Act, as added by the House amendment, makes it unlawful for a foreign national to make any contribution in connection with (1) any election to any political office; or (2) any primary election, convention, or caucus held to select candidates for any political office. It is also unlawful for any person to solicit, accept, or receive any such contribution from a foreign national.

Section 324(b) defines the term "foreign national" to mean (1) a foreign principal, as defined by section 1(b) of the Foreign Agents Registration Act of 1938, except that the term "foreign national" does not include any individual who is a citizen of the United States; or (2) an individual who is not a citizen of the United States and who is not

lawfully admitted for permanent residence, as defined by section 101 (a) (20) of the Immigration and Nationality Act.

Section 324 is the same as section 613 of title 18, United States Code, except that the penalties were omitted in order to conform with section 328 of the Act. The House amendment eliminated section 613 of title 18, United States Code.

Conference substitute

The conference substitute is the same as the House amendment and the Senate bill.

F. PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

Senate bill

Section 325 of the Act, as added by the Senate bill, prohibits any person from (1) making a contribution in the name of another person; (2) knowingly permitting his name to be used to make such a contribution; and (3) knowingly accepting a contribution made by one person in the name of another person.

Section 325 incorporates the provisions of 18 U.S.C. 614, replacing the criminal penalties under section 614 with the penalty and enforcement provisions under sections 313 and 328 of the Act, as added by the Senate bill.

House amendment

Section 325 of the Act, as added by the House amendment, prohibits any person from (1) making a contribution in the name of another person; (2) knowingly permitting his name to be used to make such a contribution; and (3) knowingly accepting a contribution made by one person in the name of another person.

Section 325 is the same as section 614 of title 18, United States Code, except that the penalties were omitted in order to conform with section 328 of the Act. The House amendment eliminated section 614 of title 18, United States Code.

Conference substitute

The conference substitute is the same as the House amendment and the Senate bill.

G. LIMITATION ON CONTRIBUTIONS OF CURRENCY

Senate bill

Section 326 of the Act, as added by the Senate bill, incorporates the provisions of 18 U.S.C. 615 (relating to the prohibition of contributions in currency in excess of $100) replacing the criminal penalties contained in section 615 with the penalty and enforcement provisions under sections 313 and 328 of the Act, as added by the Senate bill.

House amendment

Section 326(a) of the Act, as added by the House amendment, prohibits any person from making contributions of currency of the United States or of any foreign country to any candidate which, in the aggregate, exceed $100, with respect to any campaign of the candidate for nomination for election, or for election, to Federal office.

Section 326(b) provides that any person who knowingly and willfully violates section 326 shall be fined in an amount which does not

exceed the greater of $25,000 or 300 percent of the amount of the contribution involved, imprisoned for not more than 1 year, or both.

Conference substitute

The conference substitute is the same as the Senate bill.

H. ACCEPTANCE OF EXCESSIVE HONORARIUMS

Senate bill

The Senate bill eliminated provisions relating to the acceptance of excessive honorariums.

House amendment

Section 327 of the Act, as added by the House amendment, prohibits any person who is an elected or appointed officer or employee of any branch of the Federal Government from accepting (1) any honorarium of more than $1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or (2) honorariums aggregating more than $15,000 in any calendar year.

Section 327 is the same as section 616 of title 18, United States Code, except that the penalties were omitted in order to conform with section 328 of the Act. The House amendment eliminated section 616 of title 18, United States Code.

Conference substitute

The conference substitute is the same as the House amendment, except as follows:

1. The limitation on an honorarium for any appearance, speech, or article is $2,000.
2. The limitation on the total amount of honorarium in any calendar year is $25,000.
3. The conference substitute provides that, in calculating the amount of an honorarium, actual travel and subsistence expenses for the spouse of the person involved, or an aide of such person, shall not be included. Any amount paid or incurred for agents' fees or commissions also shall not be included.

I. FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

Senate bill

Section 327 of the Act, as added by the Senate bill, incorporates the provisions of 18 U.S.C. 617 (relating to the prohibition of fraudulent misrepresentation of campaign authority), replacing the criminal penalties contained in section 617 with the penalty and enforcement provisions under sections 313 and 328 of the Act, as added by the Senate bill.

House amendment

Section 112(b) of the House amendment amended title III of the Act by adding a new section 316. Section 316 prohibits any candidate for Federal office, or any employee or agent of the candidate from (1) fraudulently misrepresenting himself (or any committee or organization under his control) as acting for or on behalf of any other candidate or political party regarding a matter which is damaging to such other candidate or political party; or (2) participating in, or conspiring to participate in, any plan to violate section 316.

Section 316 is substantially the same as section 617 of title 18, United States Code, except that the penalties were omitted in order to conform with section 328 of the Act. The House amendment eliminated section 617 of title 18, United States Code.

Conference substitute

The conference substitute is the same as the Senate bill.

J. PENALTY FOR VIOLATIONS

Senate bill

Section 328 of the Act, as added by the Senate bill, provides that, upon enactment of the bill, a knowing and willful violation of the Act, as amended, which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more in any calendar year is punishable by a fine not in excess of $25,000 or 3 times the amount involved, whichever is greater, and imprisonment for not more than 1 year, or both the fine and imprisonment. In the case of a knowing and willful violation of section 325 or 326, the above penalties shall apply to a violation involving an amount having a value in the aggregate of $250 or more during a calendar year. In the case of a knowing and willful violation of section 327, the penalties of this section 328 shall apply without regard to whether the making, receiving, or reporting of a contribution of $1,000 or more was involved.

In addition, a willful and knowing violation of section 321(b)(2) of the Act, as added by the Senate bill (involving coercion or undue influence by corporations or labor organizations), is punishable by a fine of not more than $50,000, imprisonment for not more than 2 years, or both.

Section 328(b) provides that in any criminal action brought for a violation of a provision of the Act, as amended, or of the public financing provisions of the Internal Revenue Code that the defendant may introduce as evidence of his lack of knowledge or intent to commit the offense a conciliation agreement entered into with the Commission which is still in effect and being complied with. Such a conciliation agreement is also required to be taken into account in weighing the seriousness of the offense and in considering the seriousness of the penalty to be imposed if the defendant is found guilty.

House amendment

Section 328 of the Act, as added by the House amendment, provides that any person who knowingly and willfully violates any provision or provisions of the Act (other than section 326) which involves the making, receiving, or reporting of any contribution or expenditure having a value, in the aggregate of $1,000, or more during any calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of the contribution or expenditure involved, imprisoned for not more than 1 year, or both.

Conference substitute

The conference substitute is the same as the Senate bill, except that the penalty is the same for all knowing and willful violations of the Act and such penalty applies to a violation of section 321(b)(3) only if an amount of $250 or more in a calendar year is involved.

Savings Provision Relating to Repealed Provisions

Senate bill

Section 112 of the Senate bill provided that the repeal by the Senate bill of any section or penalty does not release or extinguish any penalty, forfeiture, or liability incurred under such penalty or section.

House amendment

Section 113 of the House amendment amended title III of the Act by adding a new section 329. Section 329 provides that the repeal by the House amendment of any provision or penalty shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under the provision or penalty. The provision or penalty shall be treated as remaining in force for the purpose of sustaining any action or prosecution for the enforcement of the penalty, forfeiture, or liability.

Conference substitute

The conference substitute is the same as the Senate bill.

Principal Campaign Committees

Senate bill

No provision.

House amendment

Section 114 of the House amendment amended section 302(f) of the Act to provide that, with respect to the designation of political committees as principal campaign committees, any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of section 302.

Conference substitute

The conference substitute is the same as the House amendment.

Authorization of Appropriations

Senate bill

Section 111 of the Senate bill provided an authorization of $8,000,000 for fiscal year 1976, $2,000,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $8,000,000 for fiscal year 1977.

House amendment

No provision.

Conference substitute

The conference substitute provides an authorization of $6,000,000 for fiscal year 1976, $1,500,000 for the transition period, and $6,000,000 for fiscal year 1977.

Technical and Conforming Amendments

The Senate bill and the House amendment included various technical and conforming amendments to the Act. These amendments are incorporated in the conference substitute.

AMENDMENTS TO TITLE 18, UNITED STATES CODE

Repeal of Certain Provisions

Senate bill

Section 201(a) of the Senate bill amended chapter 29 of title 18, United States Code, by striking out section 608 (relating to limitations on contributions and expenditures), 610 (relating to contributions or expenditures by national banks, corporations, or labor organizations), 611 (relating to contributions by Government contractors), 612 (relating to publication or distribution of political statements), 613 (relating to contributions by foreign nationals), 614 (relating to prohibition of contributions in name of another), 615 (relating to limitations on contributions of currency), 616 (relating to acceptance of excessive honorariums), and 617 (relating to fraudulent misrepresentation of campaign authority).

Section 201(b) made conforming amendments to the table of sections for chapter 29 of title 18, United States Code.

House amendment

Section 201(a) of the House amendment amended chapter 29 of title 18, United States Code, by striking out section 608 (relating to limitations on contributions and expenditures), 610 (relating to contributions or expenditures by national banks, corporations, or labor organizations), 611 (relating to contributions by Government contractors), 612 (relating to publication or distribution of political statements), 613 (relating to contributions by foreign nationals), 614 (relating to prohibition of contributions in name of another), 615 (relating to limitations on contributions of currency), 616 (relating to acceptance of excessive honorariums), and 617 (relating to fraudulent misrepresentation of campaign authority).

Section 201(b) made conforming amendments to the table of sections for chapter 29 of title 18, United States Code.

Conference substitute

The conference substitute is the same as the House amendment and the Senate bill.

Changes in Definitions

Senate bill

No provision.

House amendment

Section 202(a) of the House amendment made a conforming amendment to section 591 of title 18, United States Code, based upon the amendment made by section 201(a) of the House amendment.

Section 202(b) amended section 591(e)(4) of title 18, United States Code, to provide that the term "contribution" does not apply (1) in the case of any legal or accounting services rendered to the national committee of a political party, other than any such services attributable to any activity which directly furthers the election of any designated candidate to Federal office; or (2) in the case of any legal or accounting services rendered to a candidate or political committee solely for the purpose of ensuring compliance with the Act, chapter

29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Section 202(c) amended section 591(f)(4) of title 18, United States Code, to provide that the term "expenditure" does not include the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered (1) to the national committee of a political party, other than services attributable to activities which further the election of a designated candidate to Federal office; or (2) to a candidate or political committee solely for the purpose of ensuring compliance with the Act, chapter 29 of title 18, United States Code, or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Conference substitute

The conference substitute is the same as the House amendment, except that the conference substitute includes a modified version of the provision of the Senate bill which provides that legal or accounting services are considered contributions if the person paying for the services is a person other than the "regular" employer of the individual rendering the services. The conference substitute includes this provision of the Senate bill with respect to the definition of the terms "contribution" and "expenditure" in section 301 of the Act and in section 591 of title 18, United States Code.

AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

Entitlement of Eligible Candidates to Payments

Senate bill

Section 301 of the Senate bill amended the public financing provisions of the Internal Revenue Code of 1954 by prohibiting a presidential candidate who accepts public funds from expending more than $50,000 from his own personal funds or the funds of his immediate family in connection with his campaign. The term "immediate family" was defined to mean a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons. Expenditures made by an individual after January 29, 1976, and before the date of enactment of the Senate bill shall not be taken into account in applying the limitation under such Code.

House amendment

Section 301 of the House amendment amended section 9004 of the Internal Revenue Code of 1954 by adding new subsections (d) and (e). Subsection (d) provides that, in order to be eligible to receive payments under section 9006, a candidate of a major, minor, or new party for election to the office of President must certify to the Commission that the candidate will not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President, in excess of an aggregate amount of $50,000. Expenditures made by a vice presidential nominee shall be considered to be expenditures made by the presidential nominee of the same political party.

Subsection (e) defines the term "immediate family" to mean the spouse of a candidate, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

Section 306(a) amended section 9035 of the Internal Revenue Code of 1954 to provide that any candidate seeking Federal matching funds in connection with a campaign for nomination for election to the office of President may not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign which exceed an aggregate amount of $50,000. Section 306(a) also amended section 9035 of the Internal Revenue Code of 1954 by adding a new subsection (b) which defines the term "immediate family" to mean the spouse of a candidate, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

Section 306(b) made a conforming amendment to the table of sections for chapter 96 of the Internal Revenue Code of 1954.

Conference substitute

The conference substitute is the same as the House amendment, except as follows:

1. The conference substitute follows the Senate bill with respect to the definition of the term "immediate family". The conference substitute does not in any way disturb the $1,000 contribution limit applicable to all individuals, including the immediate family of a candidate.

2. The conference substitute includes the provision of the Senate bill which states that expenditures made by an individual after January 29, 1976, and before the date of the enactment of the conference substitute, shall not be taken into account in applying the limitation regarding the expenditure of personal funds.

INSUFFICIENT AMOUNTS IN PRESIDENTIAL ELECTION CAMPAIGN FUND

Senate bill

Section 302 of the bill amended section 9006 of the Internal Revenue Code of 1954 by striking out subsection (b). Subsection (b) provides that any moneys remaining in the Presidential Election Campaign Fund after a presidential election shall be transferred to the general fund of the Treasury.

House amendment

Section 302(a) of the House amendment amended section 9006 of the Internal Revenue Code of 1954 by striking out subsection (b). Subsection (b) provides that any moneys remaining in the Presidential Election Campaign Fund after a presidential election shall be transferred to the general fund of the Treasury.

Conference substitute

The conference substitute is the same as House amendment and the Senate bill.

INSUFFICIENT AMOUNTS IN PRESIDENTIAL ELECTION CAMPAIGN FUND

Senate bill

No provision.

House amendment

Section 302(b) of the House amendment amended section 9006(c) of the Internal Revenue Code of 1954, as so redesignated by section

302(a) of the House amendment, to provide that, in any case in which the Secretary of the Treasury determines that there are not sufficient moneys in the Presidential Election Campaign Fund to make payments under section 9006(b), section 9008(b)(3), and section 9037(b) of the Internal Revenue Code of 1954, moneys shall not be made available from any other source for the purpose of making payments.

Conference substitute

The conference substitute is the same as the House amendment.

PROVISION OF LEGAL OR ACCOUNTING SERVICES

Senate bill

The Senate bill provided that payment for legal or accounting services shall not be treated as an expenditure by the national committee of a political party in connection with its presidential nominating convention unless the person paying for such services is a person other than the employer of the individual rendering the services.

House amendment

Section 303 of the House amendment amended section 9008(d) of the Internal Revenue Code of 1954 by adding a new paragraph (4). Paragraph (4) provides that any payment by a person other than the national committee of a political party of compensation to any person for legal or accounting services rendered to the national committee of a political party shall not be treated as an expenditure made by the national committee with respect to the presidential nominating convention of the political party involved.

Conference substitute

The conference substitute includes a modified version of the Senate bill which provides that legal or accounting services are considered contributions if the person paying for the services is a person other than the "regular" employer of the individual rendering the services.

REVIEW OF REGULATIONS

Senate bill

Section 303 of the bill amended the public financing provisions of the Internal Revenue Code of 1954 relating to congressional review of regulations promulgated under such provisions, to provide for a 15-legislative-day or 30-calendar-day period, whichever is later, during which a proposed rule or regulation can be disapproved.

House amendment

Section 304(a) of the House amendment amended section 9009(c)(2) of the Internal Revenue Code of 1954 to provide that the Congress may disapprove proposed rules and regulations of the Commission in whole or in part. The amendment also provided that, whenever a committee of the House of Representatives reports any resolution relating to a proposed rule or regulation of the Commission, it is in order at any time (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

Although the motion to proceed to the consideration of the resolution is not debatable, debate may be conducted with respect to the contents of the resolution.

Section 304(b) made an identical amendment to section 9039(c)(2) of the Internal Revenue Code of 1954.

Conference substitute

The conference substitute is the same as the House amendment, except as follows:

The conference substitute provides that, for purposes of reviewing regulations proposed by the Commission, the Congress may disapprove any provision or series of interrelated provisions which states a single separable rule of law.

The conferees agree that this provision does not give the Congress the power to revise proposed regulations by disapproving a particular word, phrase, or sentence, but only gives each House of the Congress the power to determine which proposed regulations of the Commission constitute distinct regulations which can only be disapproved in whole. This provision is intended to permit disapproval of discrete self-contained sections or subdivisions of proposed regulations and is not intended to permit the rewriting of regulations by piecemeal changes.

RETURN OF FEDERAL FUNDS

Senate bill

Section 306 of the Senate bill amended section 9037 of the Internal Revenue Code of 1954 to provide that a candidate receiving Federal matching funds in connection with his presidential primary campaign may not continue to receive matching funds if he fails to receive 10 percent or more of the votes cast in 2 consecutive primaries. The Senate bill provided that the eligibility of a candidate to receive matching funds may be reinstated if the candidate receives 20 percent or more of the votes cast in a presidential primary held after the candidate's payments were terminated.

The Senate bill provided that this provision would take effect on the date of the enactment of the Senate bill.

House amendment

Section 307(a)(1) of the House amendment amended section 9002(2) of the Internal Revenue Code of 1954 to provide that the term "candidate" does not include any individual who has ceased actively to seek election to the office of President or to the office of Vice President in more than one State.

Section 307(a)(2) amended section 9003 of the Internal Revenue Code of 1954 by adding a new subsection (d). Subsection (d) provides that, in any case in which an individual ceases to be a candidate for the office of President or Vice President as a result of the operation of the last sentence of section 9002(2) of the Internal Revenue Code of 1954 (which is added by the amendment made by section 307(a)(1) of the House amendment), such individual (1) shall no longer be eligible to receive any Federal payments; and (2) shall pay to the Secretary of the Treasury, as soon as practicable after the date upon which the individual ceases to be a candidate, an amount equal to the amount of payments received by the individual which are not used to defray qualified campaign expenses.

Section 307(b) made amendments to section 9032(2) of the Internal Revenue Code of 1954 and to section 9033 of such Code which are substantially similar to the amendments made by section 307(a). The amendments made by section 307(b) relate to the receipt of Federal matching payments in presidential primary elections.

Conference substitute

The conference substitute includes both the provisions of the House amendment and the Senate bill. The conference substitute provides that an individual who has ceased to be an active candidate, or an individual who is ineligible to receive payments because he has failed to receive at least 10 percent of the votes cast in 2 consecutive primaries, may continue to receive Federal payments only in order to defray qualified campaign expenses which were incurred while such individual was a candidate.

The conference substitute also provides that an individual who becomes ineligible to receive matching payments under section 9033(c)(1)(A) of the Internal Revenue Code of 1954, as added by the conference substitute, subsequently may reestablish his eligibility to receive such payments. The Commission is given authority to determine that any such individual is a candidate upon a finding that such individual is actively seeking election to the office of President of the United States in more than one State. The Commission is required to make such determination without requiring such individual to resubmit written agreements under section 9033(a) of the Internal Revenue Code of 1954.

The conferees agree that the provision of the conference substitute relating to the ineligibility of inactive candidates to receive matching payments is intended to provide that a candidate will remain eligible for such payments only so long as he maintains a good faith, multistate campaign for nomination for election, or for election, to the office of President. A candidate should not be considered to be actively seeking nomination or election if he curtails his campaign activities to such an extent that it is reasonable to conclude that he no longer intends to engage in activity necessary to secure the nomination or win the election involved.

Technical and Conforming Amendments

The Senate bill and the House amendment made various technical and conforming amendments to the Internal Revenue Code of 1954. The conference substitute incorporates these technical and conforming amendments.

OTHER PROVISIONS

Commission To Study Presidential Nominating Process

Senate bill

The Senate bill established a Bicentennial Commission on Presidential Nominations to review the manner in which presidential primary elections are conducted, and to report to the Congress its findings.

House amendment

No provision.

Conference substitute

The conference substitute is the same as the House amendment, resulting in no change in existing law.

FINANCIAL DISCLOSURE OF FEDERAL OFFICERS AND EMPLOYEES

Senate bill

The Senate bill provided that any Federal officer or employee receiving compensation at a gross annual rate exceeding $25,000, and any candidate for Federal office, must file financial disclosure reports to the Comptroller General of the United States. The Senate bill provided that the financial disclosure statement must include (1) an indication of the net worth of the person making the filing; (2) a statement of the assets and liabilities of such person; and (3) a statement of income identifying each source of income (or a copy of such person's Federal income tax statement).

House amendment

No provision.

Conference substitute

The conference substitute is the same as the House amendment, resulting in no change in existing law.

WAYNE L. HAYS,
JOHN H. DENT,
JOHN BRADEMAS,
DAWSON MATHIS,
MENDEL J. DAVIS,
CHARLES E. WIGGINS,
Managers on the Part of the House.

HOWARD W. CANNON,
CLAIBORNE PELL,
ROBERT C. BYRD,
HUGH SCOTT,
MARK O. HATFIELD,
Managers on the Part of the Senate.

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HOUSE AND SENATE FLOOR DEBATES ON CONFERENCE REPORT

House of Representatives

MONDAY, MAY 3, 1976

The House met at 12 o'clock noon.

The Chaplain, the Reverend Edward G. Latch, D.D., offered the following prayer:

By this all men will know that you are My disciples, if you have love for one another.—John 13: 35.

Almighty God, our Heavenly Father, who art ever seeking to lead Thy children in right paths, grant Thy light and Thy truth unto the Members of this House of Representatives that they may be given wisdom to know Thy ways, courage to walk in them, and strength to continue until their life's end.

Bless our land and the people who live on it. By Thy grace heal our national wounds, forgive our misdoings, renew our minds, and give us the spirit to trust Thee more fully and to love one another more sincerely. So shall we make our Nation good in her greatness and great in her goodness.

In the spirit of the Master we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

CHANGING THE MEMBERSHIP OF THE NATIONAL ARCHIVES TRUST FUND BOARD

The Clerk called the bill (H.R. 10374) to amend section 2301 of title 44, United States Code, to change the membership of the National Archives Trust Fund Board.

There being no objection, the Clerk read the bill as follows:

H.R. 10374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2301 of title 44, United States Code, is amended by deleting the first sentence and substituting in lieu thereof the following sentence:

"The National Archives Trust Fund Board shall consist of the Archivist of the United States, as Chairman, and the chairman of the House of Representatives Committee on Government Operations and the chairman of the Senate Committee on Post Office and Civil Service.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FEDERAL EMPLOYEE WITHHOLDING FOR TAXES IMPOSED BY CERTAIN NONINCORPORATED LOCAL GOVERNMENTS

The Clerk called the bill (H.R. 10572) to amend title 5 of the United States Code to provide that the provisions relating to the withholding of city income or employment taxes from Federal employees shall apply to taxes imposed by certain nonincorporated local governments.

There being no objection, the Clerk read the bill as follows:

H.R. 10572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 5520(c) of title 5, United States Code, is amended to read as follows:

"(1) 'city' means any unit of general local government—

"(A) which—

"(i) is classified as a municipality by the United States Bureau of the Census, or

"(ii) is a town or township which, in the determintaion of the Secretary of the Treasury, (I) possesses powers and performs function comparable to those associated with municipalities, (II) is closely settled, and (III) contains within its boundaries no incorporated places as defined by the United States Bureau of Census; and

"(B) within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government; and".

(b) The amendment made by subsection (a) shall take effect on the date of the of enactment of this Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That paragraph (1) of section 5520(c) of title 5, United States Code, is amended to read as follows:

"(1) 'city' means any unit of general local government which—

"(A) is classified as a municipality by the Bureau of the Census, or

"(B) is a town or township which, in the determination of the Secretary of the Treasury—

"(i) possesses powers and performs functions comparable to those associated with municipalities,

"(ii) is closely settled, and

"(iii) contains within its boundaries no incorporated places, as defined by the Bureau of the Census,

within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government; and".

SEC. 2. The amendment made by the first section of this Act shall take effect on the date of the enactment of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

UNITED STATES SHOULD PURCHASE SURPLUS GRAIN TO CREATE FOOD BANK

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, according to the Washington Post, the CIA is scheduled to release today a study of weather and food production in the world, which warns that there will be political and economic upheavals beyond comprehension because of critical food shortages caused by adverse weather which will reduce crop production and cause worldwide starvation.

Mr. Speaker, it is time for the United States to create a strategic U.S. grain reserve. The time is running out, as the CIA report so clearly indicates.

Mr. Speaker, I plan to introduce a bill requiring the Government to purchase massive amounts of surplus grain and oil seeds and deposit them in the food bank. The food bank would have the double purpose of propping grain prices in times of surplus and assuring future food supplies.

Today we are selling grain to the Soviets, at prices often below the cost of production. Instead, the Government should purchase this grain and hold it for our own security or for higher prices abroad or for humanitarian relief which, considering the CIA report, will be essential before long.

PROHIBITING MEMBERS OF CONGRESS FROM BEING REIMBURSED FOR ANYTHING BUT COACH CLASS AIRLINE FARES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, as the sponsor of House Resolution 560 to prohibit Members of Congress from being reimbursed for anything but coach class airline fares, I take more than a passing interest in who sits where on airplanes. On my way into Washington Sunday I saw Admiral Rickover on my flight sitting happily in the coach section with the rest of us.

Many important personages take the approach that the higher their status the more tax dollars should be expended on their care and feeding. That is one reason everyone's tax bill is so high.

Rickover believes otherwise, and I

want to commend him for his thrifty attitude.

So I am always curious as to who is riding in first class and who is riding in tourist class. Yesterday I had more than an interesting event occur when I observed Admiral Rickover, who has always been one of my great heroes, climb aboard the plane and go back to the tourist section with the rest of us. I really want to commend the admiral because I think he sets a good example for all of us to follow and also set an example for when the taxpayers do their additions.

MAJOR LOOPHOLE IN CAMPAIGN REFORM BILL

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, although I am in favor of campaign spending reform legislation, today I will attempt to amend the campaign reform bill due to a major loophole in the legislation. The loophole enables Senate campaign committees to contribute $17,500 to their candidates in a primary election.

My experience with the Republican National Senate Committee has convinced me that the public is being deceived by the manner in which these funds are solicited and dispersed, and I will move to defeat that kind of action by the Congress. What we have provided by this legislation is a way that Senate incumbents can get their hands on money that the public contributes in good faith, only to be deceived.

CONFERENCE REPORT ON S. 3065, FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

Mr. HAYS of Ohio. Mr. Speaker, I call up the conference report on the Senate bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CALL OF THE HOUSE

Mr. WIGGINS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 223]

Andrews, N.C.	Foley	Murphy, Ill.
Andrews, N. Dak.	Ford, Tenn.	Murphy, N.Y.
Badillo	Giaimo	Nichols
Bell	Gibbons	Nix
Brinkley	Gonzalez	O'Hara
Buchanan	Green	Pepper
Chisholm	Hammer-schmidt	Pickle
Clancy	Hayes, Ind.	Randall
Clay	Hébert	Rees
Cochran	Hechler, W. Va.	Riegle
Collins, Ill.	Heckler, Mass.	Roberts
Conlan	Heinz	Rodino
Conyers	Hinshaw	Ruppe
Cotter	Hungate	Santini
de la Garza	Hyde	Sarbanes
Dellums	Jenrette	Satterfield
Dickinson	Johnson, Colo.	Shuster
Diggs	Jones, Ala.	Skubitz
Dingell	Jones, Tenn.	Stanton, James V.
Drinan	Kazen	Stark
du Pont	Kindness	Steelman
Eckhardt	Krueger	Steiger, Ariz.
Edgar	Litton	Stuckey
Edwards, Ala.	McDonald	Symington
English	Macdonald	Taylor, Mo.
Esch	Madden	Teague
Eshleman	Mann	Tsongas
Evans, Colo.	Matsunaga	Udall
Evans, Ind.	Michel	White
Fascell	Mikva	Wilson, C. H.
Fish	Mills	Winn
Florio	Mollohan	
Flowers	Moorhead, Pa.	

The SPEAKER. On this rollcall 335 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 3065, FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976

The SPEAKER. The Clerk will read the statement.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of April 28, 1976.)

Mr. HAYS of Ohio (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER. The gentleman from Ohio (Mr. HAYS) is recognized for 30 minutes.

GENERAL LEAVE

Mr. HAYS of Ohio. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and to include extraneous material on the conference report under consideration, and that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is not my desire to bore the Members with a long dissertation on the conference report, but I feel an obligation to explain the basic—what seems to me the basic—outlines of the report. I propose to take about 10 minutes to do that, and then to yield to the other side, and then, lastly, to take time to answer Members' questions or to engage in whatever colloquy is necessary.

Mr. Speaker, the basic outlines of the Federal Election Campaign Act Amendments of 1976 were conceived in this body, and as chairman of the House conferees I am pleased to be able to report that the conference substitute is faithful to the House bill in all major respects. In submitting the conference report to you, I shall first briefly outline the major compromises arrived at by the conferees; then, since these compromises relate only to certain relatively narrow points, for the Members' convenience, I shall, in summary form, restate the essential outline of the bill; and, finally, I shall detail a few technical points that are of particular importance.

The conference substitute provision reconstituting the Commission is the same as the bill that passed the House except that two of the Commission's six members are to be appointed every other year rather than one Commissioner being appointed each year, and, except that detailed provisions governing the transfer of functions from the old Commission to the new Commission are included. The most important of these provisions is one assuring that only those rules and regulations consistent with these amendments will have continuing effect.

The conference substitute contains two amendments of substance to the definitional sections of the present law that were not contained in the bill as it passed the House. First, the provision of legal and accounting services to a national political party in connection with such party activities as a convention, or to a political committee or candidate in order to comply with the requirements of the act are excluded from the terms "contribution" and "expenditure" so long as the compensation received by the lawyer or accountant is paid by his regular employer.

Mr. Speaker, as I have said previously on dissertations on the Federal Election Campaign Act, it is a little like the Duke of Devonshire when he was presenting the budget of Queen Victoria, and looked up halfway through to find a number of the Members asleep. He said, "Damn boring, isn't it?" I suppose the same could be said about this, except that what I am putting in the RECORD now may be used by a lot of Members to refer to when the persons handling their campaign funds are asking them questions about what is legal and what is not.

Mr. Speaker, second, the exclusion of communications by a membership organization to its members and of a corporation to its stockholders from the term "expenditure" is qualified by requiring the reporting of the cost of communications which expressly advocate the election or defeat of a clearly identified candidate, other than those included in a communication primarily devoted to another subject, if the total amount spent in connection with an election is over $2,000.

The central purpose of this provision is to reach internal communications which are similar to the campaign literature put out by a candidate and his authorized committee. It follows that the provision does not reach editorials in union or corporate newspapers or similar statements made in the course of other activities. The Senate bill contained a

more onerous reporting requirement which would have covered insubstantial costs and which in addition would have created serious accounting difficulties. The conference substitute is designed to pinpoint the major area of concern expressed by the proponents of the Senate provision while eliminating the defects I have just noted.

The provisions relating to the organization of political committees and to the act's reporting requirements contained in the bill that passed the House are unchanged except that the House conferees accepted the Senate proposal which requires political committees to keep records only as to contributions of over $50, rather than as to contributions of over $10 as required by present law; and accepted also the Senate provision that relieves political committees which receive and expend a total of less than $5,000 in a quarter from the off-year reporting requirements. The conferees also eased the burdens placed on candidates and political committee treasurers by including in the conference substitute the Senate provision stating the commonsense rule that candidates and treasurers are to be considered to have complied with the recordkeeping and reporting requirements of the act if they have used their best efforts to obtain and submit all required information.

The House conferees struck what I believe to be a statesmanlike compromise on the much-debated subject of the Federal Election Commission's authority to announce generally applicable principles of law through advisory opinions. That compromise permits the Commission to issue advisory opinions that are not reviewable by Congress but provides that those opinions shall be limited to applying to specific concrete factual situations generally applicable principles stated in the act itself or in rules and regulations which have survived congressional scrutiny. The paramount authority of Congress to prevent the Commission from disregarding legislative intent is therefore assured while the Commission's ability to respond promptly to legitimate requests for guidance concerning the meaning of the law as applied to particular facts is preserved. In this subject area, as when the Congress delineates the scope of authority accorded the courts in cases arising from an administrative agency, it is difficult, if not impossible, to do more than state the congressional mood. For, there is no bright line between the announcement of a general principle and the application of such a principle to a particular factual situation. But any fair-minded person will instantly grasp the message of the provision regarding advisory opinions. That provision announces the congressional determination that the Commission is to rely exclusively on its rulemaking authority to elaborate the meaning of the basic provisions of the law, and is to utilize its authority to render advisory opinions only to answer the residual questions created by unique circumstances that can never be fully anticipated in drafting generally applicable rules but which, because of the infinite variety of possible factual situations, inevitably arise.

With the exception of three narrow points, the provisions spelling out the civil enforcement authority granted to the Commission, and the criminal enforcement authority granted to the Department of Justice contained in the bill as it passed the House remain unchanged.

First, in conformity with the understanding stated in House Report No. 94-917, the conference substitute contains explicit statutory language permitting the Congress to veto a provision or interrelated series of provisions proposed by the Commission which state a single, separable rule of law. The statement of the managers makes it plain that this veto power does not include the authority to revise proposed regulations by disapproving a particular rule, phrase or sentence contained in a proposed rule or regulation.

Second, the House conferees agreed to delete the provision which, under certain circumstances, would have precluded the Commission and the courts from relying on properly prescribed rules and regulations.

Finally, the House conferees also agreed to the Senate proposal to delete the provision in the present law permitting the disqualification of candidates who have not filed reports.

The basic contribution limitations stated in the conference substitute represent an accommodation between the Senate bill and the House amendments. The conference substitute permits an individual or other person to contribute a maximum of $1,000 per election to a candidate; $20,000 per year to the political committees of a national political party; and $5,000 per year to any other political committee. The limitations on multicandidate committees are $5,000 per election to a candidate; $15,000 per year to the political committees of a national political party; and $5,000 per year to any other political committee. In addition, the conference substitute retains the provision applicable only to contributions by the senatorial campaign committees to candidates for the Senate, which states a $17,500 contribution limit in a calendar year.

The so-called antiproliferation rules contained in the bill as it passed the House are modified in two respects: To permit unlimited transfers between the political committees of a single political party; and to permit the transfer of funds between the principle campaign committees of an individual running for two separate Federal offices.

The extent to which corporations and unions may engage in political activity created perhaps the greatest amount of controversy. In this area, as in the others I have already described, the conference substitute follows the basic outline of the House amendments. However, certain provisions of the Senate bill which were designed to meet the objection that corporations had been unduly restricted were modified and included in the conference substitute.

First the general rules applicable to all other corporations are extended to the companies regulated by the Public Utility Holding Company Act.

Second, the individuals with whom a corporation may communicate on political subjects, reached through registration and get-out-the-vote drives, and solicited for contributions to a political fund was broadened to include professional employees who are not represented by a bargaining agent and supervisory employees other than foremen who directly supervise rank-and-file employees.

Third, the conference substitute includes a requirement that any person soliciting an employee for a contribution to a political fund must advise that employee that the money will be used for a political purpose and that he is free not to make a contribution.

Fourth, the conference substitute includes the Senate provision permitting membership organizations, cooperatives, and corporations without capital stock to solicit their members for contributions to a political fund.

Finally, the conferees agreed to a provision permitting corporations to solicit their stockholders and all their employees by mail twice a year, in a manner which assures the anonymity of those who do not choose to contribute or contributes $50 or less. A labor organization representing any employee of that corporation or its subsidiaries, branches, divisions, and affiliates is granted a correlative right subject to the understanding that the corporation has the choice of either providing the union with the necessary mailing list or retaining a third person to make the mailing.

Aside from the question concerning the maximum amount that a person may contribute to a political committee in cash, the provisions in the Senate bill and the House amendment which recodify the provisions formerly contained in paragraphs 611–617 of title 18, United States Code, were essentially the same. The conference substitute follows the Senate bill in providing that cash contributions over $100 are prohibited. With regard to the former 18 United States Code paragraphs 611 and 617, the conference substitute utilizes the language contained in the Senate bill.

The conference substitute makes the following changes in the provisions stating the act's criminal penalties:

As in the House amendment, the basic rule is that knowing and willful violations relating to the making, receiving, or reporting of contributions or expenditures where the amount involved is $1,000 or more is punishable by a fine not in excess of $25,000 or three times the amount involved, or imprisonment for not more than 1 year, or both.

However, the threshold amount for criminal violations: of the prohibition on coercive solicitation of contributions to a corporate or union political fund, of the prohibition on the making of contributions in the name of another, and of the prohibition on contributions in currency, is $250. Finally, knowing and willful violations of the ban on fraudulent misrepresentation of compaign authority are

punishable as a crime without regard to the amount involved.

The conferees effected one change of substance to the prohibition in the bill as it passed the House concerning the public financing of Presidential elections.

The conference substitute provides that an individual cannot continue to receive matching funds if he fails to secure 10 percent or more of votes cast in two consecutive primaries.

As is often the case, the Senate took this occasion to deal with a number of extraneous subjects and the House conference refused to accept the Senate proposals. Thus, the provisions in the Senate bill relating to mass mailings, to a commission to study the Presidential nominating process, and to financial disclosure by Federal officers and employees are not contained in the conference substitute.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, am I correct in saying that it is the intent of the conferees that a Presidential candidate who has suspended his active candidacy may continue to receive matching payments for the purpose of deferring debts incurred prior to the suspension of his active candidacy, and that in such a situation the 30-day limit would not apply?

Mr. HAYS of Ohio. That is correct.

Mr. Speaker, that would have meant 400,000 employees. I am reliably informed; and 400,000 reports are not—I repeat—are not contained in the conference substitute.

But the House conferees did agree to an authorization for the Commission of $6 million for fiscal year 1976, $1.5 million for the transition period and $6 million for fiscal year 1977.

Mr. Speaker, I know that several Commissioners are sitting in the gallery; and although we are not allowed to address the gallery, I hope they will understand that they will not be able to come back for separate money, because as far as this chairman is concerned, they will not get it since it is not within the budget.

Finally, the House conferees insisted that the prohibition on honorariums contained in the present law, which was repealed by the Senate bill, be retained, and we insisted that it be retained—and this is the trading point—we agreed to an amendment which increased the net amount that may be received on a single occasion to $2,000, and the total net amount which may be received in 1 year to $25,000.

Mr. Speaker, if I had been thinking properly, we probably would have made that not $25,000, but set the ceiling at half of 1-year's salary. I think that might have gotten the message to the Senate even better than the $25,000 limitation.

Mr. HAYS of Ohio. The provisions of the conference substitute I have just detailed are based upon the following basic judgments.

First, that the proper response to the Supreme Court's decision in Buckley against Valeo was to reconstitute the Federal Election Commission in a manner which permits the President to appoint all six voting members subject to Senate confirmation.

Second, that the Commission should be accorded the independent powers necessary to enforce the law promptly and efficiently but subject to effective safeguards to assure that the Commission does not thwart the legislative will, or disregard the congressional determination that speedy settlement of complaints is preferable to the time-consuming and expensive process of litigation. The relevant provisions are those regarding advisory opinions, review of regulations, and the mandatory conciliation procedure embody these judgments.

Third, having reconstituted the FEC, it was deemed appropriate to centralize the authority to deal with complaints alleging on any theory that a person is entitled to relief because of conduct regulated by this act, other than complaints directed to the Attorney General and seeking the institution of a criminal proceeding in the Commission. Having taken that step, it has also been deemed appropriate to provide a system of civil sanctions for all violations except for substantial violations committed with a specific wrongful intent, for which criminal penalties are preserved.

Fourth, the Supreme Court did not simply overturn the method of selecting the Commission. It also ruled that a central feature of the regulatory scheme of the 1974 act—that dealing with independent expenditures—impermissibly intruded on the right of individuals and groups to use their resources to state their own views on political matters. That ruling required extensive revisions in the act's reporting requirements and in the provisions regulating contributions. In essence what has been done is to provide added reporting and disclosure concerning independent expenditures; and to sharpen the line between such expenditures and activity—such as reproducing a candidate's materials—which is the effective equivalent of making a direct contribution. In line with the distinction it drew between the making of independent expenditures and the making of contributions, the Court upheld the overall $25,000 limitation the 1974 act imposed on the amount an individual may contribute to political committees in 1 year. That limitation was intended to apply to contributions to political committees that made their own contributions to candidates and to political committees that utilize their resources to make expenditures supporting or opposing particular candidates. For in neither case is the right of an individual or group to state its own views inhibited, and in both a failure to regulate the right to provide a third person with added resources would perpetuate the evils against which the Congress legislated in 1971 and again in 1974. Thus, the scope of the additional contribution limitations imposed by the conference substitute is intended to be coextensive with the scope of the $25,000 limitation on contributions by an individual. Yet another major step to strengthen the contribution limitation provisions is the one that assures that closely connected entities cannot defeat the contribution limitations stated in the bill. To achieve this objective the complex and amorphous control criteria embodied in the 1974 act are replaced by a far simpler formal relations test whose meaning is spelled out in detail in the conference report.

The final major feature of the conference substitute is the elaborate compromise which protects rank and file employees from the coercive pressure inherent in direct solicitation by their employer to a corporate political fund. The accommodation reached grants corporations the right to use treasury money for such solicitations but conditions that right by imposing appropriate safeguards to assure that reprisals cannot be taken against an employee who does not contribute or who refuses to contribute as much as management wishes him to give.

Turning now to the narrow technical aspects of the conference substitute, there are several points that it is appropriate to underline.

It is intended that the grant to the Federal Election Commission of exclusive primary jurisdiction should be read generously. While that phrase is one utilized in other areas of the law, and as such has been accorded different meanings at different times and in different circumstances, the intent of this legislation is to centralize administration in the FEC to the maximum possible extent. By the same token it is our intent that the same rules apply whether the complaint concerns political activities by an individual, a corporation, or a membership organization such as a union.

Perhaps the most important phrase used in the enforcement section is "knowing and willful." As explained in House Report No. 94-917, that phrase refers to actions taken with full knowledge of all the facts and a recognition that the action is prohibited by law.

As all those who have followed this legislation know, two of the most controversial issues have been the extent to which corporations and membership organizations, including unions, should be required to report internal political communications, and the extent to which corporations should be allowed to solicit contributions from employees. With regard to the provision added to paragraph 301(f)(4) to settle the first of these disputed issues I wish to make it clear that when a single occasion is devoted to communications on a variety of subjects, even those relating to politics, the costs are reportable only if the major portion of the time—or in the case of a publication, the space—is devoted to advocating the election or defeat of a candidate. It should also be noted that while the $2,000 threshold figure is per election and not per candidate, it is also on a per organization basis. If several organizations finance a single covered communication, they are each chargeable only with the amount they have spent. Each corporation and union is only responsible for the amount of money it actually spends. As to the provisions of the new para-

graph 321 dealing with corporate solicitations of employees, it should be noted that as indicated in the conference report, a corporation can directly solicit employees who also own stock—stockholder employees—only as part of an overall solicitation of stockholders and by and only utilizing staff methods as employed in soliciting nonemployee stockholders. This rule provides the necessary minimum measure of protection to employees who happen also to own a few shares of their corporate stock but who would, of course, be subject to employer coercion if they could be singled out and treated differently from the nonemployee stockholders. I would also emphasize that the House conferees refused to accept the broad and artificial definition of stockholder contained in the Senate bill. Like the rule I have just noted, this action was predicated on our determination to provide maximum protection for employees. And, for the same reason, the House conferees were not amenable to including a narrow definition of the term solicitation. Just as we left the definition of the term stockholder to the general corporate law, we determined that any action could fairly be considered a request for a contribution should be treated as a solicitation.

Mr. ULLMAN. I rise to ask a question concerning the interrelationship between the Federal Election Campaign Act and section 527(f) of the Internal Revenue Code of 1954, which imposes a tax on otherwise tax-exempt entities if they engage in certain political activities. Can you advise me as to whether the bill before us broadens the scope of the terms political "contribution" and "expenditure" for the purposes of the Election Campaign Act? I raise this question because both the Federal Election Campaign Act and section 527(f) of the Internal Revenue Code are designed to deal with activities designed to influence the political process.

Section 610 of title 18 of the United States Code, which I understand is to become section 321 of the Federal Election Campaign Act, was understood by the tax-writing committees as permitting three specified types of expenditures by labor unions and trade associations.

First, section 610 specifically permitted labor unions and trade assocations to spend money for internal communications with members, stockholders, and their families—but not to the general public—which might involve support of particular candidates.

Second, section 610 specifically permitted labor unions and trade associations to spend money to conduct nonpartisan registration and get-out-the-vote campaigns aimed at their members, stockholders, and families.

Third, section 610 specifically permitted labor unions and trade associations to spend money to establish, administer, and solicit contributions to separate segregated funds to be used for political purposes.

The tax-writing committees, in connection with enactment of section 527 of the Internal Revenue Code, understood that those particular categories of expenditures would be subject to tax under sectin 427, when made by labor unions exempt under section 510(c)(5) of the Internal Revenue Code or when by trade associations exempt under section 510 (c)(6) of the Internal Revenue Code.

It was our intention, in order to promore uniformity and simplicity of regulation, that the tax law match the then existing Campaign Act restrictions.

I am concerned as to whether the statute before us is changing the campaign laws so that, in this respect, they will no longer match the tax laws.

Mr. HAYS of Ohio. The proposed amendments to the Federal Election Campaign Act agreed to by the conferees do not broaden the class of activities which are considered to constitute a political "contribution" or "expenditure."

Mr. ULLMAN. Thank you for your comments. I am pleased to have this confirmation that the changes made by the Campaign Act now before the House in this area are not substantial. Since the tax laws on this point are not amended by the Campaign Act, this will result in some small differences between the tax law and the Campaign Act, but I am confident that this small difference will not create significant problems in the administration of these two laws.

Mr. Speaker, I have a summary of several pages, 26 items long, which I have already received permission to include with my remarks; and I submit that at this point.

The summary follows:

SUMMARY

To summarize, and to place those individual provisions in context, S. 3065, as amended in the conference substitute now provides in general:

1. That the six appointed commissioners shall be named by the President with the advice and consent of the Senate to serve staggered six-year terms and that no more than three members be from the same Party (the Secretary of the Senate and the Clerk of the House shall continue as ex-officio nonvoting members of the Commission).

2. The present commissioners will serve until new commissioners are appointed. Upon appointment, commissioners must terminate any outside employment within one year of confirmation.

3. Major actions by the Commission including initiation of civil suits, referral of criminal violations to the Justice Department, the establishment of guidelines or forms, and the issuance of advisory opinions would require an affirmative vote of four of the six commissioners.

4. Political committees are required to keep detailed records only for contributions in excess of $50. The demonstration of best efforts to obtain and submit required information by a treasurer of a political committee or candidate will be deemed compliance with reporting requirements. In non-election years, quarterly reports need only be filed if contributions and expenditures were in excess of $5,000 in such quarter.

5. The value of legal and accounting services to a national party or to a candidate or to a political committee are not considered as contributions or expenditures if the person paying for the services is the regular employer of the individual rendering the services.

6. Advisory opinions shall relate to the application of a general rule of law, which is stated in the Act or which has already been prescribed as a rule or regulation, to a specific factual situation. General rules of law may be initially proposed by the Commission only as rules or regulations subject to congressional review and not through the advisory opinion procedure.

7. Anyone involved in a transaction or activity which is indistinguishable in its material aspects from a transaction or activity upon whch an advisory opinion has been rendered may rely upon that advisory opinion.

8. Any person may file a written, signed, and notarized complaint with the Commission. The Commission may not act upon an anonymous complaint.

9. If the Commission determines that a person has committed or is about to commit a civil violation of Federal election law, it must for a period of up to 30 days try to correct such violation by informal methods of conciliation, conference, and persuasion. Complaints filed less than 45 days but not more than 10 days before an election will be subject to a conciliation period of not less than one-half the number of days remaining in the election period. Unless a conciliation agreement is violated, the Commission will be barred from any further action. All conciliation agreements and determinations by the Commission will be made public immediately so that the 30-day conciliation period is terminated.

10. If the Commission is unable to settle an apparent violation of this act through conciliation, it may bring a civil action. The commssion will have exclusive primary jurisdiction over civil actions to enforce the law.

11. The bill establishes a judicial appeals procedure for any person aggrieved by an order of the Commission dismissing his or her complaint or by the Commission's failure to act.

12. When the Commission has probable cause to believe that certain classes of knowing and wilful offenses have been committed which are subject to fines up to $25,000 and imprisonment up to one year, it may refer such apparent violations to the Attorney General for appropriate action.

13. Any FEC member of staff employee who discloses that an individual is being investigated by the Commission, without the written consent of the person being investigated, is subject to fine.

14. After prescribing rules and regulations the Commission will be required to transmit such rules or regulations to each House of Congress. For the purpose of reviewing regulations either House may disapprove any provision or series of interrelated provisions which states a single separable rule of law within 30 legislative days after submission.

15. Whenever a committee of the House of Representatives reports any resolution relating to a proposed rule or regulation of the Commission, it is in order at any time to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Although the motion to proceed to the consideration of the resolution is not debatable, debate may be conducted with respect to the contents of the resolution.

16. No person is permitted to contribute more than $1,000 per election to a candidate or his authorized committee; more than $5,000 per year to any other political committee; or more than $20,000 per year to a political committee established and maintained by a national political party. However, the overall limitation of $25,000 on the total contribution an individual may make is retained in the Conference Substitute.

17. No multi-candidate political committee would be permitted to contribute more than $5,000 per election to any candidate or his authorized committee; more than

$5,000 per year to any other political committee; or more than $15,000 per year to the political committee established and maintained by a national political party.

18. Locals of a union, subsidiaries of a corporation, and other similarly structured groups are treated as part of the parent with respect to the $5,000 limitation on contributions to any one candidate or political committee.

19. Corporations are prohibited from soliciting contributions from anyone other than their stockholders, executive and administrative personnel and their families. Labor organizations are prohibited from soliciting contributions from nonmembers. A single trade association may only solicit funds from stockholders and executives and administrative personnel of member corporations (and their families). A membership organization, cooperative or corporation without capital stock or their separate segregate fund may solicit contributions from their members. However, a corporation or labor organization may make two written solicitations during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation. The solicitation is to be addressed to the residence and must state the political purpose and the person's right to refuse to contribute without any reprisal.

20. Corporations, labor organizations and other membership organizations must report costs of communications devoted to the express advocacy of the election or defeat of a clearly identified candidate, other than those contained in communications primarily devoted to other subjects, whose cost exceeds $2,000.

21. Anyone making independent exepnditures for the benefit of candidates for Federal office must file reports containing information comparable to that required of political committees.

22. Whenever an expenditure is made financing a communication that advocates the election or defeat of a candidate, such communication must be clearly identified as authorized by a political candidate or committee, or if not authorized by a candidate or committee, it must clearly identify the person making or financing the expenditure.

23. Honorariums are limited to $2,000 for each occurrence and $25,000 per calendar year excluding amount of travel and subsistence expenses for spouse or aide and agents' fees.

24. No person seeking the Presidency would be eligible for federal funds if more than $50,000 of his own funds or of the funds of his immediately family is spent.

25. If the Secretary of the Treasury determines there are insufficient monies in the dollar check-off fund to make payments to candidates, no monies would be available to make such payments from other sources.

26. Candidates who cease to campaign actively for the Presidency, or who fail to receive 10% or more of the vote cast in two consecutive primaries in which they are actively campaigning, would no longer be eligible to receive federal funds. In either case, a former candidate must return to the Treasury Department all funds received that are not being used to defray qualified campaign expenses.

Mr. Speaker, I had better end my remarks here and let the gentleman from California (Mr. WIGGINS) take some time.

Mr. WIGGINS. Mr. Speaker, I yield myself 5 minutes.

(Mr. WIGGINS asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. Mr. Speaker and Members, election control laws are in their nature very partisan. I suppose that there will be strongly partisan Members of this body who will find that this conference report does not meet the partisan standards which they have set for acceptability. I say that with respect to both Democratic and Republican Members.

I want all the Members to know that this bill, dealing as it does, with an exceptionally emotional subject having partisan overtones has not been written by the AFL–CIO, nor has it been written by the U.S. Chamber of Commerce, nor was it drafted in the Democratic Caucus, and, quite obviously, it was not drafted in the Republican conference either.

This bill, partisan in nature with respect to its subject matter, deals, in my opinion, fairly with the subject and attempts to reconcile strongly held views by the AFL–CIO, the U.S. Chamber of Commerce, and Republican and Democratic groups. It reconciles these views fairly in my opinion and in a way which furthers the public interest.

Since this work was completed, I have been subjected to questions and comments by our colleagues, both for and against the conference report. Some of our friends in this Chamber do not believe there should be an election commission at all, and if you find yourselves in that category, you must vote against the conference report because we reconstituted the election commission.

Some Members of the body believe there ought to be an election commission, but are fundamentally opposed to public financing in any of its aspects. If you find yourselves in that position, I suppose you must vote against the conference report because public financing is continued with respect to Presidential candidates.

Parenthetically, Mr. Speaker, I also am opposed to public financing for the Presidential races and all others but a personal sense of fairness requires that I support the conference report. The time to deal with the issue of public financing is not in midelection when hundreds of thousands of dollars have already been dispensed. Fairness dictates that we postpone the ultimate resolution of the question of public financing until after the present election is over. Early in the next Congress, we should readdress this issue. Accordingly, those, who like me oppose public financing, still, out of fairness, ought to support this conference report.

Some have urged a simple reconstitution of the Commission and nothing more. That too is a position which I supported originally, but early on I came to the conclusion that any bill reported by this Congress must address itself to SUNPAC because the majority, for reasons which are plain, feels that the SUNPAC Advisory could not stand without modification. I believe any bill coming out of this Congress is going to have to deal with SUNPAC.

Second, the majority feels quite strongly that SUNPAC would not have occurred but for the abuse by the Commission of its powers to issue advisory opinions. Whether we like it or not, that issue is going to have to be dealt with in any bill approved by this Congress.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New Jersey.

Mr. THOMPSON. This Member of the majority who has studied the rule on SUNPAC, which is Advisory Opinon 223, does not feel that way. The genesis I feel for SUNPAC is the Federal Election Commission's misinterpretation, and a clear misinterpretation, of the legislative intent.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. WIGGINS. Mr. Speaker, I yield myself 1 additional minute.

The issue of advisories, and the issue of the Sun Oil Advisory in particular, will not go away by urging a simple reconstitution. This Congress is going to deal with those issues, now or later.

Mr. Speaker, in my remaining 30 seconds, let me say that we have dealt with both of those highly volatile, emotional, and, yes, partisan subjects, fairly and in a way which furthers the public interest.

Mr. Speaker, I strongly urge that, unless there is some conceptual opposition to the Commission under any circumstances, we vote for the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

(Mr. FRENZEL asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. I understand that. The gentleman has made that clear in earlier discussions on the floor.

Mr. FRENZEL. Mr. Speaker, I intend to support the conference committee report on S. 3065, the Federal Election Campaign Act amendments. I voted against the House bill when it was passed. I am not wholly satisfied with the conference committee report, but I am impressed that it is a great improvement over either the House or the Senate version and represents a good faith practical effort on the part of the conferees to produce a bill that will not unreasonably mess up our election laws, but will solve the problem of the Supreme Court decision.

I congratulate the House conferees, including the distinguished gentleman from Ohio, chairman of the House Administration Committee, with whom I have had and still have sharp disagreements on election laws, for producing what I think is about as good a bill as could possibly have come out of the two versions presented to the conferees.

After the House bill was passed, I criticized the following features in it: First, it reduced the independence of the Election Commission; second, it made unnecessary changes in the law in the middle of an election period; third, it created self-serving incumbent-protection devices; fourth, it reduced disclosure requirements and maintained existing loopholes; and fifth, it gave special fundraising preferences to union PAC's over their corporate counterparts.

Some of these flaws remain, but the conference committee tried to deal with each of them and in a number of in-

stances made some notable improvements.

The worst remaining flaw is the attack on the independence of the FEC. The advisory opinion section is still bad, although it has been improved somewhat. The veto in whole or in part is still bad, but it has also been improved over the House version. If we were considering these features apart in a separate bill, I would certainly vote against it.

Many of the unnecessary changes in the law are still in it. There is still a great problem, because these suggestions are going to become law without proper hearings by our committee. That means we will have trouble with those parts of the law and with regulations which have to be drawn to help us make them work. Members of this House will criticize the FEC in the future for interpretation of these law changes, particularly with respect to the new civil processes, but I hope that those of us who are here now will remember that it is our vote.

On the positive side, it should be said that the conciliation process is a good idea, even if it has not had proper hearing. The emphasis on conciliation is good, and there should be less incentive on the part of potential political activists to decide that the law is too harsh for their own political participation.

The Bill is still self-serving. It still provides for the conversion of excess contributions to personal use, for occasional transfers between committees, for outrageous increases in allowable honoraria, for audit of Presidential candidates before congressional candidates. In the overall, however, these are not nearly as important factors as in the need for us to reconstitute the FEC.

In the field of disclosure, the conference committee did some of its best work. The acceptance of the Packwood-Wiggins amendment on disclosure of union and corporate communications to members, employees, and stockholders is a terribly important feature. The reporting requirements during off-election years have been improved.

The conferees also did good work on the old chapter 610 now section 321. This part of the conference report defined to eliminate the SUNPAC decision, advisory opinion 23 of the FEC, was the last thing the conference committee settled. Philosophically, I find the settlement offensive, but from a practical standpoint, I believe that both unions, corporations and more importantly, their members, employees, and stockholders, will be able to participate responsibly in the political process. The conference version is better than the House or Senate bills. I do not believe that it will thwart any reasonable attempt at nonpartisan, good-Government type activities on the part of either unions or corporations.

The particularly thorny problem of making one party's lists available to another party was solved in a responsible way. Perhaps without that final compromise, there would have been no bill.

Because I desperately want the FEC to be reconstituted, I commend those responsible especially for the last compromise, but generally for their work on the whole bill.

Mr. Speaker, even though the bill has many flaws, some of which I have pointed out here, I do not believe there is any flaw so significant in the bill that it needs to be vetoed. I would still prefer simple reconstitution of the FEC. That is obviously not a political possibility. Nor is there a good possibility to improve section 321 or the advisory opinion section after veto. Therefore, I intend to vote for the conference report as a responsible and practical compromise, and I urge Members of the House to do the same.

Mr. Speaker, there is one particular section that has concerned many Members. That is section 321 dealing with the SUNPAC decision. It has caused some concern because some of our large corporations who conduct nonpartisan good-government-type information and educational activities are afraid that they may be restricted in some way. The Sears Roebuck Co. is one example of companies who are concerned.

In reading section 321, which was the old section 610, and in looking at the committee report, Mr. Speaker, I find no restriction on educational good government activities conducted by corporations which seek to inform and to educate their employees. Just because that kind of activity is not specifically exempted under this law, as an expenditure, I see no reason why any corporation should worry that such activity is illegal or subject to restrictions.

I do not believe such conduct is prohibited nor defined as an expenditure either expressly or implicitly in the law, or in conference report.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

Then it is the gentleman's feeling that there is nothing in the conference report that would in any way prevent a company, say, like Sears Roebuck from having a Good Government Day where they invite various officials and elected officials into their stores to talk to their employees on a nonpartisan good government basis?

Mr. FRENZEL. I certainly do not. It seems to me this bill expands the possibilities for unions and corporations rather than contracts the possibilities.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, I appreciate the gentleman yielding.

I share the views expressed by the gentleman in the well that the traditional good government activities conducted by the Sears corporation which permits candidates to come in before their employees to speak on issues of importance to the candidates in a forum setting is neither a contribution by the corporation nor by a political action committee organized by it, nor an expenditure by either. In my opinion such activities are not prohibited by this act. Such activities may continue if this bill is adopted.

The SPEAKER pro tempore. (Mr. ROSTENKOWSKI). The time of the gentleman from Minnesota has expired.

Mr. WIGGINS. Mr. Speaker, I yield the gentleman from Minnesota 1 additional minute.

Mr. JOHN L. BURTON. Mr. Speaker, I wonder if the gentleman from Minnesota would yield to the chairman of the committee to find out if the chairman agrees with the statements made by the gentleman from California.

Mr. FRENZEL. I yield to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS of Ohio. Mr. Speaker, I agree with the statement, of course always bearing in mind that these arrangements must be equitable and nonpartisan.

Mr. FRENZEL. I thank the gentleman for his contribution.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I would like to comment on the remarks of both my colleague, the gentleman from California and my colleague, the gentleman from Minnesota. Nobody who is opposed to this bill said that the good citizenship programs were in jeopardy. The concern was that it is understood by the way the conference report is written that the get-out-the-vote program may be sidetracked because of hazy language. The Members have just argued on a point that was never at issue. So to try to imply that Sears-Roebuck and other corporations, and it is not just large corporations, are concerned about the get-out-the-vote program, I would point out this bill was not considered a total attack on the good government programs.

Mr. WIGGINS. Mr. Speaker, let me inform the gentleman that the right of corporations to engage in nonpartisan get-out-the-vote efforts is expanded under this bill and not limited in any way. Whatever rights Sears had under the old law remain in existence and are in fact expanded since their get-out-the-vote efforts can be directed at Executive personnel as well as stockholders.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I commend the gentleman in the well and the gentleman from California (Mr. ROUSSELOT) for their comments with respect to the issue raised by the gentleman from Minnesota (Mr. FRENZEL). There is nothing in the conference report which makes unlawful any good government activity which is permissible under present law.

Mr. HAYS of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. BRADEMAS).

(Mr. BRADEMAS asked and was given permission to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I rise in support of the conference report on S. 3065, the Federal Election Campaign Act Amendments of 1976.

Mr. Speaker, I would first like to pay a word of tribute to the distinguished

chairman of the House Administration Committee, the gentleman from Ohio, WAYNE L. HAYS, for his leadership on this important legislation, as well as to other members of the committee, particularly the gentleman from New Jersey (Mr. THOMPSON); the chairman of the Elections Subcommittee, the gentleman from Pennsylvania (Mr. DENT); the gentleman from Georgia (Mr. MATHIS); the gentleman from South Carolina (Mr. DAVIS); and the gentleman from California (Mr. WIGGINS).

Mr. Speaker, this measure revises and makes improvements in the landmark campaign reform legislation passed by Congress in 1974.

In addition to reconstituting the Federal Election Commission to meet the requirements set down by the Supreme Court in Buckley against Valeo, the conference report closes some of the loopholes left by the Court's decision in that case, applies "truth in advertising" requirements to so-called independent expenditures, and clarifies the political activities permitted to corporations and labor unions.

Mr. Speaker, rather than merely restate all of the details of the bill, which are well described in the conference report, I would like to make several observations about what the bill does and does not do.

First, Mr. Speaker, the bill transfers to the President the right to nominate, and with the advice and consent of the Senate, to appoint, the six voting members of the Federal Election Commission. In other respects, however, the makeup of the Commission will remain essentially unchanged. The Clerk of the House and the Secretary of the Senate will continue to serve on the Commission, ex officio. The Clerk and Secretary will not have the right to vote, but otherwise will be accorded all of the other rights, including participation in Commission meetings, which belong individually to the six Presidentially appointed Commissioners.

This arrangement, I should add, does not violate the decision of the Supreme Court in the above mentioned case, for it is in the act of voting that the Commissioners collectively exercise the administrative powers granted to the Commission by the statute, powers which the Court said may only be exercised by officers of the executive branch.

The conference report also leaves unchanged requirements of the act with respect to the point of entry for reports required to be filed by candidates for Federal office. Reports shall continue to be filed with the Clerk of the House or the Secretary of the Senate, according to the office being sought by the candidate involved.

Mr. Speaker, the conference report makes no change in the provisions of current law governing the promulgation by the Commission of rules and regulations. The conference report makes clear, however, that the Commission is not permitted to use the advisory opinion procedure to circumvent the requirement that proposed rules and regulations be submitted for congressional review. Advisory opinions may be issued only with respect to specific fact situations, and, even more important, the Commission may not issue any advisory opinion which has the effect of stating a general rule of law not previously stated in either the act or a regulation which has survived the congressional review process. The prohibition applies to all opinions of an advisory nature rendered by either the Commission or its employees, including opinions of the Commission's general counsel. This would not, of course, prevent the Commission from providing information of a routine nature to candidates and the general public.

The enforcement powers of the Commission are in no way weakened, and, indeed, are strengthened.

The Commission is given exclusive primary jurisdiction over all enforcement actions, and it may continue to conduct its own litigation, including litigation in the Supreme Court.

Mr. Speaker, one of the effects of the Supreme Court's decision in Buckley against Valeo was to nullify the $1,000 ceiling on independent expenditures made by an individual or group. Independent expenditures are expenditures which are made on behalf of a candidate without his authorization or against a candidate's opponent without the authorization of the candidate.

The effect of this ruling by the Supreme Court would allow individuals or special interest groups to spend unlimited amounts on behalf of a specific candidate, or against specific candidates.

In order to close this loophole, the conferees agreed to accept the House provision requiring that any independent expenditure must be in fact independent. The conference report, in complete accord with the guidelines of the Supreme Court, specifies that independent expenditures must be made without the cooperation or the suggestion of any candidate. Otherwise, the contribution limits elsewhere in the bill of $1,000 by an individual or $5,000 by a group will apply.

Moreover, Mr. Speaker, the bill requires that an individual or any committee making independent expenditures for or against a candidate must report all such expenditures to the Federal Election Commission on the same basis as a political committee, that is to say, on a regular and cumulative basis.

The bill also requires that billboards, television advertisements, and other similar public announcements financed by independent expenditures, and which advocate the election or defeat of a candidate, must include a conspicuous statement identifying the person making the expenditure.

I believe that these "truth in advertising" requirements for independent expenditures will both help prevent sharp practices and further reduce the corrupting influence of big money in Federal elections.

Finally, Mr. Speaker, the conference report resolves, I believe fairly, one of the most controversial issues involved in this legislation—the respective activities allowed the corporations and labor unions in Federal elections.

I might say first, Mr. Speaker, that essential to an understanding of these provisions of the conference report is that we have not sought to change the rules laid down by the 1971 and 1974 election laws with respect to corporate and labor union political activities.

Rather, the current controversy has arisen solely because the Federal Election Commission, through the advisory opinion process, has sought to change the rules notwithstanding the clearly articulated intent of Congress.

In 1971 Congress recognized that corporations and labor unions had legitimate and sometimes competing interests in the outcome of Federal elections. Congress therefore allowed such organizations to establish separate, segregated political funds for the purpose of making contributions, subject to the limitations of the act on contributions, to candidates for Federal office.

Moreover, Congress sought to establish a balance between the political activities allowed to corporations and labor unions in order that the extent of political activities carried on by either kind of entity might not burgeon so as completely to overwhelm the activities of the other.

Congress specifically did not allow either corporations or labor unions to cross-solicit contributions from each other's respective constituencies. Because the rationale for allowing a corporation to play a role in Federal elections was the legitimate interests of its owners and management, Congress restricted the solicitation rights of a corporation to its stockholders and managerial employees. And because the rationale for allowing labor unions to play a role in Federal elections was the legitimate interests of its members, Congress restricted the solicitation rights of a labor union to its members.

Mr. Speaker, this system worked well for a number of years, until last winter when a majority of the members of the Federal Election Commission arrogated to themselves the right to change the rules.

In December, 1975 in an advisory opinion issued at the request of the Sun Oil Co., the Commission announced that it would allow a corporation to solicit all of its employees, including wage and hourly workers, organized and nonorganized.

Corporate managers were not slow to respond. Literally hundreds of corporations have established new political action funds since the Sun Oil opinion was issued, and many of them have already accumulated very large amounts of cash.

Mr. Speaker, the action of the Federal Election Commission in this matter has turned the statute on its head. For the Commission has given corporations large and small the green light to go ahead to solicit everyone they can possibly reach. Moreover, by deciding the question via the advisory opinion route, rather than proposing its interpretation of the law as a proposed regulation, the Commission effectively circumvented the review process Congress carefully designed to curb precisely this kind of administrative abuse.

It is therefore grossly misleading to suggest that the inclusion in this bill of provisions clarifying the political activities permitted to corporations and labor unions is an attempt to "change the rules" in midstream.

On the contrary, what the conference committee has done is to restore the rules which governed Federal elections from 1971 until the Commission's Sun Oil decision last December.

We have, moreover, done so in a manner that is fair and evenhanded.

A labor union, like a corporation, may establish only one political committee, so that the limitations the act imposes on contributions may not be avoided.

Similarly, a labor union, like a corporation, must report voter registration and get-out-the-vote expenditures made on behalf of a specific candidate in excess of $2,000 per election.

And a labor union, like a corporation, may solicit contributions from the nonorganized employees of a company only twice a year, and then only by mail.

Mr. Speaker, if the word "fairness" implies a balancing of rights, this bill represents an equitable balance between the rights of corporations and labor unions. It is the product of deliberation, negotiation and compromise.

It is a good bill supported by members of the conference committee of both parties.

It is strongly supported by Common Cause, which has been a vigorous champion of campaign reform.

It will bring to an end the hiatus in Federal matching funds which during the last month has hampered candidates for President in both parties.

I urge all Members to cast their vote in favor of the reasonable provisions embodied in this bill in order that we might send it to the President without further delay.

And I would then urge the President to sign the measure into law. A veto would be most irresponsible on his part. We must have clean elections in this country.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from New Jersey.

(Mr. THOMPSON asked and was given permission to revise and extend his remarks.)

Mr. THOMPSON. Mr. Speaker, I thank the gentleman and I would like to associate myself with the gentleman's remarks. Having been one of those who engaged in a colloquy to establish the rules in 1971, I felt very strongly about the misinterpretations of the Commission in handing down SUNPAC. I must say that the final solution arrived at by the conference, thanks to the chairman, the gentleman from Ohio (Mr. HAYS), the gentleman from California (Mr. WIGGINS), the gentleman in the well and others, it seems to me an eminently fair solution to this difficult problem.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman from New Jersey.

Mr. WIGGINS. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. PRESSLER).

(Mr. PRESSLER asked and was given permission to revise and extend his remarks.)

Mr. PRESSLER. Mr. Speaker, the Federal Election Commission Act amendments conference report has today been voted on by this body. The first time we in the House voted on these amendments, I cast a "no" vote because I was opposed to certain aspects of the bill which I felt harmed our Federal election process rather than made it more accountable. However, I today cast an "aye" vote, because certain changes in the conference committee were made in the bill which made it more acceptable and I feel strongly that we must act on this legislation to insure the orderly continuation of the electoral system presently in force.

These changes included deleting a House provision, which had required the FEC to submit all future advisory opinions to the Congress as regulations for congressional approval as well as any advisory opinions issued after October 15, 1974. In addition, the conference report does provide for more equal solicitation by corporate and union political action committees. Both groups—corporate and labor—must report carefully all expenditures in communicating to their members in regard to helping or defeating candidates.

I am not fully satisfied with this legislation; but it has been changed sufficiently in the House-Senate conference to cause me to vote "aye."

Mr. WIGGINS. Mr. Speaker, I yield 2 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

(Mr. RHODES asked and was given permission to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I recently received a statement from the President, as follows: "The President as previously stated favors a simple reconstitution of the Federal Election Commission consistent with the Supreme Court decision. However, the President will carefully review the congressional approach and make a decision consistent with the orderly and responsible conduct of the election process."

I think any fair interpretation of this statement is that the President has not made up his mind whether he would sign this bill or whether he would not.

I would like to state, however, that the reason we are here is that the Supreme Court found that parts of the act of 1974 were unconstitutional; mainly, the part dealing with the way the Federal Election Commission was put together. It seems to me, and I expressed myself in this manner at that time, that it would have been much wiser on the part of the House and of the Senate to reconstitute the Commission as the Supreme Court required and not to go into the nuts and bolts of the election law during an election year. It seems to me there is much to be gained by having some idea just what sort of law we operate under in this election. It seems to me we should not change the rules as we cross the stream. It does not serve any good purpose.

I recognize that this bill has as one of its main thrusts the idea of trying to do away with the SUNPAC decision of the FEC.

I can understand why some of the gentlemen on my right would want to do that, because it does guarantee the right of free speech for a corporation and allows the corporation actually to ask its own employees to contribute funds for political purposes. Personally, I do not see anything bad about free speech. When the first amendment is brought up in other contexts, I think most people, both on my right and on my left, support the application of it liberally so that all people can let other people know how they feel on matters like this.

The SPEAKER pro tempore (Mr. MCFALL). The time of the gentleman from Arizona has expired.

Mr. WIGGINS. Mr. Speaker, I yield 1 additional minute to the distinguished minority leader.

Mr. RHODES. I ask the question, why would not the board of directors and management of a corporation be under the same types of rules and have the same privilege of communication as other people?

I congratulate the committee on this—the committee has tried to take away some of the unfair tilt of the 1974 law toward organized labor. Nevertheless the tilt, if this bill becomes law, would still be very strongly pro-union and anti-business, and it will be very strongly pro-Democratic and very strongly pro-incumbent. Therefore, I find myself unable to support this bill.

Again, I congratulate the Members who worked on this. They worked hard, they worked long, and I think they came up with a bill which is much better than the one we started out with, but even so the tilt is still there, the bias is still there, and I cannot support it.

Mr. WIGGINS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

(Mr. PEYSER asked and was given permission to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, while I support and now will vote for this bill, I must say that I take very strong exception to one section of the bill, and I do not quite understand how it even worked its way into the program at all. This deals with the section on page 13 which says that the Senate committee, the Senate campaign committees will be authorized to give $17,500 to senatorial candidates in their primary and general elections.

My own experience in this area in dealing with my own party, the Republican National Senate Committee, clearly shows that these committees operate arbitrarily, discriminatorily and, in cases, deceptively. These funds are used strictly to protect incumbents. In reality, they are the antithesis of campaign reform, and I am very surprised the conferees allowed this to become part of the bill. It seems to me that we should be protecting the public against what we know to be the misuse of funds.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Ohio.

Mr. HAYS of Ohio. I assume the gentleman is saying all these things, these bad things, about the Republican Senatorial Campaign Committee, and not

about the Democratic committee. I do not know what they do or how they do it, but the Democratic committee does not operate that way.

Mr. PEYSER. I say to the chairman, I have stated it very plainly about who I am speaking right now. I cannot say what the Democratic committee does, but I was going to ask the chairman a question as to the reason why this section (h) on page 18 ever became part of this act, because I do not think it refers to anything we have discussed in the House.

Mr. HAYS of Ohio. Well, it refers to the fact that we have placed a prohibition of $5,000 on these committees, and the Senate simply would not buy it. Under the rules of comity, in order to get a bill, I had to let them more or less set the limits on their campaign committee, but on the House committees we retained the original $5,000. I would have been a lot happier if we retained it all up and down the line.

Mr. PEYSER. I thank the gentleman.

Mr. WIGGINS. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

(Mrs. FENWICK asked and was given permission to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding to me. I think all of us who care very much about election reform were bitterly disappointed with the House bill when it left the House, particularly as it limited disclosure. I voted against it, but I am now persuaded that this bill, although still imperfect, deserves support.

The gentleman from Indiana, who was in the well earlier, said very clearly that we must have clean elections; and, indeed, we must. We are not going to get them if we continue to clip the wings of the Federal Election Commission, if we continue to restrict its powers. But neither will we help reform without a Commission.

Mr. Speaker, there are several clauses in this bill which has come from the conference with which I do not agree. But I do not think we can stand here, crying for election reform, urging election reform, and voting against every bill that comes down the pike with at least some election reform in it.

This bill at least re-establishes the Commission; it contains some election reform, and I, therefore, intend to reverse my previous vote and support it.

Mr. WIGGINS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. VANDER JAGT).

(Mr. VANDER JAGT asked and was given permission to revise and extend his remarks.)

Mr. VANDER JAGT. Mr. Speaker, if I could have the attention of the distinguished chairman, the gentleman from Ohio (Mr. HAYS), I take this time in order to clarify some of the language in this bill as it relates to contribution limitations.

I believe the language is clear, but because it is a long and complex bill I just want the legislative intent to be crystal clear for any future interpreters.

The present law allows an individual to give all or any part of his annual $25,000 limit to a multicandidate committee. This bill changes this in the following way:

If an individual wishes to contribute to a multicandidate committee, such as a corporate or union political action committee, he may give up to $5,000 to each such committee. However, his aggregate contribution still may not exceed his $25,000 annual limit. An individual may use his entire annual limit by contributing to the committees established or maintained by a national political party, but no more than $20,000 may be given to any one such committee.

Mr. HAYS of Ohio. Mr. Speaker, if the gentleman will yield, that is correct. No more than $20,000 to any one.

Mr. VANDER JAGT. An individual under both present law and this bill may not contribute more than $1,000 per candidate per election.

Unlike individuals, qualified multicandidate committees under present law do not have an annual $25,000 limit. This remains the case in S. 3065. Likewise, such a committee may not contribute more than $5,000 per election to any one candidate or to committees which operate exclusively on behalf of that candidate.

So there is no change there.

S. 3065 does make a substantial change in the amounts which multicandidate committees may transfer to other multicandidate committees. As I read the bill the restrictions would be as follows:

A multicandidate committee may transfer to any other multicandidate committee $5,000 per year. However, if the recipient of this transfer is a committee established and maintained by a national political party, then the limit would be $15,000 per year. Any number of these transfers to various party committees may be made by the same multicandidate committee.

Is that correct?

Mr. HAYS of Ohio. That is correct.

Mr. VANDER JAGT. I thank the gentleman.

Finally, on this section, if all committees which are involved in the transfer are national, State, district or local committees—including any subordinate committee thereof—of the same political party, then none of the limitations apply.

Mr. HAYS of Ohio. That is correct.

Mr. VANDER JAGT. I note with great interest that the conference report states that the term "political committee established and maintained by a national political party" includes the Senate and House campaign committees. Since I am the chairman of the National Republican Congressional Committee, and since the gentleman from Ohio is the chairman of the Democratic National Congressional Committee, I wish the RECORD to clearly indicate that, although our respective committes are categorized as "established and maintained by a national political party" for purposes of sections 320(a)(1)(B) and 320(a)(2)(B), that is not necessarily the fact of the matter, except for the purposes of those two sections and those two sections alone. For all other purposes, our committees are creations of the representatives of the two political parties which have been elected to the House. Speaking for my committee, I can state unequivocally that the Republican Congressional Committee is not maintained by, nor is it in any way subordinate to the Republican National Committee.

However, it is clearly the conferees' intent that the House and Senate Campaign Committees are each entitled to receive up to $20,000 from an individual and up to $15,000 from any multicandidate committees.

Mr. HAYS of Ohio. Mr. Speaker, I will say to the gentleman that I agree with him. No matter how these committees are created, for the purposes of the law they are considered to be created that way and, therefore, they come under broader restrictions than any restrictions they might otherwise come under.

Mr. VANDER JAGT. Mr. Speaker, I thank the gentleman.

For the purposes of section 320(a)(1)(B) and section 320(a)(2)(B) that I cited, our committees are considered to be created in that way but they are not considered to be created in that way under any other sections?

Mr. HAYS of Ohio. The gentleman is correct.

Mr. VANDER JAGT. Mr. Speaker, I thank the gentleman very much.

Mr. HAYS of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, as the chairman of the committe knows, I have been working to try to get legislation which would prohibit political candidates from converting political contributions to personal use. Such a provision was contained in the Senate bill, but it was deleted in conference because of objections by the House committee.

I would like to know whether the gentleman generally supports the concept that we should not let political candidates convert political contributions to personal use.

Mr. HAYS of Ohio. Mr. Speaker, if the gentleman will yield, I think that general concept would be supported by the House. There were real problems in working out the details in conference, especially in cases where a Member was retiring and had a fund which he accumulated. The fund may have been accumulated about 2 years ago, and the question was: What do you do with it? It might be thought almost impossible to prorate it back to the individual contributors, especially since some of them have no records as to whether they contributed, for instance, another $10, and pending further study, we just could not come up with an acceptable provision.

I do not fault the general idea, and I think that some day we will be able to work something out in this area.

Mr. BEDELL. The gentleman believes the idea has merit if we could get a proper provision drafted?

Mr. HAYS of Ohio. That is right.

Mr. BEDELL. Mr. Speaker, I thank the gentleman.

Mr. HAYS of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, as some Members know, I have not been especially happy with the section of this bill

which increases the honorarium limitation for Members of the Senate.

I simply want to take this opportunity to announce that in the future I intend to publish two lists in the CONGRESSIONAL RECORD. One will be a list of the Members of Congress who vote against a pay raise and then accept it. The second list will be of those Members of Congress who vote against a pay raise and then in that calendar year received more in outside speaking fees than the amount of that pay raise.

Mr. Speaker, I think that will eliminate a lot of phony talk by some Members of Congress and, in particular, some Members of the Senate who are singing "Sweet Holy Jesus" on the issue when in actuality they are playing hypocritical games.

Mr. HAYS of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I would like to ask the distinguished committee chairman for a little further explanation on the multicandidate committee. As I understand it, there is no limit on the number of multicandidate committees that could be created, but if they are created under the control of or their organization is instigated by a national committee, they will all be treated as one committee; is that true?

Mr. HAYS of Ohio. The gentleman is correct.

Mr. SEIBERLING. Is there anything in this bill which defines what constitutes control or instigation by a national committee? I ask that because I can see how they might be suggesting the formation of many multicandidate committees and yet actually avoid the limitations on contributions.

Mr. HAYS of Ohio. Mr. Speaker, if the gentleman will yield, I think the intent is pretty clear that they shall be the single source of reporting. I do believe there is an unclear area there. We will just have to see how it works, and if it is abused, perhaps we can remedy it later on.

Mr. SEIBERLING. Would it be the intent of this conference report that if there is any participation by a national committee in the formation of a multicandidate committee, that would constitute sufficient control for the purposes of this bill?

Mr. HAYS of Ohio. Yes.

Mr. WIGGINS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. ROUSSELOT).

(Mr. ROUSSELOT asked and was given permission to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, I rise in opposition to the conference report to accompany S. 3065, the Federal Election Campaign Act Amendments. The Federal Election Campaign Act of 1974 was enacted, supposedly, to let the public know who is giving money and help to a candidate and to prevent violations of the public trust by individuals who would use financial aid to unduly influence or coerce an elected official. The campaign law has, since 1974, become the instrument for the creation of a commission which has issued numerous regulations and requirements involving pages of forms and reports to be completed by the various candidates for public office. I do not oppose disclosure of campaign contributions or expenditures, but I do question whether or not the Federal Election Campaign Act provides fair and impartial treatment for all candidates and their supporters.

The conference report before us today does not resolve these inequities, nor does it improve the campaign law. The Congress has not, through these amendments in S. 3065, dealt effectively with the inequities in the 1974 Act. The conferees failed to resolve the basic favoritism in the law toward labor bosses. The voice has been taken away from business in the political arena—and not just big business. Why do labor and business not have the same rights to involve themselves in political activities? The vast majority of American workers—86 million or more—are not members of labor unions—approximately 18 million union members. Certainly they desire fair and equal treatment under the law. This conference report does not provide this equal treatment.

I urge my colleagues to consider the ramifications of this legislation which has been hastily written to make us all appear free of any taint of "Watergate." We owe our constituents more than the mere appearance of virtue and candor. I shall vote against the conference report to accompany S. 3065.

Mr. WIGGINS. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. DEVINE).

(Mr. DEVINE asked and was given permission to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I intend to vote against this conference report, and at the proper time will make a motion to recommit without instructions.

I am concerned about the public financing provisions generally, as has been demonstrated by all of the early Presidential candidates. I am concerned about what appears to be a balance in favor of the organized labor slush funds.

Mr. Speaker, it seems to me that John Gardner and his Common Cause organization have presumed to position themselves between the public and the Congress. They presume to speak for the public and to tell the Congress what we ought to do, and they position themselves between the Congress and the public by telling the public what a bad job Congress is doing.

Mr. Speaker, it seems to me that a simple motion to recommit to permit this bill to go back to committee and report it back to reconstitute the Commission under the Supreme Court guidelines would be in the public interest. Therefore, Mr. Speaker, I will submit a motion to recommit at the proper time.

Mr. WIGGINS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. O'BRIEN).

(Mr. O'BRIEN asked and was given permission to revise and extend his remarks.)

Mr. O'BRIEN. Mr. Speaker, with due respect for the distinguished leadership of the House in the conference, and I doubt that we could have gotten better, I oppose the report.

Let me tell the Members why as quickly as I can. There is a church near London on whose cornerstone is carved this extraordinary bit of tribute:

> In the year 1653 when all things sacred in the kingdome were either profaned or demolished, this church built by Sir Richard Shirlye, whose singular praise it was to do the best things in the worst of times.

Mr. Speaker, while these may not truly be termed the worst of times for the U.S. Congress, if the reputation of the legislative branch of the Federal Government is the sole criteria, certainly there have been better ones. Hardly a day passes that I do not read in the paper, see on television, or hear on the radio, some commentary or editorial demeaning and degrading the quality of the Congress. Some of that negative and frequently vicious criticism is unavoidable, but an appreciable amount of it can be laid at the doorstep of the Capitol for our own ineptitude, negligence and willingness to cut corners to suit our convenience.

Just a year ago, according to a Harris survey, only 18 out of each 100 persons interviewed had confidence in the U.S. Congress. As recently as 2 months ago we lost one-half of the 18. Put another way, 91 out of 100 Americans have lost their faith and trust in the Congress.

What bothers me most about this situation can be summed up rather briefly: A reputation once damaged is not easily restored, and restoration takes time—a very long time—and the reputation of this distinguished body—which in my opinion is the finest legislative body in the world—is at its very lowest.

But once in a great while there comes an opportunity to take a dramatic step toward restoration of congressional character, a step that would go a long way toward bringing public recognition of the quality that is truly present here in the Capitol. Such an opportunity is presented to us in the form of the 1976 amendments to the Federal Election Campaign Act of 1974, particularly the House version thereof. As one of our colleagues eloquently stated in a recent interview published in the local paper: "The times call for uncommon honesty" and uncommon honesty is exactly what is called for in the House version, and in particular section 103 of the House amendments.

And unless we in the House really fight to enforce our will and compel the Senate to yield, we will have lost this critical opportunity and further degrade our stature and diminish our prestige.

I direct your attention to section 103 (a) which changes the recordkeeping requirements to allow political committees to accept contributions of less than $50 without having to record one iota of information about the contributor. This is a loophole that would allow a donor to make a series of $49 contributions without having them reported. The conference committee's bill set up a three-tiered system for reporting contributions. The political committees would be required to file full reports of contributions over $100 with the FEC.

They would maintain their own internal records of contributions between $50 and $100, and would have to report any aggregation of these contributions exceeding $100 to the FEC. But the committees would not have to record any information about contributions less than $50, whether they are anonymous or not.

We must all ask ourselves what was the original intent of the Federal Election Campaign Act? In my estimation, Congress intended that candidates for Federal political offices be insulated from pressures which may be exerted by large financial contributors by placing a ceiling on the amount which an individual may contribute to a political committee. This bill sets that limit at $1,000. The original legislation also sought to disclose the source of political contributions by requiring campaign committees to keep records of all contributions in excess of $10.

The proponents of the change allowing anonymous contributions of up to $50 insist that campaign committees have been shackled with paperwork and time-consuming verification procedures for minimal contributions. I will agree that recordkeeping is a complicated task, but I cannot go along with the notion that it is an unnecessary, burdensome task. Do not we all keep records of who our contributors are for future campaign reference? Are we willing to forego keeping records on the $30 or $40 contributor and risk running into difficulties later on when we discover that he or she has contributed more than $100, and thus must be reported to the FEC?

These are basic questions which we, as participants in this highly complicated election process must face everyday. Are you really going to realize a net reduction in paperwork from this provision? Are the national campaign committees, with their automated data storing banks really going to benefit? I assert that this paperwork is fixed to a large degree and that the only real gain which we may all achieve is that we just will not have to be as accurate as has been hitherto required.

Now let us examine the possibility for fraud which this provision opens. The FEC, in an opinion of counsel, let us accept contributions of less than $10 without having to fully identify the contributor by name, address, and occupation. This is a sensible sum, a typical donation, given both through the mails and at "pass the hat" affairs. But $50 contributions represent a different situation entirely. It would take only 21 anonymous contributions for an individual to effectively escape the $1,000 limitation on personal contributions stipulated in section 320 of this same act. There is absolutely nothing in this bill which protects a candidate from excessive padding of his campaign coffers in this way. Again, we must ask ourselves, are we abiding by the original intent of Federal election and campaign reform—disclosure of the source of contributions a candidate receives?

I urge all my colleagues in the House to consider the ramifications of this provision and to question whether this conference report addresses the campaign excesses of the past and provides a mechanism for avoiding any future excesses.

If the 94th Congress wishes to leave an epitaph not unlike that of Sir Richard Shirley, it should defeat the conference report and insist upon one that does not overlook what campaign reform is all about—namely, disclosure.

Mr. WIGGINS. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. STEIGER).

(Mr. STEIGER of Wisconsin asked and was given permission to revise and extend his remarks.)

Mr. STEIGER of Wisconsin. Mr. Speaker, I regretfully find myself in the position of having to oppose this conference report.

The effect of it, if passed and signed, would be, one, to further inhibit the ability of the Commission to do its work, and two, to further favor incumbents over challengers.

Perhaps most serious, Mr. Speaker, it also puts Congress in the posture of discouraging the American people from fully participating in the political process.

In at least two ways, the conference bill places a chill on the participation of the citizen in our elections. First, it sets a ridiculously low threshold on the amount a citizen can spend—no more than $100—without personally filing a report to the authorities. Certainly this provision serves to discriminate against the individual who prefers to exercise his or her political rights through independent expenditures. It also enables incumbent officeholders to easily spot all constituents who may be spending modest sums to aid the candidacy of an opponent. I can see no other reason for this specially designated threshold of $100.

The conference bill also violates the first amendment rights of the private citizen by saying one may not finance the distribution or republication in whole or in part of any campaign ad or other materials used by a candidate or the candidate's agents, without it falling under the contribution limits. This provision clearly violates the spirit of the Supreme Court's decision of January 30.

I feel it necessary to remind my colleagues of the most important ruling in that decision. The Court said:

> The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution it is not the government but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.

Mr. Speaker, the conference report fails to heed that ruling. It is a bad bill.

Mr. WIGGINS. Mr. Speaker, I yield 30 seconds to the gentleman from Louisiana (Mr. TREEN).

(Mr. TREEN asked and was given permission to revise and extend his remarks.)

Mr. TREEN. Mr. Speaker, I appreciate the gentleman's yielding.

I asked for the time for the purpose of asking whether or not the gentleman from California (Mr. WIGGINS) or the gentleman from Ohio (Mr. HAYS) would be kind enough to respond to a grave concern which I have about a conference report provision having to do with eligibility for matching Federal funds for Presidential candidates.

Under the bill—as agreed to by the conference—if a Presidential candidate receives less than 10 percent of the primary vote in two consecutive elections, he cannot thereafter receive any matching funds. As I understand it, in some States a candidate can be placed on the primary ballot whether he wants it or not. Also, how is one to determine what a "primary" is for the purposes of this provision? On Saturday, Presidential primary contests for delegates were conducted in Texas and Louisiana. But, there was no statewide primary vote in either State on which to determine the percentages obtained by the various candidates.

I just think it grossly unfair, and repugnant to our notions about election opportunity, to withhold matching funds if a candidate fails to receive more than 10 percent of the vote in two successive primaries. I will vote against the conference report because of this fundamental inequity.

The SPEAKER pro tempore (Mr. MCFALL). The time of the gentleman has expired.

Mr. WIGGINS. Mr. Speaker, I yield myself such time as I may consume in order to make a quick response to the statement just made by the gentleman from Louisiana (Mr. TREEN). He contends the elimination on some Presidential candidates is inequitable. Equities are not absolutes. They are balanced. We balanced the equities here and resolved the problem of candidates receiving public money who have failed to demonstrate any national following over a period of time. Our solution may be imperfect, but it is not bad.

Mr. Speaker, we are going to vote in just a moment. I believe an affirmative vote on this conference report is a blow for better election laws. What we have tendered for your approval today is better legislation than the 1974 act. It is a better bill than the 1971 act. I urge an "aye" vote on the conference report.

Mr. HAYS of Ohio. Mr. Speaker, I yield the balance of my time to the gentleman from Pennsylvania (Mr. DENT), the chairman of the Subcommittee on Elections.

(Mr. DENT asked and was given permission to revise and extend his remarks.)

Mr. DENT. Mr. Chairman, it has been a long time since we started talking about this legislation in our subcommittee, and the subcommittee has had many hours and many days of hearings. I can honestly say that this is not a good bill. It is not a bad bill, but it is a fair bill, considering how many experts there are in this particular field of endeavor legislatively. The gentleman from Ohio (Mr. HAYS) stated on the floor that there were 435 experts, but that when we got to

conference we found out there were 535 experts and some of the 100 experts in the other body were equally an expert, or they thought they were.

No group can write this kind of legislation without having some parts of it that may be contested, debated, and probably changed in future laws. But the real thrust of this legislation is to try to put together something that will give us an opportunity to be able to run without harassment and hopefully with some idea being built up in the minds of the people of these United States that Congress is an important body, that its Members, in general, are good, honest citizens, and that the brush that has been painted with so broadly may now be narrowed down to those amongst us who may be at fault.

So the legislation tries to limit the best it can the kind of contributions that one can get and the amount that one can get. I for one have a very sincere opinion that we will never be able to have real election law enforcement until we can find some way to prohibit the use of excessive funds.

Our committee can give the Members example after example, by chapter and by verse of campaigns where half a million dollars was spent between two opponents trying to get a seat in the Congress of the United States. That does not do Congress any good.

There is another phase we will have to get into and I am sorry we could not do too much about it, and that is concerning the FEC, and it is significant in view of the fact that in all the campaigns that my attention has been directed to that my attention was also called to the fact that a great number of violations were committed by the media on equal time and on fair treatment and all those sort of things, such as when a candidate will be given an hour's time on the so-called Public Service Broadcasting System and then the interrogator will direct questions to that candidate, questions that we know that that candidate had no knowledge of whatsoever, and would have had no idea what the question was all about except by preparation before the so-called Public Service Broadcast went on.

I merely point out these items to the Members that the Congress will have to be dealing with in the future, and I think that perhaps these changes can be made, but at least, in my humble opinion, this may be my last primary.

Mr. HAYS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Ohio.

Mr. HAYS of OHIO. Mr. Speaker, I would like to briefly answer the statement made by the distinguished minority leader when he said that this was changing the rules in the middle of the game. Let me say that at any time the Commission issues a new rule that that is changing the rules, or introducing something new. As a matter of fact, any time the Congress passes a new law that changes anything that is in the present law, then that is changing the rule in the middle of the game for somebody. So if we adopted that theory, and carried it out to its ultimate end, we would never pass any legislation at all—and maybe that would be a good thing. I am not here to argue that, but its application to this particular legislation alone in my judgment just does not lodge.

Mr. DENT. I thank the gentleman.

We need not go to sleep and believe that this is a last effort. We will be changing the rules again and again and again as the problems come up that always do when we put into action any piece of legislation.

I want to say to the gentlewoman from New Jersey that we did not in any way, in my opinion anyway—and I believe the members of the conference and the members of both committees that have tangled with this problem for a long time know—cut down or made the Commission less effective. Perhaps we ought to look in every one of our jurisdictions and the committees that we serve on. Something that is becoming a great issue in America today is the rampant runaway activities of the bureaus and the agencies created within them. We may not realize it, but today one of the issues in the last campaign that just came through was the issue of bureaucracy, as if every individual Member in this Congress has something he can say collectively to the bureaucrats. We cannot do it.

The SPEAKER pro tempore. The time of the gentleman has expired. All time has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in support of this conference report on the Federal Election Campaign Act Amendments of 1976. While many of us would have preferred the cleaner, quicker and more orderly route of simply reconstituting the Federal Election Commission along the lines suggested by the Supreme Court, I would suggest we can no longer afford the luxury of that opinion unless we want to start from scratch and risk throwing the whole present campaign process into total jeopardy and confusion.

In reviewing this conference report, I am impressed by the extent to which the legislation adopted by the House has been even further improved. I think our conferees are to be commended on presenting us with a report which should be acceptable to an overwhelming majority in both Houses and to the President. Our earlier fears about attempts to undermine the independence of the FEC have been, for the most part, allayed by changes made in the House and in conference to restore the FEC to full strength. The bill before us today is a far different animal than the gutted and defanged campaign watchdog which originally emerged from the House Administration Committee.

Mr. Speaker, no one, including myself, is totally happy with every aspect of this bill. That is the nature of any compromise. But I think we have to judge this final package on the basis of two criteria: First, does it give the FEC sufficient independence and authority to carry out its original mandate; and second, does it permit the full spectrum of interested individuals and groups sufficient freedom and flexibility to participate in and contribute to the American electoral process. I think this conference report addresses both criteria in the affirmative.

Mr. Speaker, a third factor involved in our decision today is what impact any further delay on this necessary legislation will have on the present ongoing campaigns. While it is regrettable that we must be legislating under the pressure of Supreme Court deadlines and in the very midst of an election campaign, it is nevertheless a matter over which we have no control and for which we have no alternative. That is not to say the Congress could not have dealt with this in a more expeditious fashion; I think we could have accomplished the most pressing mandate—simple reconstitution—in a much shorter time period than 3 months. But that is no longer what is at issue here. What is at issue is whether the Congress and the President can now bring this matter to a final resolution without further distorting the present campaign and without further contributing to public doubts and cynicism about our real intentions. We erected a very intricate and precise mechanism for partial public financing of Presidential primary campaigns in the 1974 Federal election reform law. Candidates have planned their campaigns on the basis of that source of funding. Any attempt to block putting that financing mechanism back on track now, no matter how well-intentioned or justified, would be perceived by the public as playing the most dangerous game of politics with our political process—the very type of games we attempted to outlaw with these Watergate reforms in the first place.

Mr. Speaker, I urge this House to give its overwhelming approval to this conference report, just as I have urged the President to sign it when it reaches his desk.

Mr. HAYS of Ohio. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. DEVINE

Mr. DEVINE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. DEVINE. In its present form, most assuredly, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DEVINE moves to recommit the conference report on the bill, S. 3065, to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STEIGER of Wisconsin. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic de-

vice, and there were—yeas 291, nays 81, not voting 60, as follows:

[Roll No. 223]

YEAS—291

Abdnor	Frey	Natcher
Abzug	Fuqua	Neal
Addabbo	Gaydos	Nedzi
Alexander	Gibbons	Nolan
Allen	Gilman	Nowak
Ambro	Ginn	Oberstar
Anderson, Calif.	Gonzalez	O'Neill
	Goodling	Ottinger
Anderson, Ill.	Gradison	Passman
Andrews, N.C.	Gude	Patten, N.J.
Annunzio	Guyer	Patterson, Calif.
Ashley	Hagedorn	
Aspin	Haley	Pattison, N.Y.
AuCoin	Hall	Perkins
Bafalis	Hamilton	Pettis
Baldus	Hanley	Peyser
Baucus	Hannaford	Pickle
Beard, R.I.	Harkin	Pike
Bedell	Harrington	Pressler
Bennett	Harris	Preyer
Bergland	Hawkins	Price
Bevill	Hays, Ohio	Pritchard
Biaggi	Heckler, Mass.	Quie
Biester	Hefner	Railsback
Bingham	Helstoski	Rangel
Blanchard	Henderson	Rees
Blouin	Hicks	Regula
Boggs	Hightower	Reuss
Boland	Hillis	Richmond
Bolling	Holland	Rinaldo
Bonker	Holtzman	Robinson
Brademas	Horton	Roe
Breaux	Howard	Rogers
Breckinridge	Howe	Roncalio
Brodhead	Hubbard	Rooney
Brooks	Hughes	Rose
Broomfield	Jacobs	Rosenthal
Brown, Calif.	Jeffords	Rostenkowski
Broyhill	Jenrette	Roush
Burgener	Johnson, Calif.	Roybal
Burke, Calif.	Johnson, Pa.	Russo
Burke, Mass.	Jordan	St Germain
Burlison, Mo.	Karth	Sarasin
Burton, John	Kasten	Scheuer
Burton, Phillip	Kastenmeier	Schroeder
Butler	Kemp	Schulze
Carney	Keys	Seiberling
Carr	Koch	Sharp
Carter	Krebs	Shipley
Cederberg	LaFalce	Shriver
Chisholm	Lagomarsino	Sikes
Clay	Leggett	Simon
Cleveland	Lehman	Sisk
Cohen	Levitas	Slack
Conable	Litton	Smith, Nebr.
Conte	Lloyd, Calif.	Solarz
Corman	Lloyd, Tenn.	Spellman
Cornell	Long, La.	Staggers
Cotter	Long, Md.	Stanton, J. William
Coughlin	Lundine	
D'Amours	McCloskey	Stephens
Daniel, R. W.	McCollister	Stokes
Daniels, N.J.	McCormack	Stratton
Danielson	McDade	Studds
Davis	McFall	Sullivan
Delaney	McHugh	Talcott
Dellums	McKay	Taylor, N.C.
Dent	McKinney	Thompson
Derrick	Madigan	Thone
Derwinski	Maguire	Thornton
Diggs	Martin	Traxler
Dingell	Mathis	Ullman
Dodd	Matsunaga	Van Deerlin
Downey, N.Y.	Mazzoli	Vander Veen
Downing, Va.	Meeds	Vanik
Drinan	Melcher	Vigorito
Duncan, Oreg.	Metcalfe	Wampler
du Pont	Meyner	Waxman
Early	Mezvinsky	Weaver
Edgar	Mikva	Whalen
Edwards, Calif.	Milford	Whitehurst
Eilberg	Miller, Calif.	Whitten
Emery	Mills	Wiggins
Erlenborn	Mineta	Wilson, Bob
Evins, Tenn.	Minish	Wilson, Tex.
Fary	Mink	Winn
Fenwick	Mitchell, Md.	Wirth
Fish	Mitchell, N.Y.	Wolff
Fisher	Moakley	Wright
Fithian	Moffett	Wylie
Flood	Moorhead, Calif.	Yates
Florio		Yatron
Flynt	Moorhead, Pa.	Young, Fla.
Foley	Morgan	Young, Ga.
Ford, Mich.	Mosher	Young, Tex.
Forsythe	Moss	Zablocki
Fountain	Murphy, Ill.	Zeferetti
Fraser	Murtha	
Frenzel	Myers, Pa.	

NAYS—81

Archer	Harsha	Poage
Armstrong	Hébert	Quillen
Ashbrook	Holt	Randall
Bauman	Hutchinson	Rhodes
Beard, Tenn.	Ichord	Risenhoover
Bowen	Jarman	Rousselot
Brown, Mich.	Jones, N.C.	Runnels
Brown, Ohio	Jones, Okla.	Ryan
Burke, Fla.	Kazen	Satterfield
Burleson, Tex.	Kelly	Schneebeli
Byron	Ketchum	Sebelius
Chappell	Landrum	Shuster
Clancy	Latta	Skubitz
Clausen, Don H.	Lent	Smith, Iowa
	Lott	Snyder
Clawson, Del	Lujan	Spence
Collins, Tex.	McClory	Steed
Crane	McDonald	Steiger, Wis.
Daniel, Dan	McEwen	Symms
Devine	Mahon	Taylor, Mo.
Duncan, Tenn.	Miller, Ohio	Teague
English	Montgomery	Treen
Findley	Moore	Vander Jagt
Goldwater	Mottl	Waggonner
Grassley	Myers, Ind.	Walsh
Hammer-schmidt	Obey	Wydler
	O'Brien	Young, Alaska
Hansen	Paul	

NOT VOTING—60

Adams	Ford, Tenn.	Nix
Andrews, N. Dak.	Giaimo	O'Hara
	Green	Pepper
Badillo	Hayes, Ind.	Riegle
Bell	Hechler, W. Va	Roberts
Brinkley	Heinz	Rodino
Buchanan	Hinshaw	Ruppe
Cochran	Hungate	Santini
Collins, Ill.	Hyde	Sarbanes
Conlan	Johnson, Colo.	Stanton, James V.
Conyers	Jones, Ala.	
de la Garza	Jones, Tenn.	Stark
Dickinson	Kindness	Steelman
Eckhardt	Krueger	Steiger, Ariz.
Edwards, Ala.	Macdonald	Stuckey
Esch	Madden	Symington
Eshleman	Mann	Tsongas
Evans, Colo.	Michel	Udall
Evans, Ind.	Mollohan	White
Fascell	Murphy, N.Y.	Wilson, C. H.
Flowers	Nichols	

The Clerk announced the following pairs:

On this vote:

Mr. Rodino for, with Mr. Roberts against.

Mr. Andrews of North Dakota for, with Mr. Nichols against.

Mr. Adams for, with Mr. Michel against.

Mr. Esch for, with Mr. Dickinson against.

Mr. Badillo for, with Mr. Conlan against.

Mr. Murphy of New York for, with Mr. Steiger of Arizona against.

Until further notice:

Mr. Giaimo with Mr. Green.

Mr. Jones of Tennessee with Mr. Conyers.

Mr. de la Graza with Mr. Macdonald of Massachusettts.

Mr. Evans of Colorado with Mr. Udall.

Mr. Jones of Alabama with Mr. O'Hara.

Mr. Krueger with Mr. Symington.

Mr. Pepper with Mrs. Collins of Illinois.

Mr. Mollohan with Mr. Eckhardt.

Mr. Stark with Mr. Buchanan.

Mr. Nix with Mr. Sarbanes.

Mr. Santini with Mr. Edwards of Alabama.

Mr. Buckley with Mr. Cochran.

Mr. Evans of Indiana with Mr. Eshleman.

Mr. Ford of Tennessee with Mr. Hayes of Indiana.

Mr. Fascell with Mr. Steelman.

Mr. Riegle with Mr. Heinz.

Mr. Hungate with Stuckey.

Mr. Madden with Mr. Ruppe

Mr. Mann with Mr Hechler of West Virginia.

Mr. Flowers with Mr. Kindness.

Mr. James V. Stanton with Mr. Hyde.

Mr. Bell with Mr. White.

Mr. Charles H. Wilson of California with Mr. Tsongas.

Mr. RANDALL changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 9721, AUTHORIZING APPROPRIATIONS FOR THE INTER-AMERICAN DEVELOPMENT BANK AND THE AFRICAN DEVELOPMENT BANK

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9721) to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. REUSS, GONZALEZ, STEPHENS, and TSONGAS, Mrs. BOGGS, and Mr. JOHNSON of Pennsylvania, and Mr. HYDE.

CONFERENCE REPORT ON H.R. 7656, BEEF RESEARCH AND INFORMATION ACT

Mr. FOLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 7656) to enable cattle producers to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of April 15, 1976.)

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the distinguished vice chairman of the Committee on Agriculture and chairman of the House conferees, the gentleman from Texas (Mr. POAGE).

(Mr. POAGE asked and was given permission to revise and extend his remarks.)

Mr. POAGE. Mr. Speaker, the matter

life of the permit, which in my amendment here would be a life of 10 years.

The Secretary presently could do that. They do not, as a matter of practice, but they could do it, I believe, under present law.

This would say they can issue a 10-year permit and then these rules would apply.

I thank the Senator.

Mr. HASKELL. Mr. President, I am strongly opposed to this amendment. I believe it is unnecessary from the standpoint of the grazing permittees and would be unfortunate from the standpoint of the public interest. As I understand the reason for this amendment it is to provide greater security to grazing permittees. However, I am at a loss to understand why such permittees presently do not have such security. The Taylor Grazing Act has perhaps the strongest preference rights language of any statute dealing with permits for use of public lands. Owners of base ranches have almost an assured right to permits and thereafter have preference rights for each renewal. I have not found in my tenure as chairman of the Environment and Land Resources Subcommittee any significant number of incidents demonstrating of a lack of security in grazing permits.

In addition, I would point out to my colleagues that the Taylor Grazing Act permits, although it does not require, 10-year permits. The language of the Cannon amendment requires 10-year permits but also would allow cancellation or termination of those permits during their life for a number of reasons. I cannot see any significant differences between the Cannon amendment and existing law in so far as providing additional security to permittees.

However, until the Department of the Interior completes the task of preparing allotment management plans for its grazing lands, I believe any permit statute provision requiring lengthier terms for permits should not be enacted. Upon the completion of the allotment management plans, when the range has been adequately planned and allotments have been established on the true capability of the range, I believe we can properly consider lengthier permit terms.

Subsection (d) of the permit would require the payment to a permittee for the authorized improvements on permit land whenever a permit is canceled in whole or in part. To a large extent this would be nothing more than double accounting. In effect the formula for computing grazing fees already takes into account improvements on the land and is adjusted therefor. In addition, the permittee depreciates those improvements in the payment of taxes. Both the administration and environmentalists are opposed to this provision in that it is regarded as the first step towards making the permits a right rather than a privilege requiring compensation whenever a permit is terminated or canceled.

Mr. President, this entire provision is found in the House version of the BLM Organic Act. It is in that form opposed by both the administration and environmental communities. Yet the amendment before us today does not even include several safeguard provisions found in the House version. For example, it would not permit the establishment of shorter permit terms when "it will be in the best interest of sound land management." In addition it would not tie permits to either the land use planning of the BLM or the requirements of allotment management plans.

Mr. President, I would hope we would not adopt the amendment of the Senator from Nevada. I cannot imagine greater security than is now given permittees under the Taylor Grazing Act. I know that when ranches change hands they have fee land and permit and, the purchaser takes into consideration and raises the purchase price because of the permit land, even though the permits are on a year-to-year basis.

Frankly, I believe the present scheme offers the flexibility and offers the security required. I would hope that we do not change the system at the present time.

I am also very fearful that if the amendment of the Senator from Nevada is adopted, the administration will veto the bill, as the administration opposes his position. I am very anxious to get on with improving the rangelands. For the reasons stated, I hope we will not adopt the amendment of the distinguished Senator from Nevada.

I yield the floor.

Mr. METCALF. Will the Senator yield for a unanimous consent request on a different matter?

Mr. HASKELL. I yield.

ORDER FOR EXTENSION OF TIME FOR FILING COMMITTEE REPORTS ON S. 713

Mr. METCALF. Mr. President, on April 14, 1976, on behalf of the Senate Committee on Interior and Insular Affairs, I filed a favorable report on S. 713, the Deep Seabed Hard Minerals Act. Pursuant to a unanimous consent agreement made upon introduction of S. 713, the bill was then jointly referred to the Committees on Armed Services, Commerce, and Foreign Relations for 30 days.

Under that agreement, the bill would have to be returned to the Senate Calendar on May 14, 1976. However, I have been informed that the chairman of the respective committees are agreed that this time agreement would not allow their committees adequate time for fair and adequate consideration of this important piece of legislation. Consequently, it has been requested that the original unanimous consent agreement, concerning referral of S. 713 to the three committees, be changed to allow them until June 2, 1976, to consider S. 713. Mr. President, the Senate Interior Committee has no objection to this extension of time.

Therefore, I ask unanimous consent that the period for rereferral of S. 713 to the Committees on Armed Services, Commerce, and Foreign Relations be extended until June 2, 1976.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

NATIONAL RANGELANDS POLICY ACT OF 1976

The Senate continued with the consideration of the bill (S. 2555) to establish a national rangelands rehabilitation and protection program.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the Cannon amendment, the McClure amendment, and on final passage with a single show of hands.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. I call for the yeas and nays on all three, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that while there would be a 15-minute limitation on the first rollcall vote, the next two votes, and incidentally, they will be in rapid succession, be limited to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. For the further information of the Senate, it is anticipated that without question following the disposal of this bill, if not before, we will take up the conference report on the Federal Election Commission.

Mr. President, I ask unanimous consent that at the conclusion of the vote on the Cannon and McClure amendments the Senate then go to the committee amendment as amended and then to the third reading of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. That third reading will be immediately followed by a rollcall vote on final passage and that rule XII be waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

VITIATION OF ORDER FOR ROLLCALL VOTE ON FINAL PASSAGE—S. 2555

Mr. MANSFIELD. Mr. President, after talking with the interested Members, I ask unanimous consent that the order entered for a rollcall vote on final passage be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the chair. I make that request because if, before 3:30, the Federal Election Commission conference report comes over from the House of Representatives, it would be the leaders' intention at that time, with Senator CANNON in attendance and Senator HATFIELD in attendance, to call up that conference report.

There being no objection, the Senate, at 2:41 p.m., recessed, subject to the call of the Chair; whereupon, at 2:49 p.m. the Senate reassembled when called to

order by the Presiding Officer (Mr. HELMS).

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the conference report on the Federal Election Commission be called up at this time.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. CANNON. Mr. President, I submit a report of the committee of conference on S. 3065 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HELMS). The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of April 28, 1976, beginning at page H3576.)

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

ORDER FOR VOTE TO OCCUR ON CANNON AMENDMENT AT 3:30 P.M. FOLLOWED BY THE VOTE ON McCLURE AMENDMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the Cannon amendment occur at the hour of 3:30 p.m., followed by a vote on the McClure amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

Mr. CANNON. Mr. President, in order that Senators may be notified that the conference report on the Federal Election Commission bill is pending, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that Claudia Ingram of my staff be accorded the privilege of the floor during the course of debate on the conference report on the Federal Election Campaign Act Amendments of 1976.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask unanimous consent that Ed Hall of the committee staff be accorded the privilege of the floor during consideration of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that during the consideration of this bill, Andrew Gleason, Larry Smith, Barbara Conroy, Karleen Millnick, and James Schoener have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that during the consideration of this bill, Bob Perkins, of Senator BROCK's staff, and Debbie Roberts, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask unanimous consent that Peggy Parish and Bill Cochrane have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, on March 24, 1976, the Senate passed S. 3065 by a vote of 55 to 28 amending the Federal Election Campaign Act of 1971. On April 1, 1976, the House of Representatives adopted amendments to S. 3065 which the Senate subsequently disagreed to on April 5, asking for a conference on the disagreeing votes of the two Houses. Senators HOWARD CANNON, CLAIBORNE PELL, ROBERT C. BYRD, MARK HATFIELD, and HUGH SCOTT represented the Senate at the ensuing conference.

The conferees, after meeting on April 7, 8, 12, 13, 27, and 28, 1976, recommend that the Senate recede from its disagreement to the amendments of the House and agree to the amended text of S. 3065, as approved by the conferees and set forth in the report of the conference. The report of the conferees was approved by the House of Representatives today.

The details of the amendments agreed to by the conferees are set forth in the conference report and I will not attempt to review all of them at this time. Many of the matters which were debated and voted upon on the Senate floor are retained in the conference substitute. Some, however, met with strong disagreement from the House conferees and a compromise satisfactory to the conferees on both sides was reached.

S. 3065 as amended in conference represents a fair compromise of the differences of both Houses of Congress. It is also legislation which reaffirms the commitment of the Congress to the improvement of our electoral process, the very foundation of our democratic system of government.

This legislation remedies the constitutional defects which the Supreme Court found to exist in the Federal Election Campaign Act Amendments of 1974, and thus creates an independent six-member commission appointed by the President, with the advice and consent of the Senate, to administer, interpret, and enforce the Federal election campaign laws of our country.

This legislation also addressed other matters necessitated by the Supreme Court's decision by codifying a number of the Court's interpretations of the campaign finance laws, and filling gaps and vacuum areas resulting from the Court's having voided virtually all limitations on the expenditure of funds in election campaigns.

The conference substitute requires, as did both the Senate bill and House amendments, political committees and persons to report independent expenditures in excess of $100 in a calendar year expressly advocating the election or defeat of a clearly identified candidate. Such a reporting requirement was upheld by the Supreme Court and is present in a less definitive form in existing law. In addition, the Federal Election Commission will be required to prepare and issue current indices which will enable the public and other candidates to know how much money is being spent on behalf of particular candidates.

With regard to reporting requirements, S. 3065 as it passed the Senate required corporations, labor organizations, and other membership organizations to report expenditures directly attributable to communications to stockholders and members, explicitly advocating the election or defeat of clearly identified candidates in excess of $1,000 per candidate per election.

The House amendment did not contain a similar provision. The conference substitute retains the principal of such reports, not required under existing law, and provides that the cost of such communications devoted to express advocacy of the election or defeat of a clearly identified candidate shall be reported if such costs exceed $2,000 per election.

However, the cost of a communication will not be reportable if the communication is primarily devoted to subjects other than the advocacy of the election or defeat of a candidate. In adopting this substitute, the conferees agreed upon certain guidelines which are set forth in the conference report.

The conferees accepted the provisions of the Senate bill setting a $5,000 threshold for waiving quarterly reports of contributions and expenditures of candidates in nonelection years. The House amendment had a $10,000 figure. The conferees also adopted the Senate proposal that committee treasurers and candidates who demonstrate that best efforts have been used to obtain and submit information will be deemed in compliance with the reporting requirements of the act. The conference bill further

provides that records need only be kept as to the identity of contributors in excess of $50.

The conference substitute combines many of the enforcement provisions contained in both the Senate bill and the House amendment, giving the Federal Election Commission expanded and more varied civil enforcement powers. As these are described in detail in the conference report I will not discuss them at this time. However, I would welcome any questions my colleagues might have with respect to these enforcement provisions.

The conferees agreed to a modification of the advisory opinion procedures of the Commission. An advisory opinion may be requested by any Federal officeholder, any candidate for Federal office, any political committee, or the national committee of any political party, concerning the application of a general rule of law stated in the act, or the application of a general rule of law prescribed by the Commission as a rule or regulation, to a specific factual situation. Section 108(a) of the conference bill prohibits the Commission from proposing general rule of law in any form other than as a rule or regulation pursuant to the congressional review procedures of the act. General rulemaking was never intended to be the function of the advisory opinion process. This section clarifies the intent of the Congress in this respect, and requires the Commission to conform their prior advisory opinions to these provisions within 90 days of enactment.

The conference bill prohibits opinions of an advisory nature other than pursuant to the advisory opinion procedure. The bill also expands those who would be able to rely upon an advisory opinion to include any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which the advisory opinion is issued.

The conference substitute amends the procedure for congressional review of Commission rules and regulations by clarifying that Congress may disapprove any provision or series of interrelated provisions which state a single separable rule of law. The proposal in the Senate bill shortening the review time was deleted by the conferees, thus retaining the 30-legislative-day period of existing law.

With respect to limitations on contributions, the conference substitute is a fair compromise between the Senate bill and the House amendment. A person, as defined in the act, will be subject to the existing limitation of $1,000 per election per Federal candidate. As under present law, earmarked contributions and contributions made to a candidate's authorized political committees are considered to be contributions to that candidate. A person may also not make contributions to any political committee established and maintained by a national political party which in the aggregate exceed $20,000 in a calendar year. A person is further prohibited from making contributions to any other political committee which in the aggregate exceed $5,000 in a calendar year. Individuals would still be subject to the $25,000 aggregate limitation on all contributions in a calendar year in existing law.

A multicandidate political committee, as defined in the act, may contribute a total of $5,000 to a Federal candidate and his authorized political committee in any election campaign. A multicandidate political committee would be limited to an aggregate of $15,000 in a calendar year which it could give to any political committee of a national political party and to an aggregate of $5,000 in a calendar year it could give to any other political committee. These latter limitations, however, would not apply to transfers between political committees of the same political party.

The provisions permitting the Republican or Democratic Senatorial Campaign Committees and the national committee of a political party to make a contribution of $20,000 to a candidate to the Senate in a calendar year was amended to reduce this amount to $17,500.

The other provisions of the Senate bill and the House amendment relating to limitations on contributions and certain expenditures were similar and are reflected in the conference substitute.

The conference substitute also contains a fair compromise between the Senate bill and the House amendment pertaining to the solicitation by corporations and labor organizations of voluntary contributions to separate segregated funds. It follows the structure of the Senate bill, permitting corporations to solicit voluntary contributions from stockholders and executive or administrative personnel, and labor organizations to solicit their members. The conference bill would clarify the definition of executive or administrative personnel to include individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities. In addition to the above, corporations and labor organizations would be able to solicit all employees and stockholders twice a year in writing by mail to their residences with the proviso that the solicitation be designed so that the party making the solicitation cannot determine who makes a contribution of $50 or less as a result of such solicitation and who does not make such a contribution.

The conference bill adopted the House provisions giving trade associations rights to solicit stockholders and executive or administrative personnel of member corporations.

The conference report, at page 63, states as follows:

> The conference substitute follows the House amendment with regard to the solicitation by a trade association of stockholders and executive or administrative personnel (and their families) of a member corporation of such trade association. The conference substitute contains the provision of the Senate bill permitting a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by such organizations, to solicit contributions to such a fund from members of such organization, cooperative, or corporation without capital stock. In light of the fact subsection (b)(4)(D) governs solicitations by a trade association of the stockholders and executive or administrative personnel of a member organization, then the term "membership organization" in subsection (b)(4)(C) is not intended to include a trade association which is made up of corporations.

A question has come up as to the purpose of the phrase "the term 'membership organization' in subsection (b)(4)(C) is not intended to include a trade association which is made up of corporations."

First of all, this language was included to preclude a trade association, which is also a membership organization, and which desires to solicit the stockholders and employees of a member corporation, from avoiding the limitations of 321(b)(4)(D), which limit such solicitation to stockholders and executive or administrative personnel of the member corporation, and further provides that the member corporation must consent to such solicitation and only give its consent to one trade association in a calendar year.

Second, it applies only to trade associations with corporate members and is intended to regulate the solicitation of the stockholders and executive or administrative personnel of such corporate members. A trade association which is a membership organization may, of course, solicit its other members, such as individuals, partnerships, et cetera under 321(b)(4)(C).

In most other respects the provisions of the Senate bill related to corporate and labor union political action committees were retained, except the definition of stockholder, which was omitted, leaving the interpretation of this term to general corporate law.

The conference bill contains limitations on honorariums, increasing the existing limit per speech from $1,000 to $2,000 and the yearly aggregate from $15,000 to $25,000. In addition, actual travel and subsistence expenses for the recipient of the honorariums and spouse or aide as well as amounts paid or incurred for any agent's fees or commissions are explicitly excluded from the honorarium limitations.

Finally, the conference bill includes the provisions of both the Senate bill and the House amendment pertaining to the termination of matching funds for inactive Presidential primary campaigns and the return of excess public funds not used to defray qualified campaign expenses.

In conclusion, this legislation corrects many of the defects, inequities, and inconsistencies in the campaign finance laws which the Congress and others have observed since passage of the 1974 amendments. It clearly reflects the original intent of the Congress in 1971 and 1974, and at the same time, restructures the campaign finance laws, both to give the Federal Election Commission more extensive and flexible civil enforcement and regulatory powers, as well as to provide for a more balanced and equitable operation of these laws.

Mr. President, as this legislation has been extensively debated in both Houses of the Congress, it is now of critical importance that the Senate act expedi-

tiously to approve the report of the conferees.

I would be happy to yield to any questions or comments on any part of the conference report after first yielding to the Senator from Oregon (Mr. HATFIELD).

I ask unanimous consent, Mr. President that a brief summary that I have had prepared here citing the key provisions of the proposed Federal Election Campaign Act amendments as reported by the Senate and House conference, be reprinted at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

KEY PROVISIONS OF PROPOSED FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976, S. 3065, AS REPORTED BY SENATE-HOUSE CONFERENCE, APRIL 28, 1976

1. Reconstitution of Federal Election Commission:

Composed of 6 members, no more than 3 of whom may be affiliated with the same political party, plus the Secretary of the Senate and the Clerk of the House, ex officio, without the power to vote.

4 members to take major action.

Members may not engage in any other business, vocation or employment. One year to terminate such activity.

All outstanding proposed rules and regulations must be submitted to Congress for review after effective date of Act.

2. Definitional Changes:

Contract or promise to pay must be in writing to be a contribution.

Legal and accounting services rendered to national committee and to candidate to assure compliance with Act, are not contributions or expenditures.

Contribution does not include gifts, etc., to national or state committees of political party designated for construction or purchase of office facilities not used for campaign purposes. Must be reported, however.

3. Recordkeeping and Reporting:

Detailed records required only for contributions in excess of $50 rather than in excess of $10.

Demonstration of best efforts by political committee treasurer or candidate will be deemed compliance with reporting requirements.

In non-election years, candidates need file quarterly reports only if contributions or expenditures or both were in excess of $5,000 in any quarter.

Reporting required for independent expenditures in excess of $100 in support of, or in opposition to, a candidate.

Reporting of cost of communications to stockholders and members by corporations, labor unions, and other membership organizations advocating election or defeat of candidate in excess of $2,000 per election.

4. Powers of Commission:

Commission given primary exclusive jurisdiction for civil enforcement of the Act, and the public financing provisions of the Internal Revenue Code.

5. Advisory Opinions:

Advisory opinions shall relate to the application of a general rule of law stated in the Act or prescribed by rule or regulation, to a specific factual situation.

General rule of law may be initially proposed only as rules and regulations subject to Congressional review and disapproval. General rules of law may not be stated through advisory opinion procedures.

Advisory opinions may be relied upon by person involved in transaction or activity of advisory opinion and person involved in transaction or activity, indistinguishable in all its material aspects from transaction or activity of advisory opinion.

6. Congressional Review of Regulations:

In reviewing regulations proposed by the Commission, the Congress may disapprove any provision or series of interrelated provisions which states a single separable rule of law.

7. Enforcement:

New detailed enforcement procedures involve: notarizing complaints; notifying persons involved of alleged violations; conducting expeditious investigations; providing an opportunity for a person under investigation to rebut; requiring the Commission to correct violations by informal methods of conciliation; giving the Commission power to bring civil action when conciliation fails; imposing of civil fines by a court or by the Commission as a condition to a conciliation agreement; giving the Commission power to refer a criminal violation which is knowing and willful directly to Attorney General without conciliation.

8. Contributions and Expenditures Limitations:

Persons may contribute to a candidate and his authorized political committee up to $1,000 in the aggregate per election; up to $20,000 in a calendar year to a political committee of a national political party; up to $5,000 to any other political committee in a calendar year.

Multicandidate political committees may contribute to a candidate and his authorized political committees, up to $5,000 in the aggregate per election; up to $15,000 in a calendar year to a political committee of a national political party; up to $5,000 in a calendar year to any other political committee.

Limitations regarding committee contributions do not apply to transfers between national, state, district, or local committees of the same political party.

Provisions to curtail vertical proliferation of contributions by political committees.

Republican or Democratic Senatorial Campaign Committees or the national committee of a political party, or any combination of such committees, may contribute up to $17,500 to a candidate for the Senate in an election year.

Expenditure limits retained; for Presidential candidates who accept public funds; and for national and state committees of political parties.

9. Transfer of a Number of Title 18 Criminal Provisions Related to Federal Elections to the Federal Election Campaign Act of 1971.

10. Contributions by Corporations and Labor Organizations:

General solicitation of contributions by corporations is limited to stockholders, and executive or administrative personnel and their families.

The term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than on an hourly basis, and who have policy-making, managerial, professional or supervisory responsibilities.

General solicitation by labor unions is limited to union members and their families.

Both corporations and unions may twice during a year solicit by mail all employees, officers, stockholders, union members, and their families.

Trade associations may solicit stockholders and executive or administrative personnel of member corporations with limitation of one trade association per corporation.

11. Honorarium Limitations:

$2,000 limitation for any appearance, speech, or article, and $25,000 total calendar year limitation.

Actual travel and subsistence expenses for recipient and spouse or aide, as well as amounts paid or incurred for any agent's fees or commissions are excluded from the limitations.

12. Criminal Penalties:

Criminal penalty for a knowing and willful violation of the Act which involves the making, receiving, or reporting of any contributions or expenditures having a value in the aggregate of $1,000 or more during a calendar year. For certain sections, the amount involved is less.

Fine up to $25,000 or 300% of contribution or expenditure involved, imprisonment for up to 1 year, or both.

A conciliation agreement may be used as evidence of the defendant's lack of intent or knowledge to commit the offense in a criminal action brought with respect to the specific act, or failure to act, which is the subject of the conciliation agreement.

13. Termination of Payments for Lack of Demonstrable Support and Return of Funds:

A Presidential candidate loses eligibility to receive public matching funds if he receives less than 10% of his party's votes cast for all Presidential candidates in two successive primaries in which he authorized his name to be placed on the ballot, or in which he failed to certify that he was not an active candidate.

Candidates who cease to actively seek nomination or election in one or more states must return public funds not used for qualified campaign expenses.

Mr. CANNON. Mr. President, I yield to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, the Federal Election Commission has been without operating authority for almost 6 weeks. Presidential candidates who entered the 1976 Presidential primaries with the understanding that Federal matching funds would be available to them if certain criteria were met soon found themselves without matching funds in the middle of some important races. One can only speculate whether the absence of Federal funds truly served as a setback to their respective campaigns. One need not speculate, however, which Presidential candidates were hampered by the lack of funds, since the results in Saturday's Texas primary showed that the Republican Presidential race is still very much alive.

The Supreme Court and the President of the United States urged the Democratic-controlled Congress to enact a simple bill providing for the reconstitution of the Federal Election Commission. The enactment of such a bill would have taken only a few hours instead of weeks. Such a bill would have permitted the steady flow of matching funds to Presidential candidates of both parties. However, the majority part of the Congress seized upon the Supreme Court decision in Buckley against Valeo as an opportunity to remake the election laws in a manner more to their party's liking.

Mr. President, I originally supported the concept of enacting a bill providing for the simple reconstitution of the Federal Election Commission. Upon seeing that a simple reconstitution was impossible, I worked toward getting the best possible bill through the Senate, and through the Senate-House conference. Considering the fact that the minority party does have rights, but not the votes, I believe the best possible bill from a Democratic-controlled Congress has been achieved. There are provisions in the conference bill which are not to my liking. But I am realistic enough to believe

the Republican Party had better take what it can get when it is the minority party. Mr. President, I urge my Republican colleagues to study this measure very carefully, and then consider whether there is any possibility of getting a better bill from this Congress. I believe that once they have taken such a prospect into consideration, they will decide to vote in favor of the adoption of this conference bill.

Mr. President, I would have liked to have signed my name to a conference report providing for the simple reconstitution of the commission. But it was the will of the majority party not to take this road. After weeks of debate and consideration, the Senate has the opportunity to vote on a measure to reestablish the Federal Election Commission. While this measure somewhat weakens the commission, I suggest to my colleagues that if we are to have any type of independent watchdog machinery in operation for the November elections then we had better support this measure. If we do not, if the Senate rejects the conference bill, there is no way of knowing how much more time will be required to formulate a new bill, if one is formulated at all.

Therefore, I urge the support of the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I wonder if the chairman or Senator HATFIELD would respond to a few questions? I ask them for clarification of my own mind.

Mr. President, we have changed this bill on union reporting for money spent specifically advocating the election or defeat of a specific candidate from $1,000 per individual election to $2,000 aggregate, as I understand it.

Mr. CANNON. The Senator is correct.

Mr. PACKWOOD. Then we said specifically in the law, and the report says on page 63:

> The conferees agreed that section 301(f)(4)(C), as amended by the conference substitute, makes reporting requirements applicable * * *

I assume there, because there is no other reference to reporting requirements, that we are talking about section 304(f) of the same reporting requirement that all other political campaigns have to report, under the same timetables and all of that, once the threshold is reached. I realize there is no reporting until we reach the threshold. Then they follow the same reporting requirements that everybody else follows?

Mr. CANNON. Yes, provided they come within that limitation.

Mr. PACKWOOD. Yes.

Mr. CANNON. The $2,000.

Mr. PACKWOOD. They must qualify both in terms of the substance of what they are doing and the $2,000 threshold.

Mr. CANNON. The Senator is correct.

Mr. PACKWOOD. Once they reach that, the FEC makes them report just like everybody else has to report.

Now, I am curious——

Mr. HATFIELD. Mr. President, will the Senator yield at that point? I think the chairman is correct, but I think that ought to be further clarified. That matter was not specifically discussed, so this assumption, I think, is a reasonable assumption, but if the chairman thinks I am wrong I would like to be corrected. It is my recollection that this question which the Senator has just addressed himself was never specifically debated in the committee.

Mr. PACKWOOD. That is the reason I asked it because I come to the same conclusion the Senator and the chairman come to because I do not know what other conclusion you reach because it makes reference to reporting, and there is only one reporting law we are talking about, and there are no other reporting regulations one is required to meet. So I assume there is no——

Mr. HATFIELD. There is no legislative history, to my knowledge, that would give this other interpretation.

Mr. CANNON. There was initially no reporting requirement for that provision at all.

Mr. PACKWOOD. Right.

Mr. CANNON. The Supreme Court said they had the right to communicate with their members, and the Senator offered the amendment, as I recall——

Mr. PACKWOOD. Right.

Mr. CANNON. Which the Senate adopted. We required reporting for amounts over $1,000. The conference changed that to the amount of $2,000, but a cumulative amount, so it would apply even though it might have been for several candidates, and you would not separate it out. For example, if you had three candidates and $3,000 total expenditure even though the expenditure for each candidate might be $1,000, it is the cumulative figure of $2,000 which would trigger the reportng requirement.

Mr. PACKWOOD. Then, on the trade association and the requirement that a business can only be solicited by one trade association, in what manner does the corporation give that assent? Can they file a letter once a year and say that X Trade Association can solicit it or how does it work?

Mr. CANNON. We do not prescribe here what the manner of consent ought to be. I would assume that perhaps the FEC would prescribe a rule that would apply generally to all trade associations.

The purpose there was that if you had a number of organizations that belonged to a number of different trade associations they would not be subjected to a barrage of solicitations. But the corporation can say, This trade association we belong to, is the one designated which can make the solicitation under the provisions of the act.

Mr. PACKWOOD. I understand the barrage and I agree with it.

Can a corporation that is a conglomerate, that has totally unrelated subsidiaries, can those subsidiaries be solicited by different trade associations so long as it is only one trade association soliciting each one?

Mr. CANNON. A similar provision was proposed and rejected in conference which would have allowed divisions, if there were divisions, to be solicited by a separate trade association. This would not be permitted under the conference bill.

Mr. PACKWOOD. So that the parent corporation then has to make an election as to which trade association, even though they may have substantially diverse interests in their subsidiaries——

Mr. CANNON. I am sorry, I did not get that last statement.

Mr. PACKWOOD. So the situation is you have got a parent corporation and it owns a bakery, it owns a real estate company, it owns an automobile distributorship. That automobile distributorship, if they made an option, the parent corporation, to solicit, say, the bakers trade association can solicit them; they could not say they want the bakers trade association to solicit the bakers organization and the automobile dealers association to solicit their automobile division, no crossover. I am not suggesting that one trade association representing the bakers could solicit the automobile dealers or vice versa, but the Senator is saying that the corporation has to make an election, and only one trade association can solicit, period.

Mr. CANNON. Well, if it is just simply a separate corporation which is a subsidiary of a parent organization, that might be a situation there where they could elect to be solicited by their own trade association, completely unrelated from a conglomerate head. It would appear that a separate corporate organization, could designate its own trade association. But if it is simply a branch of a parent organization, then the one-time solicitation would apply.

Mr. PACKWOOD. Did we stick pretty much to the same definition of managerial, executive personnel that we had in the Senate bill as it passed?

Mr. CANNON. If the Senator will turn to page 62 of the conference report, I think it is reasonably close. I think it is a little more specific. This is explained at subparagraph 2 at the bottom of the page:

> 2. The conference substitute follows the Senate bill in using the term "executive or administrative personnel" throughout section 321 rather than "executive officer". The conference substitute defines that term to mean an employee who is paid on a salary, rather than hourly, basis and who has policy-making, managerial, professional, or supervisory responsibilities. The term "executive or administrative personnel" is intended to include the individuals who run the corporation's business, such as officers, other executives, and plant, division, and section managers, as well as individuals following the recognized professions, such as lawyers and engineers, who have not chosen to separate themselves from management by choosing a bargaining representative; but is not intended to include professionals who are members of a labor organization, or foremen who have direct supervision over hourly employees, or other lower level supervisors such as "strawbosses".

Mr. PACKWOOD. That definition sounds—although there is no reference to it here—very much like the wage and hour-fair labor standards definition of executive-administrative professional. Does the chairman know if the confer-

ence had that in mind in coming toward this conclusion?

Mr. CANNON. It was discussed It was an attempt to follow it somewhat, but it was not necessarily intended to say that this is the provision in the Fair Labor Standards Act.

I think we were trying to use terms that had a general, commonly recognized meaning, so that it would eliminate any confusion, though not to specifically tie it into the Fair Labor Standards Act as such.

Mr. PACKWOOD. I might ask the chairman this, and I will read from the hearings of the conference. This is Congressman BRADEMAS asking the question:

So if Joe Smith, candidate, has a problem, he wants information, he can write or get in touch with the Commission and say would you please give me this information, and the Commission is able under this understanding to say here is the answer to your question, here is the information you want.

That is a distinct situation, however, from the issuance of an advisory opinion, the power to issue which is defined by numbers 1 through 3 here.

Of course, I am getting to the situation where a candidate can write or call the Commission and get that kind of opinion from them.

Mr. CANNON. If the Senator will turn to page 44 of the committee report:

4. While the rules just stated govern all opinions of an advisory nature, these provisions do not preclude the distribution by the Commission of other information consistent with the Act.

We very clearly prescribed how and under what terms and conditions the commission could issue an advisory opinion. It had to be the application of a general rule of law stated in the act, or set forth in a prescribed rule or regulation, to a specific factual situation.

But here, we wanted to make it clear that the Commission has other responsibilities under the act.

I would interpret from what the Senator read that the Commission could make known that kind of information under its general powers under the act, and it would not constitute an advisory opinion.

Mr. HATFIELD. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. HATFIELD. I would agree with the interpretation given by the chairman, but I think it ought to have one or two further comments made about it.

The chairman has said that an advisory opinion has set forth a criterion, and then he cited those other sections, but I think it has to be borne in mind that under no circumstances can the commission give an opinion based upon a hypothetical circumstance or situation. They may be able to cite a certain law or a certain regulation existing already in a known fact situation, which would be the closest to that they could come.

But as far as taking a hypothetical circumstance and rendering some kind of advice and counsel, I do not think the chairman implied that, but I would certainly want the record clear. My understanding is that the commission is precluded from doing that very thing, even beyond the advisory opinion rule it might be planning.

Mr. PACKWOOD. This is exactly the point.

Again, let me read something Chairman HAYS said:

I think 4 takes care of a good deal of your problem, while the rules just stated govern all opinions of an advisory nature—

The PRESIDING OFFICER. The chair would interrupt the Senator.

NATIONAL RANGELANDS POLICY ACT OF 1976

The Senate continued with the consideration of the bill (S. 2555) to establish a national rangelands rehabilitation and protection program.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2555, and the question is on agreeing to the amendment of the Senator from Nevada. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New Mexico (Mr. MONTOYA), the Senator from California (Mr. TUNNEY), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Michigan (Mr. PHILIP HART) are necessarily absent.

I further announce that the Senator from Connecticut (Mr. RIBICOFF) and the Senator from New Hampshire (Mr. DURKIN) are absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "no."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Utah (Mr. GARN), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from New York (Mr. JAVITS) is absent on official business.

The result was announced—yeas 40, nays 40, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—40

Allen	Goldwater	Packwood
Baker	Griffin	Pearson
Bartlett	Hansen	Roth
Beall	Hatfield	Scott, Hugh
Bellmon	Helms	Scott, William L.
Brock	Hollings	Sparkman
Burdick	Hruska	Stennis
Byrd, Robert C.	Inouye	Stevens
Cannon	Laxalt	Stone
Curtis	McClellan	Talmadge
Dole	McClure	Thurmond
Domenici	McGee	Young
Eastland	McGovern	
Fannin	Moss	

NAYS—40

Abourezk	Glenn	Morgan
Bentsen	Hart, Gary	Nelson
Biden	Haskell	Nunn
Brooke	Humphrey	Pastore
Bumpers	Jackson	Pell
Byrd, Harry F., Jr.	Johnston	Percy
Case	Kennedy	Proxmire
Chiles	Leahy	Randolph
Clark	Long	Schweiker
Culver	Magnuson	Stafford
Eagleton	Mansfield	Stevenson
Fong	McIntyre	Symington
Ford	Metcalf	Weicker
	Mondale	

NOT VOTING—20

Bayh	Hart, Philip A.	Muskie
Buckley	Hartke	Ribicoff
Church	Hathaway	Taft
Cranston	Huddleston	Tower
Durkin	Javits	Tunney
Garn	Mathias	Williams
Gravel	Montoya	

So Mr. CANNON'S amendment was rejected.

Mr. McCLURE and Mr. MOSS addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. MOSS. Mr. President, I ask unanimous consent that I might proceed to present a message from the House and the appointment of conferees.

The PRESIDING OFFICER. Is there objection? Without objection, the unanimous-consent request is agreed to.

The Senator from Utah is recognized.

CONGRESSIONAL BUDGET, 1977

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 109.

The PRESIDING OFFICER (Mr. HANSEN) laid before the Senate the amendment of the House of Representatives to the concurrent resolution (S. Con. Res. 109) setting forth the congressional budget for the U.S. Government for the fiscal year 1977 and revising the congressional budget for the transition quarter beginning July 1, 1976, as follows:

Strike out all after the resolving clause, and insert:

That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1976—

(1) the recommended level of Federal revenues is $363,000,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $14,800,000,000;

(2) the appropriate level of total new budget authority is $454,071,000,000;

(3) the appropriate level of total budget outlays is $415,435,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $52,435,000,000; and

(5) the appropriate level of the public debt is $713,710,000,000, and the amount by which the temporary statutory limit on such debt should accordingly be increased (over amounts specified in section 3(5) for the transition quarter) is $67,510,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301 (a) (2) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on

for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 2555), as amended, was passed as follows:

S. 2555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Rangelands Policy Act of 1976".

SEC. 2. FINDINGS, PURPOSE, AND DEFINITIONS.—

(a) The Congress finds that—

(1) despite increased efforts and expenditures of the Bureau of Land Management and individual users of the western public rangelands, many areas of the rangelands are producing less than their potential, a condition which threatens the livelihood of such users and the economic stability of neighboring communities, present levels of meat production, the quality and availability of scarce western water supplies, United States obligations to Mexico concerning the salinity level of the Colorado River, the maintenance of wildlife habitat, and the viability of flood prevention programs;

(2) the rangelands will remain in an unsatisfactory condition and some areas may decline further under present management levels; and

(3) this condition can be corrected by a national commitment to a program of improved management of the rangelands, a program which would provide the additional benefits of increased soil and watershed stability; protection of water quality and maintenance of present water production levels; expansion of the forage resource and a consequent rise in livestock production; enhancement, protection, and maintenance of wildlife habitat; reduced flood danger; and economic stabilization of communities and individuals dependent on such lands.

(b) The Congress hereby finds a necessity for, and declares a national commitment to, the rehabilitation and protection of the rangelands. It is the purpose of this Act to establish a program to identify the current rangeland conditions and trends; to plan and effect actions to correct deficiencies in such lands; and to restore such lands to, and maintain them in, as full productive capacity as feasible.

(c) For the purpose of this Act—

(1) "Secretary" means the Secretary of the Interior; and

(2) "rangelands" means lands administered by the Secretary through the Bureau of Land Management on which there is domestic livestock grazing, or other lands so administered which the Secretary determines may be suitable for domestic livestock grazing.

SEC. 3. RANGELANDS INVENTORY.—The Secretary shall develop within five years of the date of enactment of this Act, and maintain on a continuing basis thereafter, a comprehensive and appropriately detailed inventory of all rangelands. This inventory shall identify the resources of and deficiencies in the rangelands and shall be kept current so as to reflect changes in conditions.

SEC. 4. RANGELANDS REHABILITATION AND PROTECTION PROGRAM.—The Secretary shall develop, maintain, revise as necessary, and implement a rangelands rehabilitation and protection program for the improved management of the rangelands, which shall have as its purpose the correction of the deficiencies in the rangelands as inventoried pursuant to section 3 and the rehabilitation of such lands within thirty years of enactment of this Act. Thereafter, such program shall provide for the maintenance of, or improvement in, the productive capacity of such lands achieved at the conclusion of such period in a manner consistent with the protection and enhancement of resource values identified by this Act and with the multiple use, sustained yield concept of land management. Such program shall include plans for the various areas of the rangelands, which plans specify the actions, and the schedule thereof, to be undertaken on such areas within said thirty-year period. Such plans may identify areas of the rangelands which, because of their small relative size, minor resource value, scattered land ownership, or other reasons, are unsuitable for the improved management required by this Act and provide for appropriate management of such lands to arrest further decline in, and protect the multiple use values of, such lands.

SEC. 5. RANGELANDS MANAGEMENT.—The Secretary shall manage the rangelands in accordance with the rangelands rehabilitation and protection program.

SEC. 6. PARTICIPATION OF STATE AND LOCAL GOVERNMENTS, USERS, AND THE PUBLIC.—The Secretary, by regulation, shall establish procedures, including public hearings or meetings where appropriate, to give State and local governments, users of the rangelands, and the public adequate notice and an opportunity to comment upon the rangelands rehabilitation and protection program during its preparation and implementation.

SEC. 7. RANGELANDS REPORT.—The Secretary shall prepare a rangelands report no later than two years after the enactment of this Act and at five year intervals thereafter. Such report shall be made available to the public and submitted to the Congress no later than one hundred and twenty days after the close of the appropriate fiscal year. The report shall include, in appropriate detail, an analysis of the condition of the rangelands, the implementation of the rangelands rehabilitation and protection program, and the advances made in meeting the purpose of this Act.

SEC. 8. AUTHORIZATIONS.—There are hereby authorized to be appropriated for the purpose of this Act additional funds over and above amounts already appropriated to the Bureau of Land Management in fiscal year 1976 for livestock management, soil and water, and wildlife, as follows: an increase of $10,000,000 in fiscal year 1977; additional increases of $5,000,000 per year each and every year in fiscal years 1978, 1979, and 1980; and increases of $500,000 per year each and every year from fiscal year 1981 through and including fiscal year 2006. Any increased amounts as authorized herein not appropriated in one or more years shall be authorized for appropriation in any subsequent year.

SEC. 9. CONSTRUCTION OF LAW.—Nothing in this Act shall be construed to diminish the authority of the Secretary under any existing provision of law.

SEC. 10. RANGELAND IMPROVEMENT WORK.—The Secretaries of Agriculture and Interior are authorized and directed to develop regulations permitting the payment of up to 50 percent of the amount due the Federal Government from grazing permittees in the form of range improvement work.

SEC. 11. DURATION OF GRAZING LEASES.—(a) Except as provided in subsection (b) of this section, permits and leases for domestic livestock grazing on (1) lands within the purview of the Taylor Grazing Act (43 U.S.C. 315) and the Act of August 28, 1937 (43 U.S.C. 1181a–1181j) or (2) lands within the national forest or administered in connection therewith, shall be issued for a term of five years. Such permits or leases shall be issued subject to such terms and conditions as the Secretary of the Interior, in the case of such permits or leases under his jurisdiction, or the Secretary of Agriculture, in the case of such permits or leases under his jurisdiction, deems appropriate and consistent with applicable Federal law, including the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease: *Provided,* That such terms and conditions shall provide that, except in cases of emergency, no permit or lease shall be canceled under this subsection without two years' prior notification.

(b) Permits or leases may be issued by the Secretary concerned for a period shorter than ten years where the Secretary concerned determines that—

(1) the land is pending disposal; or

(2) the land will be devoted to a public purpose prior to the end of ten years.

(c) So long as (1) the permittee or lessee is in compliance with the rules and regulations issued and the terms and conditions in the lease specified by the Secretary concerned, and (2) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.

(d) Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value, to be determined by the Secretary concerned, of his interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HASKELL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2555.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this afternoon it stand in adjournment until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR COMMITTEES TO MEET UNTIL 12 NOON TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may meet until 12 noon tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR GOLDWATER TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow morning, after the usual courtesies, that the distinguished Senator from Arizona (Mr. GOLDWATER) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report on S. 3065. The clerk will report the conference report.

The legislative clerk read as follows:

Conference report on S. 3065, an act to amend the Federal Election Campaign Act of 1971.

Mr. PACKWOOD. Mr. President, I believe when the unanimous-consent order came into effect at 3:30 I was in the midst of a question to the Senator from Nevada (Mr. CANNON) and the Senator from Oregon (Mr. HATFIELD) concerning—I want to use the words carefully, I do not want to say advisory opinions, but concerning—advice that can be given by the Federal Election Commission to a candidate who writes in trying to seek some direction from the Federal Election Commission as to whether or not a candidate can or cannot do a certain thing.

I wonder if I might pose the question again and have the Senator from Nevada answer. Is it permissible under this conference report language for a candidate who has not yet undertaken a particular action—in this sense it is a hypothetical action, and a candidate is seeking advice—who has not yet taken an action, to contact the Commission and ask the Commission's opinion and get an answer from the Commission as to whether or not the contemplated action is permissible under the law?

Mr. CANNON. If the question relates to a specific factual situation, which it could well do even though it is prospective, and relates to the application of a general rule of law stated in the act, or in chapter 95 or 96 of the Internal Revenue Code, or if it has already been prescribed as a rule or regulation, he could be so advised.

Mr. PACKWOOD. That is perfect. What we have is the Commission cannot make new law on this information, advisory opinion, but to the extent of existing law, or they have already issued, which has gone through Congress and been approved, the Commission is free to offer its advice to that extent.

Mr. CANNON. The Senator is correct.

Mr. PACKWOOD. I thank the chairman very much.

Mr. CANNON. For the benefit of Senators, I would like to announce that there will be no further rollcall votes this evening.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER (Mr. HANSEN). The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise to comment on the matter before us and the matters that are not before us.

Specifically, we have a piece of legislation concerned with our Federal election process and, most specifically, concerned with the financing of Presidential campaigns.

Time and again, the comment has been made, this legislation is Watergate reform, which brings me to the purpose of my discussion this evening and for the days that follow.

The legislation that is Watergate reform legislation is not, in two instances, even out of committee, never mind on the floor of the U.S. Senate.

The third instance, even though it is out of committee, it has not been discussed on the floor of the U.S. Senate.

I would like to read, if I might, the recommendations of the Watergate Committee on this business of public financing on page 572, article numbered 7:

7. The committee recommends against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government.

The Select Committee opposes the various proposals which have been offered in the Congress to provide mandatory public financing of campaigns for Federal office. While recognizing the basis of support for the concept of public financing and the potential difficulty in adequately funding campaigns in the midst of strict limitations on the form and amount of contributions, the committee takes issue with the contention that public financing affords either an effective or appropriate solution. Thomas Jefferson believed "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical."

The committee's opposition is based like Jefferson's upon the fundamental need to protect the voluntary right of individual citizens to express themselves politically as guaranteed by the first amendment. Furthermore, we find inherent dangers in authorizing the Federal bureaucracy to fund and excessively regulate political campaigns.

The abuses experienced during the 1972 campaign and unearthed by the Select Committee were perpetrated in the absence of any effective regulation of the source, form, or amount of campaign contributions. In fact, despite the progress made by the Federal Elections Campaign Act of 1971, in requiring full public disclosure of contributions, the 1972 campaign still was funded through a system of essentially unrestricted, private financing.

What now seems appropriate is not the abandonment of private financing, but rather the reform of that system in an effort to vastly expand the voluntary participation of individual citizens while avoiding the abuses of earlier campaigns.

Now I cite this passage because I think it points out very clearly how soon we forgot the matters which came to our attention as a Senate and the American people not so many years ago.

To have this measure come on the floor and to have it argued as being worthy of passage, because it is Watergate reform is absolutely incorrect. It is not true. If we want Watergate reform, that is what we have not done.

I will state exactly what those measures are. They are the legislation presently bottled up by a combination of Rules and other Senate committees called oversight of CIA, FBI. I understand the Rules Committee has a bill coming forth on the floor of the Senate on May 10 which is nowhere near the legislation passed by the Senate Government Operations Committee. In fact, it is another study committee. But certainly the congressional oversight of the intelligence community needs correction and yet we have not acted on it in 3 years.

Privacy of individual tax returns. That is what is commonly known as the Weicker-Litton bill. It has had hearings both before Ways and Means and the Finance Committees. It is still bottled up in the Finance Committee. It has not come to the attention of the Senate. That is a Watergate reform.

Last, the Watergate reform bill itself, which encompasses full financial disclosure by elected officials, the establishment of a Department of Governmental Corruption in the Justice Department, the criteria by which a special prosecutor would be selected, and the creation of a Congressional Office of Legal Counsel. That is Watergate reform, and, as I say, that bill has not yet come to the Senate floor.

So let us understand then why it is that this Senator is more than a little upset as to the priorities of the Congress of the Untied States.

Apparently when it comes to political campaigns, apparently when it comes to getting a hand in the taxpayers' pockets, there is a great urgency about our actions. There is an intensity that associates with our actions as, indeed, there are self interests that need to be served, and we do so under the guise or within the Trojan horse of campaign reform, Watergate reform.

But when it comes to keeping our mind on the business of the United States, specifically its Constitution, specifically its political and governmental systems, then that legislation just moves at a very slow pace.

I suppose the question that came to my mind is, what do we do about it? Between a combination of the bureaucracies here, none of which want to relinquish any authority or power, the senatorial committees, none of which want to go ahead and relinquish any power, the executive branch of Government, which would just as soon see this whole thing fade away into the mist, the matter of reform is almost dead.

It seems to me, the last chance is to have the American people focus on our actions and to demand that we do pay attention to the priorities of the Nation rather than priorities of self.

It is my hope in the next several days there will be a demand from the American people that every Member of this body go on record as to whether or not he favors oversight of our law enforcement intelligence community, whether he favors strict regulations protecting taxpayer privacy, whether the systems be put into place to assure that many of the abuses of Watergate do not occur again.

That is the nature of this exercise. I

freely admit I think the basic legislation itself is wrong and I am against it, but I am not here to go ahead and filibuster that. I will vote against it.

At no time will we have such a contrast as between the priorities of the Congress and the priorities of the Nation as when we have before us the reform legislation, unattended, and the campaign legislation which has all the interest and procedures behind it.

As I said, I am not asking, Mr. President, that the Senate pass the matters that I have referred to. I just want an up-and-down vote. If we do not have the up-and-down vote before the Fourth of July, it is dead. It is not only dead for the year 1976, it is dead forever. It will not be voted on in any manner, shape, or form.

All I can say, we have already just taken a look at oversight legislation. I remember everybody felt that in order to have effective intelligence, law enforcement agencies accountability was necessary. Every Senator came before the committee, before his local media, and said, "Yes, we have to have some form of oversight."

The administration sent them up by the droves, even the Secretary of State and the Director of the CIA himself said that we have to have some sort of oversight.

That was months ago when the heat was on. Now, as I stand on this floor this evening, there is no push at all from the executive branch of Government and, indeed, it seems to be the political thing to do, to go back to the status quo.

At this time, Mr. President, if I may, I would like to read the address which I gave just this past Saturday at the University of Virginia Law School on the occasion of Law Day.

(Mr. HELMS assumed the Chair at this point.)

Mr. WEICKER. Mr. President, I read these comments made on Saturday because I think they best describe, after long thought, the principles that are involved in the discussion for the next several days:

Rights and liberties are a great challenge to every American generation.

But as we celebrate Law Day 1976 we seem to have forgotten that without excellence of procedures, rights and freedoms are going nowhere but out.

For every great right you enjoy as an American citizen, I can show how the key to that right is grounded in sound procedure.

Trial by jury.

The right to counsel.

Search warrant procedures before the invasion of one's home and private papers.

Innocent until proved guilty.

Rules of evidence that protect from hearsay and innuendo.

Due process.

I submit that procedure as much as substance upholds our government of laws. What is disheartening as we celebrate our bicentennial is that one of the most critical of all procedures—oversight of government by the elected—is being dropped from democracy's manual.

The media, the public, and most of our leaders are all too willing to say that sensational revelations ad successful prosecutions are enough.

I know they are not.

The work of reform in the sense of procedures that protect our institutions and constitution has yet to advance one iota.

First and foremost is the need for genuine oversight procedures by the Congress. We need these to challenge and discipline the conduct of unelected officials, especially in the abuse-prone areas of secret government.

There should be a place for an American citizen to go when his own government turns against him—specifically, an Office of Official Corruption in the Justice Department. There should be full financial disclosure by all elected officials. Rigid procedures for protecting taxpayer privacy should be precisely legislated.

If some of these ideas sound vaguely familiar, they should. They are the important side of the crimes and abuses of the 1970's. They address the real issues of Watergate, of the Agnew case, of the misuse of the IRS, and of abuses of secret agencies such as the FBI and CIA.

Every one of these concepts is contained in legislation that is before the Congress this very minute—has been before the Congress for three years. And right now not one of them faces the prospect of becoming a reality.

As we revel in the prosperity of our first two hundred years, we are abandoning the protections that must be in place if there is to be value to a tricentennial.

Have we not learned the lesson of history, ancient and modern, that a system of government that depends on the good intentions and faith of men in power will, in the long run, be less reliable and more subject to abuse than a system of laws, which depends on independent standards secured by ongoing institutions?

Have we failed to learn the companion lesson of history, that no system of government and justice can, or should, survive if it comes to depend for its continued effectiveness on citizens' abdication of their basic rights in response to the blackmail of societal or personal selfishness—no matter whether that selfishness is apathy, bigotry, laziness or self-imposed ignorance?

No democratic system worth preserving should have to fear that its people will become aware of what their government is doing, and thereby exercise their right to control its conduct.

In the whirlwind of revelations, we seem to have missed the point, that there has been a common thread to the drama of recent years. That ever-recurring theme has been the failure of institutions and procedures.

Let us review the record.

My individual views in the Senate Watergate Report began with the observation that "Watergate was not a whodunit."

I went on to explain that Watergate was "a documented, proven attack on laws, insti the failure of institutions and procedures.

The report then proceeded to enumerate 189 separate violations of the Constitution. As I stated at the time, "every major substantive part of the Constitution was violated, abused, and undermined during the Watergate period."

The important facts were not a break-in at Democratic Headquarters. Rather, they were such items as "an executive branch that approved a master intelligence plan (known as the Huston Plan) containing proposals that were specifically identified by that executive branch as illegal."

How did the executive get away with it?

Simple. Nobody was looking, particularly in the Congress.

Over and over again, the record established with facts governmental abuse of our laws, systems and ideals. I was frankly amazed by a recent New York Times editorial which, commenting on the Church Committee report, stated, "It contains few disclosures that were not in the public domain. Thus the Committee did little to enrich the foundation of fact and public understanding required to achieve the legislative remedies which it found necessary and desirable."

You've got to be kidding. Three years of fact upon fact upon fact, Watergate Committee, Church Committee, House Judiciary Committee, Woodward and Bernstein, Special Prosecutors, SEC reports, Grand Juries, trials, press investigations and revelations, kiss and tell books, the Schlesinger report, Rockefeller Commission. Ladies and gentlemen, story-telling time in the USA had best give way to law-making.

And that is why I stand on my feet this evening and will tomorrow, and for as many days as it is possible to do so, to get us to do the business that will put matters aright in this country. No one else has the power to do that except this body along with the House and the executive branch of Government—

The incredible is that nothing has changed legally.

Except some of my colleagues have the gall to come in here and propose, as the great reform of the national nightmare of the past 3 years, Federal financing of Presidential campaigns with the intonation that, after that is through with, will have Federal financing of senatorial campaigns and congressional campaigns.

How did they ever get our priorities so screwed up?

There is still no effective oversight mechanism. There is still no independent prosecutor. There is still no financial disclosure by government officials. There is still no procedure to protect your tax return information from being misused.

Before Watergate there was the explanation of ignorance for the state of our government affairs. But now we know.

So, no more excuses of ignorance. No more speculations as to what it is that everyone is doing.

Very frankly, that knowledge that we now possess holds us to a higher standard of responsibility. If we do not do anything the alternative, de facto, is a nation in the gutter.

There are two ways our laws are made in this country: De jure, through the legislative legal processes, and de facto, as a matter of doing.

Before these abuses were laid out on the table, it would have been impossible to establish them as custom or as law. However, with everyone's full knowledge, these matters go uncorrected, it is only a matter of time before they then become the policies, laws, and customs of this Nation.

Maybe they are already there after 3 years. Maybe they are already that.

I noticed that many of the things that were spoken of in the years past and have been laughed off by inaction. They are starting to creep into acceptance by the American people as a part of our political processes and governmental processes.

The Church and Pike committees have clearly documented its use by the CIA and the FBI. What do the findings of these investigations tell us about oversight procedures?

Begin with money. The House investigations tell us that some $10 billion is spent each year on spy activities and related expenses. Senate committee estimates are reported closer to $9.7 billion.

That comes to about 16 percent of all controllable expenditures by the Federal Government each year—in other words, 16 percent of the money left over after automatic spending, such as social security.

How closely did oversight scrutinize this huge chunk of funds? The answer is almost unbelievable. The investigations reveal, as just one example, that a few years ago the CIA could find literally nobody in Congress—a Congressman, Senator, or staffer—who would even listen to a budget presentation.

For years, J. Edgar Hoover told absolutely nobody in Congress what he spent on intelligence. Until last year, the executive branch had never even totaled up what we spend on domestic intelligence.

Why is the Congress surprised, then, when they discover waste and duplication in secret agency spending. Duplications alone are estimated to have cost an average of $1 to $2 billion a year for the last 10 years.

The response to these findings is even more bizarre. In an effort to get some type of compromise on setting up a new oversight committee, it has been proposed that the budget authority be taken away from the new committee and left in the hands of those who have ignored their responsibility for years.

That is not oversight. That is "blindsight."

It is my understanding that in the proposal of the Rules Committee on oversight, the proposal does little more than to set up another study committee. No budgetary authority is given to the committee, and its duration is limited. It would be comprised of the members of the various Senate committees that have not been doing their job over the past year.

It woud have investigatory or subpena authority. It would have no legislative or budget authority. It would in effect, be a study commission.

What a testament to the impotence of this Congress and more specifically the Senate and more specifically the Rules Committee.

The House investigation revealed that just last year the United States finally ended its participation in a secret war in the Mid-East.

In 1972, Dr. Kissinger and the President, against the advice of the CIA and State Department, authorized the CIA to give massive military aid to the Kurds, who were fighting for their independence in Iraq.

You may never have heard of the Kurds, but tens of thousands of people died with your weapons. You were not told, much less asked, about it. Even more important, Congress was not told, for almost a year after our intervention.

That is no oversight. It is hindsight. So, now that we have learned about the failure of oversight to keep us appraised of such rudimentary events as wars, what do we do? We investigate those people in the House that brought you the bad news. And we cite this as a good example of how Congress cannot be trusted with oversight.

The Senate committee revealed that we tried to assassinate foreign leaders who disagreed with us. What the Senate did not tell you was that the chairmen of the two oversight committees in Congress were fully briefed about these plans at least 3 years ago

They launched no investigation.

Why? Probably because the entire contingent of full-time staff support for CIA oversight committees in both Houses of Congress consisted of one person—and he was retired intelligence official.

Note the urgency when it comes to financing of Presidential campaigns, the rush to grab for the money and the incredible staffing, both as to the members and those who assist them on the Federal Election Commission. But when it comes to the business of oversight of the Intelligence and the Law Enforcement Committee, there is one staff member in both Houses.

That is not oversight. It is "weaksight."

As a final example, we have the case of the Italian elections. For years, the Communists have been gaining power because they offer one simple thing—relief from the debilitating corruption of Italian politics.

So, what does the U.S. Ambassador and Secretary of State offer in response? An attempt to buy the 1972 election for $10 million.

Not so smart, you say. It does not make sense that our Congress—leaders of the world's greatest democracy—would approve of that, because sooner or later, it is bound to catch up with us.

Well, do not be surprised, because Italy is just a classic example of the "shortsight" that the old committees have applied to oversight.

The fact is that too often recently we have tried to buy, bribe, coerce, or connive our way to short-term successes throughout the world regardless of the means necessary to achieve this.

Congress did not worry about its shortsight because they knew that the true story would never be told.

You see the overseers—those who now insist that no change is needed—had arranged it so they could not tell you the truth even if they wanted to.

That is right. They had adopted a system of classification of secrets that was controlled entirely by the executive. As of January 1, 1976, for example, there were 15,466 persons in the executive branch who could classify information. There was nobody in Congress, nobody, who could declassify.

Keep in mind that not a single classifying official in the executive branch is elected. Those officials charged with oversight are elected. I would say that is democracy turned upside-down.

Certainly it is not oversight. It is "foolsight."

Would not any wrongdoer have loved going before the oversight committees of the Congress, instead of the committees of Mr. Ervin and Mr. Rodino? How different history would have been.

One thing emerges clearly. We know for sure what we do not have. Call it what you will—blindsight, hindsight, weaksight, shortsight, or foolsight—we do not have oversight.

Oh, yes,, but we do have time to go ahead and make sure that Federal money is made available for the campaigns of the various Presidential candidates. The creation of an effective system to oversee the intelligence community is essential to the well-being of the Nation. It does not make any difference in the election sense. The Nation has done rather well in 200 years. But the Nation is not doing very well in the areas to which I have referred. But they can wait—as they waited last year and the year before and the year before that; and, on the basis of what apparently is coming out of the Rules Committee, as we will wait for the future.

My last hope, then, is not in the Senate of the United States. It is not in the House of Representatives. It is not with the President of the United States. It is not with the agencies. It is with the people of this country. The ball is in their court.

Let me say it very simply: You are not going to get any greater ethics or any greater excellence or any better solutions devised in the Oval Office, on the floor of the Senate, or on the floor of the House than you will get in the voting booths of this country. One is a reflection of the other.

The American people have been spectators in this process for too long, and the time has come now for them to express themselves as to what is important in their minds. Is it somebody's political campaign, or is it the Constitution of this country, under which their children are going to have to live? Is it the governmental and political systems of this country which have done so well by all of us, or is it an additional bumper sticker or campaign button that is important? That is what this debate is about. Let the Senators go on record as to where their priorities lay.

On this business of people expressing themselves, I recall that as I was growing up in the Northeast, it was the thing to do to point the finger at southern Senators and blame them for a lack of civil rights laws. It was those southern Senators, using rule XXII, who were to blame for the lack of civil rights laws in this Nation. Oh, no. It was not that easy. The Nation, itself, did not want civil rights laws—North and South. When the Nation finally got hold of its conscience and demanded action, it got action, regardless of rule XXII. That is what the Nation is going to have to do right now, if they want to go ahead and put this aright.

The game is only half over, and most all have picked up and gone home. Maybe "out to lunch" would be more descriptive.

What irony.

Because when this Nation was founded, we made much of the idea that we were to be "a government of laws and not of men."

Yet, as we approach the 200-year mark, nobody is asking what we have learned from two centuries of American laws at work.

We sell trinkets. We organize parades.

But is anyone concerned with the emerging dominance of men over laws in this country?

Perhaps it is because it is so easy to nod approval when some Fourth of July orator pays homage to "our government laws," with noobdy ever having to explain what it really means.

The explanation is basic. People who founded this Nation wanted protection from men in power. And they wanted accountability, secured through institutions and procedures.

That is why they wrote into the Constitution that "a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time." Would they not be surprised to learn that 16 percent of our controllable spending is never published?

Maybe a government of laws sounds too academic. But there are some very practical things happening because good systems of law are not in place to protect us from man-made abuses and neglect.

Ten billion dollars spent without scrutiny is not academic.

Being on an enemies list is not academic.

Participation in the killing of thousands of Kurds is not academic.

Tax audits as political retaliation is not academic.

Buying an Italian election is not academic.

Overthrowing a freely elected government in Chile is not academic.

The problems are neither academic nor over. You say, we remember what went wrong from Watergate to the CIA, and nobody would try it again. You say, the President has issued Executive orders to prevent a reoccurrence.

This gets to the heart of the matter.

We are a nation of laws, not memories.

We are a nation of laws, not executive orders.

To view the national nightmares of the 3 years past as thrills and entertainment fails our children who will pay the price in their liberties. Those nightmares were: First, real; and second, our mistakes.

It is we who should pay the price. In law. Today.

Those were the comments I made 2 days ago in this first of the areas I have been discussing—the matter of oversight. They clearly show the history of abuse.

As we stand on the floor of the Senate this evening, each Senator would have to tell his constituents that, despite that record of abuses and despite the principles that are expounded, no action has been forthcoming from the Senate, from the Congress of the United States.

I recall when Senator MANSFIELD appeared before the Committee on Government Operations and testified as to oversight. He said:

> When the oligarchs in the Senate got through with me, we only had 28 votes.

He has been having this battle for 20 years. Again I quote Senator MANSFIELD:

> They were able to win because they had the hierarchs in the Senate in their pockets, and they were just loathe to change, as the CIA was to face up to change.

For 20 years he has waged that battle. I suppose I have no right to complain. For me it has been only a 3-year battle.

However, what should be of great concern to every American, aside from the constitutional principle, which I have mentioned, is that which is being proposed here in the way of accountability. Accountability would provide more effective intelligence-gathering, more effective law enforcement. There is a direct relationship between effectivenes and accountability. Without accountability the trouble starts.

Mr. President, to review where we stand on these various matters, let me insert in the RECORD at this time, a rundown as to the various pieces of legislation: Senate Resolution 400, which is intelligence oversight; the Watergate Reform Act, S. 495; and the tax privacy bill.

First, as to intelligence oversight, this legislation was introduced more than 20 years ago by Senator MANSFIELD.

In September of 1974, together with Senator BAKER, I introduced a measure calling for a joint congressional oversight committee.

In January of 1975, the Senate Government Operations Committee, responding to current pressures, reported legislation to create a permanent standing committee on intelligence. The resolution was simultaneously referred to the Committee on the Judiciary and the Committee on Rules and Administration.

The Rules Committee will report Senate Resolution 400 today. As reported, the Rules Committee proposes a Senate select committee on intelligence. The committee will be composed of 11 members—8 from Appropriations, Armed Services, Foreign Relations, and Judiciary, and 3 members at large. The select committee would have only oversight, investigatory and subpena authority but not legislative or budget authority.

I should like to read at this time an explanation of the action of the Rules Committee on this legislation:

> The Committee on Rules and Administration has given careful and due consideration to the establishment in the Senate of a Standing Committee on Intelligence Activities, as proposed by Senate Resolution 400. In the Committee's judgment the creation of such a standing committee at this time would be precipitate.

Twenty years for Senator MANSFIELD, 3 years for Senator WEICKER, and everything in between on this very subject, and it is going to be precipitate—let me repeat:

> The Committee on Rules and Administration has given careful and due consideration to the establishment in the Senate of a Standing Committee on Intelligence Activities, as proposed by Senate Resolution 400. In the Committee's judgment the creation of such a standing committee at this time would be precipitate and unwise, and constitute an overreaction to the recently disclosed and certainly undesired illegal and unauthorized activities within certain agencies of the Federal intelligence community.

It is an overreaction because all we want to do is to have Congress—in this case the Senate of the United States—perform the duties imposed upon it by the Constitution of the United States.

Nowhere in that document is an exemption given to any agency of Government from the accountability procedures of oversight by the Congress, nowhere.

No one has asked that the secrets of the CIA, in the sense of names and addresses and locations of agents or sources be revealed; none of that is asked by Senate Resolution 400. Senate Resolution 400 is an expression that oversight, in this instance, is of such importance that it has to be a primary function, not a secondary function, of some other committee, but a primary function of a Senatorial committee.

I will grant the best motives to my colleagues as to why it is they did not do their job over the last 20 years. It was specifically because they were too busy doing other things. As everybody knows, the oversight function in the sense of the FBI and CIA was a secondary function of the Armed Services Committee, or a secondary function of the Foreign Relations Committee. So again, granting them the best of motives or the best of excuses, I will accept that they did not perform their duties because there were other duties that were their primary function.

But that is no help to the people of the country. They are the ones who have to go ahead and live with these agencies. They are the ones who have to live with the abuses of these agencies.

I think that every one of us would agree that certainly we want an effective intelligence-gathering agency, and certainly we all want effective law enforcement. But there is no reason why we have to choose between that and the Constitution of the United States. That is the scare tactic that has been bandied about this town for the last several months.

I believe we can have intelligence-gathering and law enforcement and it can be constitutional, but not if there is no oversight procedure. That, in effect, is what is imposed on us by the Constitution. But, de facto, we have managed to shunt it aside, and when I read a comment that it is an overreaction to merely ask that we perform these legislative duties, imposed on us by the Constitution, I find incredible.

It goes on in this report, which we will all be reading:

> The Committee on Rules and Administration feels that the creation of any new standing committee of the Senate is a very serious undertaking.

You bet your last $2 bill it is. Far more serious, however, I would say are the unattended-to abuses of the past several years:

> The Committee on Rules and Administration feels that the creation of any new standing committee of the Senate is a very serious undertaking and should not be engaged in, if at all, until all implications of the action are thoroughly explored over a considerable period of time. In this Committee's judgment the time frame for such an important determination has not been available, especially in view of the Senate's direction to this Committee to report Senate Resolution 400 by April 30, 1976.

I realize that sometimes we get out of touch with reality around this place, but to make a statement like that in a Senate report—let me enumerate once again what we are talking about.

We are talking about the Schlesinger report, we are talking about the Rockefeller Commission report, we are talking about the Church committee report, we are talking about the House Intelligence Committee report. I might add that the Hoover Commission report of 1955 on the same matters and also made very similar recommendations. These are the ones specifically that gear-in on this subject—never mind the Watergate or the House Judiciary reports, which are specific. And then somebody has the gall to make that kind of a statement. Maybe they are right, maybe they are right on that committee. Maybe the American people are going to go ahead and forget:

Two other factors have influenced the Committee's position in this respect. First, it would certainly appear unwise to rush into the creation of a new Standing Committee on Intelligence Activities before the Members of the Senate had an opportunity to study and digest the findings of the present Select Committee to Study Governmental Operations With Respect to Intelligence Activities, whose final report is in the process of being released. Secondly, since the Senate has just created a new Select Committee to Study the Senate Committee System, with a mandate to report to the Senate by February 28, 1977, it would certainly appear logical that any proposal to create a Standing Committee on Intelligence Activities should receive consideration by that Select Committee in conjunction with its overall study of committee jurisdictions.

I just hope the American people are listening to these reports and these words—delay after delay after delay; postponement after postponement after postponement, but not when it comes to people's political funding, not when it comes to political funding. Oh, that is urgent, that receives the highest priority. How ridiculous.

I know, Mr. President, that it is not going to be physically possible for me to forever delay the Federal Election Commission legislation. It is not my intention to do that, but I just do not think that ever before have the reverse priorities of Congress been in sharper focus than at this time, when the most serious legislative matters are put on the back burner and the ones that serve our own partisan interests have become a No. 1 priority.

Leaving the intelligence oversight for a minute and moving on to a status report of the other legislation, the Watergate Reform Act, that is S. 495, was introduced by Senator ERVIN and the members of the Select Committee on Presidential Campaign Activities in December of 1974. The bill was voted to be reported by the Government Operations Committee on April 9, 1976. A detailed report is being prepared and the committee expects to report the bill to the Senate on Monday, May 10. There undoubtedly will be a referral to at least one other committee, maybe two.

On the matter of tax privacy, in the 93d Congress over 18 months ago the Weicker-Litton bill was introduced to protect the confidentiality of tax returns. Since that time this legislation has received strong editorial support and has been sponsored by over half the House and over one-third of the Senate Members. Extensive Senate hearings have been held by the Finance Committee and the House Ways and Means Committee.

Congressman LITTON and I have testified on the following days: April 28, 1975, before the Senate Finance Committee on administration of the IRS Code; on July 10, 1975, before the House Ways and Means Subcommittee on the IRS; January 28, 1976, before the full Ways and Means Committee; on March 14, 1976, before the Privacy Commission.

Bills are still pending before the Senate Finance Committee and the House Ways and Means Committee. The Finance Committee has begun 5 weeks of markup sessions on tax reform legislation, and the Joint Committee on Internal Revenue Taxation staff has prepared a background paper on tax privacy.

There is a possibility that the Finance Committee may take it up before the end of May. However, there is a fear of the staff that the privacy issue will be laid aside because it is too controversial and there is not enough time to consider it.

So there you have the status report as to the real Watergate reform not the Federal Election Campaign Act amendments that is referred to in the Rules Committee by the chairman and others as being Watergate reform when, indeed the Watergate Committee specifically recommended against public financing. There is the status.

I ask unanimous consent at this time that there be printed in the RECORD at this point an editorial of the Washington Post of Sunday, May 2, 1976.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A FAILURE OF OVERSIGHT

A slender Senate Rules Committee majority threatens to make a farce out of the Senate intelligence inquiry by (1) launching a tame—and utterly redundant—inquiry of its own and (2) blocking establishment of an effective permanent intelligence oversight committee. Offhand, we can think of no greater triumph of pettiness over public interest in recent time. The Rules majority, led by Chairman Howard Cannon (D-Nev.), speaks for the standing committees (especially Armed Services and Appropriations). The first thing to remember about these committees is that they did a lackadaisical and inept job of oversight in the past. The next thing to know is that they remain pretty much the captives of the agencies they are supposed to oversee, and that they do not wish to yield any of their responsibilities and perogatives to a new oversight panel. To recite these failings and frailties is to demonstrate the magnitude of what has—or, more accurately, has not—been done.

The temporary Senate intelligence committee, which went out of business with its reports on foreign and domestic intelligence last week, is under some criticism for failing to time its biggest investigatory explosions for the period in which the oversight issue would be the first order of business in Congress. But come, now. Who can forget the earlier stark and stunning committee reports on official U.S. efforts to solve diplomatic problems with other nations by murdering their leaders or toppling their governments? Even the foreign-intelligence report issued last Tuesday, whose contents the committee negotiated out with the executive branch in order to avoid stalemate and gain consensus, had a full complement of abuses crying to be corrected by meaningful oversight. The CIA, for instance, was revealed to have bent to White House and Pentagon pressure and doctored a crucial intelligence report bearing on Soviet strategic intentions. The extent of loose and in some cases nonexistent policy control over covert actions was detailed as never before.

One could go on. The point is that the need for effective oversight has been proven beyond any serious question. To restore oversight to the very panels whose inadequacy has been so thoroughly demonstrated is an exercise in the unthinkable. Intelligence oversight is not the primary business of any of these committees, anyway. They all have plenty to do without keeping an exclusive lock on a responsibility they have discharged so poorly in the past. The whole effort to put intelligence under the rule of law is in the balance. This effort requires not just establishment of a new oversight committee but passage of comprehensive new legislation to define and delimit the tasks of intelligence. The committee issue, however, is rightly seen as a crucial test case.

Wittingly or not, the Senate barons balking committee change are handmaidens of executive abuse and patsies for executive power. Is this really the role that men like John Stennis and James Eastland, for instance, believe that a U.S. senator should play? The full Senate should reject the Rules Committee caprice when the matter comes to the floor in May, and construct oversight machinery that offers some hope of preventing recurrence of the abuses that the Church committee has so carefully and persuasively catalogued.

(At this point Mr. FORD assumed the chair.)

Mr. WEICKER. I would say that editorial states it rather well, Mr. President. It lays before the U.S. Senate the issue in very clear terms.

I do not want to take overly much time because I am sure we will have another go at it when we actually do get the legislation before us.

I feel that this is not the substance of what we are supposed to be discussing here. We are supposed to be discussing the FEC conference report, but they are inextricably wound.

All the time and attention that is paid to that agency and that principle could well be used in furthering the reform legislation denied this country for so long.

I think, Mr. President, what I will do at this time is read the individual views appearing in that Watergate report. As I stated earlier, many of the matters have gone uncorrected. It is the reason why I stand here before the Senate this evening.

I might add, this report was written before I had any knowledge of tapes or what was on those tapes. So it all had to be constructed or reconstructed. Here it is in May of 1976, this report was issued in June 1974, and nothing in that report has been refuted by either subsequent tapes or testimony, or whatever we have:

A STILLNESS

In the early 1970's, several independent events took place in the United States of America. On the surface they appeared to lack a common bond.

In June of 1969, a Louis Harris poll found that 25 percent of all Americans felt they had a moral right to disregard a victim's cry for help. Over the next several years, this

mood took the form of countless incidents of looking the other way when men and women were assaulted and murdered in full view of entire neighborhoods.

On May 1, 1970, at Kent State University in Ohio, a group of students who refused an order to disperse were fired upon by the National Guard, killing William Schroeder, Sandy Scheuer, Jeffrey Miller, and Allison Krause, and wounding nine others. Ten days later, at Jackson State University in Mississippi, police who had been called in to protect firemen from violence, opened a 28-second fusillade into and around a dormitory, killing Phillip Gibbs and James Earl Green, and wounding 12 others.

During 1971, a decision was reached by the administration to conduct the President's reelection campaign with a special committee totally separate and insulated from the political party which would renominate that President.

In early 1972, a young radio reporter in Miami stood outside a supermarket trying to get people to sign a copy of the Bill of Rights. Seventy-five percent refused, many saying it was Communist propaganda.

In February of 1972, it was revealed that International Telephone & Telegraph had allegedly offered a campaign contribution of $400,000 in return for the Justice Department dropping an antitrust suit against ITT. The suit was dropped on Presidential order, but when the Attorney General was questioned about the President's role by a Senate committee in March, he lied.

On June 17, 1972, burglars employed by the Committee to Re-Elect the President were arrested inside the headquarters of the Democratic National Committee with bugging equipment and large sums of cash.

In December of 1972, having failed to obtain congressional approval for a reorganization of the Cabinet, the administration moved autonomously to establish three or four "supersecretaries" and to place various executive office employees in key sub-Cabinet posts. The obvious goal was to create a White House-directed network of decision-making and reporting quite apart from the formal Cabinet structure which remained subject to congressional scrutiny.

In February of 1973, the White House held a peace-with-honor reception to celebrate the end of the Vietnam war. Only those Congressmen who had supported the President's Vietnam policies were invited, implying that those who had questioned our involvement in Vietnam were either against peace or were dishonorable.

Some of these incidents were matters of life and death and were well publicized. Others were matters of principle and were little noticed at the time.

In each instance a significant outrage had taken place.

What was common to all?

In each instance no one complained.

A constitutional stillness was over the land.

THE UPROAR

American decency, idealism, honesty and reverence for the Constitution that some had thought bought off has been stirring and reasserting itself for many months now.

Yes, a few still cry treason when questions are asked.

A few still espouse the end as justifying the means.

A few still goggle at an American title rather than the title of American.

But it was only yesterday, June 17, 1972 to be specific, that today's few were part of a large American majority.

Why the turnaround?

The truth!

Because Frank Wills discovered taped doors at the Watergate, America's doors didn't close in all our faces.

CONSTITUTIONAL DEMOCRACY IN THE ERA OF WATERGATE

For this Senator, Watergate is not a whodunit.

It is a documented, proven attack on laws, institutions, and principles.

The response to that attack was and is a Nation of laws at work, determining whether men shall prevail over the principles of a constitutional democracy. It has been and will be the testing of a great experiment in government begun some 200 years ago.

Laws, institutions, and principles were squarely before this committee, to be debated, probed and documented, in order to assert remedies and reassert time-honored concepts. Guilt or innocence was not an issue. This was a fact-finding body; it was a legislative body; and those duties go to the heart of what Watergate was all about.

In keeping with the committee's duties, this is a report of facts and evidence, leading to legislative recommendations. To document the abuse of laws, institutions, and principles, the facts and evidence are presented, first, as they bear on the basis of our laws, the Constitution; second, as they relate to the institutions of our Government; and third, as they affect the principles of our political system.

I. THE CONSTITUTION

One of the most disturbing facts about the testimony presented to this committee is that so much of it went relentlessly to the heart of our Constitution.

To appreciate what happened to the Constitution, it is useful to divide the seven articles and 26 amendments into substantive versus procedural provisions. The substantive sections lay out rights, powers, and duties. The procedural areas address somewhat more technical and administrative matters. The important point is that the essence and strength of the Constitution springs from its substantive areas, primarily the first three articles, the first 10 amendments and the 14th amendment.

Evidence presented to this committee can and will demonstrate that every major substantive part of the Constitution was violated, abused, and undermined during the Watergate period.

It is a record built entirely on the words of the participants themselves. Tragically, it focuses on the most prodigious article of the Constitution, article II, which sets out the powers and duties of the Executive. It includes the most significant individual rights guaranteed by the first 10 amendments, our Bill of Rights. And it encompasses the Fifth and 14th amendments' guarantees of due process of law, the foundation of our system of justice.

A. The Executive

Of all the issues confronting the Constitutional Convention at Philadelphia, the nature of the Presidency ranked as one of the most important. Indeed, the resolution of that issue is often cited as one of the most significant actions taken.

Most State constitutions prior to that time had weak executives and strong legislatures. The decision to create a President, as opposed to plural administrators, was a reluctant recognition of the advantages of a strong executive.

Nevertheless, the convention took steps to contain presidential power. Only after deciding the method of selecting a President, his term, mode of removal, and powers and duties did the convention agree to the concept of a strong President.

This bit of history, indicating that the delineation of the President's office and powers preceded the creation of his position in the constitutional scheme, is quite important. It demonstrates that Executive power is to be exercised within the framework of the Constitution, and particularly, within the guidelines of article II, which lays out the powers and duties of that office.

This is much of what Watergate is all about, and it bears a close look at article II.

The issue at stake is the exercise of potentially awesome Presidential power. As to that issue, article II contains two points of significance. First, its opening words state: "The executive Power shall be vested in a President of the United States of America." This grant of Executive authority, with no words of limitation, has, from the time of Jefferson, been the basis for expanding the Presidential office and activities.

However, the initial broad authority is offset by a second significant factor, the enumeration of Executive powers later in article II. These declare in part that the President is to be Commander-in-Chief, make treaties, appoint ambassadors and other officers, grant pardons, and take care that the laws are faithfully executed.

It is worth noting that experience has eventually placed limits on the general powers. The President has been allowed, as a practical matter, to exercise those additional powers that fall naturally within his range of activities.

The important point, however, is that no President has been, or can be, allowed to conduct the executive branch in conflict with the Constitution taken as a whole, and certainly not in conflict with express sections of the Constitution, such as the Bill of Rights, or article I (the legislature) or article III (the judiciary). This then is the proper context for examining facts.

Article II of the Constitution, by which the Presidency was created, was violated from beginning to end by Watergate.

There is massive evidence of misuse of the awesome general powers that reside in the executive department.

There is equal evidence documenting abuses of the enumerated duties.

1. GENERAL POWERS AND DUTIES

The facts show an executive office that approved a master intelligence plan containing proposals that were specifically identified as illegal, that proposed setting up a private intelligence firm with a "black bag" or breaking and entering capability as secret investigative support for the White House, that set up its own secret police, that used its clandestine police force to violate the rights of American citizens, that hired a private eye to spy on its enemies, including their personal lives, domestic problems, drinking habits, social activities and sexual habits.

That circulated an enemies list, that developed plans to "use the available Federal machinery to screw our political enemies, that knew of an illegal break-in connected with the Ellsberg case and concealed that fact rather than report it to appropriate authorities, that used a Presidential increase in milk support prices to get $5,000 from the milk producers to pay for the Ellsberg break-in, that recruited persons for that break-in on the false pretense of national security, that offered the presiding judge in the Ellsberg trial the FBI Directorship at a clandestine meeting in the midst of the trial, that ordered a warrantless wiretap on a news columnist's telephone, that wiretapped 17 newsmen and government officials in an operation that was outside proper investigative channels.

That suggested firebombing the Brookings Institute, that set up an Intelligence Evaluation Committee outside the legitimate intelligence community to disseminate information that should have been restricted to individual agencies, that used the Secret Service to wiretap the President's brother, that kept $350,000 in left-over 1968 campaign funds in a safe in the Chief of Staff's office, that used most of those funds as hush money for the Watergate burglars, that approved a

large contribution from the milk producers association after being told it was meant to gain access to and favors from the White House.

That received and passed on information about an IRS audit of one of the President's friends, that arranged for a tax attorney for the friend, that contacted the IRS as well as the Justice Department in a number of other tax cases involving friends of the President, that planned and possibly carried out a break-in at the office of a Las Vegas publisher, that suggested a break-in at the apartment of the man who attempted to assassinate Governor Wallace, that contemplated a break-in at the Potomac Associates offices, that tried to rewrite history by making up bogus State Department cables to falsely connect the Kennedy administration with the assassination of President Diem, that attempted to get reporter William Lambert to use the phony cables in a story, that tried to plant false stories connecting the President's opponent with communist money and the crimes alleged in the Ellsberg case.

That installed an elaborate system of taping conversations between the President and his staff or visitors, that told Federal investigators to stay out of the Ellsberg matter, that undertook a clandestine operation to hide a key witness in the ITT case in a Denver hospital where she was interrogated by Howard Hunt in disguise, that authorized and funded from within the White House a dirty tricks operation including scurrilous literature, late night telephone campaigns and advertising designed to offend local interests, seemingly sponsored by Democratic candidates, and physical disruptions directed against Presidential opponents, that planted spies, hecklers, and pickets in the Muskie and Humphrey campaigns, that participated in discussions of a campaign against Democrats to include prostitutes, mugging, kidnapping, bugging, and burglary.

That pressed for adoption of Liddy's Watergate plan, that was told of the authorization and budget for Liddy's plan, that believed it had received transcripts of illegal wiretaps and never reported that crime, that was warned of the planned break-in at the Watergate and did nothing to stop it, that knew the full scope of Liddy's activities shortly after the Watergate arrests and kept those facts from proper authorities, that shredded Watergate evidence in the Chief of Staff's files, that tried to use one of its executive branch agencies as a "cover" for the Watergate operation.

That was the scene of meetings at which high officials plotted to use the power and influence of the Presidency to cover up crimes and obstruct justice, that saw advisers invoke the power of the Presidency to use an FBI Director in ways that would eventually cause him to resign, that used the President's fundraising powers to collect illegal corporate contributions, to raise funds to finance a crime, and to collect bribes for a criminal case.

That discussed using the President's clemency prerogatives as early as July 1972, to keep the lid on Watergate and other crimes, while misleading the American people by calling Watergate a third-rate burglary, that made offers of clemency for improper purposes, that announced, in a Presidential statement, a Dean investigation clearing the White House, when there had in fact been a coverup not an investigation and the President had never, ever talked to Dean about Watergate, that discussed, in the oval office, unethical out-of-court contacts with the presiding judge in one of the Watergate civil suits, that purposely lied to the FBI and a Federal grand jury, that encouraged campaign officials to commit perjury and plead the fifth amendment to obstruct justice.

That used the President's personal attorney and White House staff to pay criminal hush money, and to pay for a private eye operating out of the White House, that used its influence to get raw FBI files for improper purposes, that prevailed upon the FBI not to interview certain witnesses, that used patriotic concern for the Presidency to pressure defendants to plead guilty in a criminal case.

That used its influence to get special treatment for high officials before a Federal grand jury, that plotted to cover up the Segretti story and denounced in the harshest terms those who uncovered the story, that noted "it would assuredly be psychologically satisfying to cut the innards from Ellsberg and his clique," that obstructed congressional investigations of Watergate and related matters, that filed Watergate countersuits for the distorted purposes of using subpena powers to delve into the financial and sexual activities of political opponents, that made numerous misleading or false statements about Watergate to the American people.

That failed to promptly inform proper authorities about knowledge of crimes involving White House officials, that forced the resignation of a Special Prosecutor, Attorney General, and Deputy Attorney General when their Watergate prosecution took an independent position, that suggested using the Attorney General's powers to keep a Republican opponent off the primary ballot in Florida, that used the Executive's authority over the media's regulatory agencies to intimidate the media, that ordered a personal tax audit, surveillance by an FBI agent and Secret Service agents, an an antitrust action, all in response to a newspaper article about one of the President's friends.

That tried to punish foundations with views different than White House policy by pressuring the IRS to review their tax-exempt status, that set up a program to insure that Government contracts, grants, and loans would, as a matter of Government policy, be political rewards, that treated the Presidential pardon as a political tool, that used its power over the tax-collection agency to gather intelligence on and harass political opponents, that issued instructions to hire a shaggy person with a McGovern button, to sit in front of the White House, and counter demonstrators at the funeral of J. Edgar Hoover, that infiltrated as Quaker vigil in front of the White House, that used the agency that is supposed to guard the President to spy on the President's political opponent, that ordered 24-hour surveillance of a political opponent, that used the departments to dredge up potentially embarassing information on Presidential contenders, and then leaked it to the press, that used White House influence to obtain CIA equipment for the Ellsberg break-in, that used its entrustment with our national security to convince four Cubans to burglarize a political party.

That ordered an FBI investigation of an unfriendly newsman to harass him, that proposed leaking confidential FBI files to embarrass the producer of a satirical movie, that used its control of important Watergate evidence and the privilege known as executive privilege to aid those supporting the President and to deprive or delay those in opposition, that made plans to eliminate professionals in government service who placed their professional responsibilities above questionable White House political demands, that participated actively and formally in a campaign organization while drawing White House staff salaries, that ran secret letter-writing campaigns against Republican Senators, and that generally emasculated the Republican Party.

That . . . all of that . . . violated the concept of executive power in article II of the Constitution. Extensive as the record is, it represents only selected examples.

The important point is that it is certainly not what our Founding Fathers had in mind when they envisioned the Presidency.

2. ENUMERATED POWERS AND DUTIES

The enumerated powers and duties of the President's office are set forth beginning with section 2 of article II. That section grants the President direct power over Cabinet officers. Much testimony before this committee demonstrated how those officers were used on behalf of the President's office.

For example, an Attorney General, for a significant period of time, ran the President's reelection campaign while still in office at the Justice Department. His reason for this role was that, "it is very, very difficult to turn down a request by the President of the United States," even though the Attorney General himself later testified that he felt such a role in politics while still in office was wrong. As an illustration of the extent of that role, memos from CRP, such as one entitled "Grantsmanship," suggesting an effective method of "insuring that political considerations" be used in Federal programs, were sent to the Attorney General from May 1, 1971, onward. At one point, it was even suggested that the Attorney General wield the power of his office to keep a Republican contender off the primary ballot in Florida. That campaign role also included an extraordinary meeting in the Attorney General's very office, to review plans for bugging, mugging, burglary, prostitution, and kidnaping.

Another Attorney General was placed in the awkward position of being asked immediately after the Watergate break-in to help get Mr. McCord out of jail before he was identified. He was soon thereafter warned of White House concern with a too aggressive FBI investigation. He was then asked to provide raw FBI Watergate files, improperly, to the White House. That same Attorney General was later used as a secret contact with this committee's investigation of Watergate, and was then removed from office in an apparent connection with the Watergate affair. He eventually became the first Attorney General in history convicted of a crime, for his testimony about Presidential interference in an antitrust case involving a major contributor.

A third Attorney General was forced to resign his office when he backed the special prosecutor's procedure for obtaining Watergate evidence from the White House.

An Assistant Attorney General was also asked to provide raw FBI Watergate files, again improperly, to the White House, and was later told by the President not to investigate the Ellsberg break-in. A Deputy Attorney General was forced to resign when he backed the special prosecutor's decisions in the Watergate case. An Assistant Attorney General gave confidential Justice Department and FBI intelligence information to the President's reelection campaign, at the direction of the White House.

Three Attorneys General, a Deputy Attorney General, and two Assistant Attorneys General. And all this was done on behalf of the Presidency, which has a constitutional responsibility to "take Care that the Laws be faithfully executed."

With respect to other Cabinet officers, a Secretary of Commerce with all the authority as to corporate affairs that goes with that position, was placed in charge of raising funds for the President's reelection, including, as it turns out, a number of illegal corporate contributions. A Secretary of Treasury met with a milk producers association and supported their request for higher price supports. After the President granted higher support prices, the milk producers arranged for him to be offered at least $10,000 in cash for his personal use, a transaction for which he has been criminally indicted. . . .

And I think the RECORD should point out, of which he was absolved, declared not guilty.

HOUSE AND SENATE FLOOR DEBATES ON CONFERENCE REPORT MAY 4, 1976

14. Do you favor liberalizing the Hatch Act to permit federal employees a greater amount of participation in partisan political activities?	30	70
15. Do you have confidence in the ability of the Congress to deal effectively with today's problems?	20	80

ESTO '76—ESTONIAN SALUTE TO THE AMERICAN BICENTENNIAL

Mr. BEALL. Mr. President, from July 5 to 11, 1976, Estonians from all around the world will gather in Baltimore for their second worldwide festival—ESTO '76. The theme of this festival will be "The Estonian Salute to Our Bicentennial." ESTO '76 will help to preserve Estonian customs and traditions while, at the same time, highlighting Estonian contributions to the growth of this great Republic.

Mr. President, on February 24, the 58th anniversary of Estonian Independence, I discussed the history of Estonia and its forcible incorporation into the Soviet Union during World War II. At that time I included in the CONGRESSIONAL RECORD information on the ESTO '76 activities. I have subsequently become aware that President Ford has agreed to serve as an honorary patron of the ESTO '76 Salute to the American Bicentennial. On February 19, 1976, the President issued a statement "To Americans of Estonian Ancestry" and I ask unanimous consent, Mr. President, that this Presidential document be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presidential document follows:

THE WHITE HOUSE,
Washington, D.C., February 19, 1976.

To Americans of Estonian ancestry:

I am delighted to accept the high honor of Honorary Patron of ESTO '76—The Estonian Salute to America's Bicentennial.

As we celebrate the birth of freedom in America, your Estonian Festival calls attention to the remarkable contributions of millions of talented and hard-working immigrants from all over the world to building America into the great nation we know today.

In recalling the fortitude of our founding fathers, we must also rededicate ourselves to making America the same stronghold for men and women of individual spirit and energy it was in 1776—the cradle of liberty.

I am keenly aware of your great anxiety concerning your homeland, families and friends who have been and are still profoundly affected by East-West political developments in Europe. Last summer, just before departing for Helsinki, and before that in February of 1975, I met with your leaders to discuss these concerns and to emphasize that the accord I would sign in Helsinki was neither a treaty nor a legally binding document.

The Helsinki agreements, I pointed out, were political and moral commitments aimed at lessening tensions and opening further the lines of communication between the peoples of East and West.

I further stated that your understandable concern about the effect of the Helsinki declarations on the Baltic nations was groundless.

I can assure you that the United States has never recognized the Soviet incorporation of Estonia, Latvia and Lithuania and is not doing so now. Our official policy of nonrecognition is not affected by the results of the European Security Conference.

It is the policy of the United States—and it has been my policy ever since I entered public life—to support the aspirations for freedom and national independence of the peoples of Eastern Europe by every proper and peaceful means.

Finally, I indicated that there is included in the Declaration of Principles on Territorial Integrity the provision that no occupation or acquisition of territory in violation of international law will be recognized as legal.

In our White House meeting, I said this is not to raise the hope that there will be any immediate change in the map of Europe, but rather to emphasize that the United States has not abandoned and will not compromise this long-standing principle.

At the conference itself, I told the participants from the countries of the East that:

"We will spare no effort to ease tensions and to solve problems between us, but it is important that you recognize the deep devotion of the American people and their government to human rights and fundamental freedoms."

I assure each of you that this nation will be vigilant regarding detente. This nation will strive to maintain a safer and saner relationship with our competitors. At the same time, the relaxation of tensions can be implemented only on the basis of mutual concessions within the context of an American defense that is second to none. We will safeguard and advance our vital interests and security.

As we commemorate the 200th anniversary of our revolution, more and more Americans are mindful of their bi-national heritage. In this regard, I was especially pleased to learn that your community is preparing for a worldwide Estonian Festival in conjunction with our Bicentennial.

Your contributions to this nation are recognized and appreciated. I know you will continue to enrich our country's heritage with your art, your architecture, your music and the individual contributions of your many talented individuals.

I commend you for your continued contributions to our national legacy, to our durable system of representative government. Today, I salute you for your struggle on behalf of all human freedom.

GERALD R. FORD.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. TAFT. Mr. President, the RECORD of yesterday shows that I was necessarily absent during rollcall votes 160, 161, and 162. However, I was attending a meeting of the Board of Visitors of the Naval Academy, and I therefore ask unanimous consent that the permanent RECORD indicate that I was absent on official business during those rollcall votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, the conference report on S. 3065, which the clerk will state.

The legislative clerk read as follows:

Conference report on S. 3065, an Act to amend the Federal Election Campaign Act of 1971.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

ESTABLISHMENT OF A TIMETABLE FOR SENATE CONSIDERATION OF AND FINAL ACTION ON LEGISLATION DEALING WITH WATERGATE REFORM, INTELLIGENCE OVERSIGHT AND TAX PRIVACY

Mr. WEICKER. Mr. President, I ask unanimous consent that a resolution to establish a timetable for Senate consideration of and final action on legislation dealing with Watergate reform, intelligence oversight and tax privacy be considered at this time by the Senate.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

S. RES. 437

Whereas, over three years of congressional fact-finding have documented that the intelligence community, law enforcement agencies and the Internal Revenue Service have violated the constitutional rights of Americans;

Whereas, these public disclosures of illegal and unconstitutional activities have bred a public distrust in our government leaders and institutions;

Whereas, public and private organizations have recommended expedited action on pending reforms of our law enforcement and tax collection agencies;

Whereas, this is a government of laws;

Whereas, it is essential for this Congress to take the necessary steps to protect future generations against threats to their freedoms and liberties guaranteed by the Constitution;

Whereas, the integrity of, and the public confidence in, the institutions of government can only be restored by corrective legislative action;

Whereas, it is essential that the Congress establish a timetable to consider intelligence oversight, Watergate reform and tax privacy legislation to insure statutory and procedural safeguards are enacted prior to the adjournment of the 94th Congress;

Resolved, That it is the sense of the Senate that the Senate make every effort to reach by July 2 a final passage vote on Watergate reform, tax privacy and intelligence oversight legislation.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MANSFIELD. Will the Senator yield?

Mr. WEICKER. I yield.

Mr. MANSFIELD. I believe the word "make" in the resolve clause should be "shall."

Mr. WEICKER. "shall make" or "should make".

I believe it should be worded "should".

I ask that the resolution be so modified.

The PRESIDING OFFICER. Without objection, the resolution will be so modified.

The resolution, as modified, is as follows:

S. Res. 487

Whereas, over three years of congressional fact-finding have documented that the intelligence community, law enforcement agencies and the Internal Revenue Service have violated the constitutional rights of Americans;

Whereas, these public disclosures of illegal and unconstitutional activities have bred a public distrust in our government leaders and institutions;

Whereas, public and private organizations have recommended expedited action on pending reforms of our law enforcement and tax collection agencies;

Whereas, this is a government of laws;

Whereas, it is essential for this Congress to take the necessary steps to protect future generations against threats to their freedoms and liberties guaranteed by the Constitution;

Whereas, the integrity of, and the public confidence in, the institutions of government can only be restored by corrective legislative action;

Whereas, it is essential that the Congress establish a timetable to consider intelligence oversight, Watergate reform and tax privacy legislation to insure statutory and procedural safeguards are enacted prior to the adjournment of the 94th Congress;

Resolved, That it is the sense of the Senate that the Senate should make every effort to reach by July 2 a final passage vote on Watergate reform, tax privacy and intelligence oversight legislation.

Mr. WEICKER. Mr. President, I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the resolution be voted upon at the hour of 2 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is my understanding that will be a yea and nay vote, a rollcall vote.

ORDER FOR VOTE ON FEDERAL CAMPAIGN ACT AMENDMENTS OF 1976—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I ask uanimous consent that the vote on agreeing to the Federal Election Commission conference report occur not later than the hour of 4 p.m. this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, but I only indicate that the span of time following the vote on the Weicker resolution has been requested particularly to protect Senators BROCK and ALLEN—and perhaps other Senators, of whom we are not aware—who we know wish to speak on the conference report before we vote on it.

ORDER FOR RECOGNITION OF SENATOR ALLEN AT 1:30 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Alabama (Mr. ALLEN) be recognized at approximately the hour of 1:30 p.m. this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, might I inquire of the majority and minority leaders as to whether or not it is their understanding, as it is my understanding, that at 1 p.m. we shall proceed to the debate on this resolution?

Mr. MANSFIELD. That is correct.

Mr. WEICKER. With a final passage vote at 2 p.m., and that the yeas and nays will be ordered?

Mr. MANSFIELD. They will be ordered in the meantime.

Mr. WEICKER. They will be ordered in the meantime.

Mr. MANSFIELD. That is on the Weicker resolution.

Mr. WEICKER. That is correct.

Mr. MANSFIELD. And then we will have the final vote on the conference report no later than 4 p.m. this afternoon.

The PRESIDING OFFICER. Does that conclude the unanimous-consent requests, or was that in the form of an inquiry?

Mr. MANSFIELD. No; I shall still make some additional requests.

LEADERSHIP RESPONSE TO COMMUNICATION FROM SENATOR WEICKER

Mr. MANSFIELD. Mr. President, first, I ask unanimous consent that the leadership response to a communication from Senator WEICKER, contained on page S6152 of the RECORD under date of April 29, 1976, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEADERSHIP RESPONSE TO COMMUNICATION FROM SENATOR WEICKER

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, I am in receipt of a letter from our distinguished colleague, the Senator from Connecticut (Mr. WEICKER), and it is my understanding that the distinguished Republican leader has received a communication of a similar nature.

For the information of Senator WEICKER and the Senate, it is the intention of the joint leadership to call up the conference report on the Federal Election Commission as soon as possible after the House faces up to its responsibility on Monday next, as I understand the situation.

Personally I am unhappy that we have not been able to consider the conference report on FEC before this, but I am sure the reasons for not being able to do so are thoroughly understandable.

The Senate has also agreed to take up the Intelligence Oversight Committee matter on the 10th of next month, and it is my understanding that the assistant majority leader received permission from the Senate last night that it would be the pending order of business on that day, so that there is that assurance that this particular piece of legislation, S. 400, will be taken up at that time.

The distinguished Senator from Connecticut is also interested in Watergate reform and tax privacy legislation. He has urged the leadership to make every effort to guarantee a vote on final passage of these, as well as the other two proposals which I have already mentioned, before the July 4 recess.

It has always been the intention of the leadership to endeavor to do that and we will do our best to see that the wishes of the distinguished Senator from Connecticut are adhered to. But we can do nothing on Watergate reform and tax privacy legislation until those issues are reported out of committee. It is our hope that we will be able to dispose of all these matters well before the Fourth of July recess and we will jointly make every effort to do so.

Mr. HUGH SCOTT. If the distinguished majority leader will yield on that point. I have already assured the distinguished Senator from Connecticut (Mr. WEICKER) to the same effect, that the measures in which he is interested that are out of committee will be acted upon. We hope that those in committee will be promptly reported. I would like to see, as the distinguished majority leader has said, action before the July recess, and I think we are both anxious, on both side of the aisle, to cooperate with the distinguished Senator from Connecticut.

I do want to stress the importance of the Federal Election Commission Act. I think that whatever we do, we should do very promptly here, and whatever the President does, he should do very promptly, so that the intent of Congress under the previous act with regard to matching funds legislation can be borne in mind and the effect of any action which would delay it should also be borne carefully in mind.

The conference report is, in my judgment, better than the Senate bill. It is infinitely better than the House bill. It still has its flaws.

It has one aspect which ought to be worth noting, and that is, it is not entirely satisfactory to either labor or management and, I suppose, the conference being made up as it was, it would not have been possible to achieve as an ideal.

But, certainly, progress was made and, certainly, serious and concerned efforts were devoted by the committees and by the conference, and there was no effort in the conference to delay this action whatsoever. Those who watched the open sessions of that conference should affirm, I think, that the conference, while it argued vigorously over many different points, did not indulge in any delaying tactics.

So the sooner we can act on this measure, the better.

Mr. MANSFIELD. Mr. President, it is my understanding, to recapitulate, that the Senate has agreed that a vote on the Weicker resolution will occur at the hour of 2 p.m., that the vote on final passage of the conference report will occur not later than 4 p.m., and that the Senator from Alabama (Mr. ALLEN) will be recognized at approximately 1:30 p.m.

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR CONSIDERATION OF PRESIDENTIAL VETO OF H.R. 9803

Mr. MANSFIELD. Mr. President, for the information of the Senate, if the House of Representatives this afternoon overrides the child care bill (H.R. 9803), vetoed by the President of the United States, after talking with the acting Republican leader, it is the joint leadership's suggestion that if the veto is overridden the Senate will proceed to the consideration of H.R. 9803 at 1 p.m. tomorrow afternoon and vote on the veto at 2 p.m. tomorrow afternoon. I make that in the form of a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 1 p.m. today.

There being no objection, the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENSON).

Mr. MANSFIELD. Mr. President, if the Senator from Connecticut will yield to me, I should like to suggest the absence of a quorum without his losing his right to the floor.

Mr. WEICKER. I yield to the Senator from Montana.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CERTAIN BILLS TO BE HELD AT THE DESK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when H.R. 10374, H.R. 12168, H.R. 13035, and H.R. 12018 are received, they be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Also, under the same stipulation, H.R. 12216.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. I suggest the absence of a quorum, under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTABLISHMENT OF A TIMETABLE FOR SENATE CONSIDERATION OF AND FINAL ACTION ON LEGISLATION DEALING WITH WATERGATE REFORM, INTELLIGENCE OVERSIGHT AND TAX PRIVACY

The Senate continued with the consideration of the resolution (S. Res. 437) to establish a timetable for Senate consideration of and final action on legislation dealing with Watergate reform, intelligence oversight and tax privacy.

Mr. WEICKER. Mr. President, first let me express my appreciation to Senator MANSFIELD and Senator SCOTT, both for their supportive words of last week and for allowing the immediate consideration of this resolution (S. Res. 437) now before the Senate.

Why this resolution?

Because it parts the curtain of official silence behind which reform has been stalled to death by the Executive, the Congress, and the bureaucracy.

If there is to be no oversight, no Watergate reform, and no tax privacy, then let it be so voted in full view of the Nation.

As matters now stand, people believe one or all of the following:

We have acted.

Action is imminent.

Reform is guaranteed.

The FEC bill takes care of all problems.

Everybody does it so why get into a flap.

Our memories will keep us free.

President Ford's Executive orders have corrected all abuses.

Of course, none of the above is correct.

I do not doubt for a minute that some or all of the legislation mentioned in the resolution will pass if the Senate has to go public.

However, I cannot win a shadowboxing contest with the President, with the Directors of the CIA and FBI or with the empire-preservers of the Senate.

When this resolution is agreed to, an important step in defense of our Constitution will have been taken.

Laws, not memories. Executive orders or waiting games, are our business. Nobody will benefit politically today from legislation that essentially relates to the condition of the American spirit.

But our children tomorrow will have something better than we received and that is reward enough.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER AUTHORIZING REQUEST FOR YEA-AND-NAY VOTES TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order during the next half-hour or so to ask for the yeas and nays on the Weicker resolution and on agreeing to the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I wonder if the distinguished manager of the bill would respond to two or three questions that I have in mind with regard to the conference report.

Mr. CANNON. I will be delighted to.

Mr. ALLEN. As I understand the conference report, in the matter of solicitation by a corporation or a labor organization or separate segregated funds set up by either of these concerns, there is a group of persons that the labor organization can solicit at any time, they being the members of the labor organization; and there is a group that the corporation or the segregated funds set up by the corporation can solicit at any time, they being the officers and executive or administrative personnel, and the executive or administrative personnel include those who are paid on a salary rather than an hourly basis and who have policymaking, managerial, professional, or supervisory authority.

Then there is another group as to each of these entities that can be solicited only twice a year.

As to the labor organization, it would be those that the corporation can solicit at any time and, of course, that would include employees who were not members of organizations, and the corporation or the separate segregated fund for political purposes of the corporation can solicit twice a year from the employees in addition to those that they can solicit at any time.

Is that correct?

Mr. CANNON. The Senator is correct, with the further proviso as to the method of solicitation.

Mr. ALLEN. That is correct. That has to be in writing.

Mr. CANNON. In writing, by mail.

Mr. ALLEN. To go back to a trustee.

Mr. CANNON. To the residence of the party, and designed in such a fashion that it cannot be ascertained who makes a contribution of $50 or less and who does not make such a contribution.

Mr. ALLEN. That is the way the Senator from Alabama understands it.

Now, an amendment which I offered on the floor and which was accepted by the manager of the bill, the distinguished Senator from Nevada (Mr. CANNON), amendment No. 1496, was adopted by the Senate and agreed to in the conference.

This amendment was made necessary by the fact that there are certain types of corporations or organizations that do not have stockholders. This amendment appears on page 19 of the conference report and is in section 321(b)(2)(C), starting with the third line from the bottom of the page:

> This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

So if the members of such an organization, who, not being stockholders, still make up the corporation, would solicita-

tions by such an organization of its members fall into the first category that I enumerated as to who may be solicited by a corporation or a labor organization or a separate segregated fund set up by one of these? Would they come in the class that could be solicited at any time?

Mr. CANNON. Yes, the Senator is correct, that the provisions of section 321 (b)(2)(C), and later, on page 19 section 321(b)(4)(C) would permit, for example, a mutual life insurance company or a separate segregated fund established by such an organization to solicit contributions for such a fund from its members. So any type of an organization that had members, though not categorized as stockholders, and so on, would be covered under that provision.

Mr. ALLEN. And could solicit at any time?

Mr. CANNON. They could solicit at any time, just as a corporation and its separate segregated fund can solicit certain classes at any time, and a labor union can solicit its members at any time.

Mr. ALLEN. So a membership corporation such as a State Farm Bureau Federation, the Grange, or the National Farmers Organization could solicit their members?

Mr. CANNON. Yes. If they are corporations they could solicit their membership.

Mr. ALLEN. And REA cooperatives could solicit their members at any time?

Mr. CANNON. Yes. That is my understanding of the intent of the Senator's amendment and of the language we have drafted in the report.

Mr. ALLEN. I appreciate the answers from the chairman. I am glad he mentioned specifically a mutual life insurance company, such as, I would understand, Metropolitan, Mutual of New York or Equitable. Any mutual life insurance company would be able to solicit its policyholders since they are the group that make up the corporation?

Mr. CANNON. If the policyholders are members within the definition of that type of an organization, then they could be solicited under that provision of the law.

Mr. ALLEN. Mr. President, I ask unanimous consent that a letter dated April 5, 1976, from Mr. Remmel H. Dudley, vice president, Metropolitan Life Insurance Co., here in Washington, be printed in the RECORD. I have shown the manager of the bill a copy of the letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

METROPOLITAN LIFE,
Washington, D.C., April 5, 1976.

Re Federal Election Campaign Act Amendments of 1976—S. 3065.

Senator JAMES B. ALLEN,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR ALLEN: In debating the above bill, the Senate on March 18, 1976 adopted your Amendment No. 1496, to bring "membership organizations, cooperatives, or corporations without capital stock" within the Act.

As you know, a mutual life insurance company has no stockholders. As we read the language of your amendment we are of the opinion that a mutual life insurance company would, therefore, be included. This interpretation was confirmed last week by your Legislative Assistant, Mr. Gentry. Indeed, Mr. Gentry told me other insurance companies had made a similar inquiry and had been assured it was your intent to include such companies.

To avoid any misunderstanding, and to make this perfectly clear, we wonder if it would be possible for the Conference Committee to include in its report a specific reference to mutual life insurance companies. While the language as it exists in your amendment is reasonably clear, such specific reference would preclude any question, and would be consistent with your intent. If this is not feasible, perhaps during debate on the conference bill you could make this point clear in a coloquy.

We appreciate your interest in including these organizations in your Amendment No. 1496.

With most cordial regards, I am

Sincerely yours,

REMMEL H. DUDLEY,
Vice President.

Mr. ALLEN. This letter is an inquiry from a vice president of the Metropolitan Life Insurance Co., saying that their attorneys construe this amendment to cover a mutual life insurance company. The answer that the chairman has made is that such an operation would be covered by this amendment and would permit a mutual life insurance company to solicit policyholders. That is correct, is it not?

Mr. CANNON. Yes, that is correct.

Mr. ALLEN. I thank the chairman.

I have one further inquiry. The manager of the bill was kind enough to indicate approval here in the Chamber and to offer to accept an amendment offered by the Senator from Alabama having to do with disclosure by Members of the House and Senate and all Federal employees making in excess of $25,000 per year of their assets, liabilities and net worth each year, I believe on April 15 of each year, provided they had an income in excess of $25,000 a year. There was a yea and nay vote in the Senate on this amendment and it was adopted overwhelmingly. I note this amendment is not carried forward in the conference report. I know that the conferees on the part of the Senate would have sought to express the will of the Senate in the conference report and have this amendment adopted. I would just like to inquire of the manager of the bill, who was the chairman of the conference, as to what happened to this amendment.

Mr. CANNON. I say to the Senator that the members of the other body were unwilling to accept the Senate position on that matter and it finally came down to a question of whether we were able to get a bill agreed upon without that provision or whether we would not get a bill. So the Members of the Senate conferees reluctantly receded from their position in their desire to get such a bill.

I may say just as a matter of passing concern that in my own State of Nevada the legislature last term adopted a similar provision with respect to State officeholders, both elective and appointive, quite similar to this. The matter was tested in our supreme court just within the last week and was held unconstitutional. I have not read the decision yet so I am not prepared to comment on it, but it was a matter of passing concern.

Mr. ALLEN. Was it unconstitutional as against the Nevada constitution or the U.S. Constitution?

Mr. CANNON. I cannot say that. All I can say is that I received the telephone information that the Nevada Supreme Court held that such a provision was unconstitutional and threw it out. I will advise the Senator after I have a chance to read the opinion.

Mr. ALLEN. I thank the distinguished Senator from Nevada. I recall when I offered the amendment the Senator modified the amendment by adding, as being subject to the amendment, not only Members of the House and Senate, but candidates for those offices. I thought that was a very constructive amendment.

Mr. CANNON. That is right. As the amendment was adopted here it referred to candidates for Federal office and it included also members of the executive and the judicial branch. So it would cover all three branches of the Government equally. I may say this is an amendment that the Senate has acted upon on several occasions before and we have been unable, up to the present time, to get the House to agree.

Mr. ALLEN. I thank the distinguished Senator. I do realize in a conference committee one has to give and take on these issues. I regret that the conferees were unable to have that amendment carried forward as part of the conference report.

I thank the distinguished Senator for accommodating me by answering these questions I had in mind.

Mr. CANNON. Mr. President, in my explanation of the conference report and in various discussions with my colleagues in the Chamber, I have referred to a number of instances where the conference substitutes changes the present law. There are still other instances, such as the discussion at page 63 of the conference report of the relationship between section 301(f) and section 321, relating to communications and nonpartisan activities, where the conferees have attempted to clarify the law.

I think it is important to emphasize, however, that there has been no intent to make changes in existing law or legislative history by silence.

It is understood that where the conference bill has not changed existing law or where the conferees have not attempted to clarify various provisions, the legislative history of the 1971 act and the 1974 amendments will be controlling.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR YEAS AND NAYS

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays with a single show of hands on the Weicker resolution and on agreeing to the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered on the Weicker resolution and on agreeing to the conference report.

Mr. MANSFIELD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFCER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON THURSDAY, MAY 6, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, after the two leaders or their designees are recognized under the standing order, Mr. PROXMIRE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GOLDWATER ON THURSDAY, MAY 6, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the recognition of Mr. PROXMIRE on Thursday, Mr. GOLDWATER be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. RES. 406

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the disposition of the pending conference report, the Senate proceed to the consideration of Calendar Order No. 718, Senate Resolution 406, a resolution with reference to the importance of sound relations with the Soviet Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 2679

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the dispositon of Senate Resolution 406, the Senate proceed to the consideration of Calendar Order No. 716, S. 2679, a bill to establish a Commission on Security and Cooperation in Europe.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTABLISHMENT OF A TIMETABLE FOR SENATE CONSIDERATION OF AND FINAL ACTION ON LEGISLATION DEALING WITH WATERGATE REFORM, INTELLIGENCE OVERSIGHT AND TAX PRIVACY

The Senate continued with the consideration of the resolution (S. Res. 437) to establish a timetable for Senate consideration of and final action on legislation dealing with Watergate reform, intelligence oversight and tax privacy.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on Senate Resolution 437, as modified. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from New Hampshire (Mr. DURKIN), and the Senator from Connecticut (Mr. RIBICOFF) are absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is necessarily absent.

I also announce that the Senator from New York (Mr. JAVITS) is absent on official business.

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—91

Abourezk	Glenn	Montoya
Allen	Goldwater	Morgan
Baker	Gravel	Moss
Bartlett	Griffin	Nelson
Bayh	Hansen	Nunn
Beall	Hart, Gary	Packwood
Bellmon	Hart, Philip A.	Pastore
Bentsen	Haskell	Pearson
Brock	Hatfield	Pell
Brooke	Hathaway	Percy
Buckley	Helms	Proxmire
Bumpers	Hollings	Randolph
Burdick	Hruska	Roth
Byrd, Harry F., Jr.	Huddleston	Schweiker
	Inouye	Scott, Hugh
Byrd, Robert C.	Jackson	Scott, William L.
Cannon	Johnston	Sparkman
Case	Kennedy	Stafford
Chiles	Laxalt	Stennis
Church	Leahy	Stevens
Clark	Long	Stevenson
Cranston	Magnuson	Stone
Culver	Mansfield	Symington
Dole	Mathias	Taft
Domenici	McClellan	Talmadge
Eagleton	McClure	Thurmond
Eastland	McGee	Tower
Fannin	McGovern	Weicker
Fong	McIntyre	Williams
Ford	Metcalf	Young
Garn	Mondale	

NAYS—0

NOT VOTING—9

Biden	Hartke	Muskie
Curtis	Humphrey	Ribicoff
Durkin	Javits	Tunney

So the resolution (S. Res. 437) as modified, was agreed to.

The preamble was agreed to.

The resolution with its preamble, reads as follows:

S. RES. 437

Whereas, over three years of congressional fact-finding have documented that the intelligence community, law enforcement agencies, and the Internal Revenue Service have violated the constitutional right of Americans;

Whereas these public disclosures of illegal and unconstitutional activities have bred a public distrust in our Government leaders and institutions;

Whereas public and private organizations have recommended expedited action on pending reforms of our law enforcement and tax collection agencies;

Whereas this is a Government of laws;

Whereas it is essential for this Congress to take the necessary steps to protect future generations against threats to their freedoms and liberties guaranteed by the Constitution;

Whereas, the integrity of, and the public confidence in, the institutions of government can only be restored by corrective legislative action;

Whereas, it is essential that the Congress establish a timetable to consider intelligence oversight, Watergate reform, and tax privacy legislation to insure statutory and procedural safeguards are enacted prior to the adjournment of the Ninety-fourth Congress;

Resolved, That it is the sense of the Senate that the Senate should make every effort to reach, by July 2, a final passage vote on Watergate reform, tax privacy, and intelligence oversight legislation.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. STAFFORD). The Senate will now return to the unfinished business, the conference report on the Federal Election Commission on which, by unanimous consent, there will be a final vote before 4 p.m.

Mr. CANNON. Mr. President, may I say to my colleagues while the agreement is that we will have a vote before 4 p.m. I anticipate that the vote probably could come within the next 15 minutes.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BROCK. Mr. President, I am not so sure we can make that 15-minute timetable. I do not intend to take much longer than that myself, but there may be other Members who wish to speak on the matter before us.

Mr. President, sometime ago I called the amendments to the Federal Election Campaign Act "a deceit, a sham, and a fraud on the American public." Since then, there have been many changes in those amendments; unfortunately, they are still a "deceit, a sham, and a fraud on the American public."

In their haste to make the Federal Election Commission a congressional protection agency, the conference committee bill strips the Federal Election Commission of almost all of its advisory authority.

In fact, the bill itself states that the Commission and none of its employees can issue "opinions of an advisory nature" unless Congress has first specifically approved the general rule of law to be discussed.

What this means is that candidates will probably be forced to go this entire election cycle without the guidance of advisory opinions. Every challenger will be required to face a law so complicated I doubt if it will be fully understood before it is changed again in ensuing years.

Even the old law was difficult to understand—with the benefit of advisory opinions. Let me give an example. My staff has noted three recent campaign filings by challengers. Each of these three individuals filed reports on April 10. And, each of them apparently violated the law in doing so.

I am certain that these violations—some sizable, some minor—were not intentional. But I find it quite distressing that all three of these gentlemen are lawyers, two have been active in politics for some time, and all have professed a commitment to follow the law.

Yet, despite their good intent and knowledge, they all apparently violated it. One person accepted a contribution in the form of a loan that is far in excess of the legal limit of $1,000. Another filed a report for his committee but did not file one for himself. Finally, the third filed two identical reports, one for himself and one for his committee.

These examples are being repeated all across the country. With a self-contradictory law, every candidate could be in the same boat unknowingly, unintentionally, and while sincerely trying to fulfill his ethical commitment to his constituency. Yet, what is Congress doing about this? Are we moving to make it easier for persons to comply with the law? Absolutely not. This bill makes it almost impossible for anyone not directly involved with the legislation to understand it and virtually impossible for those who wrote the law to understand it. The reduction of the advisory opinion power of the commission will make the system function less efficiently. The result will be more confusion, chaos, and a renewed suspicion about the intent of Congress as it writes its own reelection code.

Of course, in the rush to pass this legislation Congress has not overlooked its own best interest. For example, a new loophole was created to allow honorariums to be funneled into compaign activity. Not only was the honorarium limit increased to $25,000 per year, at the same time honorariums were exempted from the definition of contribution. Because a person may contribute an unlimited amount to his own campaign, funds for a speech given to a Senator can flow directly into his campaign—even if they are corporate funds. Clearly this is an incumbent protection feature.

As one would expect, the conference committee failed to impose any restraint on the use of the congressional franking privilege.

I say to my colleagues that the Senate has acted time and again to extend the limit on the frank to 60 days prior to an election, but unfortunately we were unable to sustain that posture with the House.

While the frank can be an important tool in the fight against apathy and misinformation, it is clearly susceptible to misuse during the closing days of a campaign. An amendment to increase the number of days before an election when the frank cannot be used was deleted. Thus, incumbent access to free mailing privileges is protected up to 28 days before an election.

Even sections of the conference report designed to help challengers—if there are any—are troublesome. Take the change in the requirement to preserve the identification of contributors. The threshold was raised from $10 to $50. This does relieve a burden on campaign treasurers. But, it also opens a new loophole to allow unreported contributions to flow into a campaign. The report language makes it clear that even if a person gives in excess of $100, it need not be reported under this act, if the contributions are made in amounts under $50. I find this a dangerous new precedent.

Actually, the total effect of this bill would be to make the Commission a subcommittee of Congress. That is what it amounts to. While I am certain that this cozy arrangement quiets many fears among those already in public office, it will help continue the virtual monopoly of incumbents in American election politics.

This situation reminds me of what has happened to other regulatory agencies. It is in fashion to say that regulatory agencies have become captives of the very people they are supposed to regulate. It may not just be fashionable, it is certainly factual in this particular case. Well, Congress was regulated for a few weeks and found the prospects pretty distasteful. This bill solves that problem, it will put the Commission under the thumb of Congress forever. Congress has made another power grab, this time for the supposedly independent commission designed to govern their own reflection.

I think that is the thing that bothers me most about this particular bill, Mr. President, because there have been abuses in the past, and every Member of this body and I think every person in the American Republic, knows that. Yet Congress never prosecuted a single person. Under the old Corrupt Practices Act, it was enforcing its own election process. Not one person was ever prosecuted.

So what have we done? We created an independent commission. The very heart and soul of that was to give them independence so we could have independent enforcement of the election process and, therefore, independent protection of the American people against the abuses, and we have destroyed that independence by this particular action that is before us today.

Obviously, some violations will be taken to court under this bill, but it is strange that we have taken out all of the felony provisions. In effect, we have decriminalized campaign violations, or will have if this bill becomes law.

I admit that even under this bill it is possible that some violations will be taken to court. And do not think for a minute the incumbents have not thought of that, too. Surprisingly, there are no more felony provisions in this act.

In a sense, campaign violations have been decriminalized—or will be if this bill becomes law. The maximum jail sentence for any violation is 1 year. I would have thought that events of the last few years would have convinced us that our election process needs better protection, tougher penalties, and more severe enforcement. I cannot understand what led the conference committee to take a different direction.

Equally bad, the Justice Department is no longer able to prosecute on its own. If an aggressive district attorney finds a clear violation of the law, he cannot take the person into court. He must refer the case to the Federal Election Commission. And what if this agency, which Congress has neatly overtaken, imposes nothing but a simple fine? That is it. The Justice Department can take no further action—even if it violently disagrees with the decision. I find the total "decriminalization" of the campaign law violations one of the most disturbing features of the bill.

I question whether we can decriminalize campaign violations, in all candor, with our constituency in the American people.

One cannot, however, be certain of the full impact of this bill. It is so poorly drafted, the language so convoluted, that I doubt if any of us will know for years the real meaning of many sections. The conference report illustrates the confusion and uncertainty that exist. Why, one section of the conference report makes a suggestion that is in clear opposition to the language of the statute itself. When Congressman WIGGINS raised this point, his argument was dismissed.

If the conferees cannot agree on what this statute means, how can we expect a candidate in Tennessee or Nevada to understand it. And, now that we have tied the hands of the Commission to issue advisory opinions, we have guaranteed that those questions will remain unanswered.

I suppose for those Members who face reelection this year it may be somewhat reassuring to realize that at any minute the rug can be pulled out from under a challenger by accusing him of a violation of this act. But I might say that can also be true of incumbents. Candidates, constituents, citizens and people need to understand the law with some clarity. That is utterly impossible with this particular bill.

I find the conflict of interest in that kind of legislation so overwhelming that I cannot believe it will pass this body and be enacted into law.

Mr. President, during the original debate, I supported a simple reconstitution of the Federal Election Commission. I still do. It is essential that we do so. Rightly or wrongly, we wrote a law that set up the rules for running in elections in this country for the House, the Senate, and the Presidency. We have already unfairly distorted and dislocated the Presidential process. We have disadvantaged not only candidates but people who were supporting those candidates because we changed the rules of the game in the middle of the game. And that is not right.

I did not like the way that law was written, but, for goodness' sake, we had an obligation to see that the law was

kept intact during the process of the primaries so people would know where they stood. Despite that fact, the rules were changed. People, candidates and supporters have been put into an impossible situation.

We had no choice other than to reconstitute the Election Commission, to do it cleanly and simply, and proceed under the law as it was written for the balance of this year.

After this election is over a whole lot of changes need to be made. There is no question about that. Everybody here knows that. But we should not do it during the middle of a campaign; we should not do it so people do not have a fair chance to express their views in a free society.

I think perhaps the only process that I can suggest to my colleagues in the face of this situation we now find ourselves in is to attempt to reject the conference report, enact a simple extension of the Federal Election Commission with fully independent status, and set ourselves to work for the balance of this year to see where this law must be changed so that in the ensuing elections the American people will be better served by the representative branch of this particular constitutional system of ours.

Mr. HUGH SCOTT. Mr. President, I would like to address a couple of questions to the distinguished chairman of the committee. The Senate version of this law, Mr. President, carried the definition of the word stockholder and for some reason it was omitted from the substitute in conference. I am sure there was no attempt by that omission to deprive employees of corporations who own vested beneficial interests in the corporation stock from being within the definition of those who may be solicited by separate segregated funds. Is this not correct, in the chairman's opinion?

Mr. CANNON. I can say to my colleague there certainly was no attempt to deprive anyone of the general right of definition under the term stockholder. The conferees did not attempt to work out a description because generally the term stockholder is determined by looking at the particular State law. Certainly, if an individual has a vested beneficial interest in the stock, with the normal rights to vote and to receive dividends, if any, and to share in the profits or losses of the company in proportion to his or her percentage of ownership, all of which would accrue to an individual under the general principles of corporate law, then such an individual certainly would be considered to be a stockholder.

The conferees, as I said, did decide against an attmept to define that term and to leave that matter to the normal concepts of corporate law.

Mr. HUGH SCOTT. I would take it, then, an employee who has a stock acquisition plan by purchase, bonus or otherwise and who, therefore, has a vested interest in the employer corporation is not relegated to the status of a second-class stockholder position by this conference language.

Mr. CANNON. There certainly is no intent to relegate them to a secondary position. If they have a vested interest in the stock and the right to vote whatever proportionate shares they have under a stock ownership plan or whatever it may be, obviously they would be a stockholder within the meaning of the term. As I said, most State laws define in their own corporate law structure what constitutes a stockholder.

Mr. HUGH SCOTT. I have in mind such stock acquisition plans as Sears, Roebuck, Marriott Corp., and others. I do not think there is any attempt to deprive any person, even though an employee, of his rights as a shareholder and his right to be informed or solicited.

Mr. CANNON. There was no such intent.

Mr. HUGH SCOTT. I thank the chairman.

Mr. KENNEDY. Mr. President, I rise, first of all, to commend the chairman of the Rules Committee for the work that has been done in bringing this measure to the point where in a few moments we will be acting on the conference committee's action.

I support the conference committee's action on the election reform bill, and I hope that it will be approved by the Senate and signed by the President.

In my view, the pending legislation wisely went beyond the steps required to deal with the reconstitution of the Federal Election Commission in the wake of the Supreme Court's decision in Buckley against Valeo.

In addition to reconstituting the Commission, the present bill contains important and urgently needed provisions to prevent the artificial proliferation of political committees, and to insure that so called independent spending is genuinely independent of a candidate and his political committees, before such spending qualifies for the exemption from the limits on campaign spending under the Supreme Court's ruling.

I also commend the conferees for reaching acceptable compromises on the other sensitive questions involved in this complex legislation. Although not all of us may agree on particular solutions reached, it seems clear that the integrity and independence of the Commission have survived the unjustified assaults upon it, and that the many other difficult issues have been resolved fairly and dispassionately.

Obviously, the President is receiving strong pressure to veto this measure. Experience under the new law will tell whether or not additional modifications are needed. But I am convinced that the conference bill is far better legislation than either the present state of the law in the wake of the disruption and uncertainty produced by the Supreme Court decision, or the result likely to be obtained if Congress tries again from scratch.

My hope, therefore, is that in recognition of these realities, the President will not succumb to the partisan advice to veto the bill—or, if he does succumb, that Congress will have the good sense to override the veto. Certainly, the overwhelming House vote for the bill sends a clear message to President Ford to sign the law.

There is, of course, one major area where the law is obviously deficient—its failure to include public financing for congressional elections. So long as we maintain the shocking double standard of public financing for Presidential elections and private financing for Senate and House elections—so long as we refuse to take congressional elections off the auction block—our goal of genuine election reform will continue to be a hollow promise.

Public financing is the wisest possible investment of the taxpayer's money. It will pay rich dividends in the form of future Congresses more responsive to the people.

The dollar checkoff method of public financing is working. And it is working better every year. According to the most recent figures available from the IRS—based on tax returns processed so far this year—25 percent of taxpayers used the checkoff on their 1975 returns, up from 23 percent in 1974. The results for the 4 years of operation of the checkoff are:

Tax year, taxpayer participation, and amount:

1972, 3 percent, $12.9 million.
1973, 13 percent, $17.3 million.
1974, 23 percent, $31.9 million.
1975, 25 percent, $17.9 million (partial results).
Total, $80.0 million.

If the present pattern of participation continues for the remaining 1975 returns still to be processed, the IRS estimates that an additional $14–16 million will be designated for the Presidential campaign fund, for a total of approximately $95 million designated to the fund since 1972.

To date, $12.6 million has been paid out to candidates in the 1976 primaries, and requests for an additional $3.7 million are pending before the FEC.

It is clear that large numbers of taxpayers believe in public financing and are using it on their tax forms to vote for clean and honest presidential elections, free of the taint of special interest contributions and the appearance of corruption.

The average taxpayer deserves the chance to vote for such elections for Congress, too, because it will end the corrosive influence of large campaign contributors and bring more effective answers by Congress on vital national challenges like inflation and employment, health and education, crime and gun control and tax reform.

Taxpayers care about these issues. And they care about integrity in Government. The annually increasing participation by taxpayers in the checkoff on their tax forms is a welcome and healthy sign that concern about election reform and honest, open government is not fading as Watergate recedes.

The best way to achieve our goal of ending the appearance of corruption and the influence of special interest money in campaign financing in congressional elections is to adopt public financing for the House and Senate. The opportunity to achieve that goal has now passed in the 94th Congress. But I intend to do my best to insure that it has the highest priority in the new Congress that convenes next January.

I know from both the statements and the record which have been made by the chairman of the Rules Committee (Mr. CANNON), who reported a bill in 1974 and supported it and fought for it in the conference that year, that the chairman stands for the public financing of congressional elections.

I believe the American people want to ensure that the representatives they are selecting for the House of Representatives and the Senate will be accountable to the people rather than to fat cat contributors.

I feel that the case has been made convincingly for the importance of public financing in the American election system. The case is equally convincing for Senate elections, House elections, and Presidential elections.

Quite clearly, if we in Congress are going to provide sauce for the goose in terms of public financing for Presidential campaigns, I think it is only sensible and logical to provide sauce for the gander in terms of congressional and senatorial campaigns.

So, I indicate this afternoon to the chairman of the Committee on Rules and Administration and to my colleague, a senior member of the Rules Committee (Mr. HUGH SCOTT), who has worked closely with me in a bipartisan effort to achieve public financing for congressional campaigns, that I hope that this issue may be acted on early in the new Congress.

All of us know that the American people are going to pay for the campaigns one way or the other. If they do not pay for them through public financing, they are going to pay for them in terms of the special rules and special privileges that are given to the large concentrations of economic power that are able to wield their influence in the legislative process time and time again—and their influence and access is purchased through their campaign contributions.

That is why public financing of Presidential campaigns and congressional campaigns is the most important reform in terms of governmental responsibility and integrity that I have seen in the 14 years that I have been in the Senate.

The American people want their elected representatives to be accountable to them, and not to the large contributors. We have taken that giant step for Presidential elections, and it is time to take the same giant step for Congress.

I commend the Senator from Nevada (Mr. CANNON), who has been tireless in the pursuit of this reform, and the members of his committee for the work that they have done and the service that they have provided to our country in this important reform.

Mr. BROCK. Mr. President, I know the Senator from Massachusetts has had a long interest in the subject matter of public financing. I may have at one point been tempted to listen with some sympathy to his point of view.

But I do think that perhaps our experience might teach us something this year, and that is the fact that Congress can by action or inaction not only propose, but it can dispose or refuse to dispose and, in this particular case, refuse to sustain campaigns of decent people who are running for the Presidency.

The very fact that we wrote a law in which there were matching funds raised in Presidential campaigns and then allowed the Commission which disposed of the funds to lapse so that no check could be sent, tells me a great deal about the power that we are placing in the hands of this particular body when we write that kind of a law.

Mr. KENNEDY. Mr. President, will the Senator yield for an observation?

Mr. BROCK. I yield.

Mr. KENNEDY. The Senator is familiar with the fact that the bill that was actually passed by the Senate in 1974 would not have been vulnerable on the question of the Commission's method of appointment. So I think the Senator's indictment is of Congress as a whole in fashioning legislation that was eventually challenged successfully by the Supreme Court. The fact of the matter is the bill that was recommended by the Committee on Rules and Administration in 1974 and approved by the Senate would have been upheld by the Supreme Court, and the kind of objections that the Senator from Tennessee is expressing now never would have been made.

When we are talking about the legislative mixup on this, I certainly hope that our membership will understand quite clearly that it was to no extent due to the workings and functionings of the Senate or the Committee on Rules and Administration.

Mr. BROCK. The Senator is correct on the very limited point that the original Senate bill was constitutional as now interpreted by the Court. I would not argue that.

As a matter of fact, I think it is only fair to say—and I am not trying to get in a shouting contest with the other body—that throughout the process our Senate conferees and our Senate participants in this reform movement have had more rationality, coherence, and candor than perhaps some on the other side. I think the result would have been far better had we passed the Senate effort, but the fact is we did not.

What I remain concerned about is, whatever the circumstances that led us into the constitutional challenge, the fact is that once it was made and sustained Congress lacked the ability or the will, in its entirety, to come to grips with a desperate problem for legitimate candidates and legitimate supporters throughout the 50 States, and we have markedly disadvantaged certain campaigns as a result.

I also make one other point. I have learned something else from the fact that even when the funds were going to the candidates the situation did not seem to change very much. Viable candidates remained viable, and those who did not have an appeal to the electorate failed miserably.

That is the way it always has been, and public financing is not going to change that. All it does is to require the American taxpayer to put money into the campaign of an individual with whom he thoroughly disagrees. I find that somewhat difficult to justify to my constituency. If the Senator's constituency is different, he can make his own case there. But for myself, it is very difficult for me to prove to Tennesseans that I have a right to impose a tax upon them to support a candidate with whom they disagree on virtually every fundamental issue before the American people. I think that is the basic test.

However, the question I have today is not the constitutionality. It is not the public financing. It is the fact that this bill as written, as agreed to by the conferees, is impossible of interpretation, is disadvantageous to challengers, is advantageous to incumbents, is a self-perpetuating device for the Congress of the United States, which puts a stagnation upon the American political process.

It reduces our ability to freshen it by constant turnover, by change—by improvement, if you will. It is a process by which Congress can maintain control over its own reelection standards. I think that is wrong. That is what has been wrong with the process under the old Corrupt Practices Act for the last 50 years. All we have done is change the name. This bill maintains in the hands of Congress the right to set its standards, the conduct of elections, and under which it will allow or tolerate someone to challenge it. I believe that is unfortunate for the American people, who deserve better. I believe we can write a better piece of law than this, and I hope we will do so next year.

Mr. KENNEDY. Mr. President, having already commended the contribution made by the distinguished chairman of the Rules Committee, I also acknowledge the very strong contribution that has been made to this legislation by the distinguished Senator from Iowa (Mr. CLARK), as well as the Senator from Tennessee (Mr. BROCK), both of whom have followed this measure closely. All of us involved in the debate and the discussion of the bill know that they have been very much involved in the study and deliberation of the issues, and we appreciate the major effort they have given to the bill. They have made many very important contributions to our understanding of these complex issues. In spite of the fact that I have differed with the Senator from Tennessee on some of the issues, I think it is important to acknowledge the very important contributions the Senator from Tennessee has made to this legislation.

Mr. BROCK. The Senator from Massachusetts is very gracious. He knows that I respect him for his contribution.

Mr. PACKWOOD obtained the floor.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

INCREASED PARTICIPATION IN THE INTER-AMERICAN DEVELOPMENT BANK

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9721.

The PRESIDING OFFICER (Mr. STAFFORD) laid before the Senate a

message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 9721) to provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SPARKMAN. I move that the Senate insist upon its amendment and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. SPARKMAN, Mr. HUMPHREY, Mr. CHURCH, Mr. MCGEE, Mr. MCGOVERN, Mr. CASE, Mr. JAVITS, and Mr. HUGH SCOTT conferees on the part of the Senate.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1976—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3065) to amend the Federal Election Campaign Act of 1971 to provide for its administration by a Federal Election Commission appointed in accordance with the requirements of the Constitution, and for other purposes.

Mr. PACKWOOD. Mr. President, I had hoped to address this question to the chairman, but I will address it at this time to the ranking Republican member of the committee, and perhaps the chairman can address himself to this matter when he returns to the Chamber.

There is another point in the conference report on S. 3065 which requires clarification. This concerns section 321 (b)(2)(C). It authorizes various types of organizations to use union or corporate funds, as the case may be, to pay the expenses of establishment, administration, and solicitation of a separate segregated fund. It is my understanding that the list of organizations contained in the section is illustrative but not exclusive. For example, trade associations are frequently incorporated and, of course, all are membership organizations. Accordingly, is it correct that such an association may use corporate funds to pay the expenses of establishment, administration, and solicitation of its separate segregated fund?

Mr. HATFIELD. Mr. President, the chairman will return to the Chamber shortly. Perhaps the Senator from Oregon would like to suggest the absence of a quorum.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, it has been more than 3 months now since the Buckley against Valeo Supreme Court decision established the need for legislative changes in our Federal election law. Our original deadline and extension thereof have long passed, and here we are—still trying to reach agreement on a measure which should have been disposed of with a simple extension and restructuring in less than 2 weeks.

After tinkering with every aspect of our election laws during that time, we are today being asked in the name of campaign reform to make a judgment on an extremely complex compromise proposal—the long-range ramifications of which no one can accurately predict. For one who favors a strong and truly independent Federal Election Commission and the even-handed treatment of political interest groups, the option to support the conference report on S. 3065 is not a very attractive one.

SUBSTANTIVE CHANGES UNTIMELY

When the Senate considered its version of this legislation in March, I indicated my preference for a bill which would satisfy the Supreme Court's objections without further substantive changes. The situation which dictated that type of solution then is even more compelling now—for the middle of a Presidential election campaign is hardly the time to start changing the rules.

I am not against making useful modifications in our campaign guidelines, Mr. President, but I seriously question the propriety of doing so when every candidate and committee affected is already operating under an established set of standards. That was the whole point, of course, behind the earlier effort to simply reconstitute the Commission for the present and consider more comprehensive reforms next year.

SUPPORT ESSENTIAL AMENDMENTS

Let me say without equivocation that I support the immediate restructure of an independent Federal Election Commission. I also support—as do our so-called public interest lobbies—immediate passage of provisions which would permit a smooth transition to a new Commission, as well as amendments needed to close the gaps created by the Valeo decision.

In that category, I would certainly include the amendment which places a per candidate contribution limit on political action committee and their affiliates. The provisions requiring the reporting of all "independent" expenditures in excess of $100 and those for "internal" partisan communications by labor unions and corporations should also be considered essential.

REVERSE OF REFORM

But the balance of the bill is a ridiculous and ineffective attempt to grant political advantages to special interest groups and permit total domination of the Federal Election Commission by the majority party in Congress. It represents a step backward, not a step forward, in election reform.

Accordingly, I find it most curious that nonpartisan citizen organizations such as Common Cause are giving this conference report their unqualified support as a measure which "creates a strong and effective FEC and closes key loopholes in the 1974 law." Conveniently, they have omitted the word independent from their description of the FEC—and for good reason, since everything it does will be at the pleasure of the Senate Rules and House Administration Committees.

CONGRESSIONAL VETO POWER

Apparently, these lobbyist groups are willing to overlook the fact that this conference bill will not only allow advisory opinions of the Commission to be vetoed by either the House or Senate, but will also give Congress the right to make line item rejections of individual sections of a regulation. It seems to me this represents an abandonment of the commitment to an autonomous enforcement agency which they made 2 years ago—and I would certainly hope their membership might call upon them to explain the inconsistency.

Perhaps this new concept of self-protection which we are approving for ourselves might be extended to the average citizen out there who is looking for the same type of insulation from the Government bureaucracy. I assume that Common Cause and others who are endorsing the principle for Congress will also be prepared now to accord the veto privilege to every business in America subjected to regulations issued by the other independent commissions.

SUPPRESS CITIZEN INVOLVEMENT

Although the champions of this legislation would have us believe otherwise, I think it is clear from reading the conference report that vast portions of the bill preserve and carve out special benefits for union political action committees while limiting the authority of corporate PAC's. Some of the language can even be construed as prohibiting nonpartisan undertakings—including voter education, registration, and get-out-the-vote campaigns—with rank-and-file employees.

Such restrictions on political activity, even partisan in nature, are abhorrent at a time when good government calls for more, not less, citizen involvement. Restriction of political activity is not reform, Mr. President; that comes only through regulation and disclosure of political activity while encouraging it to the fullest extent.

COMMUNICATIONS REPORTING WEAK

Of special interest to me in S. 3065 is an amendment violently opposed by labor, but finally included in the conference version as a watered-down requirement that labor unions and corporations report amounts of money spent to communicate with their members or employees advocating the election or defeat of a candidate. Unfortunately, only expenditures in excess of $1,000 per candidate per election must be reported—opening up all kinds of opportunities for avoidance.

I personally feel that—to be meaningful and effective—any expenditures in

excess of $100 should be reported. I can readily understand the basis for union concern over the provision, however, and would like to illustrate it by quoting the following paragraphs from an article entitled, "Labor is Back in Politics," written by Harry Bernstein and included in the March 13, 1976, issue of the Nation:

After the nominations are made this summer, the AFL–CIO will begin its own operations on behalf of the Democratic nominee—assuming it isn't Wallace. Unions have already collected more than $4 million in voluntary contributions for the campaigns, and that money, plus a few million more dollars of similar volunteer money, can go directly into campaigns. But the cost of the computer and direct mailings to members will come out of union dues because the Supreme Court has agreed that, under the free-speech doctrine, unions have the right to spend dues money to communicate with their own members on politics.

The "soft dollars," or dues money, can be used not only for the giant computer operation but for telephone banks, mailings, for sound equipment, and for the salaries of thousands of union representatives who work on campaigns, but who do so directly for the unions and among union members. It is this kind of action that gives labor its real political punch, and Alexander Barkan, director of the AFL–CIO Committee on Political Education, says that this year the federation's political strength will be greater than ever before.

I admire in some respects, labor interest and involvement and wish their enthusiasm were shared by all sectors of the public. Whether it is or it isn't, however, the cost and extent of this type of political activity should be reported, and without any $1,000 exemption.

LAW EFFECTIVELY DECRIMINALIZED

As another "example" of closing key loopholes, the drafters of this reform legislation have all but decriminalized our Federal election law. They have done so by completely rewriting a new penalty section—making it almost impossible for anyone to go to jail for a campaign violation.

Critics of plea bargaining will be very interested, I think, in the new idea of conciliation agreements, as they will in the exonerating terms "knowing and willful" and "lack of intent to commit" with respect to penalties for offenses. I just wonder, Mr. President, if this is part of the reform package which our citizens lobbies have helped engineer.

OUTLOOK VAGUE

The more I read of the conference report on S. 3065, the more convinced I become that no one really knows what the potential ramifications might be. Vague statutory additions to an already overly complex law is a sad commentary, in my view, on a Congress which set out with the task only of replying to specific court objections.

More disturbing is the fact that—after almost 100 wasted days and a far less than perfect product—our self-proclaimed public interest lobby groups are saying we cannot waste any more time, that the bill should be signed into law as is. What, then, has happened to all the election reform purists, and why are they telling us to accept a less than satisfactory bill when we can pass a totally acceptable one?

I urge the President to veto this conference report—assuming it is agreed to this afternoon—and would challenge my colleagues to sustain that veto and return to the White House within 1 week legislation which simply reconstitutes the Commission and plugs the gaps created by Valeo. We expedited consideration of a near objection-free TV sports blackout bill when we wanted to, and surely election reform merits equal attention.

For these reasons and others that I have outlined in my text, I shall vote against the conference report.

Mr. HATFIELD. Mr. President, I speak on behalf of my colleague (Mr. PACKWOOD), who was called from the floor. He had originally proposed a question to the chairman of the committee who, at that time, was unavoidably detained from the floor. Now that he has returned, I wonder, if he has been presented with the question, if the chairman would be willing to state for the record now the answer to that question.

Mr. CANNON. Mr. President, yes, I have been presented a copy of Senator PACKWOOD's question. I would say that his statement as to his understanding is correct. Under section 321(b)(2)(C), a trade association may use corporate funds to pay the expenses of establishment, solicitation, and administration of its separate segregated funds. This is fair and just because such association should be treated equally in the payment of operating expenses of its separate segregated funds with other types of organizations.

I point out that corporations, for example, can use corporate funds for the purpose of establishing and making a solicitation under the provisions of the act.

Mr. HATFIELD. I thank the Senator.

Mr. President, on behalf of my colleague, the Senator from Oregon—I see the Senator has returned to the floor. I was about ready to pose the second question in his behalf to the chairman, relating to the example of a phone bank. I yield to my colleague.

Mr. PACKWOOD. The specific question that I wanted to propound to the chairman dealt with phone banks that are put in by all kinds of organizations at the time of campaigning. I wanted to make sure that the cost of the phone banks in determining whether or not reporting must be made was an item to be included and it would not be regarded as just a normal, ongoing expense of an organization which would not be covered or would not be counted in terms of determining whether or not a threshold had been reached for purposes of reporting.

Mr. CANNON. I would say that if the phone banks were established solely for that purpose, of advocating the election or defeat of a clearly identified candidate, it would be included therein. If the phone bank is established for some other purpose however, and simply is used incidentally, as we have set forth in the bill, then I think it would not be included.

Mr. PACKWOOD. What if we had this situation: The phones are put in on Labor Day for the purposes of the upcoming election, 25 phones in an organization that otherwise has 10 lines. They are used for a variety of purposes—to get out the vote, registration drives, to get people to the polls, to call people advocating the specific election or defeat of candidates. What do we have in that kind of situation, where the phone bank is put in for the purpose of the election and taken out soon afterwards?

Mr. CANNON. I think I would have to refer the Senator back to the provisions of the act. The exclusion is "Other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate."

If the phone bank were primarily used for the purpose of a registration drive or a get out the vote drive, then I would think that it would be excluded. But if it is not primarily used for that purpose, then I would think it would come under the provisions. If it is used primarily for the purpose of advocating the defeat or the election of a specifically identified candidate, then the section would apply for reporting purposes.

Mr. PACKWOOD. What if we have a situation where it is probably not used primarily for any single purpose, only 50 percent, but it is put in for the purpose of all the concomitant phone calls that go with a certain election?

Mr. CANNON. I certainly cannot engage in a colloquy with the Senator to say precisely what it is. We have defined the terms. We say if it is used primarily for the purpose of advocating the defeat or election of a candidate and it is to the extent of more than $2,000, it is reportable. That is all. It is just reportable. I would assume that the Commission would set up a rule or a regulation under this to define that type of circumstance, but I am not going to define it for them. I think that we have gone as far as we can go in what we developed in the language in the conference report.

Mr. PACKWOOD. I want to make sure that our history, however, does not prove the negative. If $10,000 worth of phones are put in for a month, phones and phone lines, and 30 percent of the time of the lines is used for advocating the specific election or defeat of a candidate, the corporation is free to allocate that cost. They should not be precluded by this legislation from saying that because it was not used solely for that purpose or primarily for that purpose, we will not allocate any of the cost at all.

Mr. CANNON. We have said, for example, that an editorial in a news magazine is not necessarily primarily for that purpose if the primary purpose of the communication or the magazine is for other purposes. I am not going to define that for the Senator, as I said earlier. I think that is a matter that the Commission will have to interpret under this provision in writing their rules and regulations. That is the best I can say. If it is primarily used for the election or defeat of a clearly identified candidate and the cost of it is more than $2,000, which obviously it would be, they would have to report it, period. That is all.

Mr. PACKWOOD. That is fine.

Mr. CANNON. I do not think we are

going to get into that kind of quibbling problem, because if there is any question in their minds, they are going to err on the side of reporting, because there is nothing else involved, simply the reporting.

Mr. PACKWOOD. I am satisfied with that last answer. If it is $2,000 worth of time going in on it or expenses put in on it and while it is being used, it is being used primarily to advocate the election or defeat of a candidate, that answer satisfies me.

ADDITIONAL STATEMENTS SUBMITTED ON FEC CONFERENCE REPORT

Mr. BAKER. Mr. President, notwithstanding that for several years now I have observed with interest, and participated in the several efforts to effect a more comprehensive scheme of governmental regulation of Federal elections, I am reminded, after perusing the conference report on S. 3065, the so-called Federal Election Campaign Act Amendments of 1976, of the old witticism that "you can't make a silk purse out of a sow's ear."

Primarily because of my opposition to continuation of public financing of Federal elections, I voted against final passage of S. 3065 as it originally passed the Senate earlier this year; and for similar reasons, I voted against the 1974 Federal Election Campaign Act Amendments. Consequently, I must admit that I was hopeful that the conference committee might avail itself of the opportunity presented the Congress by the Supreme Court's decision in Buckley against Valeo, that is the opportunity to correct those abuses generated by the legislative overexuberance of the Congress in the aftermath of Watergate. Specifically, I was hopeful that a repeal could be effected of the public financing provisions of the campaign act, and that the legislative branch would avoid the temptation to establish and/or intensify the confrontation between labor and management in the political process.

Unfortunately, and somewhat unbelievably, the conference committee bill not only would perpetuate the incestuous effects of public financing, but also the provisions relative to corporate and union fund raising constitute what is perhaps the most insidious threat to the two-party system since the Civil War.

Thus, and notwithstanding that I consistently have supported the creation and the reconstitution of a general-purpose Federal Election Commission, I will oppose this conference report; and I urge and hope that the President will veto this measure should it reach his desk.

The mischief wrought by this legislation would be sufficiently serious without the divisive and discriminatory provisions relating to the so-called Political Action Committees. The perpetuation of public financing of Federal Presidential primaries, which can be considered as nothing more than political incest, and the continuation of pervasive regulation, as opposed to disclosure, by the Federal Government of the most intimate of democratic processes are condemnable in and of themselves. Nevertheless, in all due respect to my colleagues, we are on the verge of compounding the original felony by tacitly, if not directly, encouraging direct and substantial labor-management confrontations in the political process. At this juncture, the last thing that America needs is a class confrontation, or the creation of separate labor and management political parties; but, in my opinion, that is exactly what we would be doing in passing this bill.

In conclusion, Mr. President, and as I have stated previously, the Supreme Court erred in upholding the contribution limitation and public financing provisions of the Federal Election Campaign Act. The Congress should repeal those provisions, rather than elaborate and extend them as is proposed in this legislation; and I hope the President provides us yet another chance to correct our mistakes by vetoing these amendments.

Mr. STEVENSON. Mr. President, I will vote to approve the conference report on the Federal Election Commission with reluctance. I would have preferred to have acted with greater dispatch and simply reconstituted the Commission in a constitutionally valid manner with a full review of the subject to follow before the next election.

There are positive aspects to the conference report. It cures the constitutional infirmity in the FEC by making the Commissioners Presidential appointees subject to Senate confirmation. It gives the Commission primary civil jurisdiction and establishes new conciliation proceedings which may protect candidates from spurious political charges. It puts some limits on the proliferation of special interest political committees. It requires disclosure of "independent" expenditures on behalf of candidates and expenditures by corporations and unions even when directed only at their employees or members. The purpose of these provisions is to free our politics from the grip of special interests. One can only hope they will be implemented in that spirit and with a minimum of unnecessary, cumbersome redtape.

The conference dropped what I considered the most important provision—the Presidential Selection Commission sponsored by Senators MONDALE, PACKWOOD, BAKER, and myself. We need a thorough, in-depth look at how we select our Presidential candidates. Does a national or regional primary system make sense? Is public financing of primary candidates a wise expenditure of funds? Are there ways to more effectively communicate issues? We have never taken a systematic look at these and other fundamental questions which affect the manner in which we select Presidents. This Commission could have made recommendations to the Congress in time for the next Presidential election. The opportunity still exists for this Congress to establish such a Commission, and I will continue to press for one.

It is unseemly for Presidential candidates to pound at the Treasury's door for money—even candidates who are no longer actively campaigning. This was inevitable once we authorized public financing of primary candidates, an action I opposed. We cannot change the rules in the middle of the game, but I hope we can learn from this experience and end this pernicious practice as soon as this election is behind us.

Mr. President, the Congress was forced by the decision of the Supreme Court to confront campaign reform legislation in the heat of a campaign. The results were predictable—attempts by all sides to gain an advantage and ultimately a compromise giving everyone something. We should do better. I hope that none of us will feel that the job of reforming our elections is behind us.

Mr. WEICKER. Mr. President, in opposing this conference report on the Federal Election Campaign Act Amendments of 1976, I reiterate my strong opposition to public financing of Presidential campaigns.

Over the past few days, I have expressed my concern that this bill has been referred to as Watergate reform legislation. The only reform involved in this election bill is making it easier for candidates to get into the peoples' pockets to pay for their electioneering.

Thomas Jefferson believed, "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical." Based upon this desire to maintain the individual's voluntary right to express themselves politically, a majority of the Watergate Committee recommended against the adoption of any form of public financing in which tax moneys are collected and allocated to political candidates by the Federal Government.

The FEC is valuable in policing our election process. Full financial disclosure, contribution limits and a sharply reduced time period for raising money and campaigning are what is needed for real reform. But using Federal funds to pay for Presidential politics is a con job in the name of reform.

Mr. DOMENICI. Mr. President, I am compelled to speak in opposition to the Federal Elections Commission conference report. I do not do this because I am opposed to cleaning up the electoral process. As my record clearly indicates, I have supported the establishment of the Federal Election Commission, I have supported public financing of Presidential elections and I have supported complete disclosure requirements.

While I am aware of the sense of urgency regarding this legislation and its effect on our current Presidential campaign, I cannot lend my vote to such a bill which in my opinion will benefit some groups at the expense of others.

Mr. President, I have listened to much of the debate regarding election reform and have come to the conclusion that the only real way to reform the election process is to permit only individuals to contribute funds to a candidate. A great deal of debate was heard on this issue. The Senate even voted directly on this issue. I regret the fact that this approach did not prevail, but I shall continue to support such a measure.

It is my belief that we must return our electoral process to the people. We must not permit corporate or labor political action committees to solicit enormous sums of money from their employees or members to contribute to

candidates for Federal office. The conference report fails to adequately define "solicit" or "solicitation," thereby raising additional questions of what is permissible and what is not.

Mr. President, while I feel that much of this conference report is an improvement over the present law, I feel that on balance the inequities outweigh the equities. I feel that reform must come but, even though this may cause hardships among the Presidential, candidates, I must vote against this measure and urge that President Ford veto it should it reach his desk.

The PRESIDING OFFICER (Mr. HATFIELD). The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Indiana (Mr. HARTKE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from New Hampshire (Mr. DURKIN) and the Senator from Connecticut (Mr. RIBICOFF) are absent on official business.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Maine (Mr. MUSKIE) and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is necessarily absent.

I also announce that the Senator from New York (Mr. JAVITS) is absent on official business.

The result was announced—yeas 62, nays 29, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—62

Abourezk	Haskell	Moss
Bayh	Hatfield	Nelson
Beall	Hathaway	Nunn
Bentsen	Hollings	Packwood
Biden	Huddleston	Pastore
Brooke	Humphrey	Pearson
Bumpers	Inouye	Pell
Burdick	Jackson	Percy
Byrd, Robert C.	Johnston	Proxmire
Cannon	Kennedy	Randolph
Case	Leahy	Schweiker
Chiles	Long	Scott, Hugh
Clark	Magnuson	Stafford
Cranston	Mansfield	Stevens
Culver	Mathias	Stevenson
Eagleton	McGee	Stone
Ford	McGovern	Symington
Glenn	McIntyre	Taft
Gravel	Metcalf	Talmadge
Hart, Gary	Mondale	Williams
Hart, Philip A.	Morgan	

NAYS—29

Allen	Fannin	Roth
Baker	Fong	Scott, William L.
Bartlett	Garn	Sparkman
Bellmon	Goldwater	Stennis
Brock	Griffin	Thurmond
Buckley	Hansen	Tower
Byrd, Harry F., Jr.	Helms	Weicker
Dole	Hruska	Young
Dominick	Laxalt	
Eastland	McClellan	
	McClure	

NOT VOTING—9

Church	Hartke	Muskie
Curtis	Javits	Ribicoff
Durkin	Montoya	Tunney

So the conference report was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HUGH SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. HATFIELD). Will the Senate please be in order?

The Senator from Nevada.

Mr. CANNON. Mr. President, first I commend the conferees on the part of both the majority and minority, as well as the staff members, for their excellent work in trying to develop a satisfactory bill.

Mr. President, I hope that the President will see fit to sign this bill, that he will send up the names of the appointees to the Commission forthwith, so that the Commission can be reestablished, and that we can get on with the business so necessary in connection with the forthcoming elections.

Mr. HUGH SCOTT. Will the Senator yield?

Mr. CANNON. I yield to the Senator.

Mr. HUGH SCOTT. Mr. President, I am not entirely satisfied with the bill. Perhaps no one is. But I do believe that this is the best bill we are going to get out of this Congress and I think probably it is a choice between this bill and either no bill or a worse bill.

Under the circumstances, I have to express the hope that the President will see fit to sign it.

RELATIONS WITH THE SOVIET UNION

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of Senate Resolution 406, which will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 406) relating to the importance of sound relations with the Soviet Union.

The Senate proceeded to consider the resolution which had been reported from the Committee on Foreign Relations with an amendment to strike out all after the enacting clause and insert the following:

It is the sense of the Senate that:

United States relations with the Soviet Union are a central aspect of United States foreign policy, and thus it is critically important that we should sort out the difficulties that exist in the Soviet-American relationship, and define the national interest in that relationship.

Without illusions about the fundamental differences which separate the United States and the Soviet Union, we believe that the survival of the values we cherish in our free society requires the most careful and judicious regulation of relations between these two great powers. We proceed, then, from a recognition of the fact that the United States and the Soviet Union have, and are likely to have for some time, many competitive and conflicting interests. But we believe, nevertheless, that it is in the interest of both countries to regulate this competition and these conflicts so that they do not lead to war.

The basic premise of the United States approach to this relationship is that the United States must remain unchallengeably strong militarily, both to insure United States security and to contribute to the security of our friends and allies abroad. This military strength must include a strategic capability which is fully sufficient to deter any Soviet attack on the United States or its allies, and which leaves no room for misperception by the Soviet Union of our readiness and willingness to defend our vital interests and allies.

Beyond this determination to do all that is necessary to defend and protect our Nation, we believe that the lessening of international tensions must remain a continuing United States goal.

We therefore support:

1. Efforts to conclude, as soon as practicable, negotiations on a timely basis to implement the principles of the November 1974 Vladivostok accords and in addition, to continue to negotiate to reduce mutually the strategic military forces permitted each country under those accords. These agreements, to be submitted to the Senate as a treaty, should be based upon actions founded on clearly stated and verifiable stipulations.

2. Initiatives on the part of both the United States and the Soviet Union demonstrating a commitment to the achievement of peaceful solutions in present and potential areas of conflict, in ways consistent with the mutual obligations of both powers to refrain from seeking advantages by exploiting troubled areas of the world.

3. Other diplomatic, economic, commercial, and cultural initiatives which are undertaken with a careful regard for the balance of risks and advantages, which are implemented on a mutual and reciprocal basis, which are consistent with the economic and national security interests of the United States, and which support the implementation of the Articles of the Final Act of the Conference on Security and Cooperation in Europe—particularly the provisions relating to respect for human rights and cooperation in humanitarian fields.

4. Taking actions in all these matters in close consultation and cooperation with our allies.

This resolution shall be transmitted by the Secretary to the President of the United States.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on passage of the pending business.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

PRESIDENT FORD'S
REMARKS AT
BILL SIGNING CEREMONY

tions for improvement in the Veterans Administration medical care systems, and I am pleased that in the last 2 years we have been able to implement those recommendations. I have asked in my last two budget submissions for approximately 9,000 new staff positions for the medical care program of the Veterans Administration, and I have also asked for over $600 million for needed repairs and construction to assure the safety and quality of VA facilities. My 1977 budget request of over $4 billion for VA medical care activities was a record high for the system.

I have considered the recommendations of Administrator of Veterans Affairs, Richard Roudebush, on another important step in our effort to provide quality medical care to our veterans—the construction of eight major replacement hospitals throughout the country. The eight proposed facilities have been the subject of a series of planning studies conducted by independent contractors. These studies were undertaken in response to a congressional expression that hospitals be built and were subsequently reviewed by the Administrator who gave me his recommendations as to the relative priority to be assigned to the construction of each proposed new hospital.

I have today advised the Administrator of my decision to proceed immediately to provide design funds for all eight hospitals. I will also seek construction funds in fiscal year 1977 for the two projects assigned the highest priority by the Administrator—Richmond, Virginia, and Bay Pines, Florida. To implement this decision, I will shortly ask the Congress to provide an additional $249 million above my previous budget request for VA construction.

I have also decided to seek construction funds for the other six replacement hospitals at the rate of two a year for the succeeding 3 fiscal years. These projects would be funded in accordance with the VA's priority ranking. In addition to Richmond and Bay Pines, the other locations are Martinsburg, West Virginia; Portland, Oregon; Seattle, Washington; Little Rock, Arkansas; Baltimore, Maryland; and Camden, New Jersey.

My actions today do not include decisions on construction details and the number of beds at each facility. These decisions will be made after further review and analysis.

Over one million people are served annually by Veterans Administration hospitals, nursing homes, and domiciliary facilities. They deserve to continue to receive care of the highest quality and the latest in medical research. This requires adequate hospital facilities. The actions I am announcing today reflect my commitment that the Nation's veterans be assured of the finest in quality medical care.

Federal Election Campaign Act Amendments of 1976

Statement by the President on Signing S. 3065 Into Law. May 11, 1976

After extensive consultation and review, I have decided that the Federal Campaign Act Amendments of 1976 warrant my signature.

I am therefore signing those amendments into law this afternoon. I will also be submitting to the Senate for its advice and consent the nominations of six persons to serve as members of the reconstituted Commission.

Shortly after the Supreme Court ruled on January 30 that the Federal Election Commission was invalid as then constituted, I made it clear that I favored a simple reconstitution of the Commission because efforts to amend and reform the law could cause massive confusion in election campaigns that had already started.

The Congress, however, was unwilling to accept my straightforward proposal and instead became bogged down in a controversy that has now extended for more than 3 months.

In the process, efforts were made to add several provisions to the law which I thought were thoroughly objectionable. These suggested provisions would have further tipped the balance of political power to a single party and to a single element within that party. I could not accept those provisions under any circumstances and I so communicated my views to various Members of the Congress.

Since that time, to my gratification, those features of the bill have been modified so as to avoid in large measure the objections I had raised.

Weighing the merits of this legislation, I have found that the amendments as now drafted command widespread, bipartisan support in both Houses of Congress and by the chairpersons of both the Republican National Committee and the Democratic National Committee.

I still have serious reservations about certain aspects of the present amendments. For one thing, the bill as presently written will require that the Commission take additional time to consider the effects which the present amendments will have on its previously issued opinions and regulations.

A more fundamental concern is that these amendments jeopardize the independence of the Federal Election Commission by permitting either House of Congress to veto regulations which the Commission, as an Executive agency, issues. This provision not only circumvents the original intent of campaign reform but, in my opinion,

violates the Constitution. I have therefore directed the Attorney General to challenge the constitutionality of this provision at the earliest possible opportunity.

Recognizing these weaknesses in the bill, I have nevertheless concluded that it is in the best interest of the Nation that I sign this legislation. Considerable effort has been expended by members of both parties to make this bill as fair and balanced as possible. Moreover, further delay would undermine the fair and proper conduct of elections this year for seats in the U.S. Senate, the House of Representatives, and for the Presidency.

Effective regulation of campaign practices depends upon the existence of a Commission with valid rulemaking and enforcement powers. It is critical that we maintain the integrity of our election process for all Federal offices so that all candidates and their respective supporters and contributors are bound by enforceable laws and regulations which are designed to control questionable and unfair campaign practices.

I look to the Commission, as soon as it is reappointed, to do an effective job of administering the campaign laws equitably but forcefully, and in a manner that minimizes the confusion which is caused by the added complexity of the present amendments. In this regard, the Commission will be aided by a newly provided civil enforcement mechanism sufficiently flexible to facilitate voluntary compliance through conciliation agreements and, where necessary, penalize noncompliance through means of civil fines.

In addition, the new legislation refines the provisions intended to control the size of contributions from a single source by avoiding proliferation of political action committees which are under common control. Also, this law strengthens provisions for reporting money spent on campaigns by requiring disclosure of previously unreported costs of partisan communications which are intended to affect the outcome of Federal elections.

Following the 1976 elections, I will submit to the Congress legislation that will correct problems created by the present laws and make additional needed reforms in the election process.

NOTE: As enacted, the Federal Election Campaign Act Amendments of 1976 (S. 3065) is Public Law 94-283, approved May 11, 1976.

Consumer Product Safety Commission Improvements Act of 1976

Statement by the President on Signing S. 644 Into Law. May 12, 1976

The Consumer Product Safety Commission was established in 1974 to protect consumers from unreasonable risk of injury from the use of hazardous products. Today, I have signed S. 644, a bill which will enable the Commission to more effectively carry out this important mandate.

The Consumer Product Safety Commission Improvements Act of 1976 expands the Commission's authority by permitting the issuance of preliminary injunctions to prohibit distribution of products which present a substantial hazard and by establishing new procedures and timetables within which consumer safety standards must be promulgated.

Further, the act authorizes Federal preemption of State product safety laws in certain enumerated circumstances. This will not only guarantee that consumers have adequate protection, but will free industry from the costly burden of attempting to comply with a bewildering patchwork of State and local safety standards.

If consumer product regulation is to have real meaning, adequate tools must be provided the Commission responsible for protecting the American consumer. The act I have signed provides such tools.

NOTE: As enacted, the Consumer Product Safety Commission Improvements Act of 1976 (S. 644) is Public Law 94-284, approved May 11, 1976.

Department of State

Announcement of Intention To Nominate Philip C. Habib To Be Under Secretary for Political Affairs. May 12, 1976

The President today announced his intention to nominate Philip C. Habib, of San Francisco, Calif., a Foreign Service Officer of the Class of Career Minister, to be Under Secretary of State for Political Affairs. He will succeed Joseph John Sisco, who resigned effective July 1976, at which time he becomes President of American University. Mr. Habib has been Assistant Secretary of State for East Asian and Pacific Affairs since September 1974.

Born on February 25, 1920, in Brooklyn, N.Y., Ambassador Habib received his B.S. degree from the University of Idaho in 1942. He attended the University of Paris during 1942 and received his Ph. D. in 1952 from the University of California. After serving in the United States Army from 1942 to 1946, he became a teaching assistant at the University of California in 1947.

While serving as a career Foreign Service Officer, Ambassador Habib was an Assistant Agricultural Attaché, an Economic Analyst and, in 1960 to 1961, he served as the Officer-in-Charge for Under-Developed Areas in the Office of the Under Secretary's Special Assistant for Communist Economic Affairs. In 1967, he was a Political Officer, Bureau of East Asian and Pacific Af-

PUBLIC LAW
93-283

Public Law 94-283
94th Congress, S. 3065
May 11, 1976

An Act

To amend the Federal Election Campaign Act of 1971 to provide that members of the Federal Election Commission shall be appointed by the President, by and with the advice and consent of the Senate, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Election Campaign Act Amendments of 1976. 2 USC 431 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Election Campaign Act Amendments of 1976".

TITLE I—AMENDMENTS TO FEDERAL ELECTION CAMPAIGN ACT OF 1971

FEDERAL ELECTION COMMISSION MEMBERSHIP

SEC. 101. (a)(1) The second sentence of section 309(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(1)), as redesignated by section 105 (hereinafter in this Act referred to as the "Act"), is amended to read as follows: "The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives, ex officio and without the right to vote, and 6 members appointed by the President of the United States, by and with the advice and consent of the Senate.".

(2) The last sentence of section 309(a)(1) of the Act (2 U.S.C. 437c(a)(1)), as redesignated by section 105, is amended to read as follows: "No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.". Limitation.

(b) Section 309(a)(2) of the Act (2 U.S.C. 437c(a)(2)), as redesignated by section 105, is amended to read as follows: Term.

"(2)(A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

"(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977;

"(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and

"(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

"(B) A member of the Commission may serve on the Commission after the expiration of his term until his successor has taken office as a member of the Commission.

"(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he succeeds. Vacancies.

"(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.".

(c)(1) Section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, is amended by adding at the end thereof

Conflict of interest.

the following new sentences: "Members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission shall terminate or liquidate such activity no later than 1 year after beginning to serve as such a member.".

(2) Section 309(b) of the Act (2 U.S.C. 437c(b)), as redesignated by section 105, is amended to read as follows:

"(b)(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954. The Commission shall have exclusive primary jurisdiction with respect to the civil enforcement of such provisions.

26 USC 9001, 9031.
Jurisdiction.

"(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.".

(3) The first sentence of section 309(c) of the Act (2 U.S.C. 437c(c)), as redesignated by section 105, is amended by inserting immediately before the period at the end thereof the following: ", except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to establish guidelines for compliance with the provisions of this Act or with chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or for the Commission to take any action in accordance with paragraph (6), (7), (8), or (10) of section 310(a)".

Guidelines, approval.

Post, p. 481.

(d) The last sentence of section 309(f)(1) of the Act (2 U.S.C. 437c(f)(1)), as redesignated by section 105, is amended by inserting immediately before the period the following: "without regard to the provisions of title 5, United States Code, governing appointments in the competitive service".

Presidential appointments.
2 USC 437c note.

(e)(1) The President shall appoint members of the Federal Election Commission under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, as soon as practicable after the date of the enactment of this Act.

(2) The first appointments made by the President under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, shall not be considered to be appointments to fill the unexpired terms of members serving on the Federal Election Commission on the date of the enactment of this Act.

(3) Members serving on the Federal Election Commission on the date of the enactment of this Act may continue to serve as such members until new members are appointed and qualified under section 309(a) of the Act (2 U.S.C. 437c(a)), as redesignated by section 105 and as amended by this section, except that until appointed and qualified under this Act, members serving on such Commission on such date of enactment may, beginning on March 23, 1976, exercise only such powers and functions as may be consistent with the determinations of the Supreme Court of the United States in Buckley et al. against Valeo, Secretary of the United States Senate, et al. (numbered 75-436, 75-437) January 30, 1976.

(f) The provisions of section 309(a)(3) of the Act (2 U.S.C. 437c(a)(3)), as redesignated by section 105, which prohibit any individual from being appointed as a member of the Federal Election Commission who is, at the time of his appointment, an elected or appointed officer or employee of the executive, legislative, or judicial branch of the Federal Government, shall not apply in the case of any individual

serving as a member of such Commission on the date of the enactment of this Act.

Transfer of functions.

(g)(1) All personnel, liabilities, contracts, property, and records determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Federal Election Commission under title III of the Act as such title existed on January 1, 1976, or under any other provision of law, are transferred to such Commission as constituted under the amendments made by this Act to the Federal Election Campaign Act of 1971.

2 USC 431.

2 USC 431 note.

(2)(A) Except as provided in subparagraph (B), personnel engaged in functions transferred under paragraph (1) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions.

(B) The transfer of personnel pursuant to paragraph (1) shall be without reduction in classification or compensation for 1 year after such transfer.

Savings provision.

(3) All laws relating to the functions transferred under this Act shall, insofar as such laws are applicable and not amended by this Act, remain in full force and effect. All orders, determinations, rules, and opinions made, issued, or granted by the Federal Election Commission before its reconstitution under the amendments made by this Act which are in effect at the time of the transfer provided by paragraph (1), and which are consistent with the amendments made by this Act, shall continue in effect to the same extent as if such transfer had not occurred. Any rule or regulation proposed by such Commission before the date of the enactment of this Act shall be prescribed by such Commission only if, after such date of enactment, the rule or regulation is submitted to the Senate or the House of Representatives, as the case may be, in accordance with the provisions of section 315(c) of the Act (as redesignated by section 105), and it is not disapproved by the appropriate House of the Congress.

Proposed rules or regulations, submittal to Congress.

2 USC 437h.

(4) The provisions of this Act shall not affect any proceeding pending before the Federal Election Commission on the date of the enactment of this Act.

(5) No suit, action, or other proceeding commenced by or against the Federal Election Commission or any officer or employee thereof acting in his official capacity shall abate by reason of the transfer made under paragraph (1). The court before which such suit, action, or other proceeding is pending may, on motion or supplemental petition filed at any time within 12 months after the date of the enactment of this Act, allow such suit, action, or other proceeding to be maintained against the Federal Election Commission if the party making the motion or filing the petition shows a necessity for the survival of the suit, action, or other proceeding to obtain a settlement of the question involved.

(6) Any reference in any other Federal law to the Federal Election Commission, or to any member or employee thereof, as such Commission existed under the Federal Election Campaign Act of 1971 before its amendment by this Act shall be held and considered to refer to the Federal Election Commission, or the members or employees thereof, as such Commission exists under the Federal Election Campaign Act of 1971 as amended by this Act.

2 USC 431 note.

CHANGES IN DEFINITIONS

SEC. 102. (a) Section 301(a)(2) of the Act (2 U.S.C. 431(a)(2)) is amended by striking out "held to" and inserting in lieu thereof "which has authority to".

(b) Section 301(e)(2) of the Act (2 U.S.C. 431(e)(2)) is amended by inserting "written" immediately before "contract" and by striking out "expressed or implied,".

(c) Section 301(e)(4) of the Act (2 U.S.C. 431(e)(4)) is amended by inserting after "purpose" the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b)".

26 USC 9001, 9031.

2 USC 434.

(d) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)) is amended—

(1) by striking out "or" at the end of clause (E), and

(2) by inserting after clause (F) the following new clauses:

"(G) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loans—

"(i) shall be reported in accordance with the requirements of section 304(b); and

"(ii) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors; or

"(H) a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with section 304(b); or

"(I) any honorarium (within the meaning of section 328);".

Post, p. 494.

(e) Section 301(e)(5) of the Act (2 U.S.C. 431(e)(5)), as amended by subsection (d), is amended by striking out "individual" where it appears after clause (I) and inserting in lieu thereof "person".

(f) Section 301(f)(4) of the Act (2 U.S.C. 431(f)(4)) is amended—

(1) by inserting before the semicolon in clause (C) the following: ", except that the costs incurred by a membership organization, including a labor organization, or by a corporation, directly

attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed $2,000 per election, be reported to the Commission";

(2) by striking out "or" at the end of clause (F) and at the end of clause (G); and

(3) by inserting immediately after clause (H) the following new clauses:

"(I) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 320(b), but all such costs shall be reported in accordance with section 304(b); Post, p. 487. 2 USC 434.

"(J) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of insuring compliance with the provisions of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b); or 26 USC 9001, 9031.

"(K) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loan shall be reported in accordance with section 304(b);".

(g) Section 301 of the Act (2 U.S.C. 431) is amended—

(1) by striking out "and" at the end of paragraph (m);

(2) by striking out the period at the end of paragraph (n) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs: Definitions.

"(o) 'Act' means the Federal Election Campaign Act of 1971 as amended by the Federal Election Campaign Act Amendments of 1974 and the Federal Election Campaign Act Amendments of 1976; 2 USC 431 note.

"(p) 'independent expenditure' means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

"(q) 'clearly identified' means that (1) the name of the candidate appears; (2) a photograph or drawing of the candidate appears; or (3) the identity of the candidate is apparent by unambiguous reference.".

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 103. (a) Section 302(b) of the Act (2 U.S.C. 432(b)) is amended by striking out "$10" and inserting in lieu thereof "$50".

(b) Section 302(c)(2) of the Act (2 U.S.C. 432(c)(2)) is amended by striking out "$10" and inserting in lieu thereof "$50".

(c) Section 302 of the Act (2 U.S.C. 432) is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

(d) Section 302(e)(1) of the Act, as redesignated by subsection (c), is amended by adding at the end thereof the following new sentence: "Any occasional, isolated, or incidental support of a candidate shall not be construed as support of such candidate for purposes of the preceding sentence.".

REPORTS BY POLITICAL COMMITTEES AND CANDIDATES

SEC. 104. (a) Section 304(a)(1) of the Act (2 U.S.C. 434(a)(1)) is amended by adding at the end of subparagraph (C) the following new sentence: "In any year in which a candidate is not on the ballot for election to Federal office, such candidate and his authorized committees shall only be required to file such reports not later than the tenth day following the close of any calendar quarter in which the candidate and his authorized committees received contributions or made expenditures, or both, the total amount of which, taken together, exceed $5,000, and such reports shall be complete as of the close of such calendar quarter; except that any such report required to be filed after December 31 of any calendar year with respect to which a report is required to be filed under subparagraph (B) shall be filed as provided in such subparagraph.".

(b) Section 304(a)(2) of the Act (2 U.S.C. 434(a)(2)) is amended to read as follows:

"(2) Each treasurer of a political committee authorized by a candidate to raise contributions or make expenditures on his behalf, other than the candidate's principal campaign committee, shall file the reports required under this section with the candidate's principal campaign committee.".

(c) Section 304(b) of the Act (2 U.S.C. 434(b)) is amended—

(1) by striking out "and" at the end of paragraph (12);

(2) by redesignating paragraph (13) as paragraph (14);

(3) by inserting immediately after paragraph (12) the following new paragraph:

"(13) in the case of an independent expenditure in excess of $100 by a political committee, other than an authorized committee of a candidate, expressly advocating the election or defeat of a clearly identified candidate, through a separate schedule (A) any information required by paragraph (9) stated in a manner which indicates whether the independent expenditure involved is in support of, or in opposition to, a candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and"; and

(4) by adding at the end thereof the following new sentence: "When committee treasurers and candidates show that best efforts have been used to obtain and submit the information required by this subsection, they shall be deemed to be in compliance with this subsection.".

(d) Section 304(e) of the Act (2 U.S.C. 434(e)) is amended to read as follows:

Statements.

"(e)(1) Every person (other than a political committee or candidate) who makes contributions or independent expenditures expressly advocating the election or defeat of a clearly identified candidate, other than by contribution to a political committee or candidate, in an aggregate amount in excess of $100 during a calendar year shall file with the Commission, on a form prepared by the Commission, a statement containing the information required of a person who makes a contribution in excess of $100 to a candidate or political committee and the information required of a candidate or political committee receiving such a contribution.

Filing. Certification.

"(2) Statements required by this subsection shall be filed on the dates on which reports by political committees are filed. Such statements shall include (A) the information required by subsection (b)(9), stated in a manner indicating whether the contribution or independent expenditure is in support of, or opposition to, the candidate; and (B) under penalty of perjury, a certification whether such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate. Any independent expenditure, including those described in subsection (b)(13), of $1,000 or more made after the fifteenth day, but more than 24 hours, before any election shall be reported within 24 hours of such independent expenditure.

Indices of expenditures.

"(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all expenditures separately, including those reported under subsection (b)(13), made with respect to each candidate, as reported under this subsection, and for periodically issuing such indices on a timely preelection basis.".

REPORTS BY CERTAIN PERSONS

SEC. 105. Title III of the Act (2 U.S.C. 431 et seq.) is amended by striking out section 308 thereof (2 U.S.C. 437a) and by redesignating section 309 through section 321 as section 308 through section 320, respectively.

2 USC 437b-439c, 441.

CAMPAIGN DEPOSITORIES

SEC. 106. The second sentence of section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)), as redesignated by section 105, is amended by striking out "a checking account" and inserting in lieu thereof the following: "a single checking account and such other accounts as the committee determines to maintain at its discretion".

POWERS OF COMMISSION

SEC. 107. (a) Section 310(a) of the Act (2 U.S.C. 437d(a)), as redesignated by section 105, is amended—

(1) in paragraph (8) thereof, by inserting "develop such prescribed forms and to" immediately before "make", and by inserting immediately after "Act" the following: "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954";

26 USC 9001, 9031.

(2) in paragraph (9) thereof, by striking out "and sections 608" and all that follows through "States Code;" and inserting in lieu thereof "and chapter 95 and chapter 96 of the Internal Revenue Code of 1954; and"; and

(3) by striking out paragraph (10) and redesignating paragraph (11) as paragraph (10).

(b)(1) Section 310(a)(6) of the Act (2 U.S.C. 437d(a)(6)), as redesignated by section 105, is amended to read as follows:

"(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 313(a)(9)), or appeal any civil action in the name of the Commission for the purpose of enforcing the provisions of this Act and chapter 95 and chapter 96 of the Internal Revenue Code of 1954, through its general counsel;".

Post, p. 483.

26 USC 9001, 9031.

(2) Section 310 of the Act (2 U.S.C. 437d), as redesignated by section 105, is amended by adding at the end thereof the following new subsection:

"(e) Except as provided in section 313(a)(9), the power of the Commission to initiate civil actions under subsection (a)(6) shall be the exclusive civil remedy for the enforcement of the provisions of this Act.".

ADVISORY OPINIONS

SEC. 108. (a) Section 312(a) of the Act and section 312(b) of the Act (2 U.S.C. 437f(a), 437f(b)), as redesignated by section 105, are amended to read as follows:

"SEC. 312. (a) The Commission shall render an advisory opinion, in writing, within a reasonable time in response to a written request by any individual holding Federal office, any candidate for Federal office, any political committee, or the national committee of any political party concerning the application of a general rule of law stated in the Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or a general rule of law prescribed as a rule or regulation by the Commission, to a specific factual situation. Any such general rule of law not stated in the Act or in chapter 95 or chapter 96 of the Internal Revenue Code of 1954 may be initially proposed by the Commission only as a rule or regulation pursuant to the procedures established by section 315(c). No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

Post, p. 486.

"(b)(1) Notwithstanding any other provision of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (2) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

"(2) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.".

2 USC 437f note.

(b) The Commission shall, no later than 90 days after the date of the enactment of this Act, conform the advisory opinions issued before such date of enactment to the requirements established by section 312(a) of the Act, as amended by subsection (a) of this section. The provisions of section 312(b) of the Act, as amended by subsection (a) of this section, shall apply with respect to all advisory opinions issued before the date of the enactment of this Act as conformed to meet the requirements of section 312(a) of the Act, as amended by subsection (a) of this section.

ENFORCEMENT

SEC. 109. Section 313 of the Act (2 U.S.C. 437g), as redesignated by section 105, is amended to read as follows:

"ENFORCEMENT

"SEC. 313. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred may file a complaint with the Commission. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of title 18, United States Code. The Commission may not conduct any investigation under this section, or take any other action under this section, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission. Complaints, filing. 26 USC 9001, 9031.

"(2) The Commission, upon receiving a complaint under paragraph (1), and if it has reason to believe that any person has committed a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or, if the Commission, on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, has reason to believe that such a violation has occurred, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

"(3)(A) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section, of reports and statements filed by any complainant under this title, if such complainant is a candidate.

"(B) Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

"(4) The Commission shall afford any person who receives notice of an alleged violation under paragraph (2) a reasonable opportunity to demonstrate that no action should be taken against such person by the Commission under this Act.

"(5)(A) If the Commission determines that there is reasonable cause to believe that any person has committed or is about to commit a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make every endeavor for a period of not less than 30 days to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved, except that, if the Commission has reasonable cause to believe that—

"(i) any person has failed to file a report required to be filed under section 304(a)(1)(C) for the calendar quarter occurring immediately before the date of a general election; Ante, p. 480.

"(ii) any person has failed to file a report required to be filed no later than 10 days before an election; or

"(iii) on the basis of a complaint filed less than 45 days but more than 10 days before an election, any person has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954;

the Commission shall make every effort, for a period of not less than one-half the number of days between the date upon which the Commission determines there is reasonable cause to believe such a violation

has occurred and the date of the election involved, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the person involved. A conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission, including the bringing of a civil proceeding under subparagraph (B).

Civil action.

"(B) If the Commission is unable to correct or prevent any such violation by such informal methods, the Commission may, if the Commission determines there is probable cause to believe that a violation has occurred or is about to occur, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

Penalty.

"(C) In any civil action instituted by the Commission under subparagraph (B), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to the amount of any contribution or expenditure involved in such violation, upon a proper showing that the person involved has engaged or is about to engage in a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

Penalty.

26 USC 9001, 9031.

"(D) If the Commission determines that there is probable cause to believe that a knowing and willful violation subject to and as defined in section 329, or a knowing and willful violation of a provision of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in subparagraph (A).

Violations, referral to Attorney General.

Post, p. 494.

Penalty.

"(6)(A) If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

Penalty.

"(B) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of (i) $5,000; or (ii) an amount equal to the amount of the contribution or expenditure involved in such violation.

"(C) The Commission shall make available to the public (i) the results of any conciliation attempt, including any conciliation agreement entered into by the Commission; and (ii) any determination by the Commission that no violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred.

"(7) In any civil action for relief instituted by the Commission under paragraph (5), if the court determines that the Commission has established through clear and convincing proof that the person involved in such civil action has committed a knowing and willful

violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty of not more than the greater of (A) $10,000; or (B) an amount equal to 200 percent of the contribution or expenditure involved in such violation. In any case in which such person has entered into a conciliation agreement with the Commission under paragraph (5)(A), the Commission may institute a civil action for relief under paragraph (5) if it believes that such person has violated any provision of such conciliation agreement. In order for the Commission to obtain relief in any such civil action, it shall be sufficient for the Commission to establish that such person has violated, in whole or in part, any requirement of such conciliation agreement. 26 USC 9001, 9031.

"(8) In any action brought under paragraph (5) or paragraph (7), subpenas for witnesses who are required to attend a United States district court may run into any other district. Subpenas.

"(9)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure on the part of the Commission to act on such complaint in accordance with the provisions of this section within 90 days after the filing of such complaint, may file a petition with the United States District Court for the District of Columbia. Petitions, filing.

"(B) The filing of any petition under subparagraph (A) shall be made—

"(i) in the case of the dismissal of a complaint by the Commission, no later than 60 days after such dismissal; or

"(ii) in the case of a failure on the part of the Commission to act on such complaint, no later than 60 days after the 90-day period specified in subparagraph (A).

"(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the action, or the failure to act, is contrary to law and may direct the Commission to proceed in conformity with such declaration within 30 days, failing which the complainant may bring in his own name a civil action to remedy the violation involved in the original complaint.

"(10) The judgment of the district court may be appealed to the court of appeals and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. Appeals.

"(11) Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection or under section 314).

"(12) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (5) it may petition the court for an order to adjudicate such person in civil contempt, except that if it believes the violation to be knowing and willful it may petition the court for an order to adjudicate such person in criminal contempt.

"(b) In any case in which the Commission refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Commission with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 30-day period thereafter until there is final disposition of such apparent Report to the Commission.

Reports.

violation. The Commission may from time to time prepare and publish reports on the status of such referrals.

Fines.

"(c) Any member of the Commission, any employee of the Commission, or any other person who violates the provisions of subsection (a)(3)(B) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subsection (a)(3)(B) shall be fined not more than $5,000.".

DUTIES OF COMMISSION

Index of reports and statements.

SEC. 110. (a)(1) Section 315(a)(6) of the Act (2 U.S.C. 438(a)(6)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to compile and maintain a separate cumulative index of reports and statements filed with it by political committees supporting more than one candidate, which shall include a listing of the date of the registration of any such political committee and the date upon which any such political committee qualifies to make expenditures under section 320(a)(2), and which shall be revised on the same basis and at the same time as the other cumulative indices required under this paragraph".

Post, p. 487.

(2) Section 315(a)(8) of the Act (2 U.S.C. 438(a)(8)), as redesignated by section 105, is amended by inserting immediately before the semicolon at the end thereof the following: ", and to give priority to auditing and field investigating of the verification for, and the receipt and use of, any payments received by a candidate under chapter 95 or chapter 96 of the Internal Revenue Code of 1954".

26 USC 9001, 9031.

(b) Section 315(c) of the Act (2 U.S.C. 438(c)), as redesignated by section 105, is amended—

(1) by inserting immediately after the second sentence of paragraph (2) the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to."; and

"Rule or regulation."

(2) by adding the following new paragraph at the end thereof: "(5) For purposes of this subsection, the term 'rule or regulation' means a provision or series of interrelated provisions stating a single separable rule of law.".

ADDITIONAL ENFORCEMENT AUTHORITY

Repeal.

SEC. 111. Section 407 of the Act (2 U.S.C. 456) is repealed.

CONTRIBUTION AND EXPENDITURE LIMITATIONS; OTHER LIMITATIONS

SEC. 112. Title III of the Act (2 U.S.C. 431–441) is amended—

(1) by striking out section 320 (2 U.S.C. 441), as redesignated by section 105; and

(2) by inserting immediately after section 319 (2 U.S.C. 439c), as redesignated by section 105, the following new sections:

"LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

"SEC. 320. (a)(1) No person shall make contributions— 2 USC 441a.

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

"(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed $20,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

"(2) No multicandidate political committee shall make contributions—

"(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

"(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed $15,000; or

"(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

"(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.

"(4) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of paragraph (2), the term 'multicandidate political committee' means a political committee which has been registered under section 303 for a period of not less than 6 months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office. "Multicandidate political committee." 2 USC 433.

"(5) For purposes of the limitations provided by paragraph (1) and paragraph (2), all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund raising efforts; (B) for purposes of the limitations provided by paragraph (1) and paragraph (2) all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee; and (C) nothing in this section shall limit the transfer of funds between the principal cam-

paign committee of a candidate seeking nomination or election to a Federal office and the principal campaign committee of that candidate for nomination or election to another Federal office if (i) such transfer is not made when the candidate is actively seeking nomination or election to both such offices; (ii) the limitations contained in this Act on contributions by persons are not exceeded by such transfer; and (iii) the candidate has not elected to receive any funds under chapter 95 or chapter 96 of the Internal Revenue Code of 1954. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations provided by paragraph (1) and paragraph (2).

26 USC 9001, 9031.

"(6) The limitations on contributions to a candidate imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

"(7) For purposes of this subsection—

"(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

"(B) (i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

"(ii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

"(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

"(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(b) (1) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

26 USC 9003.
26 USC 9033.

"(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater

of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000; or

"(B) $20,000,000 in the case of a campaign for election to such office.

"(2) For purposes of this subsection—

"(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

"(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by—

"(i) an authorized committee or any other agent of the candidate for purposes of making any expenditure; or

"(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

"(c)(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year. Publication in Federal Register.

"(2) For purposes of paragraph (1)—

"(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and "Price index."

"(B) the term 'base period' means the calendar year 1974. "Base period."

"(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

"(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.

"(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

"(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

"(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

"(ii) $20,000; and

"(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

Voting age population estimates, certification and publication in Federal Register.

"(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term 'voting age population' means resident population, 18 years of age or older.

"Voting age population."

"(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

Rules.

"(g) The Commission shall prescribe rules under which any expenditure by a candidate for presidential nominations for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

"(h) Notwithstanding any other provision of this Act, amounts totaling not more than $17,500 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

"CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

2 USC 441b.

"SEC. 321. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

"Labor organization."

"(b)(1) For the purposes of this section the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and

which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"(2) For purposes of this section and section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 79l(h)), the term 'contribution or expenditure' shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section, but shall not include (A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock. "Contribution or expenditure."

"(3) It shall be unlawful—

"(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

"(B) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

"(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

"(4)(A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful—

"(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

"(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

"(B) it shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be

so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of $50 or less as a result of such solicitation and who does not make such a contribution.

"(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

"(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

"(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

"(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

"Executive or administrative personnel."

"(7) For purposes of this section, the term 'executive or administrative personnel' means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

"CONTRIBUTIONS BY GOVERNMENT CONTRACTORS

2 USC 441c.

"SEC. 322. (a) It shall be unlawful for any person—

"(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under; or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

"(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

"(b) This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation, labor organization, membership organization, cooperative, or corporation without capital stock for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 321 prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 321 applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

"(c) For purposes of this section, the term 'labor organization' has the meaning given it by section 321(b)(1).

"PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS

"SEC. 323. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication— 2 USC 441d.

"(1) if authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication has been authorized; or

"(2) if not authorized by a candidate, his authorized political committees, or their agents, shall clearly and conspicuously, in accordance with regulations prescribed by the Commission, state that the communication is not authorized by any candidate, and state the name of the person who made or financed the expenditure for the communication, including, in the case of a political committee, the name of any affiliated or connected organization required to be disclosed under section 303(b)(2). 2 USC 433.

"CONTRIBUTIONS BY FOREIGN NATIONALS

"SEC. 324. (a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national. 2 USC 441e.

"(b) As used in this section, the term 'foreign national' means— "Foreign national."

"(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 (b)), except that the term 'foreign national' shall not include any individual who is a citizen of the United States; or

"(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER

2 USC 441f. "SEC. 325. No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

"LIMITATION ON CONTRIBUTION OF CURRENCY

2 USC 441g. "SEC. 326. No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100 with respect to any campaign of such candidate for nomination for election, or for election, to Federal office.

"FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY

2 USC 441h. "SEC. 327. No person who is a candidate for Federal office or an employee or agent of such a candidate shall—

"(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

"(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).

"ACCEPTANCE OF EXCESSIVE HONORARIUMS

2 USC 441i. "SEC. 328. No person while an elected or appointed officer or employee of any branch of the Federal Government shall accept—

"(1) any honorarium of more than $2,000 (excluding amounts accepted for actual travel and subsistence expenses for such person and his spouse or an aide to such person, and excluding amounts paid or incurred for any agents' fees or commissions) for any appearance, speech, or article; or

"(2) honorariums (not prohibited by paragraph (1) of this section) aggregating more than $25,000 in any calendar year.

"PENALTY FOR VIOLATIONS

2 USC 441j. "SEC. 329. (a) Any person, following the date of the enactment of this section, who knowingly and willfully commits a violation of any provision or provisions of this Act which involves the making, receiving, or reporting of any contribution or expenditure having a value in the aggregate of $1,000 or more during a calendar year shall be fined in an amount which does not exceed the greater of $25,000 or 300 percent of the amount of any contribution or expenditure involved in such violation, imprisoned for not more than 1 year, or both. In the case of a knowing and willful violation of section 321(b)(3), including such a violation of the provisions of such section as applicable through section 322(b), of section 325, or of section 323, the penalties set forth in this section shall apply to a violation involving an amount having a value in the aggregate of $250 or more during a calendar year. In the case of a knowing and willful violation of section 327, the penalties set forth in this section shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more is involved.

"(b) A defendant in any criminal action brought for the violation of a provision of this Act, or of a provision of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, may introduce as evidence of his lack of knowledge of or intent to commit the offense for which the action was brought a conciliation agreement entered into between the defendant and the Commission under section 313 which specifically deals with the act or failure to act constituting such offense and which is still in effect. 26 USC 9001, 9031. Ante, p. 483.

"(c) In any criminal action brought for a violation of a provision of this Act, or of a provision of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the offense and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

"(1) the specific act or failure to act which constitutes the offense for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under section 313;

"(2) the conciliation agreement is in effect; and

"(3) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 113. Section 319 of the Act (2 U.S.C. 439c), as redesignated by section 105, is amended by adding at the end thereof the following sentence: "There are authorized to be appropriated to the Commission $6,000,000 for the fiscal year ending June 30, 1976, $1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, and $6,000,000 for the fiscal year ending September 30, 1977.".

SAVINGS PROVISION

SEC. 114. Except as otherwise provided by this Act, the repeal by this Act of any section or penalty shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability. 2 USC 441 note.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 115. (a) Section 306(d) of the Act (2 U.S.C. 436(d)) is amended by inserting immediately after "304(a)(1)(C)," the following: "304(c),".

(b) Section 310(a)(7) of the Act (2 U.S.C. 437d(a)(7)), as redesignated by section 105, is amended by striking out "313" and inserting in lieu thereof "312".

(c)(1) Section 9002(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)". 26 USC 9002.

(2) Section 9032(3) of the Internal Revenue Code of 1954 (defining Commission) is amended by striking out "310(a)(1)" and inserting in lieu thereof "309(a)(1)". 26 USC 9032.

(d)(1) Section 301(e)(5)(F) of the Act (2 U.S.C. 431(e)(5)(F)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(2) Section 301(f)(4)(H) of the Act (2 U.S.C. 431(f)(4)(H)) is amended by striking out "the last paragraph of section 610 of title 18, United States Code" and inserting in lieu thereof "section 321(b)".

(e) Section 314(a) of the Act (2 U.S.C. 437h(a)), as redesignated by section 105, is amended by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code" in the first sentence of such subsection and by striking out "or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code," in the second sentence of such subsection.

(f)(1) Section 406(a) of the Act (2 U.S.C. 455(a)) is amended by striking out "or section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code".

(2) Section 406(b) of the Act (2 U.S.C. 455(b)) is amended by striking out "or section 608, 610, 611, or 613 of title 18, United States Code,".

(g) Section 591 of title 18, United States Code, as amended by section 202(c), is amended—

(1) by striking out "608(c) of this title" in paragraph (f)(4)(I) and inserting in lieu thereof "section 320(b) of the Federal Election Campaign Act of 1971";

(2) by striking out "by section 608(b)(2) of this title" in paragraph (f)(4)(j) and inserting in lieu thereof "under section 320(a)(2) of the Federal Election Campaign Act of 1971"; and

(3) by striking out "310(a)" in paragraph (k) and inserting in lieu thereof "309(a)".

(h) Section 301(n) of the Act (2 U.S.C. 431(n)) is amended by striking out "302(f)(1)" and inserting in lieu thereof "302(e)(1)".

(i) The third sentence of section 308(a)(1) of the Act (2 U.S.C. 437b(a)(1)), as redesignated by section 105, is amended by striking out "97" and inserting in lieu thereof "96".

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

REPEAL OF CERTAIN PROVISIONS

SEC. 201. (a) Chapter 29 of title 18, United States Code, is amended by striking out sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

(b) The table of sections for chapter 29 of title 18, United States Code, is amended by striking out the items relating to sections 608, 610, 611, 612, 613, 614, 615, 616, and 617.

CHANGES IN DEFINITIONS

SEC. 202. (a) Section 591 of title 18, United States Code, is amended by striking out "602, 608, 610, 611, 614, 615, and 617" and inserting in lieu thereof "and 602".

(b) Section 591(e)(4) of title 18, United States Code, is amended by inserting immediately before the semicolon the following: ", except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the

election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of the Federal Election Campaign Act of 1971 or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b) of the Federal Election Campaign Act of 1971". 2 USC 431 note. 26 USC 9001, 9031. Ante, p. 480.

(c) Section 591(f)(4) of title 18, United States Code, is amended—

(1) by redesignating clause (F) through clause (I) as clause (G) through clause (J), respectively; and

(2) by inserting immediately after clause (E) the following new clause:

"(F) the payment, by any person other than a candidate or political committee, of compensation for legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, or the payment for legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of the Federal Election Campaign Act of 1971 or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported under section 304(b) of the Federal Election Campaign Act of 1971;".

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS

SEC. 301. (a) Section 9004 of the Internal Revenue Code of 1954 (relating to entitlement of eligible candidates to payments) is amended by adding at the end thereof the following new subsections: 26 USC 9004.

"(d) EXPENDITURES FROM PERSONAL FUNDS.—In order to be eligible to receive any payment under section 9006, the candidate of a major, minor, or new party in an election for the office of President shall certify to the Commission, under penalty of perjury, that such candidate will not knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for election to the office of President in excess of, in the aggregate, $50,000. For purposes of this subsection, expenditures from personal funds made by a candidate of a major, minor, or new party for the office of Vice President shall be considered to be expenditures by the candidate of such party for the office of President. 26 USC 9006.

"(e) DEFINITION OF IMMEDIATE FAMILY.—For purposes of subsection (d), the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons.".

Effective date. 26 USC 9004 note.

(b) For purposes of applying section 9004(d) of the Internal Revenue Code of 1954, as added by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of the enactment of this Act shall not be taken into account.

26 USC 9004.

PAYMENTS TO ELIGIBLE CANDIDATES; INSUFFICIENT AMOUNTS IN FUND

26 USC 9006.

SEC. 302. (a) Section 9006 of the Internal Revenue Code of 1954 (relating to payments to eligible candidates) is amended by striking out subsection (b) thereof and by redesignating subsection (c) and subsection (d) as subsection (b) and subsection (c), respectively.

(b) Section 9006(c) of the Internal Revenue Code of 1954 (relating to insufficient amounts in fund), as redesignated by subsection (a), is amended by adding at the end thereof the following new sentence: "In any case in which the Secretary or his delegate determines that there are insufficient moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.".

26 USC 9008, 9037.

PROVISION OF LEGAL OR ACCOUNTING SERVICES

SEC. 303. Section 9008(d) of the Internal Revenue Code of 1954 (relating to limitation of expenditures) is amended by adding at the end thereof the following new paragraph:

Compensation.

"(4) PROVISION OF LEGAL OR ACCOUNTING SERVICES.—For purposes of this section, the payment, by any person other than the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services) of compensation to any individual for legal or accounting services rendered to or on behalf of the national committee of a political party shall not be treated as an expenditure made by or on behalf of such committee with respect to its limitations on presidential nominating convention expenses.".

REVIEW OF REGULATIONS

26 USC 9009.

SEC. 304. (a) Section 9009(c) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended—

(1) in paragraph (2) thereof, by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to."; and

(2) by adding at the end thereof the following new paragraph:

"Rule or regulation."

"(4) For purposes of this subsection, the term 'rule or regulation' means a provision or series of interrelated provisions stating a single separable rule of law.".

(b) Section 9039(c) of the Internal Revenue Code of 1954 (relating to review of regulations) is amended— 26 USC 9039.

(1) in paragraph (2) thereof, by inserting immediately after the first sentence thereof the following new sentences: "Whenever a committee of the House of Representatives reports any resolution relating to any such rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to."; and

(2) by adding at the end thereof the following new paragraph:

"(4) For purposes of this subsection, the term 'rule or regulation' means a provision or series of interrelated provisions stating a single separable rule of law." "Rule or regulation."

QUALIFIED CAMPAIGN EXPENSE LIMITATION

SEC. 305. (a) Section 9035 of the Internal Revenue Code of 1954 (relating to qualified campaign expense limitation) is amended— 26 USC 9035.

(1) in the heading thereof, by striking out "**LIMITATION**" and inserting in lieu thereof "**LIMITATIONS**";

(2) by inserting "(a) EXPENDITURE LIMITATIONS.—" immediately before "No candidate";

(3) by inserting immediately after "States Code" the following: ", and no candidate shall knowingly make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election to the office of President in excess of, in the aggregate, $50,000"; and

(4) by adding at the end thereof the following new subsection:

"(b) DEFINITION OF IMMEDIATE FAMILY.—For purposes of this section, the term 'immediate family' means a candidate's spouse, and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouses of such persons." "Immediate family."

(b) The table of sections for chapter 96 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 9035 and inserting in lieu thereof the following new item: 26 USC 9031.

"SEC. 9035. Qualified campaign expense limitations.".

(c) Section 9033(b)(1) of the Internal Revenue Code of 1954 (relating to expense limitation; declaration of intent; minimum contributions) is amended by striking out "limitation" and inserting in lieu thereof "limitations". 26 USC 9033.

(d) For purposes of applying section 9035(a) of the Internal Revenue Code of 1954, as amended by subsection (a), expenditures made by an individual after January 29, 1976, and before the date of the enactment of this Act shall not be taken into account. Effective date. 26 USC 9035 note. 26 USC 9035.

RETURN OF FEDERAL MATCHING PAYMENTS

SEC. 306. (a)(1) Section 9002(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the 26 USC 9002.

following new sentence: "The term 'candidate' shall not include any individual who has ceased actively to seek election to the office of President of the United States or to the office of Vice President of the United States, in more than one State.".

26 USC 9003. (2) Section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(d) WITHDRAWAL BY CANDIDATE.—In any case in which an individual ceases to be a candidate as a result of the operation of the last 26 USC 9002. sentence of section 9002(2), such individual—

"(1) shall no longer be eligible to receive any payments under Ante, p. 498. section 9006, except that such individual shall be eligible to receive payments under such section to defray qualified campaign expenses incurred while actively seeking election to the office of President of the United States or to the office of Vice President of the United States in more than one State; and

"(2) shall pay to the Secretary or his delegate, as soon as practicable after the date upon which such individual ceases to be a candidate, an amount equal to the amount of payments received by such individual under section 9006 which are not used to defray qualified campaign expenses.".

26 USC 9032. (b)(1) Section 9032(2) of the Internal Revenue Code of 1954 (defining candidate) is amended by adding at the end thereof the following new sentence: "The term 'candidate' shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.".

26 USC 9033. (2) Section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) is amended by adding at the end thereof the following new subsection:

"(c) TERMINATION OF PAYMENTS.—

"(1) GENERAL RULE.—Except as provided by paragraph (2), 26 USC 9037. no payment shall be made to any individual under section 9037—

"(A) if such individual ceases to be a candidate as a result of the operation of the last sentence of section 9032(2); or

"(B) more than 30 days after the date of the second consecutive primary election in which such individual receives less than 10 percent of the number of votes cast for all candidates of the same party for the same office in such primary election, if such individual permitted or authorized the appearance of his name on the ballot, unless such individual certifies to the Commission that he will not be an active candidate in the primary involved.

"(2) QUALIFIED CAMPAIGN EXPENSES; PAYMENTS TO SECRETARY.—Any candidate who is ineligible under paragraph (1) to receive any payments under section 9037 shall be eligible to continue to receive payments under section 9037 to defray qualified campaign expenses incurred before the date upon which such candidate becomes ineligible under paragraph (1).

"(3) CALCULATION OF VOTING PERCENTAGE.—For purposes of paragraph (1)(B), if the primary elections involved are held in

more than one State on the same date, a candidate shall be treated as receiving that percentage of the votes on such date which he received in the primary election conducted on such date in which he received the greatest percentage vote.

"(4) REESTABLISHMENT OF ELIGIBILITY.—

"(A) In any case in which an individual is ineligible to receive payments under section 9037 as a result of the operation of paragraph (1)(A), the Commission may subsequently determine that such individual is a candidate upon a finding that such individual is actively seeking election to the office of President of the United States in more than one State. The Commission shall make such determination without requiring such individual to reestablish his eligibility to receive payments under subsection (a). 26 USC 9037. Determination by Commission.

"(B) Notwithstanding the provisions of paragraph (1)(B), a candidate whose payments have been terminated under paragraph (1)(B) may again receive payments (including amounts he would have received but for paragraph (1)(B)) if he receives 20 percent or more of the total number of votes cast for candidates of the same party in a primary election held after the date on which the election was held which was the basis for terminating payments to him.".

(c) The amendments made by this section shall take effect on the date of the enactment of this Act. Effective date. 26 USC 9002 note.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 307. (a) Section 9008(b)(5) of the Internal Revenue Code of 1954 (relating to adjustment of entitlements) is amended— 26 USC 9008.

(1) by striking out "section 608(c) and section 608(f) of title 18, United States Code," and inserting in lieu thereof "section 320(b) and section 320(d) of the Federal Election Campaign Act of 1971"; and 26 USC 439c.

(2) by striking out "section 608(d) of such title" and inserting in lieu thereof "section 320(c) of such Act".

(b) Section 9034(b) of the Internal Revenue Code of 1954 (relating to limitations) is amended by striking out "section 608(c)(1)(A) of title 18, United States Code," and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971". 26 USC 9034.

(c) Section 9035(a) of the Internal Revenue Code of 1954 (relating to expenditure limitations), as redesignated by section 305(a), is amended by striking out "section 608(c)(1)(A) of title 18, United States Code" and inserting in lieu thereof "section 320(b)(1)(A) of the Federal Election Campaign Act of 1971". 26 USC 9035.

(d) Section 9004(a)(1) of the Internal Revenue Code of 1954 (relating to entitlements of eligible candidates to payments) is amended by striking out "608(c)(1)(B) of title 18, United States Code" and inserting in lieu thereof "320(b)(1)(B) of the Federal Election Campaign Act of 1971". 26 USC 9004.

26 USC 9007. (e) Section 9007(b)(3) of the Internal Revenue Code of 1954 (relating to repayments) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

26 USC 9012. (f) Section 9012(b)(1) of the Internal Revenue Code of 1954 (relating to contributions) is amended by striking out "9006(d)" and inserting in lieu thereof "9006(c)".

Approved May 11, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-917 accompanying H. R. 12406 (Comm. on House Administration) and No. 94-1057 (Comm. of Conference).
SENATE REPORT No. 94-677 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol 122 (1976):
Mar. 15-18, 23, 24, considered and passed Senate.
Apr. 1, considered and passed House, amended, in lieu of H. R. 12406.
May 3, House agreed to conference report.
May 4, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 12, No. 20:
May 11, Presidential statement.

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