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THE WHITE HOUSE

WASHINGTON

April 24, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: PHILIP W. BUCHEN *P.*

SUBJECT: Conference Bill to amend the Federal Campaign Laws

I. INTRODUCTION

This memorandum supplements the one to you of April 22, 1976, on the same subject. In that memorandum were analyzed in detail the only two groups of troublesome provisions in the bill, namely those which bear on the rule-making independence of the Commission and those which affect the campaign efforts involving corporations, unions and their respective Political Action Committees (PAC's).

This memorandum is designed to bring together all the principal advantages and disadvantages of your signing the bill when it comes to you, probably during the week of April 26, 1976, and to provide draft alternative statements for your issuance at the time (Tab A for vetoing and Tab B for signing). Which of the two types of statements are applicable depends on your decision of whether you will sign or will return the bill.

At this time it is not possible to know whether or not certain of the troublesome provisions where the exact meaning is unclear could be beneficially clarified by language changes in the present draft conference report or by floor debate at the time the conference bill is taken up for vote.

II. ADVANTAGES AND DISADVANTAGES OF SIGNING BILL

1. Advantages of signing bill

- a) Finally permits reconstitution of Commission as soon as you nominate and Senate confirms six members, and as a result:
 - (i) Permits civil enforcement of the campaign laws under expanded enforcement provisions (For example, PFC complaints against Reagan's alleged violations will be entertained, whereas they are now in abeyance)
 - (ii) Issuance of Advisory Opinions and regulations can proceed for the guidance of candidates (Extensive regulations can be expected to be ready for submission to Congress by June 4, if the Bill is signed)
 - (iii) Certification for payment of Federal matching funds to Presidential candidates can be renewed (No payments have been certified after March 22, and PFC has an accumulated claim of close to one million dollars)
 - (iv) Significant new provisions of bill and clarifications can become operative, such as those requiring for the first time Union disclosure of costs for communications to support or oppose candidates
- b) Immediately upon signing will permit borrowing by Presidential candidates on security of anticipated Federal matching funds even before Commission members are nominated and confirmed
- c) The Bill as proposed by the Conference Committee offers some advantages which would not otherwise be obtained under your proposed bill for simply reconstituting the Commission, such advantages being principally:
 - (i) A much more comprehensive and flexible civil enforcement mechanism is provided to the Commission, the effect of which is to facilitate voluntary compliance through conciliation agreements and the authority to levy fines, particularly in instances of violations not serious enough to warrant criminal prosecution through the Justice Department.
 - (ii) For the first time, each Union will be required to report costs of communications used to support or oppose clearly identified candidates which are in excess of \$2,000 (Although the provision applies to Corporations as well, the latter do not ordinarily or extensively engage in such communications.)

- (iii) Although multiple PAC's of a single corporation related to its respective divisions or subsidiaries will be limited in their aggregate contributions per candidate as if these PAC's were a single giver (limited to \$5,000 per candidate in each election) this so-called non-proliferation provision applies as well to the PAC's of a single international union and all of its locals or to a national COPE and all of its state affiliates; and this aggregation principle would have an immediately greater impact on Union PAC's which at present probably outnumber active and sizeable PAC's of businesses.
- (iv) Contributions to the Republican National Committee building fund would no longer be restricted, so that by raising enough money from large contributors to purchase or construct an office building, the Committee will save rental costs and will free the money saved to use for campaign activities (Although this applies as well to the DNC, it is likely to be of greater advantage to the RNC).
- (v) The Senatorial Campaign Committee and the National Committee of either party could together give a maximum of \$17,500 to each of its Senatorial candidates for each election, rather than the present \$10,000 combined limit.
- d) Most of the public, the media, and other candidates will probably regard the signing as a positive step in support of election reform and as a readiness on your part to refrain from increasing the financial squeeze on your Republican opponent's campaign and on the Democratic candidates' campaigns when the latter are fearful of the advantage this present plight gives to Humphrey. (Already, White House silence on whether you would sign the bill has been challenged as being self-serving.)
- e) In terms of your own campaign, with crucial primary contests coming up in Texas, Alabama, Georgia, and California where Reagan has innate strength that can probably only be equalized or overcome by full campaign efforts on your behalf, the need of the PFC for matching funds to meet its budgets for these states can best be satisfied in time by your signing the bill.
- f) Will avoid the uncertainty and delays which will be created pending a veto-override or, if that does not occur, before enactment of a new bill that you do sign; and avoids the risks of a veto override with the political disadvantages to you which could result from an override or, if that does not happen, the submission of a new bill to you that poses other disadvantages.

2. Disadvantages of signing bill

- a) Because the bill continues and adds to the Congressional one-house veto provisions over Commission rules and regulations, you will be perceived as accepting the action of the Congress in further weakening the independence of the Commission. (However, because you have already stated that you believe such provisions are unconstitutional, you can mitigate this consequence in a signing statement that proposes quick challenge in the Courts of these provisions. Also, because such provisions in a law that is meant to govern elections to Congress present the most favorable case for declaring them unconstitutional, you may get a decision that will be precedent for regarding as invalid similar veto provisions in the many other statutes which allow Congressional and even Committee vetoes of Executive regulations.)
- b) Because other new provisions of the bill may be unconstitutional, such as restrictions on communications and solicitations by corporations, unions and their PAC's, signing may imply your acceptance of these restrictions, although again language in your signing statement can mitigate this implication.
- c) Acceptance of the bill will mean that the new provisions therein, some of which are difficult to interpret, will add to uncertainty and the potential for litigation.
- d) Because on February 27, 1976, a statement by you on amendments to the Campaign laws contained the words "...I will veto any bill that will create confusion and will invite further delay and litigation," you may be perceived as going back on this commitment if you sign the bill.
- e) You will incur dissatisfaction on the part of business interests for the reasons set forth at length in part III of my memorandum to you of April 22, 1976; and to the extent that the business concerns may prove warranted and will cut down the ability or willingness of business interests to support the campaigns of Republicans, our party would be adversely affected.
- f) Adoption of this bill may discourage any further and more comprehensive legislation to deal with critical problems in the electoral process, such as for delegate selection and for difficulties experienced during the 1976 election under the present law as amended by this bill.

III. RECOMMENDATIONS

On the assumption that the Conference Bill is passed by Congress in its present form and floor debates do not give rise to interpretations which change the fair meaning of the present language, signing is recommended by Rogers Morton, Philip Buchen, Max Friedersdorf,

Return of the bill without your signature is recommended by

Your tentative views may be indicated below, although with the understanding that your choice of options will be kept in confidence until you receive the bill and make your final decision.

_____ Tentatively prefer signing

_____ Tentatively prefer return of bill without my signature

_____ Other:

DRAFT VETO

Statement By the President

*
Almost three months ago, the United States Supreme Court ruled that certain provisions of the Federal Election Campaign Laws were unconstitutional, and, in particular, declared that the FEC could not constitutionally exercise enforcement and other executive powers unless the manner of appointing the Members of the Commission were changed. At the same time, the Court made it clear that the Congress could remedy this problem by simply reconstituting the Commission and providing for Presidential appointment of the Members of the Federal Election Commission.

Although I fully recognized that other aspects of the Court's decision, as well as the original election law itself, mandate a critical and comprehensive review of the campaign laws, I realized that there would not be sufficient time for such a review to be completed during the time allotted by the Court which would result in any meaningful reform. Moreover, I recognized the obvious danger that various opponents of campaign reform and other interests -- both political and otherwise -- would exploit the pressures of an election year to seek a number of piecemeal, ad hoc

and hastily considered changes in the election laws. In accordance with the Court's decision, I submitted remedial legislation to Congress for immediate action which would simply and immediately have reconstituted the Commission for this election, while at the same time, ensuring full scale review and reform of the election law next year with the added benefit of the experience to be gained by this election. The actions of the Congress in ignoring my repeated requests for immediate action and instead enacting a bill which would fundamentally destroy the independence of the Commission, have confirmed my worst fears.

The most important aspect of any revision of the election laws is to insure the independence of the Federal Election Commission. This bill provides for a one-house, section-by-section veto of Commission regulations -- a requirement that is unconstitutional as applied to regulations to be proposed and enforced by an independent regulatory agency. Such a permanent restriction would have a crippling influence on the freedom of action of the Commission and would only invite further litigation.

Moreover, the bill would also introduce certain new provisions into the election law which may be of doubtful constitutional validity, would inadvertently affect other federal legislation, and would at the same time change many of the rules applicable to the current election campaigns of all federal candidates. In the meantime, campaigns which were started in reliance on the funding and regulatory provisions of the existing law all are suffering from lack of funds and lack of certainty over the rules to be followed this year. The complex and extensive changes of this bill will only create additional confusion and litigation and inhibit further meaningful reform. Even those changes which I would consider desirable and an improvement over existing law would be best considered from the perspective of a non-election year with full and adequate hearings on the merits and impact of these revisions.

Accordingly, I am returning Senate bill 3065 to the Congress without my approval and again ask the Congress to pass the simple extension of the life of the Commission. The American people want an

independent and effective Commission. All candidates must have certainty in the election law and all Presidential candidates need the federal matching funds which have been unduly held up by those who would exploit the Court's decision for their own self-interest. At this late stage in the 1976 elections, it is critical that the candidates be allowed to campaign under the current law with the supervision of the Commission in a fair and equitable manner absent the disruptive influence of hastily enacted changes.

TAB B

DRAFT SIGNING STATEMENT

On October 15, 1974, I signed into law the Federal Election Campaign Act Amendments of 1974 which made far-reaching changes in the laws affecting federal elections and election campaign practices. This law created a Federal Election Commission to administer and enforce a comprehensive regulatory scheme for federal campaigns.

On January 30, 1976, the United States Supreme Court ruled that certain features of the new law were unconstitutional and, in particular, declared that the FEC could not constitutionally exercise enforcement and other executive powers unless the manner of appointing the Members of the Commission was changed.

The Court originally deferred the effective date of its ruling for 30 days to "afford Congress an opportunity to ~~reconstitute the Commission by law or to adopt other valid enforcement mechanisms.~~" When it appeared that Congress would fail to act within the 30-day period, the Court extended the stay of its ruling until March 22. Again, the Congress failed to act on the simple measure required by the Court to reconstitute the Commission. Through the neglect of Congress, the Commission has been without its enforcement and executive powers for over one month at a critical stage of the election process for Congressional as well as Presidential candidates.

Instead of acting on the simple corrective legislation required by the Supreme Court, the Congress has proceeded to amend the existing campaign

laws in a great number of ways. The laws as amended have the effect of seriously limiting the independence of the Federal Election Commission from Congressional influence and control of the Federal Election Commission, and they change many of the rules governing the conduct of the current election campaigns after they have been under way for some months.

Over two months ago I stated that I could not approve any bill that would create confusion and would invite further delay and litigation in the present campaign. Without question, the legislation passed by the Congress does have these defects. Further confusion and delay in providing guidance for candidates and their supporters or contributors will ensue while the Commission considers the effect of the bill on its previously issued opinions and regulations. Provisions of the bill which lack clarity may lead to further litigation, and those provisions which purport to restrict communications and solicitations by corporations, unions, trade associations and their respective Political Action Committees will surely give rise to litigation over their doubtful constitutionality.

The failure of the Congress to reconstitute the Commission earlier and the resulting deprivation of essential Federal matching fund monies has so substantially impacted on seven of the candidates seeking nomination for the Presidency by their respective parties that they felt impelled to seek relief from the Supreme Court. The Court determined that it was not in a position to provide that relief.

Further delay in reconstituting the Commission would have an even more egregious and unconscionable impact on these candidates and on the conduct of their campaigns. As President, I cannot allow the outcome of

the primary elections to be influenced by the failure of candidates to have the benefits and protections of laws enacted before the campaigns on which they have relied in standing for nomination.

Accordingly, I am today approving this legislation and submitting to the Senate for its advice and consent, the nominations of the six current members of the Commission as members of the new Commission. I trust that the Senate will act with dispatch to confirm these appointees, all of whom were previously approved by the Senate, as well as the House, under the law as it previously existed.

On numerous occasions, my predecessors and I have stated that provisions such as those contained in this legislation that allow one house of Congress to veto the regulations of an Executive agency are an unconstitutional violation of the doctrine of separation of powers. In the present legislation, it is absurd for the Congress to take credit for the establishment of an independent regulatory agency to administer, enforce and regulate the Federal election campaign laws, when candidates who serve in the Congress reserve to themselves the right to reverse the decisions of the Commission in this fashion.

Accordingly, I have directed the Attorney General to take such steps at the appropriate time as may resolve the Constitutional issues which will arise if either House of Congress chooses to interfere with the independence of the Commission by exercise of the Congressional one-house veto over Commission rules or regulations.

In the just over six months remaining until the general elections, the Commission will have the difficult, but critical, task of administering

this new legislation in a manner that minimizes the confusion which is caused by its complexity. In this regard, the Commission will be aided by a newly provided comprehensive and flexible civil enforcement mechanism designed to facilitate voluntary compliance through conciliation agreements and the authority to levy civil fines.

In addition, the legislation charts new ground in further limiting the influence of big money in our electoral process, by avoiding proliferation of Political Action Committees under common control, and disclosure of previously unreported costs of partisan communications intended to affect the outcome of Federal elections.

I would have much preferred postponing consideration of needed improvements to the Federal Election Campaign laws until after the experience of the 1976 elections could be studied. Yet I do welcome certain of the changes made by the present bill which appear to go part way in making improvements. Also, I still plan to recommend to the Congress in 1977 passage of legislation that will correct problems created by the present laws and will make additional needed reforms in the election process.

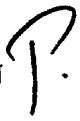
THE WHITE HOUSE

WASHINGTON

April 28, 1976

MEMORANDUM FOR THE PRESIDENT

FROM:

PHILIP W. BUCHEN 

SUBJECT:

Conference Bill to Amend the Federal
Campaign Laws

The Conferees met this afternoon and agreed to the Conference Report on the bill to amend the Federal Election Campaign Act. Wayne Hays indicated that the bill will not go to the House Floor until Monday, May 3, in order to allow the Conferees an opportunity to read the final version of the Report.

The most significant change appears to be clarifying language in the Report to indicate that corporations are not required to provide lists of non-union employees and shareholders, directly to the unions, but that they would have to provide them to independent mailers who would mail the solicitations for both the corporation and the union. We will receive the final version of the Report tomorrow and I will provide you with a more detailed analysis of any other significant changes in the Bill.

Senator Cannon told reporters present at the Conference that the Senate would now probably vote on the bill on Tuesday. However, Senator Weicker has indicated that he will seek to block consideration of the Report until the Leadership agrees to vote before July 4 on the intelligence oversight, Watergate Reform and Tax Privacy bills pending in the Senate.

cc: Jack Marsh ✓
Max Friedersdorf
Mike DuVal

THE WHITE HOUSE

WASHINGTON

April 29, 1976

gm

MEMORANDUM FOR:

DICK CHENEY

FROM:

JACK MARSH

SUBJECT:

FEC Bill

Jack

Attached are summaries from Leppert and Kendall on House and Senate Republican leaders attitudes on the FEC bill.

April 30

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<i>Senate</i>		



THE WHITE HOUSE

WASHINGTON

April 29, 1976

MEMORANDUM FOR: MAX FRIEDERSDORF

FROM: CHARLES LEPPERT, JR. *CLJ.*

SUBJECT: S. 3065 - Federal Election Campaign Act Amendments of 1976

I have the following recommendations to the President on the Federal Election Campaign Act Amendments conference report:

Representative John Rhodes

There are good reasons for the President to veto the conference report, such as the violence it does to an independent agency, the review of regulations, and actions of the Commission requiring a two-thirds vote, for which he does not believe there is precedent. On the other hand, there are reasons for the President to sign the conference report, principally the Sun-Pac provisions were handled as well as they possibly could be at this time and if you went back to the old law there would be the review of the decisions of the FEC which, in his judgment, is questionable.

Rhodes cannot make a hard recommendation because he does not know the violence the provisions of the conference report do to the prerogatives of the Executive. Also, the President has to consider what this conference report does to him personally and what effect a veto would have vis-a-vis denying money to the opposition.

Rhodes feels he will probably vote for the conference report, but cannot recommend that the President sign the bill because there are too many variables that the President must weigh for himself. Rhodes feels that the Pac provisions, even though there has been improvement in the provisions, are unconstitutional.

If the President should decide to veto the conference report, Rhodes feels that the possibilities of sustaining a veto in the House are very good. If the President does veto, Rhodes will vote to sustain the veto and work to sustain the veto. Rhodes says that it is his judgment that many Members do not like the whole concept of a Federal Election Commission and therefore would vote to sustain the veto. If the President does decide to veto the conference report, it is essential that his decision be communicated to the Hill and the Members prior to the vote on the conference report, as the President's decision and his reasons will impact upon how some Members will vote.

Rhodes says "O! buddy, you better call this one and I'll help you."

Representative Bob Michel

Michel says he really doesn't know, that he and Senator Griffin seem to be two of the strongest against the conference report. Michel will vote against the conference report. He is not satisfied with the provisions on the mailings and does not feel that this is spelled out clearly enough and does not trust the interpretation of that language to be beneficial to anybody except the unions. Michel feels that the Pac provisions are not worth "two hoots" because most of the Pacs, if they do have any money, support incumbents and the business community has not learned how to support their friends and build a Republican Party. The business community does not act like the unions, who go all out to support their friends and "screw their enemies". Michel says that the President may be better served by listening to the more academic arguments on this conference report because his are strictly political.

Michel says if the President decides to veto the conference report, he understands that Senator Scott has said that there is a possibility of sustaining a veto in the Senate. Michel does not think a veto can be sustained in the House, as the Members do not have the guts to vote no on this conference report now.

Michel will still vote against the conference report and label it "the incumbents' protection act", but does not have faith that the members would stand up and vote against the conference report.

If the President vetos the conference report, the President should get the word out and to the Members as it will bear heavily on how some Members vote.

Michel will not be on the floor of the House Monday, May 3, if the conference report is considered that day as he must be in his district for a speaking engagement.

Representative Chuck Wiggins

Wiggins states that the President should sign the conference report, it's not even a close call. The consequences of a veto are uncertain and if it is vetoed and the veto were sustained, you are back to the present law which, in his judgment, is unconstitutional in some aspects and the present law is not as good as the bill embodied in the conference report.

The Democrats will not send a bill to the President that does not deal with the Sun-Pac decision.

Wiggins states that Reagan is both ill-advised and ill-informed on the provisions of the bill and that the union advantages were put into the law back in 1971 and that the conference report is the first time that there is any chipping away at the union advantages. If the President vetos the conference report, the override or sustaining of that veto will be impacted by the President's decision and reasoning. If the President says nothing and lets the chips fall where they may, Wiggins predicts that there will be only 75 votes against the conference report. If the President is to veto and signals a veto to the Members, there will be, in Wiggins' judgment, only 130 votes to sustain.

Wiggins states that his information is that a veto cannot be sustained in the Senate.

Representative Bill Dickinson

Dickinson will oppose the conference report for several reasons, but feels the bill is better than it was before. Recommends that the President veto the bill, as he would like to see the whole thing (FEC) killed. Dickinson has trouble with the people appointed to the Commission, considers them activists, and feels that they did not do or act

as they were supposed to under the law. Dickinson understands that the President will renew the present appointments to the Commission and he opposes that. Dickinson feels that the biggest objection to the bill on the lists has been cured by the conference report.

If the President vetos the conference report, Dickinson says the possibilities of sustaining a veto in the House are zilch. Dickinson says that the Chowder and Marching Society talked about it yesterday, that Senator Brock said it was too close to call in the Senate, Bob Michel said there's not a prayer to sustain it in the House, and Dickinson feels that sustaining of a veto ultimately depends on the vote on the conference report. Dickinson feels the conference report will pass the House like a greased pig and that most Members recognize that the bill is much better than what they voted on previously.

Representative John Anderson

Anderson is not happy with some of the provisions of the conference report. Anderson says on balance he thinks the President should sign the conference report. He feels the public will not understand the objections to the bill and there are many political risks, and if vetoed the President would be considered as playing dog in the manger because his campaign has financing whereas the other candidates do not. Anderson feels that the unions will not rest if the bill is vetoed and will not deal with the Sun-Pack provisions as lightly as they have on this occasion. Anderson feels that to veto the bill would run the risk and possibility of getting into a deadlock and the potential loss of the FEC, and therefore hopes the President will, even if reluctantly, sign the conference report.

If the President vetos the conference report, Anderson says the chances are not too good on sustaining the veto. Anderson said that in discussing it with Representative Lagomarsino, that Lagomarsino said that it would be hard to vote against the conference report and then have to go home and face the charge that you are against clean elections. If the bill is vetoed, the President should send his decision to the Members before the vote on the conference report.

Representative Bill Frenzel

Frenzel says that the President doesn't have much choice. The bill is not a good bill and not a bad bill. He says that we have come out better with regard to the Sun-Pac provisions than he believed we could, feels that the fears of the business community are not well-founded; on the other hand, there are good reasons to veto the bill, such as the impact on the independence of the Commission. At the same time, there are many more reasons for the President to sign the bill, the foremost of which is the disclosure of union spending.

On balance, Frenzel supports the bill and hopes the President will sign it. Frenzel says that the conference report should pass the House by more than a two-thirds vote.

If the bill was vetoed, Frenzel feels the President will take a lot of crap from the press. If he vetoes the bill, Frenzel feels that the President needs some awfully good reasons to do so and doesn't think the President has those awfully good reasons. However, whatever the President's decision, it should be done promptly, within a day or so after he receives the bill. While Frenzel feels the President has been in a perfect position on this bill by requesting a simple extension of the Commission and his reasons therefor, he feels that a veto of the conference report will be overridden by the House. If the President signs the bill, he continues in a posture of having considered it objectively and exercising leadership and being a good guy.

Representative Joe Waggoner

Waggoner has trouble thinking that the President will get by with vetoing the conference report. He knows the problem with Reagan, feels it's a political problem with Reagan and the other candidates. Waggoner does not know what is best for the President to do politically and says that he would do it solely on that basis.

Waggoner says a veto would be overridden, that there would be trouble sustaining a veto on the conference report because of the pressure building on the other candidates for money.

If the President vetoes the conference report, it would be best to get the word to the Members before the vote on the conference report.

Waggoner says he would need more time to evaluate this, but feels the President should do what's best for him politically because that is what others are doing. "It's all politics and that's all it is."

When the Federal Election Campaign Act Amendments bill, H.R. 12406, was considered in the House, the vote on the motion to recommit was 153 ayes to 246 nays and the vote on final passage of the bill in the House was 241 ayes to 155 nays.

GRIFFIN

He again stated he thought if a veto is forthcoming that Congress should have early notice. Congress, after all, will not get conference report until next week and either body could reject the report and send it back to conference. He feels that it will be tougher now to veto because of time lapse and fact that President has not come out against conference bill previously. He is not at all sure that veto can be sustained. Incidentally he said Baker talked about bill at Policy Lunch and said he is opposed to bill because it institutionalizes the labor vs. business fight.

SCOTT

He thinks President should sign the bill. There is more good than bad in it. Our fund raisers say they can live with it. If President vetoes bill it will unite Democrats for first time and they will use it politically against the President. Scott would have difficulty reversing himself since he has signed report. Thinks that a veto, whether sustained or overridden, is a no win situation. Thinks veto would be overridden.

HATFIELD

Recommends signing since it is best bill possible at this time. If it were vetoed there would be greater political repercussions than necessary. He believes the votes are there to override and that Dems would be in position to exploit a veto politically.

PACKWOOD

Advises that President should sign the FEC bill. He will vote to override if bill is vetoed. He believes veto will be overridden in the Senate for these reasons: (1) Honorarium provision which increases honorarium from 1 to 2 thousand with a 25,000 top. (2) The PAC are now acceptable with the corporate list problem resolved. (3) Any subsequent bill would be worse, not better than the present bill.

PRIORITY
PRECEDENCE

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FROM: JACK MARSH
TO: DICK CHENEY
(DALLAS)

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THE WHITE HOUSE
WASHINGTON

April 29, 1976



MEMORANDUM FOR:

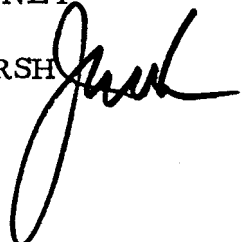
DICK CHENEY

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Michel will not be on the floor of the House Monday, May 3, if the conference report is considered that day as he must be in his district for a speaking engagement.

Representative Chuck Wiggins

Wiggins states that the President should sign the conference report, it's not even a close call. The consequences of a veto are uncertain and if it is vetoed and the veto were sustained, you are back to the present law which, in his judgment, is unconstitutional in some aspects and the present law is not as good as the bill embodied in the conference report.

The Democrats will not send a bill to the President that does not deal with the Sun-Pac decision.

Wiggins states that Reagan is both ill-advised and ill-informed on the provisions of the bill and that the union advantages were put into the law back in 1971 and that the conference report is the first time that there is any chipping away at the union advantages. If the President vetos the conference report, the override or sustaining of that veto will be impacted by the President's decision and reasoning. If the President says nothing and lets the chips fall where they may, Wiggins predicts that there will be only 75 votes against the conference report. If the President is to veto and signals a veto to the Members, there will be, in Wiggins' judgment, only 130 votes to sustain.

Wiggins states that his information is that a veto cannot be sustained in the Senate.

Representative Bill Dickinson

Dickinson will oppose the conference report for several reasons, but feels the bill is better than it was before. Recommends that the President veto the bill, as he would like to see the whole thing (FEC) killed. Dickinson has trouble with the people appointed to the Commission, considers them activists, and feels that they did not do or act

as they were supposed to under the law. Dickinson understands that the President will renew the present appointments to the Commission and he opposes that. Dickinson feels that the biggest objection to the bill on the lists has been cured by the conference report.

If the President vetos the conference report, Dickinson says the possibilities of sustaining a veto in the House are zilch. Dickinson says that the Chowder and Marching Society talked about it yesterday, that Senator Brock said it was too close to call in the Senate, Bob Michel said there's not a prayer to sustain it in the House, and Dickinson feels that sustaining of a veto ultimately depends on the vote on the conference report. Dickinson feels the conference report will pass the House like a greased pig and that most Members recognize that the bill is much better than what they voted on previously.

Representative John Anderson

Anderson is not happy with some of the provisions of the conference report. Anderson says on balance he thinks the President should sign the conference report. He feels the public will not understand the objections to the bill and there are many political risks, and if vetoed the President would be considered as playing dog in the manger because his campaign has financing whereas the other candidates do not. Anderson feels that the unions will not rest if the bill is vetoed and will not deal with the Sun-Pack provisions as lightly as they have on this occasion. Anderson feels that to veto the bill would run the risk and possibility of getting into a deadlock and the potential loss of the FEC, and therefore hopes the President will, even if reluctantly, sign the conference report.

If the President vetos the conference report, Anderson says the chances are not too good on sustaining the veto. Anderson said that in discussing it with Representative Lagomarsino, that Lagomarsino said that it would be hard to vote against the conference report and then have to go home and face the charge that you are against clean elections. If the bill is vetoed, the President should send his decision to the Members before the vote on the conference report.

Representative Bill Frenzel

Frenzel says that the President doesn't have much choice. The bill is not a good bill and not a bad bill. He says that we have come out better with regard to the Sun-Pac provisions than he believed we could, feels that the fears of the business community are not well-founded; on the other hand, there are good reasons to veto the bill, such as the impact on the independence of the Commission. At the same time, there are many more reasons for the President to sign the bill, the foremost of which is the disclosure of union spending.

On balance, Frenzel supports the bill and hopes the President will sign it. Frenzel says that the conference report should pass the House by more than a two-thirds vote.

If the bill was vetoed, Frenzel feels the President will take a lot of crap from the press. If he vetoes the bill, Frenzel feels that the President needs some awfully good reasons to do so and doesn't think the President has those awfully good reasons. However, whatever the President's decision, it should be done promptly, within a day or so after he receives the bill. While Frenzel feels the President has been in a perfect position on this bill by requesting a simple extension of the Commission and his reasons therefor, he feels that a veto of the conference report will be overridden by the House. If the President signs the bill, he continues in a posture of having considered it objectively and exercising leadership and being a good guy.

Representative Joe Waggoner

Waggoner has trouble thinking that the President will get by with vetoing the conference report. He knows the problem with Reagan, feels it's a political problem with Reagan and the other candidates. Waggoner does not know what is best for the President to do politically and says that he would do it solely on that basis.

Waggoner says a veto would be overridden, that there would be trouble sustaining a veto on the conference report because of the pressure building on the other candidates for money.

If the President vetos the conference report, it would be best to get the word to the Members before the vote on the conference report.

Waggoner says he would need more time to evaluate this, but feels the President should do what's best for him politically because that is what others are doing. "It's all politics and that's all it is."

When the Federal Election Campaign Act Amendments bill, H. R. 12406, was considered in the House, the vote on the motion to recommit was 153 ayes to 246 nays and the vote on final passage of the bill in the House was 241 ayes to 155 nays.

GRIFFIN

He again stated he thought if a veto is forthcoming that Congress should have early notice. Congress, after all, will not get conference report until next week and either body could reject the report and send it back to conference. He feels that it will be tougher now to veto because of time lapse and fact that President has not come out against conference bill previously. He is not at all sure that veto can be sustained. Incidentally he said Baker talked about bill at Policy Lunch and said he is opposed to bill because it institutionalizes the labor vs. business fight.

SCOTT

He thinks President should sign the bill. There is more good than bad in it. Our fund raisers say they can live with it. If President vetoes bill it will unite Democrats for first time and they will use it politically against the President. Scott would have difficulty reversing himself since he has signed report. Thinks that a veto, whether sustained or overridden, is a no win situation. Thinks veto would be overridden.

HATFIELD

Recommends signing since it is best bill possible at this time. If it were vetoed there would be greater political repercussions than necessary. He believes the votes are there to override and that Dems would be in position to exploit a veto politically.

PACKWOOD

Advises that President should sign the FEC bill. He will vote to override if bill is vetoed. He believes veto will be overridden in the Senate for these reasons: (1) Honorarium provision which increases honorarium from 1 to 2 thousand with a 25,000 top. (2) The PAC are now acceptable with the corporate list problem resolved. (3) Any subsequent bill would be worse, not better than the present bill.

Priority
PRECEDENCE

WNC/AS
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FROM: JACK MARSH
TO: DICK CHENEY
INFO: — DALLAS —

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THE WHITE HOUSE
WASHINGTON

April 29, 1976

Mr. Marsh --

Pat Rowland called from the Hill re the
FEC bill.

Cong. Mendel Davis, one of two Southern
Democratic conferees, strongly suggests the
President sign the FEC bill.

He feels should the bill go back to Committee,
chances are he (Davis) and Dawson Mathias,
another southern Democratic conferee, would
not be appointed to the Committee. They
are the primary reason Chuch Wiggins was
able to be so successful. He does not feel
two Democrats would be appointed, especially
not two Southern Democrats.

Donna

THE WHITE HOUSE
WASHINGTON

April 29, 1976

MEMORANDUM TO: THE PRESIDENT
THROUGH: RICHARD B. CHENEY
FROM: JOHN O. MARSH, JR. 

Senate Republican Whip check on FEC show if there is a veto:

24 Sustain
1 Leaning to Sustain (Brock)
3 Question
10 Override

Question Taft, Percy, Stafford

<u>Override</u> (10)	Beall	Packwood
	Brooke	Pearson
	Case	Sweicker
	Hatfield	H. Scott
	Mathias	Javits

We do not have a good estimate on the Democratic side; however, Griffin believes the vote would be close with the override probably carrying.

We should have a House Republican Whip check by midafternoon tomorrow.

THE WHITE HOUSE

WASHINGTON

April 29, 1976

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two Democrats would be appointed, especially
not two Southern Democrats.

Donna

FEC
/

APR 30 1976

THE WHITE HOUSE

WASHINGTON

April 30, 1976

MEMORANDUM FOR: JACK MARSH

FROM: BOB WOLTHUIS *RKW*

SUBJECT: Possible Phone Call from Chuck Wiggins
to the President on Saturday

I realize you are working on a meeting between the President and John Rhodes for tomorrow but Charlie has picked up from Wiggins' staff that Congressman Wiggins may call the President tomorrow to discuss the FEC bill. Charlie and I recommend that, if possible, the President talk to Wiggins when and if the phone call comes.

IMM
PRECEDENCE

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FROM:

Jack Marsh

TO:

Dick Cheney

Abilene
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THE WHITE HOUSE

WASHINGTON

April 30, 1976

MEMORANDUM FOR: JACK MARSH

FROM: CHARLES LEPPERT, JR. *CLJ.*

SUBJECT: Republican Whip Check, S. 3065
"The Federal Election Campaign
Act Amendments of 1976"
Conference Report

The Whip check of Republican Members on "The Federal Election Campaign Act Amendments of 1976" Conference Report was taken -- two questions with the following results:

1. Q. Will you vote for or against the Federal Elections Campaign Act Conference Report?

<u>For</u>	<u>Against</u>	<u>Undecided</u>	<u>No response</u>
31	46	32	35

2. Q. Will you vote to sustain a Presidential veto of the Federal Election Campaign Act Conference Report?

<u>Yea</u>	<u>Nay</u>	<u>Undecided</u>	<u>No response</u>
55	14	46	29

On both of the above questions the Members repeatedly asked the regional whips if they had a signal on whether the President would sign or veto the Conference report as it would effect the Members response to the Whip check.

cc: Max Friedersdorf

President Ford Committee

1628 L STREET, N.W., SUITE 250, WASHINGTON, D.C. 20035 (202) 457-6400

April 30, 1976

MEMORANDUM

TO: Richard B. Cheney
Assistant to the President

FROM: Robert P. Visser
Timothy Ryan

RE: Amendments to Federal Election Campaign Act

The amendments to the Federal Election Campaign Act have now been voted out of the Conference Committee and will most likely go to the House on May 3 and to the Senate on May 4, 1976. The following are the only substantive changes in the Conference Report:

1. The advisory opinion section now provides that while the advisory opinion rules govern all opinions of an advisory nature, the provisions do not preclude the distribution by the Commission of other information consistent with the Act. According to the Congressional Campaign staff attorneys, the colloquy regarding this provision establishes that the Commission will be permitted to issue opinions relating to the Act, similar to opinions of counsel which were previously issued by the General Counsel's office. This is an important change since this apparently provides the FEC some mechanism for giving informational opinions to candidates and their campaign committees, as well as others who do not have standing to request advisory opinions, and, therefore, increases its independence from Congress.

2. Three revisions in the administration of Political Action Committees (PAC's):

a. clearly sets forth the "executive or administrative personnel" who may be solicited at any time by the political action committee. The Conference substitute now defines executive or administrative personnel as employees who are paid on a salary,

rather than an hourly basis, and who have policy-making, managerial, professional or supervisory responsibilities. The Report goes on to state that this term is intended to include individuals who run the corporation's businesses, such as officers, other executives, and plant, division, and section managers, as well as individuals following the recognized professionals, such as lawyers and engineers, who have not chosen to separate themselves from management by choosing a bargaining representative. However, the Report then, for the first time, states that it is not intended to include the professionals who are members of a labor organization, or foremen who have direct supervision over hourly employees, or other lower level supervisors, such as straw bosses. In other words, first-line supervisors have been eliminated from the definition of executive or administrative personnel, although the Act specifically includes individuals who have supervisory functions;

b. provides that if a corporation does not desire to relinquish or disclose to a labor organization the names and addresses of individuals to be solicited, an independent mailing service shall be retained to make the mailing for both the corporation and the labor organization. This provision substantially eliminates the problems which the industry people have raised regarding the use of names and addresses of employees or shareholders for other than political solicitation reasons--organizing non-union employees; and

c. provides that corporations may take part in non-partisan registration and get-out-the-vote activities that are not restricted to stockholders and executive or administrative personnel, if such activities are jointly sponsored by the corporation and an organization that does not endorse candidates. In other words, the specific objection of the Sears "good government" program is now eliminated so that it may take part in non-partisan registration and get-out-the-vote activities with its employees.

In closing, it must be emphasized that the changes made in the Conference Report, which appear to eliminate some of our problems with the PAC provisions, are changes in the legislative history (i.e., the Conference Report). Additional modifications to this history could be made by Congressmen or Senators during the floor discussions next week. For this reason, it is important that any decision in this matter be held in abeyance until the Bill is voted on in the House and Senate.

APR 30 1976

THE WHITE HOUSE


WASHINGTON

April 30, 1976

MEMORANDUM FOR:

JACK MARSH

FROM:

JOE JENCKES 

SUBJECT:

Senator Stevens -- Federal Election
Campaign Act

Federal Election Campaign Act telephone conversation with Senator Stevens -- The Senator wants the President to sign the bill as soon as possible. Four reasons:

1. The bill is not as bad as it looks regarding corporation and union activities.
2. The P.A.C.'s will not greatly affect this election in that they have to be in existence 6 months to give \$5,000.00 and they are not organized as yet. (Prior to that 6-month period, they can only give \$1,000.00.)
3. Bill provides for the National Campaign Committees to spend \$17,500 for Senate campaigns. Stevens wants to spend the money.
4. Congress will have to re-examine the law after this election anyway.