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Date: May 10, 1976

Time:

FOR ACTION:

Jim Cannon
Max Friedersdorf
Jim Lynn
Jack Marsh
FROM THE STAFF SECRETARY

cc (for information):

Tim Austin
Mike duVal
Dave Gergen
Jerry Jones
Bob Härtmann

DUE: Date:

Monday, May 10, 1976

Time:

COB

SUBJECT:

Philip W. Buchen memo 5/10/76 re
Public and Congressional Reaction
to the Federal Election Campaign Act
Amendments of 1976

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

File F.E.C.

REMARKS:

Your comments are needed by close of business today
as this package will be sent into the President
tomorrow morning. Thank you



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate
delay in submitting the required material, please
telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE

WASHINGTON

May 10, 1976

MEMORANDUM FOR: THE PRESIDENT
FROM: PHILIP W. BUCHEN *P.*
SUBJECT: Public and Congressional Reaction
to the Federal Election Campaign
Act Amendments of 1976

A solicitation was made by the U. S. Chamber of Commerce to its members which urged them to oppose your signing the above bill and to register their opposition by communicating with you. The solicitation was impassioned and, in my opinion, it misrepresented or overstated the effects on business of the Amendments enacted by Congress.

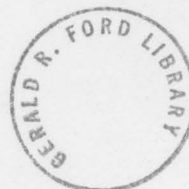
Attached at Tab A is a summary of the business firms which have registered opposition to your signing of the bill. I have my doubts that people who sent communications in opposition to the bill fully understand all aspects of the legislation or appreciate the consequences of your attempting to get better legislation out of Congress at this time.

Because of the campaign by the U. S. Chamber of Commerce to arouse opposition, it is not surprising that we lack communication in support of your signing. However, Jack Mills called to indicate that he and his trade association think you should sign the bill. The same is true of Bob Clark of Sante Fe Railroad, John Tope of Republic Steel and Rod Markley of Ford Motor Company.

Attached at Tab B is a summary of opinions expressed by Members of Congress who wrote to you in regard to the bill.

Attached at Tab C is a draft signing statement. Attached at Tab D is a draft veto statement which is now being revised.

Attachments



BUSINESS REACTION

VETO

Joseph B. McGrath
Forest Product Political Committee

J. W. Heiney
Indiana Gas Company Inc.

David E. Brown
Kemper Insurance and Financial Co.

Ian Macgregor
Amax Inc.

Richard Peake
Government & Public Affairs
PPG Industries, Inc.

E. F. Andrews
Allegheny Ludlum Industries, Inc.

Lyle Littlefield
Gerber Products Company

John Harper
Alcoa

Michael D. Dingman
Wheelabrator-Frye Incorporated

David Packard
Hewlett-Packard Company

Paul E. Thornbrugh
MAPCO, Inc.

Robert A. Roland
National Paint & Coatings Assoc.

John L. Spafford
Associated Credit Bureaus

William R. Roesch
Kaiser Steel Corporation



VETO - Continued

James Maclaggan
Ampact

C. Boyd Stockmeyer
The Detroit Bank and
Trust Company

O. H. Delchamps
Delchamps, Inc.

E. J. Schaefer
Franklin Electric Co, Inc.

Russell H. Perry
Republic Financial Services, Inc.

Charles S. Mack
CPC International, Inc.

Vestal Lemmon
NAII

Samuel J. Damiano
Chamber of Commerce

Donald M. Kendall
PEPSICO

Robert F. Magill
General Motors Corporation

James A. Brooks
The Budd Company

Robert Ellis
Chamber of Commerce

Richard L. Leshner
Chamber of Commerce

Roger J. Stroh
United Fresh Fruit and Vegetable
Assn.



VETO - Continued

•James W. McLamore
National Restaurant Association

C. David Gordon
Association of Washington
Business

Raymond R. Becker
Interlake, Inc.

Bernard J. Burns
National Agents Political
Action Committee

Rodney W. Rood
Atlantic Richfield Company

Arthur F. Blum
Independent Insurance Agents
of America

John Pannullo
National Utility Contractors Assn.

Harry Roberts
True Drilling Co.

Michael R. Moore
Texas Retail Federation

Moody Covey
Skelly Political Action Committee

J. Kevin Murphy
Purolator Services, Inc.

Harold J. Steele
First Security Bank of Utah

Edwin J. Spiegel, Jr.
Alton Box Board Company

Frank K. Woolley
Association of American
Physicians and Surgeons

Jack W. Belshaw
Wellman Industries Good
Government Fund

VETO - Continued

Robert P. Nixon
Franklin Electric

Arch L. Madsen
Bonneville International Corp.

Ellwood F. Curtis
Deere and Company

William E. Hardman
National Tool, Die and Precision
Machining Assn.

J. D. Stewart
DEPAC

Carl F. Hawver
National Consumer Finance Assoc.

Thomas P. Mason
Consumer Bankers Assoc.

R. R. Frost
Piggly Wiggly Southern, Inc.

Paul J. Kelley
U-HAUL

Neil W. Plath
Sierra Pacific Power Company

Michael R. Moore
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Malcolm E. Harris
Distilled Spirits Council of the U.S.

Lawrence L. Burian
National Air Transportation
Associations

Walter D. Thomas
FMC Corporation

Gerald W. Vaughan
Union Camp Corporation

James A. Gray
National Machine Tool
Builders Association

Donald V. Seibert
J. C. Penney Company, Inc.

Cosmo F. Guido
National Lumber and Building
Material Dealers Assoc.

R. W. Strauss
Stewart-Warner Corporation

Robert S. Boynton
National Lime Association

CONGRESSIONAL

SIGN

Speaker Carl Albert

Congressman Bill Frenzel

Congressman Walter Mondale

Senator Robert Taft

VETO

Congressman Jake Garn

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.

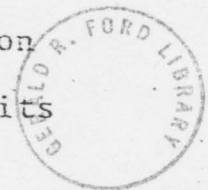
Although I fully recognized that other aspects of the Court's decision, as well as the original election law itself, mandate a critical and comprehensive review of the campaign laws, I realized that there would not be sufficient time for such a review to be completed during the time allotted by the Court 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 5065 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

4

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.



THE WHITE HOUSE

WASHINGTON

May 10, 1976



MEMORANDUM FOR: THE PRESIDENT

FROM: PHILIP W. BUCHEN *P.*

SUBJECT: Public and Congressional Reaction to the Federal Election Campaign Act Amendments of 1976

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R. W. Strauss
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Speaker Carl Albert

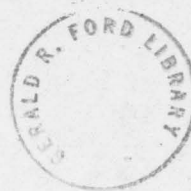
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Congressman Walter Mondale

Senator Robert Taft

VETO

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May 10, 1976

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 1974 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.

Today, I am signing into law the Federal Election Campaign Act Amendments of 1976. These Amendments will duly reconstitute the Commission so that the President shall appoint all six of its Members, by and with the advice and consent of the Senate.

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 on two occasions 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 and on which they have relied in seeking their respective nominations.

Also, further delay would undermine the fairness of elections this year to the U. S. Senate and the House of Representatives, as well as to the Office of President, because effective regulation of campaign practices depends on having a Commission with valid rulemaking and enforcement powers. It is most important to maintain the integrity of our election process for all Federal offices so that all candidates



and their respective supporters and contributors are made to feel bound by enforceable laws and regulations which are designed to overcome questionable and unfair campaign practices.

The amendments have received bi-partisan support in both Houses of Congress and by the Chairpersons of both the Republican National Committee and the Democratic National Committee. This support provides assurance that persons strongly interested in the future of both major political parties find the law favors neither party over the other.

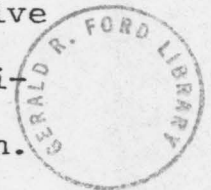
Accordingly, in addition to approving this legislation, I am submitting to the Senate for its advice and consent, the nominations of the six current members of the Commission as members of the new Commission. I trust that the Senate will act with dispatch to confirm these appointees, all of whom were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

Notwithstanding my readiness to take these steps, I do have serious reservations about certain aspects of the present amendments. Instead of acting promptly to adopt the provisions which I urged -- simply to

reconstitute the Commission in a constitutional manner -- the Congress has proceeded to amend previous campaign laws in a confusing variety of ways.

The result is that the Commission must take additional time to consider the effects of the present amendments on its previously issued opinions and regulations. The amendments lack clarity in many respects and thus may lead to further litigation. Those provisions which purport to restrict communications and solicitations for campaign purposes by unions, corporations, trade associations and their respective political action communities are of doubtful constitutionality and will surely give rise to litigation. Also, the Election Campaign Act, as amended, seriously limits the independence of the Federal Election Commission from Congressional influence and control.

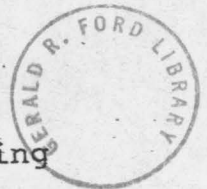
In one important respect, the present limitations depart substantially from the accepted goal of making the new Commission, which will have considerable discretionary authority over the interpretation and application of Federal election campaign laws, independent from the control of incumbents in the



exercise of that discretion. Specifically, it would permit either House of Congress to veto regulations which the Commission issues.

On numerous occasions, Presidents have stated that provisions of this sort, allowing the Congress to veto regulations of an executive agency, are an unconstitutional violation of the doctrine of separation of powers. I have discussed this matter with the Attorney General, and it is our hope that clear judicial resolution of the constitutional point can soon be obtained. In the meantime, I hope and expect that the Commission will exercise its discretion with the degree of independence which the original proponents of this legislation and, I believe, the public expect and desire.

I look to the Commission, as soon as it is reappointed, to do an effective job of administering the campaign laws equitably but forcefully and in a manner that minimizes the confusion which is caused by their added 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 to penalize non-compliance through



means of civil fines.

In addition, the new legislation refines the provisions intended to control the size of contributions from a single source by avoiding proliferation of political action committees which are under common control, and it strengthens provisions for reporting money spent on campaigns by requiring 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. 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.

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.

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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.



THE WHITE HOUSE

WASHINGTON

May 10, 1976

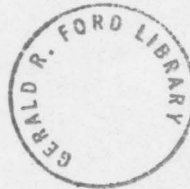
MEMORANDUM FOR: JIM CONNOR
FROM: MIKE DUVAL *Mike*
SUBJECT: DRAFT SIGNING STATEMENT
FOR FEC AMENDMENTS BILL

I reviewed the draft signing statement contained in Phil Buchen's memorandum to the President, dated May 10.

I believe that the signing statement should be substantially redrafted to make the following points in the following order:

- The President is signing the bill in order to insure that the '76 elections are conducted in a fair manner with clear ground rules.
- The bill will not result in a breakdown in the two-party system over the longhaul (also, refer to the meetings the President has had with leaders).
- The bill has unconstitutional parts and President has directed the Attorney General to challenge these at first opportunity. The current language on Page 5 of the draft is entirely too weak.

See attached markup of the draft signing statement.



May 10, 1976

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.

→ insert
"A"
on page
4

On January 30, 1976, the United States Supreme Court ruled that certain features of the 1974 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.

START
↓

Today, I am signing into law the Federal Election Campaign Act Amendments of 1976. These Amendments will duly reconstitute the Commission so that the President shall appoint all six of its Members, by and with the advice and consent of the Senate.



~~The failure of the Congress to reconstitute the Commission earlier and the resulting deprivation of essential Federal matching fund monies has so substantially~~

→ drop

[Handwritten scribbles]

impacted on ~~some~~ of the candidates seeking nomination for the Presidency by their respective parties that they felt impelled to seek relief on two occasions 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 and on which they have relied in seeking their respective nominations.

Also, ~~F~~ further delay would undermine the fairness of elections this year to the U. S. Senate and the House of Representatives, as well as to the Office of President, because effective regulation of campaign practices depends on having a Commission with valid rulemaking and enforcement powers. It is most important to maintain the integrity of our election process for all Federal offices so that all candidates

and their respective supporters and contributors are made to feel bound by enforceable laws and regulations which are designed to overcome questionable and unfair campaign practices.

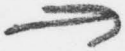
The amendments have received bi-partisan support in both Houses of Congress and by the Chairpersons of both the Republican National Committee and the Democratic National Committee. ~~This support provides assurance that persons strongly interested in the future of both major political parties find the law favors neither party over the other.~~

~~Accordingly,~~ In addition to approving this legislation, I am 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~~ ^{urge} that the Senate ~~will~~ ^{to} act ~~with dispatch~~ ^{quickly} 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. ✓

Notwithstanding my readiness to take these steps, I do have serious reservations about certain aspects of the present amendments. Instead of acting promptly to adopt the provisions which I urged -- simply to

reconstitute the Commission in a constitutional manner -- the Congress has proceeded to amend previous campaign laws in a confusing variety of ways.

*unsub
A 11*



The result *of the substantial changes found in the bill* is that the Commission must take additional time to consider the effects of the present amendments on its previously issued opinions and regulations. The amendments lack clarity in many respects and thus may lead to further litigation. Those provisions which purport to restrict communications and solicitations for campaign purposes by unions, corporations, trade associations and their respective political action communities are of doubtful constitutionality and will surely give rise to litigation. Also, the Election Campaign Act, as amended, seriously limits the independence of the Federal Election Commission from Congressional influence and control.



In one important respect, the present limitations depart substantially from the accepted goal of making the new Commission, which will have considerable discretionary authority over the interpretation and application of Federal election campaign laws, independent from the control of incumbents in the

exercise of that discretion. Specifically, it would permit either House of Congress to veto regulations which the Commission issues.

This is unconstitutional and I have directed the Attorney General to

~~On numerous occasions, Presidents have stated that provisions of this sort, allowing the Congress to veto regulations of an executive agency, are an unconstitutional violation of the doctrine of separation of powers.~~

Challenge this provision at the first available appropriate opportunity

~~I have discussed this matter with the Attorney General, and it is our hope that~~

~~clear judicial resolution of the constitutional point can soon be obtained. In the meantime, I hope and~~

~~expect that the Commission will exercise its discretion with the degree of independence which the~~

~~original proponents of this legislation and, I believe, the public expect and desire.~~

I look to the Commission, as soon as it is reappointed, to do an effective job of administering the campaign laws equitably but forcefully and in a manner that minimizes the confusion which is caused by their added 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 to penalize non-compliance through

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Why is this included?

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. 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.



[5/11/76]

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U W BYLCZCRYR

7PM-FORD-FEC: 150

7URGENT

7BY HOWARD BENEDICT

7ASSOCIATED PRESS WRITER

WASHINGTON (AP) - PRESIDENT FORD IS EXPECTED TO SIGN LEGISLATION PRESTRUCTURING THE FEDERAL ELECTION COMMISSION AND RELEASING FEDERAL FUNDS FOR PRESIDENTIAL CANDIDATES; A REPUBLICAN SENATOR SAID AFTER A MEETING WITH FORD TODAY.

SEN. TED STEVENS, R-ALASKA, SAID THE SIGNING WAS EXPECTED LATER IN THE DAY.

STEVENS WAS AMONG 11 MEMBERS OF CONGRESS WHO MET WITH THE PRESIDENT TO DISCUSS THE BILL.

THE FEDERAL ELECTION COMMISSION STAFF HAS TENTATIVELY CERTIFIED APPLICATIONS FOR \$2.1 MILLION IN FEDERAL MATCHING MONEY FOR RELEASE WHEN THE AGENCY IS RECONSTITUTED.

'WE ASKED FOR THE MEETING,' STEVENS TOLD REPORTERS. 'WE BELIEVE THE PRESIDENT WILL SIGN THE BILL TODAY AND SEND TO THE CONGRESS HIS NOMINATIONS FOR THE SIX MEMBERS OF THE COMMISSION.'

7MORE

1245PED 05-11



THE WHITE HOUSE

WASHINGTON

May 10, 1976

MEMORANDUM FOR: JIM CONNOR
FROM: MIKE DUVAL *Mike*
SUBJECT: DRAFT SIGNING STATEMENT
FOR FEC AMENDMENTS BILL

I reviewed the draft signing statement contained in Phil Buchen's memorandum to the President, dated May 10.

I believe that the signing statement should be substantially redrafted to make the following points in the following order:

- The President is signing the bill in order to insure that the '76 elections are conducted in a fair manner with clear ground rules.
- The bill will not result in a breakdown in the two-party system over the longhaul (also, refer to the meetings the President has had with leaders).
- The bill has unconstitutional parts and President has directed the Attorney General to challenge these at first opportunity. The current language on Page 5 of the draft is entirely too weak.

See attached markup of the draft signing statement.



May 10, 1976

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.

→ insert
"A"
on
page
4

On January 30, 1976, the United States Supreme Court ruled that certain features of the 1974 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.

START
↓

Today, I am signing into law the Federal Election Campaign Act Amendments of 1976. These Amendments will duly reconstitute the Commission so that the President shall appoint all six of its Members, by and with the advice and consent of the Senate.

~~The failure of the Congress to reconstitute the Commission earlier and the resulting deprivation of essential Federal matching fund monies has so substantially~~

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"B"
the~~

→ drop



impacted on ~~some~~ of the candidates seeking nomination for the Presidency by their respective parties that they felt impelled to seek relief on two occasions 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 and on which they have relied in seeking their respective nominations.

Also, ^F further delay would undermine the fairness of elections this year to the U. S. Senate and the House of Representatives, as well as to the Office of President, because effective regulation of campaign practices depends on having a Commission with valid rulemaking and enforcement powers. It is most important to maintain the integrity of our election process for all Federal offices so that all candidates

and their respective supporters and contributors are made to feel bound by enforceable laws and regulations which are designed to overcome questionable and unfair campaign practices.

The amendments have received bi-partisan support in both Houses of Congress and by the Chairpersons of both the Republican National Committee and the Democratic National Committee. ~~This support provides assurance that persons strongly interested in the future of both major political parties find the law favors neither party over the other.~~

~~Accordingly,~~ ~~I~~ In addition to approving this legislation, I am 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~~ ^{urge} that the Senate ~~will~~ ^{to} act with ~~dispatch~~ ^{quickness} 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. ✓

Notwithstanding my readiness to take these steps, I do have serious reservations about certain aspects of the present amendments. Instead of acting promptly to adopt the provisions which I urged -- simply to

reconstitute the Commission in a constitutional manner -- the Congress has proceeded to amend previous campaign laws in a confusing variety of ways.

*unat
"A"*



The result *of the substantial changes found in the bill* is that the Commission must take additional time to consider the effects of the present amendments on its previously issued opinions and regulations. The amendments lack clarity in many respects and thus may lead to further litigation. Those provisions which purport to restrict communications and solicitations for campaign purposes by unions, corporations, trade associations and their respective political action communities are of doubtful constitutionality and will surely give rise to litigation. Also, the Election Campaign Act, as amended, seriously limits the independence of the Federal Election Commission from Congressional influence and control.

In one important respect, the present limitations depart substantially from the accepted goal of making the new Commission, which will have considerable discretionary authority over the interpretation and application of Federal election campaign laws, independent from the control of incumbents in the

exercise of that discretion. Specifically, it would permit either House of Congress to veto regulations which the Commission issues.

This is unconstitutional and I have directed the Attorney General to

~~On numerous occasions, Presidents have stated that provisions of this sort, allowing the Congress to veto regulations of an executive agency, are an unconstitutional violation of the doctrine of separation of powers. I have discussed this matter~~

Challenge this provision at the first available appropriate opportunity.

~~with the Attorney General, and it is our hope that clear judicial resolution of the constitutional point can soon be obtained. In the meantime, I hope and expect that the Commission will exercise its discretion with the degree of independence which the original proponents of this legislation and, I believe, the public expect and desire.~~

I look to the Commission, as soon as it is reappointed, to do an effective job of administering the campaign laws equitably but forcefully and in a manner that minimizes the confusion which is caused by their added 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 to penalize non-compliance through



means of civil fines.

In addition, the new legislation refines the provisions intended to control the size of contributions from a single source by avoiding proliferation of political action committees which are under common control, and it strengthens provisions for reporting money spent on campaigns by requiring disclosure of previously unreported costs of partisan communications intended to affect the outcome of Federal elections.

Why is
this
included?

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. 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

May 11, 1976

MEMORANDUM TO: PHIL BUCHEN

FROM: DOUGLAS P. BENNETT

DPB

Persuant to our discussion respecting the President's statement on the Federal Elections Commission, I suggest something such as the following:

DRAFT SIGNING STATEMENT

*file
FEC*

Today, I am signing into law the Federal Election Campaign Act Amendments of 1976. These amendments will duly reconstitute the Commission so that the President shall appoint all six of its members, by and with the advice and consent of the Senate.



Further delay would undermine the fairness of elections this year to the U.S. Senate and the House of Representatives, as well as to the Office of President, because effective regulation of campaign practices depends on having a Commission with valid rulemaking and enforcement powers. It is most important to maintain the integrity of our election process for all Federal offices so that all candidates and their respective supporters and contributors are made to feel bound by enforceable laws and regulations which are designed to overcome questionable and unfair campaign practices.

The amendments have received bipartisan support in both Houses of Congress and by the Chairpersons of both the Republican National Committee and the Democratic National Committee.

In addition to approving this legislation, I am 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 urge the Senate to act quickly 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.

Notwithstanding my readiness to take these steps, I do have serious reservations about certain aspects of the present amendments. Instead of acting promptly to adopt the provisions which I urged -- simply to reconstitute the Commission in a constitutional manner -- the Congress has proceeded to amend previous campaign laws in a confusing variety of ways.

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.

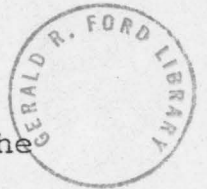
On January 30, 1976, the United States Supreme Court ruled that certain features of the 1974 law were unconstitutional and, in particular, declared that the FEC could not constitutionally exercise enforcement and other executive powers unless the manner of appointing the members of the Commission was changed.

The result of the substantial changes found in this bill is that the Commission must take additional time to consider

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I look to the Commission, as soon as it is reappointed, to do an effective job of administering the campaign laws equitably but forcefully and in a manner that minimizes the confusion which is caused by their added 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 to penalize non-compliance through means of civil fines.

In addition, the new legislation refines the provisions intended to control the size of contributions from a single source by avoiding proliferation of political action committees which are under common control, and it strengthens provisions for reporting money spent on campaigns by requiring 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. 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.



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check

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I ~~do~~ have serious reservations about certain aspects of the present amendments. Instead of acting promptly to adopt the provisions which I urged -- simply to reconstitute the Commission in a constitutional manner -- the Congress has proceeded to amend previous campaign laws in a confusing variety of ways. [insert]

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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. 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.

May 11, 1976

Proposed Signing Statement: FEC

After extensive consultation and review, I have decided that the Federal Campaign Act Amendments of 1976 warrant my signature.



I am therefore signing those amendments into law this afternoon. I am also submitting to the Senate for its advice and consent the nominations of six persons to serve as members of the reconstituted Commission. All but one of these individuals has served previously on the Commission, so ~~the~~ the Senate should be able to confirm all six nominees expeditiously.

Shortly after the Supreme Court ruled on January 30 that the Federal Election Commission was invalid as then constituted, I made it clear that I favored a simple reconstitution of the Commission because efforts to amend and reform the law could cause massive confusion in election campaigns that had already started.

The Congress, however, was unwilling to accept my straightforward proposal and instead became bogged down in a controversy that has now extended beyond 100 days in length.

In the process, there was also an effort to add several provisions to the law which I thought were thoroughly objectionable. These suggested provisions would have further tilted the balance of political power to a single party and to a

single element within that party. I could not accept those provisions under any circumstance and I so communicated my views to Members of the Congress.

Since that time, to my gratification, those features of the bill have been modified so as to avoid in large measure the objections I had raised.

In fact, in weighing the merits of this legislation, I have found that the amendments as now drafted command widespread, bipartisan support in both Houses of Congress and by the Chairpersons of both the Republican National Committee and the Democratic National Committee.

I still have serious reservations about certain aspects of the present amendments. For one thing, the changes now incorporated will force the Commission to take additional time in considering the effects of the present amendments on its previously issued opinions and regulations.

More fundamentally, these amendments jeopardize the independence of the Federal Election Commission by permitting either House of Congress to veto regulations which the Commission, as an Executive agency, issues. This provision not only circumvents the original intent of campaign reform but, in my opinion, violates the Constitution. I have therefore directed the Attorney General to challenge ~~the~~ ^{the} constitutionality ^{of this provision} at the earliest possible opportunity.

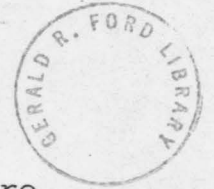
Recognizing these weaknesses in the bill, I have nevertheless concluded that it is ^{the} better part of wisdom to sign this legislation. Great effort has been invested by members of both parties to make this bill as fair and reasonable as possible.

Moreover, I think we have to recognize that further delay would undermine the fairness of elections this year to the U.S. Senate, to the House of Representatives and to the Presidency. Effective regulation of campaign practices depends fundamentally on having a Commission with valid rule-making and enforcement powers. It is critical that we maintain the integrity of our election process for all Federal offices so that all candidates and their respective supporters and contributors are bound by enforceable laws and regulations which are designed to overcome questionable and unfair campaign practices.

I look to the Commission, as soon as it is reappointed, to do an effective job of administering the campaign laws equitably but forcefully and in a manner that minimizes the confusion which is caused by the added complexity of the present amendments. In this regard, the Commission will be aided by a newly provided comprehensive and flexible civil enforcement mechanism designed to facilitate voluntary compliance through conciliation agreements and to penalize non-compliance through means of civil fines.



In addition, the new legislation refines the provisions intended to control the size of contributions from a single source by avoiding proliferation of political action committees which are under common control. Also, this law strengthens provisions for reporting money spent on campaigns by requiring disclosure of previously unreported costs of partisan communications intended to affect the outcome of Federal elections.



Following the 1976 elections, I will submit to the Congress legislation that will correct problems created by the present laws and will make additional needed reforms in the election process.

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In addition to my approving this bill, I am submitting to the Senate the following nominations for the terms specified: Marlow W. Cook and Neil Staebler, for terms expiring April 30, 1977; Vernon Thomson and Thomas E. Harris, for terms expiring April 30, 1979; and Joan D. Aiken and Robert O. Tiernan, for terms expiring April 30, 1981.

I urge the Senate to act quickly to confirm all these nominees at the same time.

Marsh
OK

Veto Message, Page 2, last sentence:

gives impression that President intends to strike down the whole law. That's not the case. In fact, I think he will challenge only those objectionable features which are separable and will not invalidate the whole bill.

5/11

Boyer

Harlow



re: FEC

imbalance in political process

disproportionate political influence + impact.

legislation ~~that~~ embraces

Union activities are not regarded as campaign contributions under statute used w/ enormous input on in N.H. Special Senatorial race

legist requires this but doesn't do anything to redress — only requires reporting.

∴ process continues under statute — this must be changed; after Election 5 will address Congress on specific changes including this problem. Honorarium - disguised contribution

##

FEC - UNCONSTITUTIONAL

- Q. The President, in his statement, says that the FEC amendments are unconstitutional. Why did he sign them into law?
- A. Although there are weaknesses in the bill, the President, in his statement, said that, "...I have nevertheless concluded that it is in the best interest of the Nation that I sign this legislation. Considerable effort has been expended by members of both parties to make this bill as fair and balanced as possible."

The President went on to point out in his statement that the amendments jeopardize the independence of the Federal Election Commission by permitting either House of Congress to veto regulations which the Commission issues. The President stated that, in his opinion, this provision is unconstitutional and he has directed the Attorney General to challenge it.

The entire law is not unconstitutional, and indeed the Supreme Court so ruled on January 30. The unconstitutional provisions -- particularly relating to the one-House veto -- can be either corrected by new legislation or perhaps by court action.

In the meantime, the Commission, once reconstituted, can continue to insure that elections are run in the fair manner.

