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OCTOBER 15, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

Today I am signing into law the Federal Campaign Act Amendments of 1974.

By removing whatever influence big money and special interests may have on our Federal electoral process, this bill should stand as a landmark of campaign reform legislation.

In brief, the bill provides for reforms in five areas:

--It limits the amounts that can be contributed to any candidate in any Federal election, and it limits the amounts that those candidates can expend in their campaigns.

--It provides for matching funds for Presidential primaries and public financing for Presidential nominating conventions and Presidential elections through use of the \$1 voluntary tax checkoff.

--It tightens the rules on any use of cash, it limits the amount of speaking honorariums, and it outlaws campaign dirty tricks.

--It requires strict campaign financial reporting and disclosure.

--It establishes a bipartisan six-member Federal election Commission to see that the provisions of the act are followed.

Although I support the aim of this legislation, I still have some reservations about it--especially about the use of Federal funds to finance elections. I am pleased that the money used for Federal financing will come from the \$1 checkoff, however, thus allowing each taxpayer to make his own decision as to whether he wants his money spent this way. I maintain my strong hope that the voluntary contribution will not become mandatory and that it will not in the future be extended to Congressional races. And although I do have reservations about the First Amendment implications inherent in the limits on individual contributions and candidate expenditures, I am sure that such issues can be resolved in the courts.

I am pleased with the bipartisan spirit that has led to this legislation. Both the Republican National Committee and the Democratic National Committee have expressed their pleasure with this bill, noting that it allows them to compete fairly.

The times demand this legislation.

There are certain periods in our Nation's history when it becomes necessary to face up to certain unpleasant truths.

We have passed through one of those periods. The unpleasant truth is that big money influence has come to play an unseemingly role in our electoral process. This bill will help to right that wrong.

I commend the extensive work done by my colleagues in both houses of Congress on this bill and I am pleased to sign it today.

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FACT SHEET

FEDERAL ELECTION CAMPAIGN ACT
AMENDMENTS OF 1974

President Ford has today signed into law the Federal Election Campaign Act Amendments of 1974. The major provisions of the Act are as follows:

Campaign Contribution Limits

1. No individual may make a contribution exceeding \$1,000 to any candidate for federal office in any primary, run off or general election (\$3,000 potential). Additionally, no individual may make contributions aggregating more than \$25,000 in any calendar year.
2. No political committee may make a contribution exceeding \$5,000 to any candidate for federal office in any primary, run off or general election (\$15,000 potential).
3. A national committee may contribute two cents times the Voting Age Population (VAP) in general Presidential elections (approximately \$3 million), the greater of \$20,000 or two cents times the VAP in general Senate elections, and \$10,000 in general House elections.
4. A state committee may contribute the greater of \$20,000 or two cents times the VAP in general Senate elections, and \$10,000 in general House elections.
5. A candidate or his family may contribute to his own race up to \$50,000 for a Presidential election, \$35,000 for the Senate and \$25,000 for the House.

Campaign Expenditure Limits

1. \$10 million in all Presidential primary elections.
2. \$20 million in the general Presidential election.
3. The greater of \$100,000 or eight cents times the VAP in primary Senate elections.
4. The greater of \$150,000 or twelve cents times the VAP in general Senate elections.
5. \$70,000 in primary or general House elections. (In states with only one representative, the above Senate limits apply.)

The effective expenditure limits are greater than the stated limits because: (a) an amount equal to twenty percent of the limits may be used for fund raising costs; and (b) expenditures by national or state committees (up to the limits for the contributions set forth above) are excluded from the spending limitation.

(MORE)

(OVER)



6. No individual may make an unauthorized expenditure on behalf of a candidate in excess of \$1,000.

7. All expenditure limits will be adjusted annually to account for cost-of-living changes.

Matching Fund Subsidy of Presidential Primaries and Subsidy of Presidential Nominating Conventions

1. All public subsidies will be paid from the \$1 voluntary tax checkoff.

2. A candidate in Presidential primaries is eligible for a matching fund subsidy only after receiving \$100,000 in private cash contributions. \$5,000 of contributions must come from each of 20 different states; only the first \$250 of any contribution is considered in calculating the \$5,000 amount.

3. A candidate eligible for the matching funds is entitled to receive a subsidy equal to the amount of private contributions he receives, disregarding the amount of any contribution in excess of \$250. The matching funds shall not exceed \$5 million for any candidate.

4. The national committee of a major party is entitled to \$2 million for use in a Presidential nominating convention. The national committee may not expend more than \$2 million at such conventions. The national committee of a minor party is entitled to a subsidy in a proportionally lower amount for use in its Presidential nominating convention.

Public Financing of General Presidential Elections

1. Each major party candidate is entitled to \$20 million and a minor party candidate is entitled to a lower amount, in proportion to the vote received.

General Campaign and Related Reforms

1. No foreign national may make a contribution.

2. No cash contributions may exceed \$100.

3. No elected or appointed federal official may accept an honorarium exceeding \$1,000 or accept aggregate honorariums exceeding \$15,000 in a calendar year.

4. No candidate or individual employed by a candidate may fraudulently misrepresent himself as acting on behalf of another candidate.

Campaign Reporting and Disclosure and Campaign Depositories

1. Each candidate must designate a principal campaign committee, which will be responsible for filing all campaign reports relating to the candidate with the Federal Election Commission.

(MORE)

2. Any group which expends money to influence a federal election, or to disclose a candidate's voting record or stance on public issues, must file reports with the Federal Election Commission disclosing their sources of financing and expenditures.

3. Each candidate must designate one or more national or State banks as his campaign depositories. All contributions received by authorized political committees shall be deposited in such depositories, and all expenditures made by such political committees shall be by check, except for petty cash disbursements.

Federal Election Commission

1. The Act establishes a bipartisan six-member Federal Election Commission with primary responsibility for enforcing the civil provisions of the Act. The Speaker of the House, the President pro tem of the Senate, and the President will each appoint two members, neither of which shall be from the same political party. The Secretary of the Senate and Clerk of the House will serve as non-voting ex officio members of the Commission. The members will serve for six years.

2. The Commission will have authority to investigate violations of the Act, issue subpoenas, hold hearings, promulgate rules and regulations, render advisory opinions, and to sue in court to enforce the Act.

3. The Commission will be responsible for enforcing the reporting and disclosure requirements of the Act.

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OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE
REMARKS OF THE PRESIDENT
UPON SIGNING
THE FEDERAL CAMPAIGN ACT
AMENDMENTS OF 1974

THE EAST ROOM

4:20 P.M. EDT

Distinguished Members of the Congress, and
guests:

It is really a great privilege for me to have a part in what I think is historic legislation. As all of my good friends from the Congress know, a tremendous amount of work, a lot of extra labor, went into the putting together of this legislation.

Quite frankly, I had some strong reservations about one version or one provision or another of legislation, and I suspect some of the people here on both sides of the aisle have the same.

But, we got together in the spirit of cooperation, a willingness to work together to give a little and take a little, and the net result is legislation that I think the American people want. It is legislation for the times.

I am not telling you any secrets. I have some reservations about the final version. But, in the spirit of cooperation and compromise, I think it ought to be signed and become a part of our statutory law.

I can assure you from what I have heard, from the American people in writing and other communications, they want this legislation. So, it will soon be law. I think we do recognize that this legislation seeks to eliminate to a maximum degree some of the influences that have created some of the problems in recent years. If that is the end result, certainly it is worth all the labor and all the compromises that were necessary in the process.

Now, this is the major step in one direction. To a substantial degree, there will be a degree of public financing. As long as it stays within the checkoff system, I am willing to go along with it. I hope the American taxpayers, as they make out their returns in the years ahead, will be generous so that those campaigns can and will be adequately financed.

MORE

(OVER)



Well, what it all comes down to, in my judgment, is that between a Congress controlled by one party, a White House in the hands of another, and a working cooperation between the Senate and the House, and the hard working members of that conference -- I guess you were part of that, weren't you, Wayne (Laughter) -- we ended up with some legislation that I think deserves the support of the American people, and I think they will support it.

I congratulate the conferees, the House and the Senate, and the people from the outside who had a significant impact in urging the Congress and the White House to be forthcoming.

So, I think this is a good day for 213 million Americans.

Thank you very, very much.

END (AT 4:23 P.M. EDT)

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MORE

(OVER)



Public Law 93-443
93rd Congress, S. 3044
October 15, 1974

An Act

88 STAT. 1263

To impose overall limitations on campaign expenditures and political contributions; to provide that each candidate for Federal office shall designate a principal campaign committee; to provide for a single reporting responsibility with respect to receipts and expenditures by certain political committees; to change the times for the filing of reports regarding campaign expenditures and political contributions; to provide for public financing of Presidential nominating conventions and Presidential primary elections; 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 1974".

Federal Election Campaign Act Amendments of 1974.
2 USC 431 note.

TITLE I—CRIMINAL CODE AMENDMENTS

LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

Sec. 101. (a) Section 608 of title 18, United States Code, relating to limitations on contributions and expenditures, is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(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.

"Political committee." Post, p. 1276.





Public Law 92-225
92nd Congress, S. 382
February 7, 1972

An Act

To promote fair practices in the conduct of election campaigns for Federal political offices, 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 of 1971".

Federal Election Campaign Act of 1971.

TITLE I—CAMPAIGN COMMUNICATIONS

SHORT TITLE

SEC. 101. This title may be cited as the "Campaign Communications Reform Act".

Citation of title.

DEFINITIONS

SEC. 102. For purposes of this title:

(1) The term "communications media" means broadcasting stations, newspapers, magazines, outdoor advertising facilities, and telephones; but, with respect to telephones, spending or an expenditure shall be deemed to be spending or an expenditure for the use of communications media only if such spending or expenditure is for the costs of telephones, paid telephonists, and automatic telephone equipment, used by a candidate for Federal elective office to communicate with potential voters (excluding any costs of telephones incurred by a volunteer for use of telephones by him).

(2) The term "broadcasting station" has the same meaning as such term has under section 315(f) of the Communications Act of 1934.

86 STAT. 3
86 STAT. 4

(3) The term "Federal elective office" means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States (and for purposes of section 103(b) such term includes the office of Vice President).

Post, p. 7.

(4) The term "legally qualified candidate" means any person who (A) meets the qualifications prescribed by the applicable laws to hold the Federal elective office for which he is a candidate, and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors.

(5) The term "voting age population" means resident population, eighteen years of age and older.

(6) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

MEDIA RATE AND RELATED REQUIREMENTS

SEC. 103. (a) (1) Section 315(b) of the Communications Act of 1934 is amended to read as follows:

66 Stat. 717.
47 USC 315.

"(b) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—

"(1) during the forty-five days preceding the date of a primary or primary runoff election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

DATE: November 4, 1974

REPLY TO
ATTN OF: DO:OGC

SUBJECT: Usurpation of the Executive's Appointment Power in the
Federal Election Campaign Act Amendments of 1974 (P.L. 93-443)

Mr. Stanley Ebner

Section 208(a) of the Campaign Act Amendments adds Section 310 to Election Campaign Act of 1971 for the purpose of creating the Federal Election Commission. (Pertinent provision attached). This 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 appointed members. The President, the President pro tempore of the Senate and the Speaker of the House each appoint two members subject to Congressional confirmation. The four appointments made by the two leaders of Congress are, in my opinion, blatantly unconstitutional because the executive functions of the Commission cannot be exercised by officers appointed by the legislative branch.

Under the new Act the Commission^{has} been given the power:

- (1) to investigate potential violations of the relevant law;
- (2) to initiate, defend or appeal any civil action in the name of the Commission for enforcement purposes;
- (3) to control contributions and expenditures;
- (4) to render advisory opinions;
- (5) to prescribe rules and regulations to carry out the law;
- (6) to determine eligibility for public financing.

The above powers, which are only a partial listing, are of an executive nature; that is, the Commission has the power to execute the law by distributing available funds, rulemaking, advisory opinions, civil actions and so on. The appointment by the Congress of officers to engage in this (or any other) executive function violates Article II, Section 1 ("The executive power shall be vested in a President...") and Article II, Section 2 ("[The President] shall nominate, and by ~~and~~^{with} the Advice and Consent of the Senate, shall appoint...all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by Law...") It



should be noted that an additional constitutional question is raised by the provision in the Act requiring confirmation by both the House and Senate rather than the Senate alone. See Article II, Section 2 above.

The case law on the appointment power, unlike its relative the removal power, is sparse. In the major Supreme Court decision on this point, Springer v. Phillipine Islands, 277 U.S. 189 (1928), the Court declared: "Legislative power, as distinguished from executive power...[is] the authority to make laws, but not to enforce them or appoint the agents charged with the duty of such enforcement. The latter are executive functions." 277 U.S. at 202.

In my opinion this is the optimum case for a challenge of this form of legislative encroachment. Not only does the law appear to be clearly on the side of the Executive but, to my knowledge, there are no unfavorable precedents in which the law has given Congress a comparable appointment power. In addition, action by the Commission adversely affecting political candidates will undoubtedly generate numerous plaintiffs. Contrariwise, if this provision is not challenged it would set a damaging precedent and would waste an ideal case for defining the law on Presidential appointment power.

It appears that there are three courses of action open to the President. First, he could implement the statute without objection by appointing the two commissioners. Second, he could make the statutory appointments but accompany them with strong objections to the Commission's composition. Third, he could refuse to appoint. As explained below, I advocate the second alternative. I would emphasize that if either the second or third option is favored then expeditious action must be taken; I have been told by Bob Off at the White House, with whom I've dealt on a related matter, that the Personnel Office will soon consider applications for the two positions.

The first alternative — making appointments under the statute without objection, is the path of least resistance. The President would be consistent with his support for the statute as a whole. He would not stir up conflict with the Congress where members of both parties worked earnestly on what they consider a reasonable compromise on the creation and structure of the Commission. (I don't recall, by the way,



any floor debates which even raised this constitutional issue, though the issue was probably considered in conference.) Under this first alternative, it would seem a near certainty that in the natural chain of events a party who was injured by an action of the Commission would challenge it. With a constitutional infirmity as large as exists here, and the vast number of politicians (and lawyers) affected in varied ways, a challenge will eventually come. But the President, by making no objection, would not play an active role in developing the test case.

Despite the advantages of the inactive approach set forth above, I would advocate the second alternative, that of appointment accompanied by a strenuous objection. The President should state when making the appointments that he believes a non-partisan election commission is necessary and he seeks to implement the much needed Act to avoid chaos in the 1976 elections. On the other hand, he should plainly state his contention that the Commission is constitutionally defective and he should urge a speedy challenge in court.

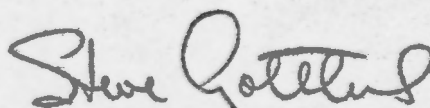
Objection would be consistent with the President's oral remarks at the Bill signing. "I have some strong reservations about the final version" he noted, though no specifics were given. (Note that he did give a few specific objections to the Act in his signing statement but did not on that occasion comment on the invalidity of Congressional appointments to the Commission.) This President's objection to legislative usurpation of the Executive's appointment power would be, to my knowledge, consistent with the position maintained by all previous Administrations. If only to maintain the historical opposition, a specific and sharp objection is required.

An equally important reason to voice opposition to the Congressional appointments is to encourage a test case. Publicizing the issue and lending affirmative Presidential support may precipitate a test case when speedy resolution is essential. A prompt hearing of the constitutional issue would be advantageous in order to "nip the unlawful Commission in the bud" before it establishes any historical legitimacy. Once entrenched with a full set of regulations, successful enforcement actions etc., a challenge to the legality of the Commission would be more difficult.



The third alternative, that of refusing to appoint Commissioners, is a blunt frontal attack on the Commission. Although all decisions of the Commission are made by majority vote it is uncertain that, without the two Presidential appointees, the other four Commissioners would attempt to function. The group would be in an unusual limbo— either inactive or acting with incomplete membership. The potential for massive complications during the 1976 election would be very real. To avoid such difficulties and to ease political pressures the President would probably be compelled to retreat and make the appointments. Alternatively, if he withstood such pressures and the Commission operated with only four appointed members, the President could be in the situation of running for reelection without representation on the Commission.

Another potential problem could arise: if the President refused to appoint, and if, as a result, the Commission failed to function, it is very possible that no one would be injured and thus a test case would not be forthcoming. (This is not to say that a lawsuit would be impossible— e.g., a candidate not receiving public funds could sue the Commission for release and a court might have to resolve the issue of the Commission's legitimacy.) Overall, the third alternative makes a test case less likely while putting the President on the defensive politically.



Steven Gottlieb
Assistant General Counsel

Attachment



"(2) any category of political committees of the obligation to comply with the reporting requirements of such section if such committees—

"(A) primarily support persons seeking State or local office; and

"(B) do not operate in more than one State or do not operate on a statewide basis."

FORMAL REQUIREMENTS FOR REPORTS AND STATEMENTS

Sec. 207. Section 306 of the Federal Election Campaign Act of 1971, relating to formal requirements respecting reports and statements, is amended by striking out subsection (a); by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and by adding at the end thereof the following new subsection:

2 USC 436.

"(d) If a report or statement required by section 303, 304(a)(1)(A) (ii), 304(a)(1)(B), 304(a)(1)(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."

Ante, p. 1276.

REPORTS BY CERTAIN ORGANIZATIONS; FEDERAL ELECTION COMMISSION; CAMPAIGN DEPOSITORIES

Sec. 208. (a) Title III of the Federal Election Campaign Act of 1971, relating to disclosure of Federal campaign funds, is amended by redesignating sections 308 and 309 as sections 316 and 317, respectively; by redesignating section 311 as section 321; and by inserting immediately after section 307 the following new sections:

2 USC 438, 439.

"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 sentences 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—

2 USC 437a.

Ante, p. 1272.

Ante, p. 1273.



"(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. (a) (1) Each candidate shall designate one or more national or State banks as his campaign 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 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 97 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

nt. "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 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.

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.

"(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 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.

"(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.

"(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 one 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.

Term.

Vacancies.

Compensation.

83 Stat. 863.
Chairman and
vice chairman.

Ante, pp. 1263,
1269.
Jurisdiction.



"(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. A 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.

"(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.

"(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.

"POWERS OF COMMISSION

"Sec. 311. (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 subpoena, 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;

"(7) to render advisory opinions under section 313;

"(8) 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;

"(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;

"(10) to develop prescribed forms under section 311(a)(1); and

"(11) 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 subpoena 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.

Infra-

5 USC 500.

Ante, pp. 1263, 1268.

Budget estimates or requests, copies, transmittal to Congress.

"REPORTS

"Sec. 312. 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.

Reports to President and Congress.
2 USC 437e.

"ADVISORY OPINIONS

"Sec. 313. (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 the Internal Revenue Code of 1954, or of section 608, 610, 611, 613, 614, 615, 616, or 617 of title 18, United States Code.

2 USC 437f.

"(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

26 USC 9001, 9021.

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.

"(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.

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.

Ante, pp. 1263, 1268.

"(8) In any action brought under paragraph (5) or (7) of this subsection, subpoenas for witnesses who are required to attend a United States district court may run into any other district.

Subpoenas.

"(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.

Petition for judicial review.

"(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.

Report to Commission.

"JUDICIAL REVIEW

"Sec. 315. (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.

2 USC 437h.

"(b) Notwithstanding any other provision 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)."

(b) Until the appointment and qualification of all the members of the Federal Election Commission and its general counsel and until the transfer provided for in this subsection, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall continue to carry out their responsibilities under title I and title III of the Federal Election Campaign Act of 1971 as such titles existed on the day before the date of enactment of this Act. Upon the appointment of all the members of the Commission and its general counsel, the Comptroller General, the Secretary of the Senate, and the Clerk of the House of Representatives shall meet with the Commission and arrange for the transfer, within 30 days after the date on which all such members and the general counsel are appointed, of copies of all appropriate records, documents, memorandums, and other papers associated with carrying out their responsibilities under title I and title III of the Federal Election Campaign Act of 1971 and chapter 95 of the Internal Revenue Code of 1954.

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

(1) by amending section 301(g), relating to definitions, to read as follows:

"(g) 'Commission' means the Federal Election Commission;"

(2) by striking out "supervisory officer" in section 302(d) and inserting in lieu thereof "Commission";

(3) by amending section 303, relating to registration of political committees; statements—

(A) by striking out "supervisory officer" each time it appears therein and inserting in lieu thereof "Commission"; and

(B) by striking out "he" in the second sentence of subsection (a) of such section and inserting in lieu thereof "it";

(4) by amending section 304, relating to reports by political committees and candidates—

(A) by striking out "appropriate supervisory officer" and "him" in the first sentence thereof and inserting in lieu thereof "Commission" and "it", respectively; and

(B) by striking out "supervisory officer" where it appears in paragraphs (12) and (13) of subsection (b) and inserting in lieu thereof "Commission";

(5) by striking out "supervisory officer" each place it appears in section 306, relating to formal requirements respecting reports and statements, and inserting in lieu thereof "Commission";

(6) by striking out "Comptroller General of the United States" and "he" in section 307, relating to reports on convention financing, and inserting in lieu thereof "Federal Election Commission" and "it", respectively;

(7) by amending the heading for section 316 (as redesignated by subsection (a) of this section), relating to duties of the supervisory officer, to read as follows: "DUTIES";

(8) by striking out "supervisory officer" in section 316(a) (as redesignated by subsection (a) of this section) the first time it appears and inserting in lieu thereof "Commission";

(9) by amending section 316(a) (as redesignated by subsection (a) of this section)—

(A) by striking out "him" in paragraph (1) and inserting in lieu thereof "it"; and

- (B) by striking out "him" in paragraph (4) and inserting in lieu thereof "it"; and
- (10) by amending subsection (c) of section 316 (as redesignated by subsection (a) of this section)— 2 USC 438.
- (A) by striking out "Comptroller General" each place it appears therein and inserting in lieu thereof "Commission" and striking out "his" in the second sentence of such subsection and inserting in lieu thereof "its"; and
- (B) by striking out the last sentence thereof; and
- (11) by striking out "a supervisory officer" in section 317(a) of such Act (as redesignated by subsection (a) of this Act) and inserting in lieu thereof "the Commission". 2 USC 439.

DUTIES AND REGULATIONS

Sec. 209. (a) (1) Section 316(a) of the Federal Election Campaign Act of 1971 (as redesignated and amended by section 208(a) of this Act), relating to duties of the Commission, is amended by striking out paragraphs (6), (7), (8), (9), and (10); and by redesignating paragraphs (11), (12), and (13) as paragraphs (8), (9), and (10), respectively, and by inserting immediately after paragraph (5) the following new paragraphs:

"(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; Index of reports and statements. Publication in Federal Register.

"(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;". Special reports, publication.

(2) Notwithstanding section 208(a)(7) of the Federal Election Campaign Act of 1971 (relating to an annual report by the supervisory officer), as in effect on the day before the effective date of the amendments made by paragraph (1) of this subsection, no such annual report shall be required with respect to any calendar year beginning after December 31, 1972. 2 USC 438 note.

(b)(1) Section 316(a)(10) of the Federal Election Campaign Act of 1971 (as so redesignated by subsection (a) of this section), relating to the prescription of rules and regulations, is amended by inserting before the period at the end thereof the following: "in accordance with the provisions of subsection (c)".

(2) Such section 316 is amended—

(A) by striking out subsection (b) and subsection (d); by redesignating subsection (c) as subsection (b); and

(B) by adding at the end thereof the following new subsections:

"(c)(1) The Commission, before prescribing any rule or regulation under this section, 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. Proposed rules or regulations, statement, transmittal to Congress.

"(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 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 Presidential elections.

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. The Commission may not prescribe any rule or regulation which is disapproved under this paragraph.

Senatorial elections.

"(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.

Rules and regulations.

"(d) (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).

Congressional cooperation.

"(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."

MISCELLANEOUS PROVISIONS

Ante, p. 1279.

SEC. 210. Title III of the Federal Election Campaign Act of 1971 is amended by inserting immediately after section 317 (as so redesignated by section 208(a) of this Act) the following new sections:



Political

Tuesday 11/26/74

Meeting
11/26/74
3:30 p. m.

11:10 Dick Cheney apparently invited Mr. Areeda to the 3:30 meeting this afternoon with the President -- along with Mr. Marsh, Jack Stiles, Mr. Hartmann.

Mr. Areeda said the subject of the meeting is political campaign filing.

