

FEDERAL ELECTION COMMISSION



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FOR IMMEDIATE RELEASE
SEPTEMBER 2, 1981

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WASHINGTON -- A two-track approach has been put in motion by the Federal Election Commission to reverse a U. S. Court of Appeals judgment that would, if left standing, "create a serious imbalance in the election law and in the political process, overturning many of the electoral reforms enacted by Congress during the past 70 years."

In a petition for a writ of certiorari filed with the U. S. Supreme Court, the FEC argues that the statutory language of the Act, supported by legislative history, requires a reversal of the court of appeals' judgments in cases involving the Machinists Non-Partisan Political League and Citizens for Democratic Alternatives in 1980.

On the second track, the Commission, in letters to the Speaker of the U. S. House of Representatives and to the President of the Senate, suggests the need for Congress to act, stating, "...the political inequities and practical problems created by the court's decisions warrant immediate legislative action to reaffirm Congressional intent in this area before the 1982 elections."

The questions result from the appeal court's reversal of U. S. District Court Orders enforcing Commission subpoenas issued in connection with an investigation of alleged violations of the Federal Election Campaign Act. The Court of Appeals found that so-called "draft" committees organized or engaging in activities designed to influence an individual to seek the nomination for election for federal office or supporting the nomination of such an individual were not regulated by federal election laws prior to 1979 and arguably, even after the Act was amended in 1979. According to the court, the only requirement of such committees is to comply with reporting requirements of the law.

In bringing the matter to the attention of the Congress, the FEC said, "The impact of the court's decisions is that any group organized to gain grassroots support for an undeclared candidate will operate completely

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outside the strictures of the Federal Election Campaign Act.... However, any group organized to support a declared candidate will be subject to the Act's (registration and reporting) requirements and contribution limitations."

As a result, the Commission anticipates a proliferation of "draft" committees since support for undeclared candidates through such committees would not be limited by the Act, making it advantageous for individuals to delay a formal declaration of candidacy.

"The potential exists for funnelling large aggregations of money, both corporate and private, into the federal electoral process," the Federal Election Commission explained in its letters to Congress.

"Exclusion by the court of political committees organized to support potential candidates, and necessarily advocate the defeat of a declared candidate, from the provisions of FECA...was a concept rejected by the Congress in 1974. In accordance with the language of the statute and with Congressional intent, the Commission has consistently held that draft committees are political committees under FECA," the statement continued.

The FEC is urging Congress to resolve the issue quickly because many 1982 campaigns for congressional offices already are under way, and to make clear to the courts Congress' intent that such activities are within the purview of federal election laws.