

The original documents are located in Box 44, folder “President - Campaign Legal Manual (2)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

TAB
C

THE WHITE HOUSE
WASHINGTON

January 7, 1976



MEMORANDUM FOR

THE CABINET

SUBJECT: Guidelines in Connection with the 1976
Election Campaign

Following are guidelines to be followed by all members of the Cabinet, as well as other appropriate Federal officials, in connection with their participation in the 1976 Federal elections. These guidelines are based upon relevant statutory prohibitions, Executive Orders, rulings and proposed regulations by the Federal Election Commission.

I. GENERAL PROHIBITIONS

The following restrictions on particular political activities apply to all Federal employees:

- A. Federal law prohibits the solicitation or receipt of political contributions by a Federal official or employee from any other Federal official or employee.
- B. Federal law prohibits solicitation or receipt of political contributions on Federal property.

In the event that campaign contributions are received either from such persons or on Federal property, such contributions must be promptly returned with an appropriate explanation.

- C. Federal law prohibits any direct or indirect promise of appointment, employment, contract, or special consideration for a governmental benefit as a consideration, favor or reward for political activity or support to a candidate or political party.

- D. Appropriated funds may not be used to conduct or support political activities on behalf of a candidate or political party.

II. HATCH ACT RESTRICTIONS

- A. The Hatch Act prohibits all persons subject to its provisions from participating or engaging in any political campaign activity, either State or Federal, on behalf of any candidate or political party. In general, the heads of the Executive or Military Departments, other officials appointed by the President subject to Senate confirmation, and employees paid by the White House Office or the Vice President's Office, are exempt from the Hatch Act restrictions. Other Federal employees, including NEA and Schedule C employees, are subject to the Act; and the Act applies to them even outside of working hours and while they are on leave status.
- B. "Hatched" employees may not assist in writing political speeches, and may not be utilized in advancing, conducting or managing a political event or a candidate-related activity. PFC personnel will be available to assist you in connection with any such political activity. This restriction does not apply to regular security personnel present for the protection of the participating official or to aides making advance arrangements, unrelated to the event itself, for official travel and activities. Although "Hatched" employees may assist the official in going to and from a political event, they must not take an active role or participate in the event itself.

III. PERMISSIBLE POLITICAL ACTIVITIES

Following are guidelines for permissible political activities on behalf of the President or the Republican Party by Cabinet members and other officials not subject to the Hatch Act:

- A. Although final allocation regulations will not be available from the Federal Election Commission

until later in January, the Commission has informally indicated its approval of an allocation formula which apportions travel expenses on mixed official and political trips based upon the relative periods of time spent on the two kinds of activities. Accordingly, accurate records should be kept which distinguish all time spent and direct expenses incurred for political events from the time and expenses incurred for official business. Such records should then be sent to the PFC for allocation of expenses on the basis of the relative periods of time spent on political and bona fide official activities. More specific guidelines will be provided once the final allocation regulations are available from the Federal Election Commission.

- B. Permissible political activities include serving as speaker, honored guest or sponsor for fundraising or other political events. However, the participating government official should not accept contributions for the President, but should direct the contributor to a PFC fundraising official. In connection with particular events, the PFC will avoid singling out for campaign support special interest groups or organizations which are immediately concerned with the functions of the department or agency represented by the government official appearing at the event.
- C. As a general rule, speeches before non-partisan groups, such as a trade, labor, or professional association, are official in nature. Each member of the Administration should insure that official activities and other non-political functions are not and do not appear to involve political activities for the benefit of or on behalf of any Federal candidate. If candidate-related activities, including extemporaneous remarks, are engaged in during an official trip, the Federal election campaign laws may require that a portion of the expenses incurred for such trip shall be attributed to the candidate and counted against the candidate's spending limits.

However, this requirement does not preclude full, fair and open discussion of national issues, current conditions and trends, and existing or proposed administrative or legislative programs which are within the expertise of the speaker. What it does preclude is advocacy of a candidate for Federal office or making partisan political comment about a candidate or political party.

Questions regarding the above guidelines or the legality or propriety of any mixed official-political activity should be directed to the Office of the Counsel to the President. Advice regarding the conduct of the campaign itself under the new Federal election campaign laws should be sought from the General Counsel to the President Ford Committee.

JAMES E. CONNOR
SECRETARY TO THE CABINET

THE WHITE HOUSE

WASHINGTON

MEMORANDUM

Restrictions on Political Participation
by Executive Branch Officials and Employees

All Federal officials and employees of the Executive Branch of the Government are subject to the criminal sanctions set forth in Title 18, U.S.C., Chapter 29 -- "Elections and Political Activities"(Appendix A). With relatively few exceptions, these employees are also subject to the political activity restrictions contained in relevant civil provisions (5 U.S.C. 7321, et. seq., Appendix B) and implementing regulations (5 CFR Part 333, Appendix C).

The following outline should serve as a checklist of the principal restrictions on political campaign activities of concern to government officers and employees. The attachments supply further details.

These are the bare legal requirements of which you should be aware. We have not attempted to prescribe the good judgment and sense of propriety that must be expected of all persons who participate in the President's election campaign. Should any questions arise on matters of either legality or propriety, concerning your official actions, please contact Mr. Kenneth Lazarus (Ext. 6297) or Mr. Dudley Chapman (Ext. 6725) in the Office of the Counsel to the President. Advice on the conduct of the campaign itself should be sought from counsel to the Republican National Committee or to the President's principal political committee, as appropriate.

Philip W. Buchen
Counsel to the President



1. Restrictions on who may participate (Civil Restrictions):

The Provisions of Title 5, U.S.C. Sec. 7321, et. seq. and implementing regulations (5 CFR Part 733) may be summarized as follows:

- (a) General. Generally, Government employees are prohibited from taking "an active part in political management or political campaigns", or from using their official authority or influence "for the purpose of interfering with or affecting the result of an election" (5 U.S.C. 7324; See also 5 U.S.C. 7322, and Executive Order 11222).

- (b) Types of Employees Covered. With very few exceptions, all Federal employees in the Executive Branch of the Government (including employees of the Postal Service) are subject to the political activity provisions of Federal law. These provisions apply to full-time and part-time employees in both the competitive and excepted service. Those who are employed on an intermittent or occasional basis, such as experts or consultants, are only covered by the restrictions for the entire twenty-four hours of any day of actual employment.

Title 5, U.S.C. Sec. 7324 exempts certain specified officers and employees from the prohibition on taking an active part in political management or in political campaigns. These are:

- (i) An employee paid from the appropriation for the office of the President;

- (ii) The head or assistant head of an Executive department or military department; and

- (iii) An employee appointed by the President, by and with the advice and consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws.

As to White House personnel, the test is which appropriation is used to pay the employee's salary. While the Civil Service Commission has interpreted this provision to exempt persons paid from appropriations to the White House Office and Special Assistance to the President (Office of the Vice President), it has determined that employees paid from other appropriations for the Executive Office of the President, including those of the Domestic Council, OTP, OMB, and NSC, are subject to the Act. The Executive Director of the Domestic Council is paid from the White House Office appropriations and is exempt; the remainder of the Council's employees are paid from a separate appropriation and are covered. All detailed employees are fully subject to the Act.

✓ Schedule C employees and NEA's, in the departments and agencies and in the Executive Office of the President who are not paid from the appropriations for the Office of the President, are also subject to this prohibition, despite the policy-making nature of their duties.

- (c) Employees on Leave. A Federal employee subject to the political activity laws and regulations continues to be covered while on annual leave, sick leave, leave without pay, administrative leave, or furlough.
- (d) Exemptions. The law exempts all officers and employees from the prohibition on taking an active part in political management or in political campaigns in connection with a non-partisan election. This is an election (and the preceding campaign) in which none of the candidates is to be nominated or elected as representing a political party whose candidates for presidential elector received votes at the last preceding election. Also exempted is activity relating to a question which is not specifically identified with a National or State political party, such as constitutional amendments, referendums, and approval of municipal ordinances (5 U.S.C. 7326).

- (e) Political Management. Membership in a political party, organization, or club is permitted, but the employee may not hold office in the party, organization, or club, or be a member of any of its committees. He may attend meetings open to the general membership and vote on candidates and issues, but he may not take an active part in the management of the club, organization, or party.

Attendance as a spectator at a political convention is permitted. However, the employee is not allowed to take part in the deliberations or proceedings of the convention or any of its committees. He may not be a candidate for, or serve as, a delegate, alternate, or proxy at such a convention.

Volunteer work for a partisan candidate, campaign committee, political party, or nominating convention of a political party is prohibited, whether the work involves contact with the public or not. If, however, an employee engages in a profession or business, such as a musician in a band or orchestra which participates in parades, public events and similar functions, he may perform in that capacity even though the particular event is politically sponsored.

- (f) Political Campaigns; Candidacy. An employee may not be a candidate in a partisan election for any public office.

Primary and run-off elections to nominate candidates of political parties are partisan even though no party designation appears on the ballot.

- (g) Political Campaigns; Campaigning. As noted above, an employee may express his individual opinion on political subjects and candidates (5 U.S.C. 7324). This is frequently done by the employee wearing a badge or button on his person, or displaying a sticker or poster on his car or house.

An employee may not campaign for a candidate in a partisan election by making speeches, writing on behalf of the candidate, or soliciting voters to support or oppose a candidate.

An employee may attend a political meeting or rally which is open to the general membership of an organization or the public, including committee meetings of political organizations. However, he may not serve on a committee that organizes or directs activities at a partisan campaign meeting or rally.

An employee may sign nominating petitions for candidates in a partisan election for public office, but may not originate or circulate such petitions.

- (h) Contributions. An employee may make a financial contribution to a political party or organization. However, he may not solicit or collect political contributions (5 U.S.C. 7323).

2. Improper use of Government office (Criminal):

It is a Federal crime for a candidate in a Federal election to procure support in his candidacy by directly or indirectly promising to support the appointment of any person to public or private position (18 U.S.C. 599); to directly or indirectly promise any employment, position, compensation, contract, appointment or other benefit made possible in whole or in part by Act of Congress to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with a primary or general election. (18 U.S.C. 600); or to directly or indirectly deprive or threaten to deprive any person of any employment, position or other benefit made possible by Act of Congress on account of any political activity, support of, or opposition to any candidate or any political party in any election (18 U.S.C. 601).

3. Interference and Intimidation (Criminal):

It is a Federal crime:

- (a) to interfere with the right of any other person to vote as he may choose for or against any candidate for Federal elective office by intimidation, threats, coercion or attempts to intimidate, threaten or coerce

(18 U.S.C. 594), or to use any part of an appropriation for relief or public works projects or to exercise or administer any authority under any appropriation act for the purpose of interfering with any individual's right to vote in a Federal election (18 U.S.C. 598);

- (b) for a person employed in any administrative position by the United States, or by any department or agency thereof, in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, to use his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for Federal elective office (18 U.S.C. 595);
- (c) for any member of Congress, officer, employee or consultant of the Federal government to discharge or promote or degrade or in any manner change the official rank or compensation of any other member of Congress, officer, employee or consultant for giving or withholding any contribution of money or other thing of value for any political purposes (18 U.S.C. 606).

4. Proper identification of campaign literature and political agents (Criminal):

It is a Federal crime to distribute written or printed campaign material relating to a candidate which does not identify its source (18 U.S.C. 612); or for a candidate for Federal elective office or an employee or agent of such candidate to participate in any plan to misrepresent an individual as acting on behalf of another candidate which representation is damaging to that candidate (18 U.S.C. 617).

5. Political contributions and Expenditures (Criminal and Civil):

(a) Use of Federal Premises

It is a Federal crime to solicit or receive any contribution of money or other thing of value for any political purpose in any room or building occupied officially by a member of Congress, officer, employee or consultant of the Federal government (18 U.S.C. 603).

(b) Contributions among Government employees

It is a Federal crime for any member of Congress, officer, employee or consultant of the United States or department or agency thereof, to directly or indirectly solicit or receive any political contributions from any other Federal officer, employee, consultant or member of Congress (18 U.S.C. 602) or for any person in the service of the United States or any department or agency thereof, to directly or indirectly give or hand over to any other person in the service of the United States, any money or other valuable thing on account of or to be applied to the promotion of any political object (18 U.S.C. 607).

(c) Proscribed classes of contributors

(1) Corporations and Unions

It is a Federal crime for national banks, corporations and labor organizations (18 U.S.C. 610), Government contractors (18 U.S.C. 611), and for foreign nationals (18 U.S.C. 613) to contribute to the campaigns of candidates for Federal elective office. However, provision is made for corporations, unions and contractors to establish funds to which members and employees may contribute voluntarily.

(2) Government Contractors

It is a crime for individuals as well as corporations having government contracts to make or solicit political contributions (18 U.S.C. 611).

(3) Persons on Relief

It is a Federal crime to solicit or receive any payment for any political purpose from any person who is receiving any work relief funded by an Act of Congress (18 U.S.C. 604); or to furnish or disclose for political purposes any list or names of persons receiving such relief funded by an Act of Congress (18 U.S.C. 605).

(d) Contributions in name of another

It is a Federal crime to make a campaign contribution in the name of another or to permit one's name to be used to effect such a contribution (18 U.S.C. 614).

(e) Limitations on contributions

With certain exceptions, it is a Federal crime for any individual to contribute more than \$1,000 to any single candidate for Federal elective office or more than \$25,000 in aggregate political contributions in any calendar year (18 U.S.C. 608); or to make a contribution in currency (as opposed to check) in excess of \$100 (18 U.S.C. 615).

(f) Mandatory channeling of funds through political committees

Under the new Federal election campaign laws, all contributions must be deposited with an authorized political committee which is obliged to keep records of both contributions and expenditures.

(g) The meaning of "contribution"

The term "contribution" is defined differently for purposes of the various statutes referred to in this memorandum. An original donation of funds for a political purpose is always a contribution; and in some cases a transfer between different political committees may be a contribution by statutory definition. Special care should be taken to avoid any physical handling of political funds in a Federal building or premises. Counsel for the relevant political committee should be consulted before engaging in receipt or solicitation of political funds.

(h) Expenses paid by the Republican National
Committee (RNC)

RNC funds may be used for political activities of the Presidency which are of benefit to the party. Until the President is formally nominated, political expenses uniquely on his behalf as distinct from the party should be paid from his own campaign funds.

TAB
A

TITLE 18. CRIMES AND CRIMINAL PROCEDURE

CHAPTER 29—ELECTIONS AND POLITICAL ACTIVITIES

§ 591. Definitions¹

Except as otherwise specifically provided, when used in this section and in sections 597, 599, 600, 602, 608, 610, 611, 614, 615, and 617 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) a "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 bal-

¹ Effect on State law: The provisions of chapter 29 of Title 18, United States Code, relating to elections and political activities, supersede and preempt any provision of State law with respect to election to Federal office. The terms "election," "Federal office," and "State," as used in the preceding sentence of this footnote, have the meanings given them by section 591 of Title 18, United States Code.

ance 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 personal services of another person which are rendered to such candidate or political committee without charge for any such purpose; 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; or

(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;

to the extent that the cumulative value of activities by any person 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 (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 candidate in rendering voluntary personal services 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) 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) 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;

(H) 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 608(c) of this title; or

(I) 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, magazines, 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;

(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 virtue 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 437c(a) of Title 2, United States Code; and

(l) "principal campaign committee" means the principal campaign committee designated by a candidate under section 432(f)(1) of Title 2, United States Code.

§ 592. Troops at polls

Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or

both; and be disqualified from holding any office of honor, profit, or trust under the United States.

This section shall not prevent any officer or member of the Armed Forces of the United States from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote.

§ 593. Interference by Armed Forces

Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State;

Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election;

Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote;

Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both; and disqualified from holding any office of honor, profit or trust under the United States.

This section shall not prevent any officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district.

§ 594. Intimidation of voters

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purposes of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 595. Interference by administrative employees of Federal, State, or Territorial Governments

Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or



agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization.

§ 596. Polling Armed Forces

Whoever, within or without the Armed Forces of the United States, polls any member of such forces, either within or without the United States, either before or after he executes any ballot under any Federal or State law, with reference to his choice of or his vote for any candidate, or states, publishes, or releases any result of any purported poll taken from or among the members of the Armed Forces of the United States or including within it the statement of choice for such candidate or of such votes cast by any member of the Armed Forces of the United States, shall be fined not more than \$1,000 or imprisoned for not more than 1 year, or both.

The word "poll" means any request for information, verbal or written, which by its language or form of expression requires or implies the necessity of an answer, where the request is made with the intent of compiling the result of the answers obtained, either for the personal use of the person making the request, or for the purpose of reporting the same to any other person, persons, political party, unincorporated association or corporation, or for the purpose of publishing the same orally, by radio, or in written or printed form.

§ 597. Expenditures to influence voting

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote, 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 \$10,000 or imprisoned not more than 2 years, or both.

§ 598. Coercion by means of relief appropriations

Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 599. Promise of appointment by candidate

Whoever, being a candidate, directly or indirectly promises or pledges the appointment, or the use of his influence or support for the appointment of any person to any public or private position or employment, for the purpose of procuring support in his candidacy 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 \$10,000 or imprisoned not more than 2 years, or both.

§ 600. Promise of employment or other benefit for political activity

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special 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, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 601. Deprivation of employment or other benefit for political activity

Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 602. Solicitation of political contributions

Whoever, being a Senator or Representative in, or Delegate or Resident Commissioner to, or a candidate for Congress, or individual elected as, Senator, Representative, Delegate, or Resident Commissioner, or an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, directly or indirectly solicits, receives, or is in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any other such officer, employee, or person, shall be fined not more than \$5,000 or imprisoned not more than 3 years or both.

§ 603. Place of solicitation

Whoever, in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort, or arsenal, solicits or receives any contribution of moneys or other thing of value for any political purpose, shall be fined not more than \$5,000 or imprisoned not more than 3 years, or both.

§ 604. Solicitation from persons on relief

Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 605. Disclosure of names of persons on relief

Whoever, for political purposes, furnishes or discloses any list or names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager; and

Whoever receives any such list or names for political purposes, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 606. Intimidation to secure political contributions

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined not more than \$5,000 or imprisoned not more than 2 years, or both.

§ 607. Making political contributions

Whoever, being an officer, clerk, or other person in the service of the United States or any department or agency thereof, directly or indirectly gives or hands over to any other officer, clerk, or person in the service of the United States, or to any Senator or Member of or Delegate to Congress, or Resident Commissioner, any money or other valuable thing on account of or to be applied to the promotion of any political object, shall be fined not more than \$5,000 or imprisoned not more than 3 years, or both.

§ 608. Limitations on contributions and expenditures²

(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—

² Notwithstanding section 608(a)(1) of Title 18, United States Code, relating to limitations on expenditures from personal funds, any individual may satisfy or discharge out of his personal funds or the personal funds of his immediate family, any debt or obligation which is outstanding on the date of the enactment of this Act and which was incurred by him or on his behalf by any political committee in connection with any campaign ending before the close of December 31, 1972, for election to Federal office. For purposes of the preceding paragraph of this footnote—(1) the terms "election", "Federal office", and "political committee" have the meanings given them by section 591 of Title 18, United States Code; and (2) the term "immediate family" has the meaning given it by section 608(a)(2) of Title 18, United States Code.

For
othe
resp
mad
(2)
a ca
or s
(2)
adv
paig
unle
full
(4)
shal
ture
stan
(b) C
(1)
no
to a
\$1,0
(1)
com
spe
exc
liti
can
not
res
thi
zat
2,
wh
exc
tril
(1)
the
gr
ye
tri
ye

(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 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) 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 pr
lation"
(h)
knowin
tion of
cal cor
benefit
behalf
tributi
(i)
shall
year,
§ 609.
§ 610.

It i
by au
iture
nectic
held
what
iture
presi
or R
necti
held
cand
cont
E
tion
than
of a
pen
and
of t
mor
fine
bot
F
gar
mit
pur
gri
or
sh
va
(e
wi

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 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 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; 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; 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 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 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.

Who or distr same, k posed the Po transpo pamphl stateme clared the Un Reside election his into the nat respons names tion, sh year, or

§ 613.

Who person of valu bution nection candid Who tion f \$25,000 As u

of § cl w by (§

§ 614.

(a) person tribut by one (b) than §

§ 615.

(a) States candi



§ 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 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 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.

TAB
B

TITLE 5. UNITED STATES CODE

CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT

SUBCHAPTER III—POLITICAL ACTIVITIES

- Sec.
7321. Political contributions and services.
7322. Political use of authority or influence; prohibition.
7323. Political contributions; prohibition.
7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions.
7325. Penalties.
7326. Nonpartisan political activity permitted.
7327. Political activity permitted; employees residing in certain municipalities.

§ 7321. Political contributions and services

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service is not obliged, by reason of that employment, to contribute to a political fund or to render political service, and that he may not be removed or otherwise prejudiced for refusal to do so.

§ 7322. Political use of authority or influence; prohibition

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service may not use his official authority or influence to coerce the political action of a person or body.

§ 7323. Political contributions; prohibition

An employee in an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate) may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a thing of value for political purposes. An employee who violates this section shall be removed from the service.

§ 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions

(a) An employee in any Executive agency or an individual employed by the Government of the District of Columbia may not—

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election; or

(2) take an active part in political management or in political campaigns.

For the purpose of this subsection, the phrase "an active part in political management or in political campaigns" means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

(b) An employee or individual to whom subsection (a) of this section applies retains the right to vote as he chooses and to express his opinion

on political subjects and candidates.

(c) Subsection (a) of this section does not apply to an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by the District of Columbia or by a recognized religious, philanthropic, or cultural organization.

(d) Subsection (a)(2) of this section does not apply to—

(1) an employee paid from the appropriation for the office of the President;

(2) the head or the assistant head of an Executive department or military department;

(3) an employee appointed by the President, by and with the consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws;

(4) the Commissioners of the District of Columbia; or

(5) the Recorder of Deeds of the District of Columbia.

§ 7325. Penalties

An employee or individual who violates section 7324 of this title shall be removed from his position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Civil Service Commission finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Commission.

§ 7326. Nonpartisan political activity permitted

Section 7324 (a)(2) of this title does not prohibit political activity in connection with—

(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; or

(2) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States.

For the purpose of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, are deemed not specifically identified with a National or State political party or political party of a territory or possession of the United States.

§ 7327. Political activity permitted; employees residing in certain municipalities

(a) Section 7324 (a)(2) of this title does not apply to an employee of The Alaska Railroad who resides in a municipality on the line of the railroad in respect to political activities involving that municipality.

(b) The Civil Service Commission may prescribe regulations permitting employees and individuals to whom section 7324 of this title applies to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside,

to the extent the Commission considers it to be in their domestic interest, when—

(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and

(2) the Commission determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation.

to the extent the Commission considers it to be in their domestic interest, when—

(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and

(2) the Commission determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation.



TAB
C

Title 5

ADMINISTRATIVE PERSONNEL

PART 733-POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

Subpart A - The Competitive Service

GENERAL PROVISIONS

§ 733.101 Definitions.

In this subpart:

- (a) "Employee" means an individual who occupies a position in the competitive service;
- (b) "Agency" means an executive agency and the government of the District of Columbia;
- (c) "Political party" means a National political party, a State political party, and an affiliated organization;
- (d) "Election" includes a primary, special, and general election;
- (e) "Nonpartisan election" means—
 - (1) An election at which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; and
 - (2) An election involving a question or issue which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any question or issue of a similar character; and
- (f) "Partisan" when used as an adjective refers to a political party.

PERMISSIBLE ACTIVITIES

§ 733.111 Permissible activities.

- (a) All employees are free to engage in political activity to the widest extent consistent with the restrictions imposed by law and this subpart. Each employee retains the right to—
 - (1) Register and vote in any election;
 - (2) Express his opinion as an individual privately and publicly on political subjects and candidates;
 - (3) Display a political picture, sticker, badge, or button;
 - (4) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;
 - (5) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;

(6) Attend a political convention, rally, fund-raising function; or other political gathering;

(7) Sign a political petition as an individual;

(8) Make a financial contribution to a political party or organization;

(9) Take an active part, as an independent candidate, or in support of an independent candidate, in a partisan election covered by § 733.124;

(10) Take an active part, as a candidate or in support of a candidate, in a nonpartisan election;

(11) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character;

(12) Serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by State or local law; and

(13) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise his efficiency or integrity as an employee or the neutrality, efficiency, or integrity of his agency.

(b) Paragraph (a) of this section does not authorize an employee to engage in political activity in violation of law, while on duty, or while in a uniform that identifies him as an employee. The head of an agency may prohibit or limit the participation of an employee or class of employees of his agency in an activity permitted by paragraph (a) of this section, if participation in the activity would interfere with the efficient performance of official duties, or create a conflict or apparent conflict of interests.

PROHIBITED ACTIVITIES

§ 733.121 Use of official authority; prohibition.

An employee may not use his official authority or influence for the purpose of interfering with or affecting the result of an election.

§ 733.122 Political management and political campaigning; prohibitions.

(a) An employee may not take an active part in political management or in a political campaign, except as permitted by this subpart.

(b) Activities prohibited by paragraph (a) of this section include but are not limited to—

(1) Serving as an officer of a political party, a member of a National, State, or local committee of a political party, an officer or member of a committee of a partisan political club, or being a candidate for any of these positions;

(2) Organizing or reorganizing a political party organization or political club;

(3) Directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions, or other funds for a partisan political purpose;

(4) Organizing, selling tickets to, promoting, or actively participating in a fundraising activity of a partisan candidate, political party, or political club;

(5) Taking an active part in managing the political campaign of a partisan candidate for public office or political party office;

(6) Becoming a partisan candidate for, or campaigning for, an elective public office;

(7) Soliciting votes in support of or in opposition to a partisan candidate for public office or political party office;

(8) Acting as recorder, watcher, challenger, or similar officer at the polls on behalf of a political party or partisan candidate;

(9) Driving voters to the polls on behalf of a political party or partisan candidate;

(10) Endorsing or opposing a partisan candidate for public office or political party office in a political advertisement, a broadcast, campaign literature, or similar material;

(11) Serving as a delegate, alternate, or proxy to a political party convention;

(12) Addressing a convention, caucus, rally or similar gathering of a political party in support of or in opposition to a partisan candidate for public office or political party office; and

(13) Initiating or circulating a partisan nominating petition.

§ 733.123 Prohibited activity; exception of certain employees.

(a) Sections 733.121 and 733.122 do not apply to an employee of an educational or research institution, establishment, agency, or system which is supported in whole or in part by the District of Columbia or by a recognized religious, philanthropic, or cultural organization.

(b) Section 733.122 does not apply to —

(1) An individual exempted under section 7324(d) of title 5, United States Code;

(2) An employee of The Alaska Railroad who resides in a municipality on the line of the

railroad in respect to political activities involving that municipality;

(3) Subject to the conditions of section 733.124, an employee who resides in a municipality or other political subdivision designated by the commission under that section; or

(4) An employee who works on an irregular or occasional basis, on the days that he performs no services.

§ 733.124 Political management and political campaigning; exception of certain elections.

(a) Section 733.122 does not prohibit activity in political management or in a political campaign by an employee in connection with —

(1) A nonpartisan election, or

(2) Subject to the conditions and limitations established by the Commission, an election held in a municipality or political subdivision designated by the Commission under paragraph (b) of this section.

(b) For the purpose of subparagraph (2) of paragraph (a) of this section, the Commission may designate a municipality or political subdivision in Maryland or Virginia in the immediate vicinity of the District of Columbia or a municipality in which the majority of voters are employed by the Government of the United States, when the Commission determines that, because of special or unusual circumstances, it is in the domestic interest of employees to participate in local elections. Information as to the documentation required to support a request for designation is furnished by the Commission on request. The Commission has designated the following municipalities and political subdivisions, effective on the date specified:

IN MARYLAND

Annapolis (May 16, 1941).

Berwyn Heights (June 15, 1944).

Bethesda (Feb. 17, 1943).

Bladensburg (Apr. 20, 1942).

Bowie (Apr. 11, 1952).

Brentwood (Sept. 26, 1940).

Capitol Heights (Nov. 12, 1940).

Cheverly (Dec. 18, 1940).

Chevy Chase, sections 1 and 2 (Mar. 4, 1941).

Chevy Chase, section 3 (Oct. 8, 1940).

Chevy Chase, section 4 (Oct. 2, 1940).

Martin's Additions 1, 2, 3, and 4 to Chevy Chase (Feb. 13, 1941).

Chevy Chase View (Feb. 26, 1941).

College Park (June 13, 1945).

Cottage City (Jan. 15, 1941).

District Heights (Nov. 2, 1940).

Edmonston (Oct. 24, 1940).

Fairmont Heights (Oct. 24, 1940).
Forest Heights (April 22, 1949).
Garrett Park (Oct. 2, 1940).
Glenarden (May 21, 1941).
Glen Echo (Oct. 22, 1940).
Greenbelt (Oct. 4, 1940).
Hyattsville (Sept. 20, 1940).
Kensington (Nov. 8, 1940).
Landover Hills (May 5, 1945).
Montgomery County (April 30, 1964).
Morningside (May 19, 1949).
Mount Rainier (Nov. 22, 1940).
North Beach (Sept. 20, 1940).
North Brentwood (May 6, 1941).
North Chevy Chase (July 22, 1942).
Northwest Park (Feb. 17, 1943).
Prince Georges County (June 19, 1962).
Riverdale (Sept. 26, 1940).
Rockville (April 15, 1948).
Seat Pleasant (Aug. 31, 1942).
Somerset (Nov. 22, 1940).
Takoma Park (Oct. 22, 1940).
University Park (Jan. 18, 1941).
Washington Grove (April 5, 1941).

IN VIRGINIA

Alexandria (April 15, 1941).
Arlington County (Sept. 9, 1940).
Clifton (July 14, 1941).
Fairfax County (Nov. 10, 1949).
Town of Fairfax (Feb. 9, 1954).
Falls Church (June 6, 1941).
Herndon (April 7, 1945).
Loudoun County (Oct. 1, 1971).
Portsmouth (Feb. 27, 1958).
Prince William County (Feb. 14, 1967).
Vienna (March 18, 1946).

OTHER MUNICIPALITIES

Anchorage, Alaska (Dec. 29, 1947).
Benicia, Calif. (Feb. 20, 1948).
Bremerton, Wash. (Feb. 27, 1946).
Centerville, Ga. (Sept. 16, 1971).
Crane, Indiana (Aug. 3, 1967).
Elmer City, Wash. (Oct. 28, 1947).
Huachuca City, Ariz. (April 9, 1959).
New Johnsonville, Tenn. (April 26, 1956).
Norris, Tenn. (May 6, 1959).

Port Orchard, Wash. (Feb. 27, 1946).
Shrewsbury Township, N. J. (July 2, 1968).
Sierra Vista, Ariz. (Oct. 5, 1955).
Warner Robins, Ga. (Mar. 19, 1948).

(c) An employee who resides in a municipality or political subdivision listed in paragraph (b) of this section may take an active part in political management and political campaigns in connection with partisan elections for local offices of the municipality or political subdivision, subject to the following limitations:

(1) Participation in politics shall be as an independent candidate or on behalf of, or in opposition to, an independent candidate.

(2) Candidacy for, and service in, an elective office shall not result in neglect of or interference with the performance of the duties of the employee or create a conflict, or apparent conflict, of interests.

Subpart B—The Excepted Service

§ 733.201 Jurisdiction.

Sections 733.111–733.124 apply to an employee in the excepted service. It is the responsibility of the employing agency to investigate and decide allegations of prohibited political activity on the part of such an employee.

Subpart C—The Job Corps

§ 733.301 Coverage

This subpart applies to each officer, employee, and enrollee of the Job Corps established by the Economic Opportunity Act of 1964, as amended, who is alleged to have engaged in political activity in violation of that act.

Subpart D—The U. S. Postal Service

§ 733.401 Jurisdiction.

Sections 733.111–733.124 apply to an employee of the U. S. Postal Service. By agreement with this agency, the Civil Service Commission investigates and adjudicates an allegation of political activity in violation of these sections by a covered agency employee.

Incomin
Corres.

Keep
separate

THE WHITE HOUSE
WASHINGTON

May 7, 1975

MEMORANDUM FOR: DUDLEY CHAPMAN

FROM: PHILIP BUCHEN *P.W.B.*

SUBJECT: Participation by Presidential
Appointees in Political
Activities

Frank Zarb, Administrator, FEA, has suggested that our office prepare a memo covering the above subject so that persons concerned may know what restrictions, if any, they should abide by in undertaking political activities.

Attached are pages from the Republican National Committee's recent publication of the Federal Election Law Manual but I think we have to go beyond identifying the employees who are not subject to the restrictions against taking part in political campaigns. We should also go into the question of whether such activities may be conducted through use of Federal facilities or in connection with an employee's official duty or on time when he might ordinarily be expected to perform official duties. Another possible issue is whether certain appointees should avoid political activities because of the nature of their positions such as the Secretary of State and the Secretary of Defense.

After you have some ideas of how to prepare a memo on the subject, please discuss them with me.

Attached also is a copy of a memo dated March 11 prepared by Ken Lazarus for Jim Cannon.

Attachments

THE WHITE HOUSE
WASHINGTON

3/11

EVA:

The attachments were two U. S.
Civil Service pamphlets --

"Federal Employees -- Political
Participation" (GC-46)

"Code of Federal Regulations"
(GC-41)

I only had one copy each.

Dawn

*Hatch
Act*

THE WHITE HOUSE

WASHINGTON

March 11, 1975

MEMORANDUM FOR: JIM CANNON

FROM: KEN LAZARUS *KL*

SUBJECT: Hatch Act

a
You are correct in your understanding that you are personally exempt from the provisions of the Hatch Act (5 U.S.C. 7321, et seq.) insofar as it relates to active participation in political management and political campaigns. The Act specifically exempts from its ban on partisan political activity by Executive Branch personnel any "employee paid from the appropriation for the office of the President." Thus, the sole test in determining the applicability of the Act is which appropriation is used to pay the employee's salary. While the Civil Service Commission has interpreted this provision to exempt persons paid from appropriations to the White House Office and Special Assistance to the President (Office of the Vice President), it has determined that employees paid from other appropriations for the Executive Office of the President, including those of the Domestic Council, OTP, OMB and NSC, are subject to the Act. Likewise, all detailed employees are fully subject to the Act.

a
While you are paid from funds appropriated to the White House Office, I understand that the remainder of the Domestic Council staff is paid from its own appropriation and is, therefore, subject to the Act. In addition, all Executive Branch employees, regardless of how they are paid, are expressly prohibited from using their "official authority or influence for the purpose of interfering with or affecting the result of an election"

b
The attached materials from the Commission should be of some assistance in determining what conduct is permissible by employees subject to the Act.

Attachment

bcc: Phil Buchen ✓



March 6, 1975

TO: Phil Buchen

FROM: Jim Cannon

SUBJECT: Hatch Act

I understand that all members of the Domestic Council staff, with the exception of myself, come under the Hatch Act.

Can you give me your opinion of this? If the staff members do come under the Hatch Act, could you have someone on your staff give me a memorandum telling what they can and cannot do in a political way.

Many thanks.

[IV.H: Use of certain funds for election activities]

employee of the Office of Economic Opportunity who, in his official capacity as such an officer or employee, engages in any such activity.

I. Extension of credit by regulated industries
(2 U.S.C. §451)

The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission have each promulgated regulations with respect to the extension of credit, without security, by any person regulated by these agencies to any candidate for Federal office or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office. These regulations may be found in 14 CFR (Code of Federal Regulations) Part 374a (Civil Aeronautics Board), 47 CFR Part 64, Subpart H (Federal Communications Commission) and 49 CFR Part 1325 (Interstate Commerce Commission).

J. Political activity of Federal employees (5 U.S.C. §§7321-7327)

1. Coercion of political contribution or participation

The President has the power to prescribe rules which shall provide that an employee in an Executive agency or in the competitive civil service

- a. is not obliged, by reason of that employment, to contribute to a political fund or to render political service, and that he may not be removed or otherwise prejudiced for refusal to do so; and
- b. may not use his official authority or influence to coerce the political action of a person or body.

[IV.J.2: Political activity of Federal employees (gift for political purpose)]

2. Gift for political purpose

a. Restriction

An employee in an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate) may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a thing of value for political purposes.

b. Penalty

An employee who violates this restriction shall be removed from the civil service.

3. Influencing elections; participation in political management or campaigns

a. Restrictions

An employee in an Executive agency or an individual employed by the government of the District of Columbia (other than an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by the District of Columbia or by a recognized religious, philanthropic, or cultural organization and other than an employee whom the Civil Service Commission has by regulation permitted to take an active part in political management and political campaigns involving the locality in which he lives) may not

- (1) use his official authority or influence for the purpose of interfering with or affecting the result of an election; or

Chapter IV: Miscellaneous Provisions

[IV.J.3.a: Political activity of Federal employees (participation in political management or campaigns)]

- (2) take an active part in political management or in political campaigns.

(a) EXCEPTION:

The following individuals may take an active part in political management or in political campaigns:

an employee paid from the appropriation for the office of President;

the head or the assistant head of an Executive department or military department;

an employee appointed by the President, by and with the advice and consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws;

the Commissioner of the District of Columbia;

the Recorder of Deeds of the District of Columbia; and

an employee of The Alaska Railroad who resides in a municipality on the line of the railroad with respect to political activities involving that municipality.

(b) EXCEPTION (non-partisan activity):

Section IV.J.3.a.(2) does not prohibit political activity in connection with

an election and the preceding campaign if none of the candidates is to be nominated

[IV.J.3.a: Political activity of Federal employees (restriction on participation in political management or campaigns--exceptio

or elected at that election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected; or

a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States (including questions relating to constitutional amendments, referendums, approval of municipal ordinances and other questions of a similar character).

b. Right to vote

Nothing in this section IV.J.3 restricts the right of an individual to vote as he chooses and to express his opinion on political subjects and candidates.

c. Penalty

An employee or individual who violates this section IV.J.3 may be removed from his position.

4. Regulations

Regulations relating to restrictions on political activity by Federal employees may be found in 5 CFR (Code of Federal Regulations) Part 733.

K. Political activity of certain State and local officers and employees (5 U.S.C. §§1501-1503)

The 1974 Amendments eliminate the Federal prohibition barring a State or local officer or

July 22, 1975

MEMORANDUM FOR:

PAT BUTLER

FROM:

BARRY ROTH

SUBJECT:

Political Activity by Detailed Employees

As we discussed, Federal law (the so-called Hatch Act) limits the political activity of Federal employees and certain employees of state and local governments. Generally, the Hatch Act, 5 U.S.C. 7321, et seq., and implementing regulations of the Civil Service Commission, 5 CFR Part 733, apply not only to employees of Federal agencies within the Executive Branch, but also to employees of executive agencies of a state or political subdivision of a state, territory or possession, if the individual's professional employment is in connection with a federally-financed activity. It appears that the Appalachian Regional Commission does fall under the restrictions of the Hatch Act.

The Hatch Act prohibits covered employees from taking "an active part in political management or political campaigns" or from using their official authority or influence "for the purpose of interfering with or affecting the result of an election." It applies to full-time and part-time employees in both the competitive and excepted service. Those who are employed on an intermittent or occasional basis, such as experts or consultants, are covered by the restriction only for the entire 24 hours of any day of actual employment.

Employees paid from the appropriation for the Office of the President are excepted from the prohibition against taking an active part in political management or in political campaigns. The test is not whether an employee is working at the White House, but from which appropriation he is being paid. For example, it has been determined that employees of OMB and the Domestic Council are subject to these restrictions, while employees of the White House and the Office of the Vice President are not. The Civil Service Commission has informally advised that employees on temporary detail to the White House, whether on a reimbursable or non-reimbursable basis, are not exempted from the Hatch Act.



Therefore, any speechwriter encharged with the preparation of political speeches for the President should be paid from appropriations from the Office of the President rather than from an Executive agency, in order to insure that his activity is not in violation of the Hatch Act.

If you have any questions in this regard, please don't hesitate to contact me.

TAB
D

CRAMER, HABER & BECKER

WILLIAM C. CRAMER
RICHARD M. HABER
BENTON L. BECKER
EDMUND PENDLETON
ANTHONY J. McMAHON
ARTHUR R. AMDUR
MICHAEL A. MILLWEE

ATTORNEYS AT LAW
475 L'ENFANT PLAZA, S. W.
SUITE 4100
WASHINGTON, D. C. 20024
(202) 554-1100
TELEX ITT 440048

CRAMER & MATTHEWS
ONE BISCAYNE TOWER, SUITE 2028
TWO BISCAYNE BOULEVARD, SOUTH
MIAMI, FLORIDA 33131
(305) 358-0980
BRADHAM, LYLE, SKIPPER & CRAMER
699 FIRST AVENUE NORTH
ST. PETERSBURG, FLORIDA 33701
(813) 895-1991

OF COUNSEL

CHARLES W. SANDMAN, JR.
F. LAWRENCE MATTHEWS
KENNETH MICHAEL ROBINSON

MEMORANDUM

TO: Philip W. Buchen
Counsel to the President

FROM: Benton L. Becker *3/3*

DATE: January 13, 1976

RE: Republican National Finance Committee
Presentation of Personalized Presidential Picture
to RNC Contributors

By letter of January 5, 1976, Rodney A. Smith, Executive Director, Republican National Finance Committee (RNFC), informed your office that the finance chairman of the RNC proposed offering a personalized presidential photograph to individuals either locating new sustaining members to the RNC, or to the present RNC sustaining members that contribute a sum to RNC in excess of their membership dues. Mr. Smith proposed that the photograph carry the following inscription:

"With appreciation for your support to the
Republican Party. . .Gerald R. Ford".

I have considered this request in light of the New Federal Election Law, Advisory Opinions and Regulations issued to date by the Federal Election Commission (FEC). I have concluded that, while the RNFC request may be technically allowable under existing laws and FEC regulations, prudence requires your office to deny the request.

FEC Advisory Opinion 1975-72 (Federal Register, Vol. 40, Pg. 233, Dec. 3, 1975), relating to contribution and spending limits of 18 U.S.C. 608 to presidential candidates' travel for party purposes, concludes that all post-January 1, 1976 travel by President Ford will be presumed to be candidate-related and, as such, will be governed by the

MEMORANDUM

Page 2

January 13, 1976

relevant positions of the Federal Election Law. The thrust of that opinion is to impose upon presidential candidate Ford, after January 1, 1976, the application of the Federal Election Law for all acts done, on the candidate's behalf, for the purpose of influencing his nomination and/or election to federal office (2 U.S.C. 431(c) and (f)).

Although the contemplated act of the RNFC is not on behalf of the candidacy of President Ford, nor does it directly or indirectly attempt to influence third parties with respect to his candidacy, it is my opinion that it should not be undertaken.

Before undertaking this memorandum, I posed the question presented herein to Mr. John Murphy, General Counsel, FEC. On January 9, 12 and 13, 1976, I had further conversation with Mr. Murphy and Mr. David Speigel, Assistant General Counsel, FEC, regarding this matter. They advised that a "split" of opinion was prevalent within the Counsel's office of the FEC. Those opposed to the presentation of a presidential photograph maintained that, in the event of a Reagan complaint to the FEC, a persuasive argument could be maintained that this contemplated action by the RNC could be construed to be an in-kind RNC contribution to PFC, and possibly in an amount in excess of RNC's five thousand dollar limitation to primary, presidential candidates. Counsel's office foresaw no possible implication of Democratic complaints but, rather, viewed the matter as one involving "intra-party impact". Should such a complaint be lodged and should a holding be forthcoming from FEC adverse to RNC, then Counsel advises that, "at the very least, the RNC costs and expenditures incurred on the promotion would be allocated against PFC's ten million dollar limitation".

On January 12, 1976, I telephonically conversed with Rodney A. Smith regarding this matter. I inquired of Mr. Smith his and Mr. Milbank's best judgment as to the amounts contemplated to be received by RNC which were the direct result of this promotion. Mr. Smith minimized the amount, suggesting that twenty thousand dollars would be high. Mr. Smith further suggested that a business reply envelope submitted along with the sustaining membership dues bill soliciting a gratuitous contribution in excess of the dues would accomplish much the same purpose.

For the reasons stated herein, it is my opinion that the project should be abandoned by RNFC.

Barry Rath

MEMORANDUM

January 12, 1976

TO: Stu Spencer
FROM: Bob Visser *RBV*
RE: Lincoln Day Dinners

You have asked me to advise you as to whether or not there will be any impact upon the PFC under the Federal election campaign laws by the participation of members of the Cabinet in Lincoln Day Dinners throughout the country. Cabinet members are invited as members of the Administration to discuss Administration policies and the like. It is my understanding that attendance by the Cabinet members at these functions serves a political purpose but that such purpose is solely for the benefit of the State and national committees. Moreover, invitations to such functions are instituted by the state and local parties and The President Ford Committee neither initiates nor participates in any other way to coordinate such activities. Further, all expenses are paid for by the State and local committees.

Sections 431(e) and (f), Title 2, United States Code and Sections 591(e) and (f), Title 18, United States Code, generally describe both the term "contribution" and "expenditure" as a gift or anything of value 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 for the expression of a preference for the nomination of persons for election to the office of President of the United States. Participation in Lincoln Day Dinners by Cabinet members, which are neither requested nor authorized by The President Ford Committee and are solely for the benefit of the State, local and National Republican Committees, would not be for the purpose of influencing a Federal election. Accordingly, such expenditures are not chargeable or allocable to PFC's spending and contribution limitations.

page 2

In addition, Cabinet members, being appointed by the President and confirmed by the Senate, are exempt from Hatch Act restrictions on political activities by Federal employees. Guidelines for Cabinet members participation in the 1976 election campaign are attached for your information.

THE WHITE HOUSE

WASHINGTON

October 15, 1975

MEMORANDUM TO: BARRY ROTH

FROM: JACK CALKINS 

Per your request, Gwen Anderson and I have listed every activity which has come to mind in which the President has engaged over the past several months as titular head of the Party. No doubt, some of these will be discarded by you as not suitable for your purposes, but we have tried to include everything possible without making our own judgments as to their useability by you.

1. Signed follow-up letter to invitees to the April 15th fund raising dinner in Washington to benefit the Republican National Committee, the Republican Congressional Committee, and the Republican Senatorial Committee.
2. Signed fund raising letter to be mailed in November by the RCC.
3. Signed letter to GOP County Chairmen urging their efforts in registering new Republicans this fall.
4. Has appeared at 18 fund raising events for state and national Republican committees, raising approximately \$2.4 million net (as of October 15th).
5. Addressed the national meeting of the National Federation of Republican Women in Dallas in September.
6. Spoke to Republican Leadership Conference in Washington in April.
7. Has sent hundreds of telegrams and messages of greeting to Republican dinners and meetings throughout the nation.

October 15, 1975

8. Meets with various individual Republican voter groups connected with RNC (Heritage, etc.).
9. Has met with cross-section of political leaders in small groups in approximately 20 states.
10. Assists in the election of Republicans to public office via endorsements, photo opportunities, video taped messages.
11. Video tapes provided for states for fund raisers he cannot attend.
12. Personal phone calls through loudspeaker hookups to rallies, fund raisers, he cannot attend.
13. Signs prepared messages to be printed in programs and brochures for wide distribution in connection with fund raisers, candidates, etc.
14. Sends out hundreds of signed pictures to Republicans who request them.
15. Autographs books, programs, etc. while out on the road for people otherwise unable to see him in the White House.
16. Provides auction items for Republican fund raisers and rallies.

JTC:rg

cc: RTH



TAB
E



PART 107 - ALLOCATION OF CANDIDATE AND COMMITTEE
ACTIVITIES

- §107.1 Allocation of expenditures between primary and general elections for candidates and their authorized committees.
- §107.2 Allocations of contributions between primary and general elections for candidates and their authorized committees.
- §107.3 Allocation of expenditures among (or between) candidates and activities.
- §107.4 Allocation of expenditures among States by candidates for Presidential nomination.
- §107.5 Allocation of expenses between campaign and non-campaign related travel by a candidate.

AUTHORITY: Section 308, 86 Stat. 17, as amended (2 U.S.C. §438).
Interpret or apply sections 301-308, 86 Stat. 18, (2 U.S.C. §§431-437).

§107.1 Allocation of expenditures between primary and general elections for candidates and their authorized committees

(a) General Rule - Expenditures made prior to the primary election shall be reported as primary election expenditures, and expenditures made after the primary shall be reported as general election expenditures. These expenditures shall be accounted for pursuant to §101.2(b).

(b) Exceptions:

(1) In the event expenditures are made after the primary election but are clearly identified as being for the primary, these expenditures shall be reported as primary election expenditures and shall be accounted for pursuant

to §101.2(b).

(2) If expenditures are incurred before the primary election, which are clearly identified as being for the general election, these expenditures shall be reported as general election expenditures and shall be accounted for pursuant to §101.2(b).

(3) In the event goods and/or services purchased prior to the primary election, and having a value exceeding \$1,000 are used or distributed after the primary election, expenditures for the goods and/or services are:

(i) attributable to the general election; and

(ii) if previously reported as a primary expenditure(s), shall be reported

(A) as a transfer in kind from the primary election campaign to the general election campaign,

(B) as a reduction of expenditures for the primary election, and

(C) as an expenditure for the general election.

§107.2 Allocations of contributions between primary and general elections for candidates and their authorized committees

(a) General Rule - Contributions received before the primary election shall be reported as contributions made with respect to the primary election and shall be accounted for pursuant to §101.2(b). Contributions received after the primary election shall be reported as contributions made with respect to the general election and shall be accounted for pursuant to §101.2(b).

(b) Exceptions:

(1) Contributions received before the primary election, but clearly designated as contributions with respect to the general election, shall be general election contributions and shall be accounted for pursuant to §101.2(b).

(2) Contributions received after the primary election but clearly designated as contributions with respect to the primary election, if, at the time the contribution is received the outstanding debts from the primary election exceeds cash on hand for the primary election. The contributions shall be accounted for pursuant to §101.2(b).

§107.3 Allocation of Expenditures among (or between) candidates and activities.

(a) 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 derive. The amount attributed shall be reported by each candidate or his or her authorized committee(s) in proportion to the benefit reasonably expected to be derived or if the expenditure is unauthorized, it shall be reported as an independent expenditure by the person making it.

(b) An authorized expenditure made by a candidate or political committee on behalf of another candidate shall be reported as a contribution in-kind (transfer) to the candidate on whose behalf the expenditure was made, except that expenditures made by party committees pursuant to 18 U.S.C. 608(f) need not be so reported.

(c) Exceptions

(1) Expenditures for rent, overhead, general administrative and other day-to-day costs of multi-candidate committees need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate or candidates.

(2) Expenditures for educational campaign seminars, for training of campaign workers and for registration or get-out-the-vote drives of multicandidate committees need not be attributed to candidates unless these expenditures are made on behalf of a clearly identified candidate or candidates.

(d) For purposes of this section "clearly identified" means--

(1) the candidate's name appears;

(2) a photograph or drawing of the candidate appears; or

(3) the identity of the candidate is apparent by unambiguous reference.

(e) Party committees and other multicandidate committees which have established Federal campaign committees pursuant to

§102.6 shall allocate administrative expenses on a reasonable basis between Federal and non-Federal activities in proportion to the amount of funds expended on Federal and non-Federal elections or on another reasonable basis.

§107.4 Allocation of expenditures among States by candidates for Presidential nomination

(a) Expenditures made by a candidate or his or her authorized committee(s) which seek to influence the nomination of a candidate for the Office of the President in a particular state shall be attributed to that state. This allocation of expenditures shall be reported on FEC Form 3C.

(b) Expenditures for administrative, staff and overhead costs directly relating to the national campaign headquarters shall be reported but need not be attributed to individual states. Expenditures for staff, media, printing and other goods and services used in a campaign in a specific state shall be attributed to that state.

(c) An expenditure by a presidential candidate for use in two or more states, which cannot be attributed in specific amounts to each state, shall be attributed to each state based on the voting age population in each state which can reasonably be expected to be influenced by such expenditure.

(1) Expenditures for publication and distribution of newspaper, magazine, radio, television and other types of advertisements distributed in more than one state shall be attributed to each state in proportion to the estimated viewing audience or readership of voting age which will reasonably be expected to be influenced by these advertisements.

(2) Expenditures for travel within a state shall be attributed to that state. Expenditures for travel between states need not be attributed to any individual state.

§107.5 Allocation of expenses between campaign and non-campaign related travel

(a) All expenditures for campaign related travel paid for by a candidate from a campaign account or by his or her authorized committees or by any other political committee shall be reported.

(b) (1) Travel expenditures paid for by a candidate from personal funds, or from a source other than a political committee, shall constitute reportable expenditures if the travel is campaign-related.

(2) Where a candidate's trip involves both campaign-related and non-campaign related stops, the expenditures allocable for campaign purposes are reportable, and are calculated on the actual cost-per-mile of the means of

transportation actually used, starting at the point of origin of the trip, via every campaign-related stop and ending at the point of origin.

(3) Where a candidate conducts any campaign-related activity in a stop, the stop is a campaign-related stop and travel expenditures made are reportable. Campaign-related activity shall not include incidental contacts.

(c) (1) Where an individual, other than a candidate, conducts campaign-related activities on a trip, that portion of the trip attributed to each candidate shall be allocated on a reasonable basis.

(2) Travel expenses of a candidate's spouse and family are reportable as expenditures only if the spouse or family members conduct campaign-related activities.

(d) Expenses incurred by a candidate for the United States Senate or House of Representatives for travel between Washington, D. C., and the state or district in which he or she is a candidate need not be reported as expenditures, unless the expenses are paid by a candidate from a campaign account, by a candidate's authorized committee(s), by any

other political committee(s), or from another account, see Part 113.

(e) Notwithstanding (c) above, the reportable expenditure for a candidate who uses government conveyance or accommodations for travel which is campaign-related is the rate for comparable commercial conveyance or accommodation. In the case of a candidate authorized by law or required by national security to be accompanied by staff and equipment, the allocable expenditures are the costs of facilities sufficient to accommodate the party, less authorized or required personnel and equipment. If such a trip includes both campaign and non-campaign stops, equivalent costs are calculated in accordance with paragraphs (b) and (c) above.

Rich

President Ford Committee

1828 L STREET, N.W., SUITE 250, WASHINGTON, D.C. 20036 (202) 457-6400

November 26, 1975

The Honorable Thomas B. Curtis
Chairman
The Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20463

Re: Advisory Opinion Request

Dear Chairman Curtis:

The purpose of this letter is to set forth certain procedures which have been instituted by The President Ford Committee ("PFC") to assure that all personal services provided the PFC by (a) individuals, generally, and (b) by corporate, national bank, or labor organization employees, officials, or officers, specifically, are furnished in such a manner as to conform with the Federal election campaign laws.

Section 591(e), Title 18, United States Code, defines contribution as ". . . a gift, subscription, loan, advance . . . of money or anything of value . . . made for the purpose of influencing the . . . election of any person . . ." (emphasis added). However, specifically excluded from this definition is:

"[T]he 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;" 18 U.S.C. §591(e)(5)(A).

In addition, §610 provides an expanded definition of "contributions" and criminal sanctions for contributions by corporations, national banks or labor organizations:

"It is unlawful for any national bank or corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any

The Honorable Thomas B. Curtis
November 26, 1975
Page 2



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 . . . 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.

* * *

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" Id. (emphasis added).

Thus, payment of a salary by a corporation, bank or labor organization to one of its officers or employees for the time he spends as a political campaign chairman would normally be an attributable "in-kind" contribution by the bank and, therefore, illegal under 18 U.S.C. §610.

However, interpreting these provisions, the General Counsel of the Federal Election Commission decided in Opinion of Counsel 1975-57 that the election laws would not preclude a bank official from providing personal services as a campaign chairman for a candidate, so long as such services were provided in his individual capacity and without compensation from the bank. The Opinion emphasized that such personal services must be provided without direct compensation from the bank in order to be excluded from the law's definition of contribution.

The Honorable Thomas B. Curtis

November 26, 1975

Page 3

In addition, the Commission has issued proposed regulations which encourage an individual, whether or not a corporate, national bank or labor organization employee, official or officer, to volunteer his time and services to campaign activities. In general, the proposed regulations provide that an individual may undertake volunteer campaign activity if it is performed on his or her own time and not while on someone else's payroll. Thus, such an individual may certainly engage in such activity (a) before or after normal working hours; (b) on vacation time; (c) during luncheon hour; and (d) while on a leave of absence without pay or the like. In particular, the proposed regulations, as currently revised, state specifically that such a person may engage in campaign activity but that no compensation is paid:

"(i) to an employee who:

(A) is paid on an hourly or salaried basis;

(B) is expected to perform duties for an employer for a particular number of hours per period; and

(C) engages in political activity during what would otherwise be a regular work period;

if the taken or released time is made up or completed by that employee within a reasonable period.

"(ii) to an employee who is paid on a commission or piecework basis, or is paid only for work actually performed, whose time is considered the employee's own to use as he or she sees fit and who engages in political activity during what would otherwise be normal working hours.

"(iii) where the time used by the employee to engage in political activity is bona fide, although compensable, vacation time or other earned leave time."

The Honorable Thomas B. Curtis
November 26, 1975
Page 4

In other words, the Commission has made an initial determination that, under certain circumstances, an individual may engage in voluntary campaign activity during working hours on a compensatory time arrangement or basis without such personal services being considered an "in-kind" contribution. Absent a showing that such personal services were provided during the individual's personal time or that the organization will be reimbursed on a compensatory time basis, it would appear that the personal services would constitute an "in-kind" contribution to the political committee.

In view of these restrictions, the PFC has taken certain steps to insure that all personal services provided it are done so within the relevant Federal election campaign laws. Moreover, special attention and emphasis has been placed on personal services provided by a corporate, bank or labor organization employee, officer or official.

Before an individual is permitted to perform any personal services for the PFC, we will conduct review of the individual's employment status and, in particular, the nature and method of the individual's form of compensation. We intend to exclude from such compensation any indirect and normal fringe benefits paid by the individual's employer (e.g. medical, dental, disability, life and other forms of insurance, pension and stock option or savings plans), since such benefits are difficult to compute and any requirement that would mandate the exclusion of these benefits would unduly and unfairly penalize the individual for participating in the political arena. The wage or salary data will then be analyzed to determine the dollar value which may reasonably be considered an "in-kind" contribution and if that time spent on PFC business would not be made up within a reasonable period, a periodic reimbursement program will be established. In other words, if the individual is not volunteering on his own time or he does not plan to make up this time within a reasonable period, the PFC will reimburse the individual's employer for any salary or other direct compensation paid by that corporation, bank or labor organization. In effect, the individual will become an "independent contractor" for such purposes during the time the PFC reimburses his or her employer.

In order to illustrate the procedures which have

The Honorable Thomas B. Curtis
November 26, 1975
Page 5

been instituted, the following examples are hereby submitted.

First, Dean Burch, Esquire, a member of the Washington, D. C. law firm of Pierson, Ball and Dowd, provides personal services to the PFC on a volunteer basis. Mr. Burch, in his capacity as the Chairman of the PFC Advisory Board, spends approximately ten hours per week on PFC related matters. A portion of the services are provided during his normal work day. Therefore, pursuant to the proposed Title 2 regulations, Mr. Burch has agreed to make up such firm time within a reasonable period in order that it not be considered an "in-kind" contribution by Messrs. Pierson, Ball and Dowd. To actuate this program, Mr. Burch plans to supplement his normal working hours with extra, firm-related, work accomplished during his normal lunch hours, before and after normal working hours or weekends. Any identifiable administrative support provided (e.g. photocopying and telephone tolls), other than incidental support of a de minimus nature, will be reimbursed to his law firm by the PFC.

Second, the PFC has recently retained Mr. David Owen of Overland Park, Kansas, as its Great Plains Regional Coordinator. Mr. Owen, in addition to being a partner in a number of limited partnerships and an officer in a corporation, is the President and Chairman of the Board of the First National Bank of Shawnee Mission in Kansas. In return for his personal services, the bank compensates Mr. Owen with a yearly salary, insurance commissions, a car allowance and normal medical/health fringe benefits.

Following the aforementioned reimbursement program, the PFC will reimburse the Shawnee Mission Bank an appropriate pro rata share of Mr. Owen's salary for the time he spends as our field coordinator. In addition to his salary, Mr. Owen receives a car allowance and a medical benefits program from the Shawnee Mission bank. However, as stated above, it is our position that this car allowance and the other fringe benefits should not be deemed an "in-kind" contribution and, therefore, need not be reimbursed by the PFC.

The Honorable Thomas B. Curtis
November 26, 1975
Page 6

As previously noted, Mr. Owen has other business interests, specifically in the areas of real estate and cattle raising. He has informed us that he presently spends only 10 hours per week in connection with such other interests and that he plans to continue spending 10 hours per week of his spare time on these interests. Thus, no "in-kind" contribution will be deemed to have been made to the PFC by Mr. Owen's other businesses.

In conclusion, based on the aforementioned facts, the proposed Title 2 regulations and the reimbursement program, it is the position of the PFC that no "in-kind" contribution will be rendered by either the Shawnee Mission bank or Messrs. Pierson, Ball and Dowd, or any other individual, corporation, national bank or labor organization which compensates an employee such as Mr. Owen or Mr. Burch while such an individual provides personal services to the PFC.

In accordance with the provisions of §537(f), Title 2, United States Code, the PFC hereby requests the Commission to render an Advisory Opinion with respect to whether the aforementioned specific transactions and activities, including the proposed PFC procedures and reimbursement program, are in accordance with the Federal election campaign laws.

If you have any questions with regard to the above, please do not hesitate to contact us.

Sincerely,

Robert P. Visser

Robert P. Visser
General Counsel

T. Timothy Ryan

T. Timothy Ryan
Assistant General Counsel

THE WHITE HOUSE
WASHINGTON

October 8, 1975

EYES ONLY



MEMORANDUM FOR: MARY LOUISE SMITH
EDDIE MAHE
DICK THAXTON

FROM: JERRY JONES *JJ*

SUBJECT: USE OF THE PRESIDENTIAL SEAL

Throughout the course of Presidential travels, we have found occasional unauthorized and illegal use of the Presidential Seal. The Seal can be used only when the President actually hosts an event and issues invitations under his name. It is embarrassing to note this misuse of the Seal for official business events, but even more so for political events. (Recently, unauthorized use of the Seal for the Los Angeles and San Francisco GOP events was brought to my attention).

I would like to institute a policy, as I have with my own staff, that during all preliminary discussions, without exception, guidance be given to the event sponsors individually indicating they may not use the Presidential Seal.

Thanks for your cooperation.

cc: Bill Nicholson
~~Barry~~ Roth

bcc: Don Rumsfeld
Dick Cheney

RESTRICTED USAGE

Re: Response to contribution.

THE WHITE HOUSE

WASHINGTON

December 1, 1975

GENERAL
PL/FORD

Dear /s/

President Ford has asked me to thank you for your kind message. He very much appreciates your desire to contribute to his campaign.

The acceptance of a political contribution in a Government building is, however, a violation of the Federal election laws (18 U.S.C. 603). Because of this, the President has directed that all contributions in support of his election be handled by the President Ford Finance Committee, Suite 250, 1828 L Street, NW., Washington, D.C. 20036.

Accordingly, I must return your contribution with the hope that you will understand the reason and necessity for doing so.

The President wants you to know that he welcomes your support, and he is encouraged by your willingness to assist in his campaign.

Sincerely,

2

2

Roland L. Elliott
Director of Correspondence

Revised 12/3/75 - ckb

///s///
////////
////////

Enclosure

(Rec. 12/3/75)

RLE:Broth:BN:RLE:/s/
RLE-102