



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1790

Date Filmed 2/28/85 Camera No. --- 2

Cameraman JRL

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mem 1790

FEDERAL ELECTION COMMISSION

Routing Slips - Assignment sheets - 12 day report/responses
Communications/Instructions w/from docket
copies of letters - Notification of FEC objections

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act; 5 U.S.C. Section 552(b):

- | | |
|--|---|
| ☐ (1) Classified Information | ☐ (6) Personal privacy |
| ☒ (2) Internal rules and practices | ☐ (7) Investigatory files |
| ☐ (3) Exempted by other statute | ☐ (8) Banking Information |
| ☐ (4) Trade secrets and commercial or financial information | ☐ (9) Well Information (geographic or geophysical) |
| ☒ (5) Internal Documents | |

Signed

[Signature]

date

2/5/85

FEC 9-21-77

TBW
2/19/85

35040513622

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reagan-Bush '84 and) MUR 1790
Angela M. Buchanan Jackson,)
as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session of January 15,
1985, do hereby certify that the Commission took the
following actions in MUR 1790:

1. Failed in a vote of 2-4 to pass a motion to find reason to believe that Reagan-Bush '84 and Angela M. Buchanan Jackson, as treasurer, violated 2 U.S.C. § 434(b)(4) and 11 C.F.R. §§ 9003.1 and 9004.7.

Commissioners Harris and McDonald voted affirmatively for the motion; Commissioners Aikens, Elliott, McGarry, and Reiche dissented.

2. Decided by a vote of 4-2 to find no reason to believe that Reagan-Bush '84 and Angela M. Buchanan Jackson, as treasurer, violated 2 U.S.C. § 434(b)(4) and 11 C.F.R. §§ 9003.1 and 9004.7.

Commissioners Aikens, Elliott, McGarry, and Reiche voted affirmatively for the decision; Commissioners Harris and McDonald dissented.

(continued)

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Federal Election Commission
Certification for MUR 1790
January 15, 1985

Page 2

3. Decided by a vote of 6-0 to close the file
and direct the Office of General Counsel
to send appropriate letters pursuant to the
actions taken this date.

Commissioners Aikens, Elliott, Harris,
McDonald, McGarry, and Reiche voted
affirmatively for the decision.

Attest:

1-17-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Reagan-Bush '84 and) MUR 1790
Angela M. Buchanan Jackson,)
as treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session of
January 8, 1985, do hereby certify that the Commission
decided by a vote of 5-0 to continue MUR 1790 to the
executive session of January 15, 1985.

Commissioners Elliott, Harris, McDonald, McGarry,
and Reiche voted affirmatively for the decision;
Commissioner Aikens was not present at the time of the
vote.

Attest:

1-9-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 24, 1985

Roger M. Witten, Esquire
Wilmer, Cutler and Pickering
1666 K Street, N.W.
Washington, D.C. 20006

RE: MUR 1790
Reagan-Bush '84 and
Angela M. Buchanan Jackson,
as treasurer

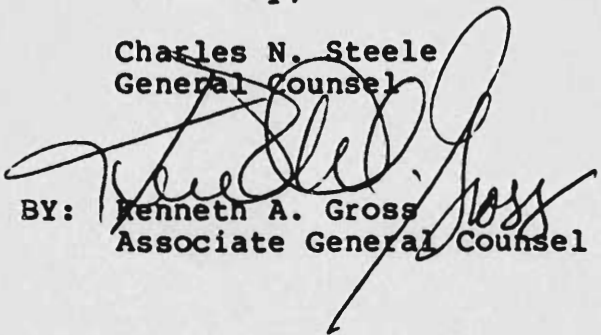
Dear Mr. Witten:

The Federal Election Commission has reviewed the allegations of your complaint dated September 20, 1984, and determined that on the basis of the information provided in your complaint and information provided by the Respondent, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") and/or Chapters 95 and 96 of Title 26, U.S. Code has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1985

Ronald E. Robertson, Esquire
Chief Counsel
Reagan-Bush '84
440 First Street, N.W.
Washington, D.C. 20001

RE: MUR 1790

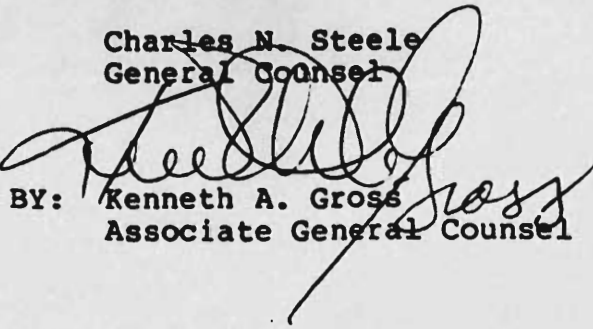
Dear Mr. Robertson:

On September 25, 1984, the Commission notified Reagan-Bush '84 and Angela M. Buchanan Jackson, as treasurer, of a complaint alleging violation of certain sections of the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, U.S. Code.

The Commission, on January 15, 1985, determined that on the basis of the information in the complaint, and information provided by you, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 24, 1985

Fred Wertheimer
Common Cause
2030 M Street, N.W.
Washington, D.C. 20036

RE: MUR 1790
Reagan-Bush '84 and
Angela M. Buchanan Jackson,
as treasurer

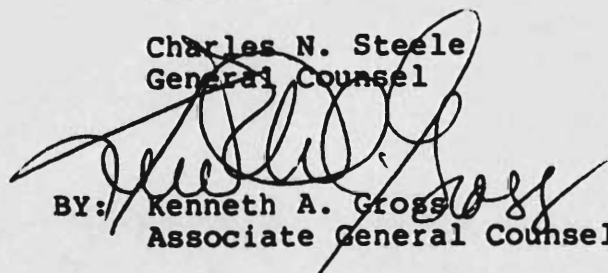
Dear Mr. Wertheimer:

The Federal Election Commission has reviewed the allegations of your complaint dated September 20, 1984, and determined that on the basis of the information provided in your complaint and information provided by the Respondent, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") and/or Chapters 95 and 96 of Title 26, U.S. Code has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *Cut*
DATE: December 27, 1984
SUBJECT: MUR 1790 - Memorandum to The Commission - Erratum
to First General Counsel's Rpt

The attached is submitted as an Agenda document
for the Commission Meeting of _____
Open Session _____
Closed Session _____

CIRCULATIONS

48 Hour Tally Vote []
Sensitive []
Non-Sensitive []
24 Hour No Objection []
Sensitive []
Non-Sensitive []
Information []
Sensitive []
Non-Sensitive []
Other [X]

DISTRIBUTION

Compliance [X]
Audit Matters []
Litigation []
Closed MUR Letters []
Status Sheets []
Advisory Opinions []
Other (see distribution below) []

SENSITIVE

CIRCULATE ON GREEN PAPER

ADDITION TO 1st GC's Rpt
on Circulation



SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

84 DEC 27 P12: 49

December 27, 1984

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

SUBJECT: Erratum in MUR 1790

DATE: December 27, 1984

Please be advised that footnote two was inadvertently omitted from MUR 1790's First General Counsel's Report distributed on December 24, 1984. Please substitute the attached page eight for the one currently included in the report.

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The respondent's last argument cites several advisory opinions where the Commission found no "contribution" or "expenditure" in violation of the federal election laws when the major purpose of an activity involving a Federal office holder, who is also a Federal candidate, is not to influence his nomination or election, but, instead, is in connection with his official duties. Finding that an activity was not an expenditure or "contribution" "was conditioned on (i) the absence of any communication expressly advocating the nomination or election of the person appearing or the defeat of any other Federal candidate, and (ii) the avoidance of any solicitation, making, or acceptance of campaign contributions for the candidate in connection with the activity." AO 1980-222/

General Counsel's Analysis

The Office of the General Counsel is of the opinion that whether an event is "campaign-related" depends upon the setting in which the remarks are made, the timing of the event at which the remarks are made, the reaction that the remarks evoke, as well as the remarks themselves. It would be compelling evidence that an event was campaign-related if, during an elected official's remarks, he expressly advocates his election or solicits contributions. This Office does not consider this an exhaustive list and does not believe that any one factor is dispositive. Instead, many factors and circumstances of varying significance must be considered and only the totality of the circumstances determines whether an event is "campaign-related."

2 / Replace footnote 2



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *Cut*
DATE: December 24, 1984
SUBJECT: MUR 1790 - First General Counsel's Report

The attached is submitted as an Agenda document
for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS

48 Hour Tally Vote ☒
Sensitive ☒
Non-Sensitive ☐

24 Hour No Objection ☐
Sensitive ☐
Non-Sensitive ☐

Information ☐
Sensitive ☐
Non-Sensitive ☐

Other ☐

DISTRIBUTION

Compliance ☒
Audit Matters ☐

Litigation ☐
Closed MUR Letters ☐

Status Sheets ☐
Advisory Opinions ☐

Other (see distribution
below) ☐

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SENSITIVE

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

SEP 24 10:10

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION: 12/24/84
9:15

MUR 1790
DATE COMPLAINT
RECEIVED BY OGC:
September 20, 1984
DATE OF NOTIFICATION TO
RESPONDENT:
September 25, 1984
STAFF MEMBER: Matt Gerson

COMPLAINANT'S NAME: Common Cause

RESPONDENT'S NAME: Reagan-Bush '84 and
Angela M. Buchanan Jackson, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 434(b)(4)
2 U.S.C. § 441b
26 U.S.C. § 9002(11)
11 C.F.R. § 9003.1
11 C.F.R. § 9004.7(a)
11 C.F.R. § 9004.7(b)

RELEVANT ADVISORY OPINIONS: 1980-22

INTERNAL REPORTS CHECKED: Reagan-Bush '84 General Election
and Primary Committee Reports for
July, August and September 1984.

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On September 20, 1984, Common Cause filed a complaint with the Federal Election Commission alleging that Reagan-Bush '84, and Angela M. Buchanan Jackson, as treasurer, (the "Committee") had violated or would violate 2 U.S.C. § 434 and 11 C.F.R. §§ 9003.1 and 9004.7. Complainant alleges that President Reagan's August 24, 1984 trip to Chicago to address the National Convention of the Veterans of Foreign Wars (the "VFW") was campaign-related and not official government business and should be charged to the Committee's campaign fund instead of to the government.

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On October 29, 1984, the Committee filed a response after requesting an extension of time in which to answer. See Attachment 1.

LEGAL AND FACTUAL ANALYSIS

Facts

Ronald Reagan was renominated as the Republican Party's presidential candidate in Dallas, Texas on August 23, 1984. Before returning to Washington, Mr. Reagan stopped in Chicago to address the VFW. He also participated in a legislation signing ceremony. The White House considered the two and one-half hour trip an official governmental trip and the government, rather than Reagan Bush '84, paid for the travel costs.

The President was invited to express his views on national security and foreign policy matters. He focused on his policies of peace through strength and arms control. The VFW responded to the President by chanting, "Four More Years," before and after his address. While the President did not expressly advocate his reelection, certain sections of his speech may have been designed to create a campaign atmosphere in light of the fact that he had just arrived from the Republican National Convention. Consider the following excerpts:

The honor of meeting with the VFW ... is a great way to wind up a terrific week.

Four years ago, right here in Chicago, I stood before your convention, and when you think back to 1980, it's hard to forget the mess America was in, hard to forget the foolish talk of a malaise, the unfairness of runaway price increases, 21 1/2-percent interest rates, weakened defenses, Americans held hostage, and the loss of respect for our nation abroad. It seemed that we woke up every morning wondering what new humiliation our country had suffered overseas, what disappointing economic news lay waiting for us on the front page.

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...Well, I think we've come a long way together. In fact, I believe we've closed the books on that dismal chapter of failed policies and self-doubt.

As I said last night in Dallas...

Our military forces are back on their feet, substantially stronger and better able to protect the peace today than they were 4 years ago.

Now, some may insist they're just as committed to a strong deterrent even as they would cancel the B-1 bomber and the Peacekeeper missile. They may deny that a nuclear freeze would preserve today's high, unequal, and unstable levels of nuclear weapons, and they may deny a freeze would reduce any incentive for the Soviets to return to the negotiating table and resume the search for equitable and fair reductions.

The President also made direct comparisons between the state of the country when he took office and the state of the country at the time of the speech. Finally, the President may have nurtured the campaign spirit by using the famous remark from his 1980 debate with President Carter, "there (they) go again."

The national press reported the speech as if it were a partisan address. The August 25, 1984, Boston Globe headlined its story, "Campaign Salvos" and "President Raps Rival for Stand on Defense", and the Chicago Tribune on August 25, 1984, used the headline "Bringing the Fight to Illinois" and noted that the appearance was "the last in six days of campaigning." The August 24, 1984 NBC Nightly News reported that, "(Reagan) attacked Mondale as soft on defense (words covered by film and background) a desire to block B-1 bombers and MX Missiles (sic)."

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Complainant asserts that because the well-publicized speech was made one day after Reagan's nomination, articulated a number of Reagan's campaign themes and criticized several of his opponent's positions, it was partisan activity in furtherance of the President's reelection.

Law

Candidate Reagan's campaign was federally funded and, thus, the Committee was required to report qualified campaign expenses. 11 C.F.R. § 9003.1. "Qualified campaign expenses" include any expense incurred by a major political party's candidate or the candidate's authorized committee to further his election. 26 U.S.C. § 9002(11). Travel costs "relating to a Presidential candidate's campaign" are qualified campaign expenses. 11 C.F.R. § 9004.7(a).

The central issue in this case is what "relates to a Presidential candidate's campaign." The regulations addressing travel by presidential candidates provide that, "if any campaign activity, other than incidental contacts, is conducted at a stop, the stop shall be considered campaign-related." 11 C.F.R. 9004.7(b)(2); the regulations include allocation provisions for trips that are both campaign and non-campaign related. There is, however, little precedent explaining what is "campaign-related", "campaign activity", or "incidental". Nonetheless, there is some authority which is of assistance. For example, the Commission has acknowledged that timing indicates that certain events are campaign related. A regulation addressing party functions states that a political party may pay for

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a candidate's participation in a bona fide party building activity without the payment's being a contribution or expenditure.

11 C.F.R. § 110.8(e). However, the regulation recognizes as a presumption that any appearance made after January 1st of a presidential election year would be for the purpose of influencing the candidate's election. Associated costs would be governed by the contribution and expenditure limitations. 11 C.F.R. § 110.8(e) (2)(ii). While this regulation is not applicable in this case since candidate Reagan's appearance was not in the nature of party building, it is evidence that under certain circumstances the Commission recognizes a "campaign season." It follows that, at the very least, in this factual context, the "campaign season" existed from the party's nominating convention to the general election. cf. 110.8(e)(1) and (2).

The FEC's Explanation and Justification of 11 C.F.R. § 106.3, a provision concerning campaign-related travel by Congressional candidates and substantially similar to the regulation at issue here, provides one illustration of conduct that renders an appearance "campaign related." It explains that, "if a candidate makes a non-political speech for a civic association luncheon, and on the way out chats with a few attendees about his upcoming campaign, that conversation would not convert the appearance into a campaign-related event. However, if during the course of the speech the candidate asks for support, that would convert an otherwise non-campaign event into one which is campaign-related and would require that travel costs be allocated and reported as expenditures."

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The provision at issue was enacted so that an incumbent's reelection would not benefit from public funds separate from those the Act provides. The Commission's Explanation and Justification for § 9004.7 states that the formula therein is, "necessary to prevent the free use of government conveyance or accommodation for campaign-related activity. Such free use would amount to government subsidization of a candidate's campaign and would totally defeat the purposes of the expenditure limitation." (45 Fed. Reg. 43377). The fact that the regulations use the term "campaign related" - the plain meaning of which is "associated" or "connected" - supports the spirit of this explanation and confirms that the Commission sought a standard more broad than "purpose," "express advocacy" or "solicitation of campaign contribution" in order to equalize as fully as possible the incumbent and challenger's competitive positions.

Reagan-Bush Response

Reagan-Bush '84's response includes an affidavit from the Justice Department's Legal Counsel's Office. In 1977, the Department articulated the following "purpose" test for determining whether a President is acting in his "official" or "political" capacity:

As a general rule, Presidential and Vice Presidential travel should be considered "political" if its primary purpose involves their positions as leaders of their political party. Appearing at party functions, fundraising and campaigning for specific candidates are the principal examples of travel which should be considered political. On the other hand, travel for inspections, meetings, non-partisan addresses and the like ordinarily should not be considered "political" travel even though they may have partisan consequences or concern questions on which public opinion is politically divided. The President cannot perform his official duties effectively without the understanding, confidence and support of the public. Travel and appearances by the President and Vice President to present, explain, and secure public support for the Administration's measures are therefore an inherent part of the President and Vice President's official duties.

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The Committee sees this speech as a part of the President's information sharing duty. The response mentions that Presidents annually address (either in person or by videotape) the VFW's National Convention to express views on national security and foreign policy matters. The Committee asserts, "the VFW is a non-profit, non-partisan organization whose constitution and bylaws prohibit it from endorsing political candidates."^{1/} The respondent states that the remarks themselves, "were consistent with the non-partisan nature of the audience and the VFW's request that he discuss national security and foreign policy issues. Those remarks contained no requests for votes or references to the November 6, 1984 election; moreover, there were no references to either the President's candidacy for reelection or his opponent, Walter F. Mondale."

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James Baker responded to inquiries about the Chicago trip during an August 26, 1984 interview on "Meet the Press". He explained, "the President didn't go (to Chicago) and ask for votes, and I would question whether he harshly attacked ... Mondale in that speech There were no political people on the airplane, no votes were asked for, the President did not talk about his reelection, he didn't ad lib anything about wanting support or anything like that."

^{1/} The invitation to Mr. Reagan noted that he would be before a, "very friendly audience." In 1980, the V.F.W. broke with a 80-year practice of not endorsing presidential candidates by formally backing Mr. Reagan. Boston Globe, August 24, 1984, pg. 6. In September 1984 they endorsed Mr. Reagan's reelection.

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The respondent's last argument cites several advisory opinions where the Commission found no "contribution" or "expenditure" in violation of the federal election laws when the major purpose of an activity involving a Federal office holder, who is also a Federal candidate, is not to influence his nomination or election, but, instead, is in connection with his official duties. Finding that an activity was not an expenditure or "contribution" "was conditioned on (i) the absence of any communication expressly advocating the nomination or election of the person appearing or the defeat of any other Federal candidate, and (ii) the avoidance of any solicitation, making, or acceptance of campaign contributions for the candidate in connection with the activity." AO 1980-222/

General Counsel's Analysis

The Office of the General Counsel is of the opinion that whether an event is "campaign-related" depends upon the setting in which the remarks are made, the timing of the event at which the remarks are made, the reaction that the remarks evoke, as well as the remarks themselves. It would be compelling evidence that an event was campaign-related if, during an elected official's remarks, he expressly advocates his election or solicits contributions. This Office does not consider this an exhaustive list and does not believe that any one factor is dispositive. Instead, many factors and circumstances of varying significance must be considered and only the totality of the circumstances determines whether an event is "campaign-related."

2/ The Complainant discusses AO 1980-22 in its complaint at pages 6 and 7.

A problem similar to the one at issue arose when Gerald Ford was the incumbent President.^{3/} It appears, therefore, that if the Commission does not address and resolve this problem, uncertainty will continue and compliance will be contingent on the whim of an incumbent President's campaign staff. ^{4/} For example, the President spoke to the American Legion's national convention in Salt Lake City on September 4, 1984. His speech was not dissimilar from the speech he made to the VFW. See Attachment 2. Yet the Reagan-Bush Committee elected to pay for the American Legion trip. National Journal, September 8, 1984, at 1647.

The timing of the VFW speech, coupled with the remarks themselves, as highlighted above, serve as the basis of the Office of the General Counsel's opinion that there is sufficient cause to find reason to believe that a violation of the Act and regulations occurred when the Committee did not report the trip's expenditures

^{3/} On October 14, 1975, Citizens for Reagan for President submitted to the Commission comments on AO 1975-72. Mr. Reagan's 1976 authorized committee questioned the Republican National Committee's providing funds for political travel by the incumbent President while Mr. Ford was a candidate for his party's nomination. The committee also questioned whether these expenditures counted against candidate Ford's campaign expenditure limitations. See Attachment 3.

^{4/} White House General Counsel Fred Fielding devised his own definition of campaign-related so that "only trips on which the President appeals for votes for himself or meets with campaign officials will be paid for by the reelection committee." Detroit Free Press, July 21, 1984. In discussing this Chicago trip, Reagan Campaign director Edward Rollins said there would be more such "official trips" because "if you can get away with a couple of official trips in the course of a campaign, we all benefit." Washington Post, August 26, 1984. Such categorization saves the campaign \$50,000 - \$70,000 per trip.

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as campaign-related. Therefore, this Office recommends that the Commission find reason to believe and pose questions to Reagan-Bush '84 to acquire additional information about the trip.

RECOMMENDATIONS

1. Find reason to believe that Reagan-Bush '84 and Angela M. Buchanan Jackson, as treasurer, violated 2 U.S.C. 434(b)(4) and 11 C.F.R. §§ 9003.1 and 9004.7.
2. Approve the attached letters and questions.

Charles N. Steele
General Counsel

Dec 21, 1984
Date

BY:

Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

1. Reagan-Bush '84's response
2. Text of President Reagan's speech to the American Legion
3. Comments on AO 1975-72 submitted by Citizens for Reagan for President
4. Questions to Reagan-Bush '84
5. Letter to respondent

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COPY

BEFORE THE
FEDERAL ELECTION COMMISSION

Common Cause,

Petitioner,

v.

Reagan-Bush '84 and
its Treasurer,
Angela M. Buchanan Jackson,

Respondents.

MUR 1790

RESPONSE OF REAGAN-BUSH '84
AND ITS TREASURER, ANGELA
M. BUCHANAN JACKSON

INTRODUCTION

On September 25, 1984, Common Cause ("Petitioner") filed a complaint with the Federal Election Commission (the "Commission") alleging that Reagan-Bush '84 had violated or would violate various provisions of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431 et seq.) and the Presidential Election Campaign Fund Act (26 U.S.C. § 9001 et seq.) and the Commission's regulations promulgated thereunder (11 C.F.R. § 9004.7) by failing to report and pay for the costs of President Ronald Reagan's travel to Chicago, Illinois, on August 24, 1984, to address the 85th National Convention of the Veterans of Foreign Wars of the United States (the "V.F.W.").

Reagan-Bush '84 and its Treasurer, Angela M. Buchanan Jackson ("Respondents") submit this response pursuant to 2 U.S.C. § 437(g)(1) and 11 C.F.R. § 111.6(a), and for the

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reasons set forth below respectfully request the Commission to find there is no reason to believe that Respondents violated any provisions of the Federal Election Campaign Act of 1971 as amended, the Presidential Election Campaign Fund Act or the Commission regulations promulgated thereunder. Respondents contend, and will demonstrate in this response, that Petitioner's complaint must be dismissed for the following reasons. First, consistent with applicable Department of Justice and Comptroller General opinions, the costs of the President's travel to Chicago on August 24, 1984 were properly paid from appropriated funds. Second, pursuant to the Commission's own advisory opinions, the President's appearance before the 85th National Convention of the V.F.W. was not for the purpose of influencing a Federal election, and thus was not "campaign-related", under 11 C.F.R. § 9004.7.

ARGUMENT

I. CONSISTENT WITH DEPARTMENT OF JUSTICE AND COMPTROLLER GENERAL OPINIONS, THE COSTS OF PRESIDENT REAGAN'S AUGUST 24, 1984 TRAVEL TO CHICAGO, ILLINOIS WERE PROPERLY PAID FROM APPROPRIATED FUNDS.

In making decisions on the appropriate payor for the costs of Presidential travel in an election year, three basic principles must be borne in mind. First, appropriated funds may be spent only for the purposes for which they have been appropriated. 31 U.S.C. § 1301(a); 52 Comp. Gen. 504 (1972);

and 50 Comp. Gen. 534 (1971). Thus, funds appropriated for the official functioning of the offices of the President may be used for payment of Presidential travel expenses only if the travel is reasonably related to an official purpose. Second, in general, official activities should be paid for only from funds appropriated for such purposes. This principle, which prevents the unauthorized augmentation of appropriations, has been recognized by the Comptroller General on numerous occasions. See, e.g., 46 Comp. Gen. 689 (1967); 23 Comp. Gen. 694 (1944); 17 Comp. Dec. 712 (1911); 9 Comp. Dec. 174 (1902). Third, pursuant to the Commission's regulations, 11 C.F.R. § 9004.7, all "campaign-related" travel of the President must be paid for by the President's authorized campaign committee. 1/

Hence, when considering payment of expenses associated with Presidential travel, a determination must first be made as to whether the President is acting in his "official" or "political" capacity. As demonstrated by the attached affidavit (Attachment A) from Assistant Attorney General for the Office of Legal Counsel Theodore B. Olson, the Office of Legal Counsel in the Department of Justice addressed this issue in March, 1977 and concluded that:

1/ A discussion of the requirements of 11 C.F.R. § 9004.7 is set forth below in Argument II.

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As a general rule, Presidential and Vice Presidential travel should be considered "political" if its primary purpose involves their positions as leaders of their political party. Appearing at party functions, fundraising and campaigning for specific candidates are the principal examples of travel which should be considered political. On the other hand, travel for inspections, meetings, non-partisan addresses and the like ordinarily should not be considered "political" travel even though they may have partisan consequences or concern questions on which public opinion is politically divided. The President cannot perform his official duties effectively without the understanding, confidence and support of the public. Travel and appearances by the President and Vice President to present, explain, and secure public support for the Administration's measures are therefore an inherent part of the President and Vice President's official duties.

The Comptroller General has also recognized the basic principle that the costs of travel for Presidential appearances before the public explaining or defending Government policies are legitimately paid from official funds:

As to official activities, we have long held that the President and his Cabinet and other subordinates have a duty to inform the public about Government policies, and policy making officials traditionally have utilized Government resources to disseminate information in explanation and defense of those policies. 2/

The President was invited to address the 85th National Convention of the V.F.W., as President, to express his views on national security and foreign policy matters. (See invitation to President Reagan from V.F.W. National Commander-in-Chief Clifford G. Olson, Jr. at Exhibit B.) Every modern day

2/ Memorandum of the Comptroller General to the Honorable Mark O. Hatfield et al. re: Review of White House and Executive Agency Expenditures for Selected Travel, Entertainment and Personnel Costs March 6, 1981, B-196862.

President, including President Reagan, has annually addressed (either in person or by videotape) the National Convention of the V.F.W. The V.F.W. is a non-profit, non-partisan organization whose constitution and bylaws prohibit it from endorsing political candidates. 3/ Its invitation to the President was extended on March 1, 1984, six months prior to the President's nomination as the 1984 Republican nominee for President.

The President's remarks to the National Convention of the V.F.W. were consistent with the non-partisan nature of the audience and the V.F.W.'s request that he discuss national security and foreign policy issues. (See Exhibit C.) Those remarks contained no requests for votes or references to the November 6, 1984 election; moreover, there were no references to either the President's candidacy for re-election or his opponent, Walter F. Mondale.

In view of the foregoing, petitioners' assertion that the President's August 24, 1984 appearance before the V.F.W. was a "campaign speech" is wholly without merit. By presenting and explaining Administration policies to the public in a non-partisan address before a non-partisan forum the President was engaging in an "inherent part" of his official duties. Hence, the costs of his travel to Chicago, Illinois to make that

3/ The V.F.W. does have a separate segregated fund which makes political contributions to Federal candidates; however, at no time during his August 24, 1984 visit to Chicago did the President or his advisers participate in any meetings with V.F.W. officials.

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address were properly paid from appropriated funds. Indeed, consistent with the basic principle that official activities should be paid only from appropriated funds, it would have been inappropriate for a non-Government entity, such as Reagan-Bush '84, to have paid such costs: to do so would have been an unauthorized augmentation of Government appropriations, 16 Comp. Gen. 911 (1937); see 31 U.S.C. 1301(a) and 9 Comp. Dec. 174 (1902); 17 Comp. Dec. 712 (1911).

II. PURSUANT TO THE COMMISSION'S OWN ADVISORY OPINIONS THE PRESIDENT'S AUGUST 24, 1984 APPEARANCE BEFORE THE V.F.W. WAS NOT FOR THE PURPOSE OF INFLUENCING A FEDERAL ELECTION AND THUS WAS NOT "CAMPAIGN-RELATED."

The Commission has recognized on numerous occasions that where the major purpose of an activity by a Federal officeholder, who is also a Federal candidate, is not to influence his nomination or election, but, instead, is in connection with his official duties, no contribution or expenditure results under the Federal election laws, i.e., the costs of the officeholder's appearance or activities are not "campaign-related." See, e.g., Advisory Opinion 1981-37 (Oct. 13, 1981) CCH Campaign Finance Guide, ¶ 5623; Advisory Opinion 1980-22 (April 15, 1980) CCH Campaign Finance Guide, ¶ 5479; Advisory Opinion 1978-4 (Feb. 24, 1978) CCH Campaign Finance Guide, ¶ 5293 (expenditures for a non-profit, non-partisan salute to a Congressman who was also a candidate for re-election were not for the purpose of influencing a Federal election). See, also Advisory Opinion 1979-25 (June 19, 1979) CCH Campaign Finance Guide, ¶ 5410.

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In reaching its conclusion in Advisory Opinion 1981-37, supra, the Commission specifically recognized that a Congressman's actions as a moderator of a televised public affairs forum might indirectly benefit his campaign. Nevertheless, in the absence of any communication expressly advocating the election or defeat of any Federal candidate, and the avoidance of any solicitation, making or acceptance of a campaign contribution in connection with the public affairs forum, the Commission concluded that the major purpose of the Congressman's activities would not be to further his or any other Federal candidate's nomination or election to Federal office. 4/

Similarly, in Advisory Opinion 1980-22, supra, the Commission found that expenditures for town meetings sponsored by a trade association and its member corporations in which Federal officeholders who were also candidates for re-election would participate would not constitute "contributions" or "expenditures" because their major purpose was to serve as a forum for discussion of problems of the steel industry. Again, the Commission based its conclusion on (1) the absence of any communication expressly advocating the election or defeat of Federal

4/ This Opinion also expressly overruled those portions of previous Commission Opinions holding "that all speeches of a candidate for Federal office made before a substantial number of people, who comprise a part of the electorate with respect to which the individual is a candidate, are presumably made for the purpose of enhancing the individual's candidacy."

candidates, and (2) avoidance of any solicitation, making or acceptance of campaign contributions for the candidates in connection with the town meetings.

As noted above, and contrary to the unsubstantiated claims of petitioners, the text of the President's remarks before the V.F.W. contain no statements of express advocacy for the election or defeat of any Federal candidate. Indeed, no mention is made of the President's candidacy for re-election, and no mention is made of his opponent. Moreover, there is no evidence, proffered by petitioners or otherwise, that any solicitations for contributions to the President's campaign occurred at this event. Needless to say, no such solicitations occurred, as they were prohibited by the President's certification to the Commission pursuant to the requirements of 26 U.S.C. § 9003 5/, and more important, the V.F.W. National Convention was a non-partisan forum before which the President appeared in his official capacity.

Petitioners' erroneously rely on Advisory Opinion 1984-13 (May 17, 1984) CCH Campaign Finance Guide, ¶ 5759 to substantiate their conclusion that the primary purpose of the President's speech before the V.F.W. was to further his re-election. There, the Commission concluded that a public affairs forum

5/ If petitioners mean to suggest that Reagan-Bush '84 violated that certification by allowing the Government to pay for the costs of the President's travel to Chicago, such suggestion is without legal merit as, by definition, the Government cannot make a political contribution. 2 U.S.C. 431(11).

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sponsored by an incorporated trade association which would occur in Dallas, Texas during the week of the 1984 Republican National Convention where the only candidate speakers would be Republicans, was "linked by its timing and purpose to Congressional elections and carrie[d] partisan overtones." In making that conclusion, however, the Commission specifically noted that this proposed event was "factually distinguishable" from the issues forums and testimonial dinners discussed in Advisory Opinions 1980-22 and 1978-4.

On the basis of that limited factual situation, petitioners would have the Commission conclude that the primary purpose of the President's appearance before the 85th National Convention of the V.F.W. in Chicago, Illinois was to further his re-election. Such conclusion flies in the face of the history of the V.F.W. invitation to the President and the text of the President's remarks to that Convention. The 85th National Convention of the V.F.W. was clearly not related by either location, timing or purpose with the 1984 Republican National Convention or any other partisan event. This was an annual convention of a non-profit, non-partisan organization whose constitution and by-laws preclude endorsements of political candidates. Moreover, the invitation for the President's participation in this convention had been issued months prior to his nomination.

The President's speech before the V.F.W. was a presentation of his Administration's policies on national security and foreign affairs. In the discussion of those matters, the

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matters, the President did recognize that there have been critics of some of those policies, and did place the rationale for Administration foreign policy in its historical context. None of those discussions, however, made any references to the candidacy of the President or anyone else; nor did they contain advocacy statements regarding the upcoming Federal elections. Hence, petitioners' claim that the timing, content and evident purpose of the President's speech before the VFW was "in furtherance of his re-election campaign" has no basis in fact.

IV. CONCLUSION

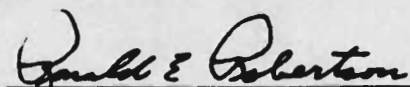
In summary, Respondents contend that the Petitioners have offered no evidence whatever that would justify a "reason to believe" finding by the Commission that Respondents violated any provisions of the Federal Election Campaign Act of 1971, as amended, the Presidential Election Campaign Fund Act or the Commission regulations promulgated thereunder. Moreover, Respondents have affirmatively demonstrated herein that there is no basis whatever for such a "reason to believe" finding. In addition, Respondents contend that all of the relevant facts in this matter are now before the Commission and thus there is no need whatever for a further factual investigation.

Specifically, Petitioners' complaint ignores the requirements of Federal law relating to expenditures of appropriated funds, and makes specious conclusions clearly unsubstantiated

by the actual text of the President's speech before the V.F.W. The President's appearance before the 85th National Convention of the V.F.W. was an official appearance in furtherance of his duties as a Federal officeholder. Consistent with Commission Advisory Opinions on the activities of Federal officeholders who are also Federal candidates, and because that speech contained no advocacy statements regarding Federal candidates and no soliciations for contributions, the primary purpose of that speech was not "campaign-related."

Therefore, Respondents respectfully request that this Commission find no reason to believe that Respondents have violated any provisions of the Federal election laws and that this matter be dismissed without further proceedings.

Respectfully submitted,



Ronald E. Robertson
Counsel for Respondents,
Reagan-Bush '84 and its
Treasurer, Angela M. Buchanan
Jackson

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DECLARATION OF THEODORE B. OLSON

THEODORE B. OLSON, hereby declares and states the following:

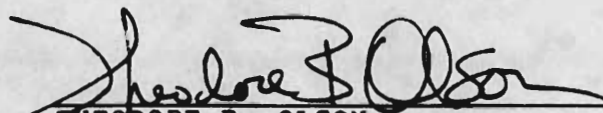
1. I am Assistant Attorney General, Office of Legal Counsel, Department of Justice of the United States.
2. The Office of Legal Counsel has heretofore reviewed issues concerning whether travel by the President of the United States is "official" or "political." On that subject in March, 1977 the Office of Legal Counsel concluded, inter alia, that:

As a general rule, Presidential and Vice Presidential travel should be considered "political" if its primary purpose involves their positions as leaders of their political party. Appearing at party functions, fundraising and campaigning for specific candidates are the principal examples of travel which should be considered political. On the other hand, travel for inspections, meetings, nonpartisan addresses and the like ordinarily should not be considered "political" travel even though they may have partisan consequences or concern questions on which public opinion is politically divided. The President cannot perform his official duties effectively without the understanding, confidence and support of the public. Travel and appearances by the President and Vice President to present, explain, and secure public support for the Administration's measures are therefore an inherent part of the President and Vice President's official duties.

3. As of the date hereof the above quoted statement continues to reflect the views of the Office of Legal Counsel.

I declare under penalty of perjury that the foregoing statements are true and correct.

Executed this 29th day of October, 1984.


THEODORE B. OLSON

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VETERANS OF FOREIGN WARS OF THE UNITED STATES



THE COMMANDER-IN-CHIEF

March 1, 1984

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

As National Commander-in-Chief of the Veterans of Foreign Wars of the United States, I am most honored to invite you to address the delegates attending our 85th National Convention to be held in Chicago, Illinois, during the period August 17-24, 1984.

While we would welcome your attendance on August 20, 21 or 22, we would prefer to have you keynote the opening of our Convention to be held on Monday, August 20, at 11 A.M. With past Conventions as my certain guide, you may expect an audience of seven thousand of your fellow Americans.

I realize the great demand on your time, Mr. President, but I am hopeful you can arrange your busy schedule in order to attend our Convention. In our opinion, it would be a wonderful platform for you to express your views on national security and foreign policy before a very friendly audience. We sincerely hope you will give every consideration to this request.

Finally, I wish you to know you may count on the unswerving support of the 1.9 million members of the Veterans of Foreign Wars of the United States and the 680 thousand members of our Ladies Auxiliary as you seek to advance America's best interest at home and abroad.

I certainly wish you every success and am hopeful you will join us in Chicago.

Respectfully,

Clifford G. Olson, Jr.
National Commander-in-Chief

THE WHITE HOUSE

Office of the Press Secretary
(Chicago, Illinois)

For Immediate Release

August 24, 1984

REMARKS OF THE PRESIDENT
TO THE 85th NATIONAL CONVENTION OF THE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

International Ballroom
Conrad Hilton Hotel
Chicago, Illinois

1:57 P.M. CDT

THE PRESIDENT: Commander and Commander, Governor Thompson, Senator Percy, our Representatives Hyde and Martin and you, ladies and gentlemen, I thank you very much for your warm welcome.

I'm delighted to have another chance to speak to the Veterans of Foreign Wars. Last year, I told you that I would fly halfway around the world for the honor of meeting with the VFW. Well, it's not quite that far from Dallas to Chicago -- (laughter) -- but it sure is a great way to wind up a terrific week. (Applause.)

Now, before I say anything else, I want to congratulate all of you for reaching an important milestone, your two million membership goal. (Applause.) You can be proud. For 85 years, the VFW has stood united in support of the values which have made our republic great, and today you're doing it better than ever.

Four years ago, right here in Chicago, I stood before your convention, and when you think back to 1980, it's hard to forget the mess America was in, hard to forget the foolish talk of a malaise, the unfairness of runaway price increases, 21 1/2 percent interest rates, weakened defenses, Americans held hostage and the loss of respect for our nation abroad. It seemed that we woke up every morning wondering what new humiliation our country had suffered overseas, what disappointing economic news lay waiting for us on the front page.

We knew we couldn't continue on that road. We knew we had to change course and get America back on her feet. And we knew that peace and freedom could not be protected without cost and commitment, without perseverance and courage.

One cannot sit in the Oval Office without realizing the awesome responsibility of protecting peace and freedom and preserving human life. The responsibility cannot be met with halfway wishes. It can be met only by a determined effort to pursue and protect peace with all the strength that we can bring to bear.

My deepest commitment is to achieve a stable, enduring peace, not just by being prepared to deter aggression, but also by bringing steadiness to American foreign policy, by being prepared to pursue all possible avenues for arms reduction, by ensuring that our economic strength leads the way to greater stability through growth and human progress and by having the spiritual strength and self-confidence that enables us to reach out to our adversaries.

MORE

Exhibit C

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Well, I think we've come a long way together. In fact, I believe we've closed the books on that dismal chapter of failed policies and self-doubt. May it never return. (Applause.) And our progress wouldn't have been possible without you of the VFW and millions of other concerned Americans.

Gone are the days when we abandon principle and common sense. Gone are the days when we meekly tolerated obvious threats to our peace and security. Gone are the days when we either sought to achieve overnight grandiose arms control agreements that were bound to fail or when we set our sights so low that the agreements permitted the numbers and categories of weapons to soar.

We have made a new beginning, a dramatic, far-reaching step toward a much better, safer and more secure future.

To all of you who have served your country with such courage and distinction, and to all the young men and women who look to their future, I can tell you today from my heart, the United States of America is prepared for peace. (Applause.)

And because we're stronger than before, we can be confident that we're in a position to secure a future of peace, not peace at any price, but a true, meaningful, lasting peace supported by freedom and human dignity.

As I said last night in Dallas, our military serves to protect our freedom and keep the peace. None of the four wars in my lifetime, and you -- none of the wars that you have seen, came about because we were too strong. History shows that weakness invites tyrants to believe that the price of aggression will be cheap. And while military strength alone is not enough to ensure a more secure world, without military strength, there can be no effective diplomacy, no meaningful negotiations, no real security, no lasting peace.

Our military forces are back on their feet, substantially stronger and better able to protect the peace today than they were four years ago. We're still not where we need to be, but we're getting there.

And the payoff is in performance. In Grenada, with less than 72 hours notice, our forces successfully rescued 600 American students, disarmed Cuban and Peoples Revolutionary Armed Forces and restored the chance for democracy to that troubled island. (Applause.)

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As one company commander of the Army's 1st Ranger Battalion explained -- now quote:

The lead assault elements had less than 24 hours between the time we were issued our final combat orders and our departure for Grenada. We fought with the equipment on which we were trained. The equipment worked throughout the operation. New laser range finders gave accurate distance to targets and the night vision devices operated up to standards. And of the 150 rangers in my company, only 2 had ever seen combat before, yet they all performed like seasoned veterans. What it all adds up to is that our highly motivated soldiers, together with excellent training and reliable weapons, gave us the combat edge.

Well, come to think of it, I seem to remember that it took critics weeks to decide whether it was a good idea to rescue our students. (Applause.) They should have asked the students, for those students were already home. Incidentally, Nancy and I were pleased to have about 400 on the South Lawn on the White House and about 40 of the men who had returned from Grenada, representing all four branches of the service, who had been there. And it was wonderful to hear these young people -- and they were all the same age, the students and the military -- but it was wonderful to hear these youngsters tell us that, yes, they had been prone to kind of look down on the uniform and all, but not any more.

And we heard stories about how, when they were escorted to the helicopters after they had lain overnight and for hours under their beds in the dormitories because of the bullets coming through the buildings, and then our rangers arrived, and when it came time to go to the helicopters, those young fellows in uniform put themselves between the students and where the firing was coming from. (Applause.)

They couldn't keep their hands off of them. It was -- they'd throw their arms around and then they'd come back to us and tell us how wonderful they were. It was a great sight.

Well, that young Army officer said, what he said about his own ranger battalion, about being able to take on combat operations on short notice, get the job done and get it done right, was just as true for our other units. The 22nd Marine Amphibious Unit had just embarked at Morehead City, North Carolina, for a normal rotation to the Eastern Mediterranean when their orders were changed to Grenada. With no advance warning, with very little time, they put together their operational plans, went ashore, professionally accomplished their mission, and then continued on their way.

Because we were willing to take decision action, our students today are safe, Grenada is free, and that region of the Caribbean is more peaceful and secure than before. But let no one confuse that situation with an inescapable reality of the modern age.

When it comes to our nuclear forces, I've said it before and I'll say it again, a nuclear war cannot be won and must never be fought. (Applause.) And that's why we've put forward and will continue to pursue one of the most extensive arms control programs in history.

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Exhibit C

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During the months that the START and INF talks were underway, we proposed seven different initiatives and none of these were offered to the Soviets on a take-it or leave-it basis. Indeed, we made a number of adjustments to respond to the stated concerns of the Soviet side, and that's why we've put forward new proposals on reducing the levels of conventional forces in Europe on a worldwide ban on chemical weapons, on ways to help reduce the possibility of conflict in Europe, and why we're working to prevent the spread of nuclear weapons.

Ours is the pursuit of a stable and enduring peace but, at the same time, it would have been indefensible and immoral to allow the deterrent posture we need to protect the peace to continue deteriorating as it was. (Applause.) Now some may insist they're just as committed to a strong deterrent even as they would cancel the B-1 bomber and the Peacekeeper missile. They may deny that a nuclear freeze would preserve today's high, unequal, and unstable levels of nuclear weapons, and they may deny a freeze would reduce any incentive for the Soviets to return to the negotiating table and resume the search for equitable and fair reductions.

But that way of thinking only reminds me of what Sam Rayburn, a very wise Democratic Speaker of the House, once said: Any jackass can kick a barn down but it takes a carpenter to build one. (Laughter.) (Applause.)

When I took office, our newest long-range strategic bomber was 19 years old. Early next month, the first B-1 bomber will roll off the production line. In 1981, our newest strategic submarine was 14 years old. Today, three new Trident submarines are at sea, a fourth was delivered in January, six weeks ahead of schedule, and seven more are under construction on schedule and within budget.

When I took office, the debate on modernizing our aging land-based missiles had gone on for more than a decade. Today we've completed five successful tests of the Peacekeeper and deployment plans are on schedule. And let me take this opportunity to thank all of you for your much-needed support in our battle for the Peacekeeper. We must make sure that no adversary ever has reason to misjudge our deterrent posture or question our resolve to protect the peace, and we couldn't have gotten this far without your help. (Applause.)

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I've said before many times, I'll say it again, there are -- where you've been of help is there are -- many in Washington that you do not need to make them see the light, just make them feel the heat. (Laughter.) (Applause.)

Now, let me say a word about one of our most important safeguards of peace and freedom, and I'm not talking about bullets or guns, but about heart and spirit. Once again, young Americans wear their uniforms and serve their flag with honor and pride. From the NATO lines to the Demilitarized Zone of Korea and at bases and ports all across America and all over the world, young Americans are carrying on in your footsteps, in the courageous footsteps of those who stood in harm's way so that others might have a chance to find freedom, peace and happiness. In fact, no improvement in our military readiness has been more dramatic or more important than the improvement in the quality and retention of our servicemen and women.

You know, the critics kept telling us that the all-volunteer military would never work, and as soon as the economy turned around we'd be faced with severe enlistment and retention problems. Well, forgive me, but those are the same people who were wrong on inflation. They were wrong on unemployment. They were wrong on interest rates. They were wrong on the recovery. And there they go again. (Applause.) We're now in the 21st month of the best economic recovery since 1949 and last year was the best we've ever had -- (applause) -- the best we've ever had for re-enlistment in both the Navy and Air Force and one of the Army's best years for recruiting. And those trends are continuing. (Applause.)

You know, every time I see a young serviceman or woman I get a lump in my throat thinking of how lucky we are to have them serving our country and protecting our freedom with real honor, courage and competence.

I believe that we've come too far, struggled too hard and accomplished too much to turn back now. Once again the world knows that America will stand up for freedom, democracy and peace with human dignity. And once again America is prepared for peace.

I don't know whether you're aware of this, but in every year from 1975 to 1980, armies, largely supplied by Moscow, or Soviet forces themselves, invaded or seized control of a different country. First, Vietnam, then Angola, followed by Ethiopia and Cambodia -- finally, Afghanistan. Well, since 1981, that pattern has stopped. And in 1983, Grenada was saved. And every once in a while, it's important to remember that success can also be measured by the disasters which do not happen. (Applause.)

Talking about those people in uniform, as I said last night at the Convention -- I quoted what General Marshall had said in World War II when he was asked what was our secret weapon, and he said, "The best damned kids in the world." (Applause.) Well, you aren't kids anymore, but there's another generation who are and they're also -- you can say the same thing about them.

I have to tell a little story -- I promised all my people I wouldn't tell this anymore, I've told it so often, but I have to tell it to you. It has to do with Grenada. Not too long ago, the Armed Forces Journal over in the Pentagon came over and delivered me a little plaque, and they had engraved on that plaque some paragraphs from a letter received from a Marine Lieutenant, flyer of a Cobra, who had been at Grenada and then had gone on to

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Exhibit C

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Lebanon. And he wrote back to the Armed Forces Journal, and he said when he was at Grenada, he noticed that every news story contained someplace the line, "Grenada produces more nutmeg than any other spot on earth." And he decided that appeared so often, that it was a code -- and he had broken the code.

And he said, number one -- Grenada produces more nutmeg than any other spot on earth. Number two -- the Soviets and the Cubans are trying to take Grenada. Number three -- you can't have eggnog without nutmeg. And number four -- you can't have Christmas without eggnog. (Laughter.) And he said, number five -- the Soviets and the Cubans are trying to steal Christmas. (Laughter.) (Applause.) And he said, number six -- we stopped them. (Laughter.) (Applause.)

We can be confident that history is moving in the direction of self-government and human dignity. To paraphrase Jefferson, men and women are not born with saddles on their backs. Political systems, based on a dreadful denial of the human spirit will, in the end, fail.

In our own hemisphere, 26 of 33 Latin American countries today are democracies, or are striving to become democracies. Now this represents 90 percent of the region's population -- up from 50 percent only a decade ago.

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In our own hemisphere, 26 of 33 Latin American countries today are democracies, or are striving to become democracies. Now this represents 90 percent of the region's population -- up from 50 percent only a decade ago.

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We see this yearning for freedom and democracy among the brave people of Eastern Europe, in Afghanistan, in Africa, and elsewhere. The spirit of men and women to breathe free is a mighty force that cannot and will not be denied. Our country is the leader of the free world, and today we're providing that leadership.

In my meetings with foreign leaders, they've often told me how good it is to know what the United States stands for once again. (Applause.)

Now, before I close, I want to thank your outgoing Commander-in-Chief, Cliff Olson, for all that he's done, and I want to congratulate your incoming Commander-in-Chief, Billy Ray Cameron. I will always remember your strong support. It stayed rock solid even when the going was rough, but then you've always been a tower of strength. The VFW has always set high standards, lived up to them, and looked out for America, just as you've always looked out for the veteran.

The VFW and the Ladies Auxiliary didn't become great organizations by accident. You've done it through hard work and outstanding leadership. You've done it by serving our nation's veterans in your communities, volunteering your services to our veterans, fighting the good fight for a strong, safe, and secure America, supporting our POW-MIA efforts, sponsoring youth activities, directing your highly acclaimed drug abuse and safety projects, your Voice of Democracy Scholarship Program, and so many other worthwhile projects.

I think of your patriotism and I just have to wonder: How can anyone not believe that the heart of America is good, that the spirit of America is strong, and that the future of America is great?

I wish all Americans could have stood with me this past June on the windswept cliffs of Pointe du Hoc. I wish all Americans could have felt the faith and belief, the loyalty and love of those brave men of Normandy. You know what I mean -- you're the veterans of foreign wars. You've been there.

But one of the rangers of 40 years ago, now 63 years old, the day before we arrived, scaled the 100-foot cliff that he had climbed on D-Day and did in just 7 minutes -- (laughter) -- still one of the best damn kids in the world. (Laughter.) (Applause.)

You understand that we are what we are because of Normandy and a thousand other lonely battlefields. Words could never express the patriotism of generation after generation of American heroes means for the very soul of our nation. But you and I do know that we're free because of those who went to Omaha Beach and Guadalcanal, Mig Alley and Pork Chop Hill, Khe Sanh and the Iron Triangle.

I'll never stop working as hard as I can to make sure that our nation keeps its special commitment to those who served, to those who have kept the torch of liberty burning brightly. Because of you, America's best days are still to come, and with faith, freedom, and courage, there's no limit to what America can and will accomplish. (Applause.)

MORE

Exhibit C

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Forgive me, but before I leave, I must share something with you, because you've evoked memories too moving, too important to ignore. When we visited the Normandy beaches this past spring, we were told that the French citizens came up to those veterans of ours who had returned, took them by the hand, and said, with tears in their eyes, "We were only young at the time, but we will always remember what you did and what it has meant to us."

When I look at you, when I think of all you've lived and known and learned from your lifetime of service, a lifetime of honor, I can't help wondering who, more than you, can better understand how precious are the gifts of life and freedom and faith. Who more than you has the courage and the wisdom to help us protect these gifts for our children and for our children's children?

You are wise men of history whose burdens have become our blessings. Your struggles preserved democracy and today all of us are lifting America into a new springtime of hope. Yes, in my heart I know it is true, America's future must be a future of peace. And, together, we'll see to it that it's done.

I know that your convention ended and that you remained here to receive me, and I'm most grateful to you for that. (Applause.) Thank you and God bless you all. (Applause.)

END

2:21 P.M. CDT

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END

2:21 P.M. CDT

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cess story in—that this valley has—see that story multiply a million times. And with you by our side, we'll make history again, and our victory will be America's victory.

And now, I just want to thank all of you for sharing this afternoon with us. God bless you all. Thank you.

Audience. [Chanting] Reagan! Reagan! Reagan!

And you send this Congressman Zachau back to Washington. We need him.

All right. Thank you very much.

Note: The President spoke at 3:32 p.m. in the track and field area of the De Anza Community College following remarks and an introduction by Governor George Deukmejian. At the conclusion of the rally, the President and Mrs. Reagan left California and traveled to Utah. Upon their arrival in Salt Lake City, they went to the Little America Hotel where they remained overnight.

American Legion

Remarks at the 66th Annual Convention in Salt Lake City, Utah. September 4, 1984

Thank you very much. Thank you. It's wonderful to be back with you today. All of you in the American Legion have served your country honorably in time of war, but you've also served her nobly in time of peace by making the American Legion one of the most important and effective civic organizations in our country's history. I salute you today, as do all Americans.

You know, one of the great things about the American Legion is the broadness of your agenda. While you pay special attention to matters of military readiness and foreign policy, any issue of the American Legion magazine shows how well-informed all of you try to be about a broad range of domestic issues. And it's on the broad range of issues that I want to talk with you today. So for a few moments, let's talk about the unfinished business that awaits us as a nation and as a people.

I think we can all be proud of the economic progress America's made in the past

few years. I won't bother to recite here all the statistics about how the inflation, interest rates, and unemployment have come down, or the many indicators that demonstrate America's current economic expansion, because the real question you and I must now ask ourselves is how can we solidify the gains we've made and ensure that the prosperity we're now enjoying will endure not just for the rest of this decade, but on into the next century.

To do this, we have to make sure the Federal Government never goes on a spending spree like the one it was on when we came into office. Just in case you've—[applause]—well, I was going to say just in case you've forgotten, but evidently you haven't forgotten—[laughter]—Federal spending nearly tripled in the decade of the seventies. Taxes doubled in the 5 years before we took office.

The liberals in Washington who were so sure that we could spend ourselves rich and drink ourselves sober were surprised to see the economic mess they'd created. They didn't understand the real problem in Washington and the real reason for our recent economic woes was really very simple—in fact, if this sounds familiar, maybe it's because I've been saying it for so long: Government is too big, and it spends too much money.

Now, no one feared government's tendency to spend and tax and become the oppressor of the people more than those who built this nation. They had lived with the anxiety of a collapsing currency and runaway inflation, and that's why the Founding Fathers gave us that remarkable Constitution that placed so many checks and balances on government. But they also wisely provided for an amendment process through which later generations could perfect the constitutional system. Well, the performance of government in the last few decades shows the Constitution needs a little perfecting, and the people need a lot more protection from the fiscal transgressions of government.

I think that all of you know that the balanced budget amendment would put sharp restrictions on Federal spending, that it would force the Federal Government to do what so many States and municipalities and

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all average Americans are forced to do—to live within its means and stop mortgaging our children's future. So today, I'm asking for your support and help. We need the balanced budget amendment. We need it for America's future. Is that contrary to the ideas of the Founding Fathers? No, it isn't. When the Constitution was adopted, Thomas Jefferson said there was an oversight—it should have contained a clause forbidding the Government from borrowing.

Second, we need to give the office of the Presidency the powerful tool it needs to cut out the porkbarreling and special interest expenditures buried in those catch-all appropriation bills the liberals in the Congress are so fond of. Today, I'm asking for your support and help. We need the line-item veto. We need it for America's future. Now, is that a wild experiment? [Applause] I asked, is that a wild experiment, as some have suggested? No. Forty-three Governors have that right. I had it when I was Governor, and it works.

Finally, our current tax system burdens some too heavily, while permitting others to avoid their fair—or to avoid paying their fair share. It makes honest people feel like cheats, and it lets cheats pose as honest citizens. It encourages the underground economy and wastes millions of manhours on forms and regulation. It drives money needed for growth and investment and jobs into unproductive tax shelters. It is an obstacle to entrepreneurial spirit and economic expansion. To put it simply, our tax system is unfair, inequitable, counterproductive, and all but incomprehensible. Even Albert Einstein had difficulty with his Form 1040. [Laughter] And he said, "This is too difficult for a mathematician. It takes a philosopher." [Laughter]

So let's end the trauma of April 15th. Let's stop the nightmare of tangled regulations and twisted requirements that every American faces at income tax time. Let's make it possible to bring everybody's tax rates further down, not up. And today, I'm asking for your support and help. We need a simplified tax code. We need it for America's future.

Now, as we get America on the road again economically, we also need to return her to respect for the sound values and traditional beliefs that account for her great-

ness. And to accomplish this, we must rectify two of the greatest wrongs of the past few decades.

First, we must rid ourselves once and for all of the old liberal superstition that crime is somehow the fault of society and not the wrongdoer who preys on innocent people. Now, we've already appointed some very fair but tough-minded judges. And I just wish there was time to report to you in detail on the efforts of the tough new steps this administration has taken against drug trafficking and organized crime. What it all means is that we're putting more career criminals in prison than ever before. So, it should be no surprise that for the first time in many years, the crime statistics are coming down and staying down, and have been coming down for 2 years in succession.

Yet, critical legislative initiatives against crime remain right where they've remained for the last 3 years—dead in the water in the House of Representatives. Our Comprehensive Crime Control Act includes bills calling for bail reform, tougher sentencing, justice assistance to States and localities, improvement in the insanity defense, and major reforms affecting drug trafficking, prison crowding, and forfeiture. All of these reforms, and others we've forwarded, are badly needed and constitutionally sound. In fact, our initiatives—the core crime bill—passed the Senate by a vote of 91 to 1. But in the House of Representatives, the liberal leadership keeps them bottled up in committee.

So today, I'm asking your support and help. We need this tough new anticrime legislation. We need it for America's future.

And when I keep saying we need your support and help, what I mean is that there are people in Washington that need to hear from you. You know, it is not necessary to make some of them see the light, as long as you make them feel the heat. [Laughter]

Now, there's another major wrong done to traditional American values that needs to be corrected. Our Forefathers were religious people, and they were also enlightened enough to realize the follies of religious intolerance. What they did, on one hand, was to erect a wall in the Constitution separating church and state and, on the

other hand, they provided in the same document for the free exercise of religion. They knew that morality derives chiefly from religious faith and that no government—or that government no more should handle religious expression than it should show preference for one religious group over another.

Now, I can't think of anyone who favors the Government establishing a religion in this country. I know I don't. But what some would do is to twist the concept of religion, freedom of religion, to mean freedom against religion. So let me repeat what I've always believed: Religion is one of the traditional values which deserves to be preserved and strengthened. We are and must remain a pluralistic society. When we speak of church and religion, we speak of them with a small "c" and a small "r," so as to include within the constitutional protection all churches and all religions. The unique thing about America is that every single American is free to choose and practice his or her own religion, or to choose no religion at all, and that right must not and shall not be questioned or violated by the state.

We must protect the rights of all our citizens to their beliefs, including the rights of those who choose no religion. That is why our administration opposes any required prayers in schools. At the same time, we call for the right of children once again to pray voluntarily in our public schools, and that stand is in the spirit of the Constitution as our Forefathers wrote it and as we have lived it for most of our history. Let us restore that balance.

So today, again, I'm asking your support and help. We need the prayer amendment. We need it for America's future.

But in addition to strengthening our economy and reasserting traditional American values, our agenda for the future must promote economic growth by extending new opportunities to all our citizens. Right now, this administration has before the Congress a series of measures that would give us a great start in this direction. But, once again, these are measures that have been held up by the liberal leadership in the Congress and, once again, we're going to need your help to get them moving: first, tuition tax credits for the parents of parochial or independent school children;

second, the Federal enterprise zones bill that will provide jobs and opportunity for those in our inner cities; and third, a youth employment opportunity wage so that young people, especially minority youngsters, can get that first job they need to begin their climb up the economic ladder.

So today, I'm asking again your support and help. We need tuition tax credits, enterprise zones, and a youth employment opportunity wage. We need them for America's future.

And finally, let me turn to a matter I know is of special interest to all of you—America's national security, the safety of her people, the right to a future of peace and freedom. We've come a long way in the past few years in restoring our "margin of safety." I mentioned at this convention in 1980 that we needed this. Today, every major commander in the field agrees that America's military forces have better people, who are better armed, better equipped, better trained, with better support behind them.

Now, besides moving to restore the strategic balance, we've added tanks, fighting vehicles, combat aircraft, and we've also added some 70 ships to the U.S. Navy. We will have 600 ships 4 years from now if the Congress honors our budgetary requests. In the past 3 years, we have added to our sealift capability more than in all the years since World War II. And our 1983-85 budgets reflect a 100-percent increase in sustainability funding, which will significantly increase staying power for all our armed services.

Now, just take Europe alone. We can now deliver 25 percent more tonnage there in case of crisis, and we've improved our air sortie rate by 60 percent. And both on land and in the air, we have more accurate weapons, newer equipment than ever before. Now these are the kind of things which will make sure we never have to cross the nuclear threshold.

Yes, our defenses are being restored. And so, too, are our alliances. We have completely reoriented American foreign policy, imbuing it with a new energy and moral purpose. And in the process, we have rallied our friends throughout the world. Even as we've successfully resisted Soviet expan-

sionism, we've opened a wide series of diplomatic initiatives that will eventually bear fruit not just in arms control treaties, but in arms reduction treaties.

And, most of all, we've been candid about the differences between our way of our life and that of totalitarian systems. We've carried on the struggle of ideas. We have spoken up for freedom. We're determined to keep America a beacon of hope to the rest of the world and to return her to her rightful place as a champion of peace and freedom among the nations of the Earth.

But now, there are four important things we must do to move forward with the gains we've made in foreign policy.

First, we must complete the task of military modernization and improved readiness. This is directly related to the prospect for arms reductions. In the past, we've succeeded best when we've bargained from strength. We have a moral obligation to pursue technological breakthroughs that could permit us to move away from exclusive reliance on the threat of retaliation and mutual nuclear terror. We must pursue vigorously research on defensive technologies that can permit us to intercept strategic ballistic missiles—fired deliberately or accidentally—before they reach our own soil or that of our allies. Now, some are calling this "Star Wars." Well, I call it prudent policy and common sense.

Second, we must maintain our traditional alliances. Our interests and NATO's are complementary. Their strength helps us, and vice versa.

Third, we must continue to work hard toward balanced and verifiable arms reduction treaties with the Soviets, treaties that will be made all the more feasible by maintaining our resolve to keep our defenses strong.

And fourth, we must continue our forward strategy for freedom and speak up for human dignity whenever it's threatened. I preach no manifest destiny, but I do say we Americans cannot turn our backs on what history has asked of us. Keeping alive the hope of human freedom is America's mission, and we cannot shrink from the task or falter in the call to duty. In the past 4 years, we've offered renewed hope to millions of people in developing lands, and we're beginning to see them turn away from the

East and toward political and economic systems based on personal freedom. So we must not be apologetic about our nation's commitment to freedom. We must present to the world an America that is not just militarily strong, but an America that is morally powerful; an America that has a creed, a cause, a vision of a future time when all people of the world will have the right to self-government and personal freedom.

So today, again, I ask your support and help. We need to continue to restore our strength, to pursue emerging technologies, to consolidate our alliances, to move forward energetically with strategic arms negotiations and, most of all, to continue proclaiming the American dream of human freedom to the entire world. We need these things, and we need them for the sake of America's future.

Another subject of great interest to Le-gionnaires is the POW-MIA issue, and your responsible support of our efforts and the National League of Families is greatly appreciated. We've made some recent progress with both Laos and Vietnam, and we'll continue our highest priority efforts until we achieve the fullest possible accounting of these brave men.

And, by the way, I want to add something that also needs to be said here. The men and women veterans who've proudly served their country in the military have earned more than simply the respect of their countrymen, they have earned the benefits to which they're entitled, including veterans preference in government employment. As long as I'm President, those will be the policies of the United States Government. And I want you to know that as long as I'm President, the door of the Oval Office is open to you, to your leaders, and to your concerns.

You know, I can't leave this discussion without thanking all of you in the American Legion for the enormous help that you've given us on the Central American issue. It's been a long struggle and, thanks to your efforts, we're finally making progress. But the struggle isn't over yet. There are still those in the Congress who want to hinder our attempts to help El Salvador, and there is also a move underway to desert the free-

dom fighters in Nicaragua. So on this issue and many others, I hope you'll think about sending a reminder to the Capital this year. I hope you'll think about ending that stalemate in Washington by voting this year for responsible candidates at the congressional level, so that this administration can have a Congress it can work with and our agenda for the future can become reality.

I think you join me in my belief in this agenda for America's future. It's one that will create growth, opportunity, and progress at home and pursue peace and freedom abroad. From reducing the growth of government to supporting prayer in our classrooms, we aim to strengthen families, local communities, private institutions, and voluntary organizations. Our goal is to reaffirm traditional American values while we get government out of the way of our people and their boundless capacity for change, innovation, and progress. Our hope is to keep alive America as a beacon of hope, a shining city in a world grown weary of war and oppression.

You know, I wanted to speak to all of you today about the future, because I believe the things so many of you struggled for so valiantly have not just endured, they have grown and prospered and turned brighter with the years. What a change from only a few years ago when patriotism seemed so out of style! I'm not sure anyone really knows how the "new patriotism" came so quickly, or when and how it actually began.

Was its seed first planted that day our POW's, who had braved a horrendous captivity in North Vietnam, came home, said, "God bless America," and then actually thanked us for what they said we had done? Or was it at the 1980 Winter Olympics and the miracle of Lake Placid—you remember the chants of "U.S.A." and the hockey team that didn't know it couldn't do the impossible? Or maybe it was that unforgettable moment when after 444 days of captivity our Iranian hostages came home to parades and freedom.

Well, wherever the new patriotism came from, there can be no gainsaying its arrival. Maybe you've seen the television show "Call to Glory" that celebrates Air Force officers serving in "the twilight struggle" of the cold war. Or maybe you've heard country singer Lee Greenwood's new song,

"God Bless the U.S.A.," whose first verse says it so well:

"If tomorrow all the things were gone I'd worked for all my life

And I had to start again with just my children and my wife

I'd thank my lucky stars to be living here today

'Cause the flag still stands for freedom, and they can't take that away."

And I wonder if anyone can forget that scene on the White House lawn last November shortly after the Grenada rescue operation. What a change it was to see young students praising and thanking our military and, as my friend Paul Laxalt recently noted, what a change to see graffiti on foreign walls that doesn't say "Yankee Go Home," but says, "God Bless America."

Or how about those young men and women on our Olympic team this summer? Who's ever said more about this country than those young Americans? Can we forget those young American sprinters who swept the 200-meter race, and then, led by Carl Lewis, went around the track with a flag, embraced their families, and then knelt to pray?

And what about the moment when they introduced George Foreman, the former Olympic champion who was brave enough to wave a tiny American flag at the 1968 Olympics when he had won his fight, after there had been a demonstration previous to that in which there was no flag-waving? The news accounts described how the fans in Los Angeles rose and cheered, filling the old arena with an emotional ovation that brought tears to many. "All I've ever tried to tell anyone," George Foreman said, "is that I'm not a black man or a white man or anything else. All I've ever been was an American."

And for me there was that visit to Normandy earlier this year, where I read the letter of a loving daughter who had promised her father, a Normandy veteran who had died of cancer 8 years earlier, that someday she would go back to Normandy for him. She would see the beaches and visit the monuments and plant the flowers at the graves of his fallen comrades. "I'll never forget what you went through," she had told her father, "and, Dad, I'll always

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be proud." Well, reading her letter was one of the hardest speeches that I ever gave. But I'm sure you, of all people, understand. For many of you, even though your days of military service are receding, there are still reminders like that, poignant and piercing.

It's always been so for old soldiers. There's a story told about General Grant during the final weeks of his life. He had begun his last journey by train to upstate New York, and the newspapers were already filled with headlines, "Grant is dying." He was in a race against time, hoping to finish his memoirs and give his family back the financial security lost by those he had trusted too well.

And outside of Albany, coming around a bend, his train halted briefly. It was near a flagman's shanty. The flagman came out and looked up through the train window into the General's eyes. The flagman waved his arm. There was no hand. "General, I lost that with you in the wilderness," the flagman said, "and I'd give the other one to see you well." Well, as Grant's wife and the doctor wept, the old General's lips tightened and his hand went up quickly as he took his hat off in a final salute to an old comrade.

Nimitz and Halsey, MacArthur, Bradley, Patton, Ike—they're all gone now. And boys who stormed the beaches for them at Normandy or Iwo are grandfathers now. Korea, too, fades into memory. And even Vietnam now belongs less to journalists or politicians than to scholars and historians.

In the book by Gene Smith, in which that story about General Grant is recounted, there's another story about an old soldier. His name was R.J. Burdette. And he returned years later to an old battlefield, one he had told his wife he could find stone-blind. But when he got there, there was grass and violets. It was May, and children were playing on what he recalled as a shell crater. And although in his memory, he wrote, there was still the day of "might and strength and terror, it was gone."

Well, I know you join me in a prayer today that for America such days and places are gone forever; that as much as we honor those who died to make us free, we also fervently hope that such sacrifice will never again have to be asked for, and that the day is not far off when there will be no new

battlefields to visit and no old soldiers stories to hear.

Some will say that such hope is in vain, that the weight of history or human experience is against us. Well, I don't believe it's too much to hope that the years ahead will bring peace and freedom not just for the people of this "kindly, pleasant, greening land" called America, but for all mankind.

Thank you, and God bless you all.

Note: The President spoke at 11:12 a.m. at the Salt Palace following remarks and an introduction by Keith Kruei, national commander of the American Legion.

Earlier in the day, the President met at the Little America Hotel with Utah Republican leaders. He then went to the Church of Jesus Christ of Latter Day Saints, where he was greeted by Gordon B. Hinckley, the second counsellor in the first presidency of the church. The President then met with church officials in the First Presidency Board Room in the Administration Building at the church.

Shortly after the conclusion of his address at the convention, the President left Utah and traveled to Chicago, IL.

1984 Election Campaign

Question-and-Answer Session With Reporters Upon Arrival in Chicago, Illinois. September 4, 1984

Q. Mr. President, what did you mean by that new spirit enveloping America? What did you mean by that?

The President. I think it's evident every place you go. Everyone is optimistic and everyone is gung-ho to go forward with the kind of expansion we're having. We've got 6 million new jobs in the country. We've got the fastest business expansion that we've had—600,000 new incorporations. Everybody's ready to go.

Q. Mr. President, have you laid the religious issue to rest? Some of your aides have said that with your statement today you are finished talking about religion on the campaign trail.

The President. Well, I was only talking about it because I was speaking at a prayer breakfast, and then what I said was greatly distorted. My concern was not with government invading religion, it's with all those people that are trying to make government turn around and interfere with people's right to practice religion.

Q. Who distorted that, Mr. President, and how was it distorted?

The President. I guess it was just—lost something in the translation.

Q. You've had a campaign kickoff, and you haven't even mentioned Walter Mondale by name. Why not?

The President. Why should I? [Laughter]

Q. Thank you; you're wonderful.

Note: The question-and-answer session began at approximately 4:40 p.m. at O'Hare International Airport. The President then proceeded to the Hyatt Regency Hotel, where he remained overnight.

"Choosing a Future" Conference

Remarks at the Conference in Chicago, Illinois. September 5, 1984

Well, thank you very much. I'm honored to be here this morning with all of you very distinguished ladies and gentlemen. It was kind of good to fly in yesterday on Air Force One and see the city of the big shoulders again.

All my life, I've believed in miracles. I believe that if you truly have faith, your dream will come true. And now after 39 years of waiting, the miracle is happening. The Chicago Cubs are on their way to a National League pennant. [Laughter]

I have to tell you what that means to me personally. I was broadcasting the Cubs in 1935 when the only mathematical chance they had to win the pennant was to win the last 21 games of the season—[laughter]—and they did! [Laughter] And it still stands today as an unequalled record. When I'm in the presence of such greatness, how can I feel intimidated by a little challenge like running for President? [Laughter]

And if you share my belief that all things come together for good, then how can we not believe the success of the Cubs bodes well for our Nation's heartland?

Permit me to commend AmeriTrust Corporation and its fine chairman, Jerry Jarrett, for your leadership in sponsoring "Choosing a Future" for mid-America. Your survey identifying the significant economic difficulties we know your region faces, as well as strategies for overcoming them, represents a far-reaching and impressive private sector economic development initiative.

"Choosing a Future" reflects the spirit of partnership between government and industry essential to lasting industrial or economic growth in human progress. And it portrays a people with the realism to see clearly and the courage and confidence to go far.

When we talk about the great changes in America in recent years we often describe them in statistical ways, and I'll be guilty of that before I finish. But I think the most significant change, a good and hopeful one, has been the change in America's attitude—our renewed confidence and the higher value that we place on the truly important things in our lives.

Ben Franklin once said that, "When the well's dry, we know the worth of water." Well, 1980 marked such a moment for America. It was, in a sense, a great moment of truth; a time in our history when it seemed to many that America's well finally had run dry from a philosophy of bigger and bigger government. It was time to begin putting back what we had lost.

For half a century, we'd been giving government greater power over our lives. We did this with the best and most honorable of intentions. But by 1980, the full impact of distorting our economy, of draining spirit from the heart of our people, and of permitting our traditional values of faith, family, and work, neighborhood, and freedom to be undermined—all of this had come home to roost.

The worst trauma was not the breakdown in our economy or the humiliating setbacks that we suffered abroad. Being sick was bad, but the worst thing was when they told us we couldn't get well; that the prob-

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October 14, 1975

COMMENTS ON AOR 1975-72
Pub. F.R. Sept. 24, 1975

Federal Election Commission
Office of the General Counsel
Advisory Opinion Comment
1335 K Street, N.W.
Washington, D.C. 20463

Dear Sirs:

We respectfully submit the following comments on AOR-1975-72.
We hope this will be helpful to the Commission.

AOR 1975-72 raises the question of whether the Republican National Committee (RNC) can legitimately provide funds, in light of the recent federal election law amendments, for political travel by President Ford while he is a candidate for his party's presidential nomination. And further, whether these expenditures count against candidate Ford's campaign expenditure limitations under 18 U.S.C. section 600(c). It appears to our committee that several facts must be considered before a conclusion on the RNC's request can be reached.

First, President Ford is an announced and declared candidate for his party's nomination. He has, as of this date, made campaign trips and authorized a committee which has made campaign expenditures on behalf of his campaign. He indicated on a nationally televised news conference (October 9, 1975) that he hoped his political trips made on behalf of the RNC would help his election. He has made the decision to actively campaign at an earlier date than has been the customary political practice of past incumbent Presidents.

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Second, Gerald R. Ford was the first individual appointed to the Vice Presidency under the provisions of the recently enacted 25th Amendment. Following the resignation of Richard M. Nixon as President, Gerald R. Ford succeeded to that office. His Vice President, Robert A. F. Kennedy, also became such by the operation of the 25th Amendment, after having been rejected for the Republican presidential nomination by the Republican National Conventions of 1964 and 1968. These facts are quite important in providing some political perspective to the relationship of the Presidency, its current occupant, and the Republican Party.

Third, there is an active political committee in existence, authorized by Governor Reagan, and registered with the Federal Election Commission, that has raised significant amounts of money from many thousands of persons in every state. This committee is actively promoting the candidacy of Governor Ronald Reagan for the Republican Party's presidential nomination.

Fourth, one of the basic purposes of the 1974 amendments to the body of federal election law is to insure that no candidate, regardless of his position or financial means, could "buy" the Presidency by means of excessive financial expenditures. To this end, the key provision of the 1974 Act is 18 U.S.C. section 608. This section imposes strict expenditure limitations on all candidates for federal office. The purpose of these limitations is, in part, to provide every candidate with an equal opportunity to present his campaign to the electorate.

Fifth, a key criticism of the new election law is that it favors incumbents in that it protects them against challengers. This is so, many feel, because a challenger can only overcome the multiple advantages of incumbency by greater campaign spending than the incumbent. It is certainly true that an incumbent President enjoys great political advantages by virtue of his official position, advantages such as government-paid travel around the country to "non-political events" and the national forum of the televised Presidential press conference (recently exempted from equal time by the Federal Communications Commission). Does he also, in a primary campaign situation, enjoy the official mantle of the party and use of its funds merely by virtue of his title?

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With these basic factual referents in mind we submit the following analysis of the RNC's request:

Traditionally an incumbent President seeking reelection has been considered unchallengeable within his own political party for his party's nomination. No incumbent President in this century has been denied renomination by his party. In fact, so strong is the traditional role of the incumbent President that only twice in this century has one been defeated in a general election. In 1975 and 1976 the situation in this country is and will be unique politically. The incumbent President and Vice President of the Republican Party have never faced the national electorate or, in the case of President Ford, the Republican Party membership as expressed through its national party convention. Thus, President Ford is clearly not in the same position as former Republican Party presidents were. In fact, it is clear that one of the important factors in the 1976 nomination contest is the current lack of a nationally chosen or mandated Republican Party "leader" in the traditional sense. The Republican Party's only elected national spokesman is its chairman, Mrs. Mary Louise Smith.

Thus, while Gerald R. Ford is legally and constitutionally the Chief Executive, with all the President's powers and privileges, and entitled to all the traditional support and respect due our Head of State, he does not stand in the traditional role an incumbent President has had as the titular leader of the Republican Party. Further, actions that tend not only to place him in such a role but also to emphasize it directly benefit his campaign for the party's nomination for President. In fact, a key selling point of the President's campaign has been his incumbency. To argue that his campaign for the nomination should not be hindered because of his activities as "party leader," is very like the boy, who having killed his parents, says he should not be punished because he is an orphan.

Only the 1976 nominee of the Republican National Convention will be the party's chosen leader.

The 1974 amendments to federal election law mandate strict expenditure limitations for all federal candidates. They do this separately with respect to candidates for the nomination of president and

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Federal Election Commission
October 14, 1975
Page Four

for the candidates of parties in general elections. Further, the law embodies a very expensive and comprehensive definition of contributions and expenditures so as to close nearly every potential loophole left in past legislative attempts at regulation. This legislative plan clearly manifests the intent of Congress, as ratified by President Ford in signing the law, to establish a system of electoral regulation that would control, limit and disclose all expenditures that promote and influence a federal campaign. It cannot be seriously argued that political trips made by a declared candidate, as "leader" of a political party, directed at those very individuals who will ultimately choose the party's nominee, does not directly benefit and influence and promote such candidate's campaign. If President Ford's campaign is not charged with the cost of trips made as the "leader" of the Republican Party under these circumstances then section 608 is not the comprehensive expenditure limitation section it clearly was intended to be.

If the Commission's interpretation of this new law is not to favor incumbents over other candidates and if the traditional relationship of the Presidency to its own political party is not to become a vehicle for allowing the new election law to be gravely distorted then the RNC's planned actions must be modified. It would certainly be divisive within the Republican Party if the RNC were to bestow a non-reportable and uncontrolled election benefit on only one candidate for the party's nomination. This would raise constitutional questions of whether 18 U.S.C. section 608's effect, if not its purpose, is to stifle legitimate political challenges to incumbents from within their own parties.

If the party provided truly equal treatment to all candidates for its nomination then few serious objections could be raised. Then, the party would not be promoting a campaign but would be providing its national membership with a better opportunity for seeing all its candidates. It would be performing a legitimate informational function by helping members to make more intelligent choices among the candidates. While a TV appearance by one candidate benefits his campaign, a program presenting all of the candidates equally benefits the electorate. Of course, a fair and equitable mechanism would have to be worked out to determine who the individuals are who are legitimately entitled to such consideration. But this should not be difficult. A simple criterion, like qualification for federal matching funds, would provide an adequate method for discriminating between bona fide candidates and others.

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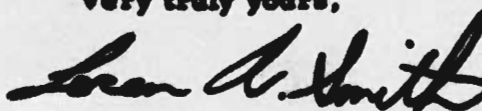
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Federal Election Commission
October 14, 1975
Page Five

If the FEC chooses not to consider such an option it seems to our committee that its current proposal raises serious questions under both the contribution limitations and the expenditure limitations of section 501(c)(3). If party "leadership" is to confer substantial financial electoral benefits it should be both formalized and brought within the guidelines of the election law. Governor Reagan has over the past years raised millions of dollars for the Republican Party at numerous party events across the nation and by direct mail. He has done this as a member of the party who deeply believes in its principles. Our committee feels that the party treasury, built up in the interests of the whole party, should not become a vehicle for any single candidate in contest for the party's nomination, regardless of any office he may hold.

In 1975 and 1976 a new federal election law prevails. Examples of past practice no longer suffice to justify present actions. We hope our comments will aid the Federal Election Commission in deciding this question.

Very truly yours,



Loren A. Smith
General Counsel

LAS:jf

cc: Hon. Thomas B. Curtis
Hon. Neil Staebler
Hon. Joan Aikens
Hon. Thomas E. Harris
Hon. Vernon W. Thomson
Hon. Robert O. Tiernan
Hon. Benton L. Becker
Hon. Mary Louise Smith

FEDERAL ELECTION COMMISSION
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OFFICE OF GENERAL COUNSEL

QUESTIONS TO REAGAN-BUSH '84

1. Who accompanied President Reagan on the flights from Dallas to Chicago and Chicago to Washington on August 24, 1984? Please state the positions held by the individuals. Were any of these individuals employed by Reagan-Bush '84? If so, please explain their responsibilities with Reagan-Bush '84.
2. Did any Reagan-Bush '84 employees make preparations in advance of any of the appearances that the President made in Illinois on August 24, 1984? Those "preparations" include, but are not limited to, choosing the hall, designing the backdrop or stage, determining the people with whom the President would sit before and after his address, publicizing the event, notifying the members of the national press covering the President's reelection campaign, and taking actions designed to generate an audience. If so, please explain in detail the "preparations" made by Reagan-Bush '84 employees.
3. Were there any written or oral communications between agents of Reagan-Bush '84 and the Veterans of Foreign Wars between the time that the White House received the invitation and the time that the President appeared at the convention? When did those communications take place? Who were the individuals participating in those communications? To what did the communications pertain?
4. Did Reagan-Bush '84 participate in the organization of any "rallies" to meet President Reagan at the Chicago airport, either upon arrival or departure? Did Reagan-Bush '84 participate in the organization of any "rallies" to meet the President at the site of the address or legislation signing ceremony? If so, please explain the extent of Reagan-Bush '84's participation.
5. Did Reagan-Bush '84 participate in the organization of any receptions or meetings between the President and supporters, contributors, or campaign officials during the time in which the President was in Illinois? If so, please explain the extent of Reagan-Bush '84's participation.
6. Please provide copies of President Reagan's previous addresses to the Veterans of Foreign Wars. Who wrote the speech used on August 24, 1984 before the Veterans of Foreign Wars?
7. Did President Reagan participate in any meetings or events beside the Veterans of Foreign Wars address and the legislation signing ceremony while in Illinois? Who participated in those meetings? When were the meetings organized? To what did the meetings pertain?

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

Ronald E. Robertson, Esquire
Chief Counsel
Reagan-Bush '84
440 First Street, N.W.
Suite 600
Washington, D.C. 20001

RE: MUR 1790
Reagan-Bush '84 and its
treasurer, Angela M.
Buchanan Jackson

Dear Mr. Robertson:

The Federal Election Commission notified your committee on September 25, 1984, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your committee at that time. We acknowledge receipt of your explanation of this matter which was dated October 29, 1984.

Upon further review of the allegations contained in the complaint and information supplied by you the Commission, on , 198 , determined that there is reason to believe that Reagan-Bush '84 violated 2 U.S.C. 434(b)(4) and 11 C.F.R. § 9003.1 and 9004.7, provisions of the Act and regulations. The determination that there was reason to believe that the August 24, 1984 speech to the Veterans of Foreign Wars was campaign-related followed a careful review of the circumstances surrounding the address. The Commission reviewed the setting in which the remarks were made, the timing of the event, the reaction that the remarks evoked, and the remarks themselves, among other factors in making its determination. You may submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Please submit any such materials, along with your answers to the enclosed questions, within ten days of your receipt of this notification.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause; however, in the absence of any information which demonstrates that no further action should be taken against your committee, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2 of the enclosed procedures.

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Ronald E. Robertson, Esquire
MUR 1790
Page 2

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Matthew Gerson, the staff member assigned to this matter at (202) 523-4143.

Sincerely,

Enclosures
Procedures
Questions

cc: Sherrie Cooksey, Esquire

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REAGAN-BUSH '84

The President's Authorized Campaign Committee

GCC#S382

October 29, 1984

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GENERAL COUNSEL

By Messenger

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

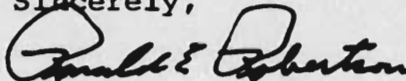
Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1790

Dear Mr. Gross:

Enclosed please find the Response of Reagan-Bush '84 and its Treasurer, Angela M. Buchanan Jackson to the complaint filed with the Commission in the above-captioned matter.

Sincerely,


Ronald E. Robertson
Chief Counsel

RER/cjr
Enclosure

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BEFORE THE
FEDERAL ELECTION COMMISSION

Common Cause,
Petitioner,
v.
Reagan-Bush '84 and
its Treasurer,
Angela M. Buchanan Jackson,
Respondents.

MUR 1790

RESPONSE OF REAGAN-BUSH '84
AND ITS TREASURER, ANGELA
M. BUCHANAN JACKSON

INTRODUCTION

On September 25, 1984, Common Cause ("Petitioner") filed a complaint with the Federal Election Commission (the "Commission") alleging that Reagan-Bush '84 had violated or would violate various provisions of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431 et seq.) and the Presidential Election Campaign Fund Act (26 U.S.C. § 9001 et seq.) and the Commission's regulations promulgated thereunder (11 C.F.R. § 9004.7) by failing to report and pay for the costs of President Ronald Reagan's travel to Chicago, Illinois, on August 24, 1984, to address the 85th National Convention of the Veterans of Foreign Wars of the United States (the "V.F.W.").

Reagan-Bush '84 and its Treasurer, Angela M. Buchanan Jackson ("Respondents") submit this response pursuant to 2 U.S.C. § 437(g)(1) and 11 C.F.R. § 111.6(a), and for the

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reasons set forth below respectfully request the Commission to find there is no reason to believe that Respondents violated any provisions of the Federal Election Campaign Act of 1971 as amended, the Presidential Election Campaign Fund Act or the Commission regulations promulgated thereunder. Respondents contend, and will demonstrate in this response, that Petitioner's complaint must be dismissed for the following reasons. First, consistent with applicable Department of Justice and Comptroller General opinions, the costs of the President's travel to Chicago on August 24, 1984 were properly paid from appropriated funds. Second, pursuant to the Commission's own advisory opinions, the President's appearance before the 85th National Convention of the V.F.W. was not for the purpose of influencing a Federal election, and thus was not "campaign-related", under 11 C.F.R. § 9004.7.

ARGUMENT

I. CONSISTENT WITH DEPARTMENT OF JUSTICE AND COMPTROLLER GENERAL OPINIONS, THE COSTS OF PRESIDENT REAGAN'S AUGUST 24, 1984 TRAVEL TO CHICAGO, ILLINOIS WERE PROPERLY PAID FROM APPROPRIATED FUNDS.

In making decisions on the appropriate payor for the costs of Presidential travel in an election year, three basic principles must be borne in mind. First, appropriated funds may be spent only for the purposes for which they have been appropriated. 31 U.S.C. § 1301(a); 52 Comp. Gen. 504 (1972);

and 50 Comp. Gen. 534 (1971). Thus, funds appropriated for the official functioning of the offices of the President may be used for payment of Presidential travel expenses only if the travel is reasonably related to an official purpose. Second, in general, official activities should be paid for only from funds appropriated for such purposes. This principle, which prevents the unauthorized augmentation of appropriations, has been recognized by the Comptroller General on numerous occasions. See, e.g., 46 Comp. Gen. 689 (1967); 23 Comp. Gen. 694 (1944); 17 Comp. Dec. 712 (1911); 9 Comp. Dec. 174 (1902). Third, pursuant to the Commission's regulations, 11 C.F.R. § 9004.7, all "campaign-related" travel of the President must be paid for by the President's authorized campaign committee. 1/

Hence, when considering payment of expenses associated with Presidential travel, a determination must first be made as to whether the President is acting in his "official" or "political" capacity. As demonstrated by the attached affidavit (Attachment A) from Assistant Attorney General for the Office of Legal Counsel Theodore B. Olson, the Office of Legal Counsel in the Department of Justice addressed this issue in March, 1977 and concluded that:

1/ A discussion of the requirements of 11 C.F.R. § 9004.7 is set forth below in Argument II.

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As a general rule, Presidential and Vice Presidential travel should be considered "political" if its primary purpose involves their positions as leaders of their political party. Appearing at party functions, fundraising and campaigning for specific candidates are the principal examples of travel which should be considered political. On the other hand, travel for inspections, meetings, non-partisan addresses and the like ordinarily should not be considered "political" travel even though they may have partisan consequences or concern questions on which public opinion is politically divided. The President cannot perform his official duties effectively without the understanding, confidence and support of the public. Travel and appearances by the President and Vice President to present, explain, and secure public support for the Administration's measures are therefore an inherent part of the President and Vice President's official duties.

The Comptroller General has also recognized the basic principle that the costs of travel for Presidential appearances before the public explaining or defending Government policies are legitimately paid from official funds:

As to official activities, we have long held that the President and his Cabinet and other subordinates have a duty to inform the public about Government policies, and policy making officials traditionally have utilized Government resources to disseminate information in explanation and defense of those policies. 2/

The President was invited to address the 85th National Convention of the V.F.W., as President, to express his views on national security and foreign policy matters. (See invitation to President Reagan from V.F.W. National Commander-in-Chief Clifford G. Olson, Jr. at Exhibit B.) Every modern day

2/ Memorandum of the Comptroller General to the Honorable Mark O. Hatfield et al. re: Review of White House and Executive Agency Expenditures for Selected Travel, Entertainment and Personnel Costs March 6, 1981, B-196862.

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President, including President Reagan, has annually addressed (either in person or by videotape) the National Convention of the V.F.W. The V.F.W. is a non-profit, non-partisan organization whose constitution and bylaws prohibit it from endorsing political candidates. 3/ Its invitation to the President was extended on March 1, 1984, six months prior to the President's nomination as the 1984 Republican nominee for President.

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The President's remarks to the National Convention of the V.F.W. were consistent with the non-partisan nature of the audience and the V.F.W.'s request that he discuss national security and foreign policy issues. (See Exhibit C.) Those remarks contained no requests for votes or references to the November 6, 1984 election; moreover, there were no references to either the President's candidacy for re-election or his opponent, Walter F. Mondale.

In view of the foregoing, petitioners' assertion that the President's August 24, 1984 appearance before the V.F.W. was a "campaign speech" is wholly without merit. By presenting and explaining Administration policies to the public in a non-partisan address before a non-partisan forum the President was engaging in an "inherent part" of his official duties. Hence, the costs of his travel to Chicago, Illinois to make that

3/ The V.F.W. does have a separate segregated fund which makes political contributions to Federal candidates; however, at no time during his August 24, 1984 visit to Chicago did the President or his advisers participate in any meetings with V.F.W. officials.

address were properly paid from appropriated funds. Indeed, consistent with the basic principle that official activities should be paid only from appropriated funds, it would have been inappropriate for a non-Government entity, such as Reagan-Bush '84, to have paid such costs: to do so would have been an unauthorized augmentation of Government appropriations, 16 Comp. Gen. 911 (1937); see 31 U.S.C. 1301(a) and 9 Comp. Dec. 174 (1902); 17 Comp. Dec. 712 (1911).

II. PURSUANT TO THE COMMISSION'S OWN ADVISORY OPINIONS THE PRESIDENT'S AUGUST 24, 1984 APPEARANCE BEFORE THE V.F.W. WAS NOT FOR THE PURPOSE OF INFLUENCING A FEDERAL ELECTION AND THUS WAS NOT "CAMPAIGN-RELATED."

The Commission has recognized on numerous occasions that where the major purpose of an activity by a Federal officeholder, who is also a Federal candidate, is not to influence his nomination or election, but, instead, is in connection with his official duties, no contribution or expenditure results under the Federal election laws, i.e., the costs of the officeholder's appearance or activities are not "campaign-related." See, e.g., Advisory Opinion 1981-37 (Oct. 13, 1981) CCH Campaign Finance Guide, ¶ 5623; Advisory Opinion 1980-22 (April 15, 1980) CCH Campaign Finance Guide, ¶ 5479; Advisory Opinion 1978-4 (Feb. 24, 1978) CCH Campaign Finance Guide, ¶ 5293 (expenditures for a non-profit, non-partisan salute to a Congressman who was also a candidate for re-election were not for the purpose of influencing a Federal election). See, also Advisory Opinion 1979-25 (June 19, 1979) CCH Campaign Finance Guide, ¶ 5410.

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In reaching its conclusion in Advisory Opinion 1981-37, supra, the Commission specifically recognized that a Congressman's actions as a moderator of a televised public affairs forum might indirectly benefit his campaign. Nevertheless, in the absence of any communication expressly advocating the election or defeat of any Federal candidate, and the avoidance of any solicitation, making or acceptance of a campaign contribution in connection with the public affairs forum, the Commission concluded that the major purpose of the Congressman's activities would not be to further his or any other Federal candidate's nomination or election to Federal office. 4/

Similarly, in Advisory Opinion 1980-22, supra, the Commission found that expenditures for town meetings sponsored by a trade association and its member corporations in which Federal officeholders who were also candidates for re-election would participate would not constitute "contributions" or "expenditures" because their major purpose was to serve as a forum for discussion of problems of the steel industry. Again, the Commission based its conclusion on (1) the absence of any communication expressly advocating the election or defeat of Federal

4/ This Opinion also expressly overruled those portions of previous Commission Opinions holding "that all speeches of a candidate for Federal office made before a substantial number of people, who comprise a part of the electorate with respect to which the individual is a candidate, are presumably made for the purpose of enhancing the individual's candidacy."

candidates, and (2) avoidance of any solicitation, making or acceptance of campaign contributions for the candidates in connection with the town meetings.

As noted above, and contrary to the unsubstantiated claims of petitioners, the text of the President's remarks before the V.F.W. contain no statements of express advocacy for the election or defeat of any Federal candidate. Indeed, no mention is made of the President's candidacy for re-election, and no mention is made of his opponent. Moreover, there is no evidence, proffered by petitioners or otherwise, that any solicitations for contributions to the President's campaign occurred at this event. Needless to say, no such solicitations occurred, as they were prohibited by the President's certification to the Commission pursuant to the requirements of 26 U.S.C. § 9003 5/, and more important, the V.F.W. National Convention was a non-partisan forum before which the President appeared in his official capacity.

Petitioners' erroneously rely on Advisory Opinion 1984-13 (May 17, 1984) CCH Campaign Finance Guide, ¶ 5759 to substantiate their conclusion that the primary purpose of the President's speech before the V.F.W. was to further his re-election. There, the Commission concluded that a public affairs forum

5/ If petitioners mean to suggest that Reagan-Bush '84 violated that certification by allowing the Government to pay for the costs of the President's travel to Chicago, such suggestion is without legal merit as, by definition, the Government cannot make a political contribution. 2 U.S.C. 431(11).

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sponsored by an incorporated trade association which would occur in Dallas, Texas during the week of the 1984 Republican National Convention where the only candidate speakers would be Republicans, was "linked by its timing and purpose to Congressional elections and carrie[d] partisan overtones." In making that conclusion, however, the Commission specifically noted that this proposed event was "factually distinguishable" from the issues forums and testimonial dinners discussed in Advisory Opinions 1980-22 and 1978-4.

On the basis of that limited factual situation, petitioners would have the Commission conclude that the primary purpose of the President's appearance before the 85th National Convention of the V.F.W. in Chicago, Illinois was to further his re-election. Such conclusion flies in the face of the history of the V.F.W. invitation to the President and the text of the President's remarks to that Convention. The 85th National Convention of the V.F.W. was clearly not related by either location, timing or purpose with the 1984 Republican National Convention or any other partisan event. This was an annual convention of a non-profit, non-partisan organization whose constitution and by-laws preclude endorsements of political candidates. Moreover, the invitation for the President's participation in this convention had been issued months prior to his nomination.

The President's speech before the V.F.W. was a presentation of his Administration's policies on national security and foreign affairs. In the discussion of those matters, the

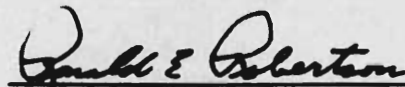
IV. CONCLUSION

Specifically, Petitioners' complaint ignores the requirements of Federal law relating to expenditures of appropriated funds, and makes specious conclusions clearly unsubstantiated

by the actual text of the President's speech before the V.F.W. The President's appearance before the 85th National Convention of the V.F.W. was an official appearance in furtherance of his duties as a Federal officeholder. Consistent with Commission Advisory Opinions on the activities of Federal officeholders who are also Federal candidates, and because that speech contained no advocacy statements regarding Federal candidates and no solicitations for contributions, the primary purpose of that speech was not "campaign-related."

Therefore, Respondents respectfully request that this Commission find no reason to believe that Respondents have violated any provisions of the Federal election laws and that this matter be dismissed without further proceedings.

Respectfully submitted,



Ronald E. Robertson
Counsel for Respondents,
Reagan-Bush '84 and its
Treasurer, Angela M. Buchanan
Jackson

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DECLARATION OF THEODORE B. OLSON

THEODORE B. OLSON, hereby declares and states the following:

1. I am Assistant Attorney General, Office of Legal Counsel, Department of Justice of the United States.
2. The Office of Legal Counsel has heretofore reviewed issues concerning whether travel by the President of the United States is "official" or "political." On that subject in March, 1977 the Office of Legal Counsel concluded, inter alia, that:

As a general rule, Presidential and Vice Presidential travel should be considered "political" if its primary purpose involves their positions as leaders of their political party. Appearing at party functions, fundraising and campaigning for specific candidates are the principal examples of travel which should be considered political. On the other hand, travel for inspections, meetings, nonpartisan addresses and the like ordinarily should not be considered "political" travel even though they may have partisan consequences or concern questions on which public opinion is politically divided. The President cannot perform his official duties effectively without the understanding, confidence and support of the public. Travel and appearances by the President and Vice President to present, explain, and secure public support for the Administration's measures are therefore an inherent part of the President and Vice President's official duties.

3. As of the date hereof the above quoted statement continues to reflect the views of the Office of Legal Counsel.

I declare under penalty of perjury that the foregoing statements are true and correct.

Executed this 29th day of October, 1984.


THEODORE B. OLSON

VETERANS OF FOREIGN WARS OF THE UNITED STATES



THE COMMANDER-IN-CHIEF

March 1, 1984

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

As National Commander-in-Chief of the Veterans of Foreign Wars of the United States, I am most honored to invite you to address the delegates attending our 85th National Convention to be held in Chicago, Illinois, during the period August 17-24, 1984.

While we would welcome your attendance on August 20, 21 or 22, we would prefer to have you keynote the opening of our Convention to be held on Monday, August 20, at 11 A.M. With past Conventions as my certain guide, you may expect an audience of seven thousand of your fellow Americans.

I realize the great demand on your time, Mr. President, but I am hopeful you can arrange your busy schedule in order to attend our Convention. In our opinion, it would be a wonderful platform for you to express your views on national security and foreign policy before a very friendly audience. We sincerely hope you will give every consideration to this request.

Finally, I wish you to know you may count on the unswerving support of the 1.9 million members of the Veterans of Foreign Wars of the United States and the 680 thousand members of our Ladies Auxiliary as you seek to advance America's best interest at home and abroad.

I certainly wish you every success and am hopeful you will join us in Chicago.

Respectfully,

Clifford G. Olson, Jr.
National Commander-in-Chief

THE WHITE HOUSE

Office of the Press Secretary
(Chicago, Illinois)

For Immediate Release

August 24, 1984

REMARKS OF THE PRESIDENT
TO THE 85th NATIONAL CONVENTION OF THE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

International Ballroom
Conrad Hilton Hotel
Chicago, Illinois

1:57 P.M. CDT

THE PRESIDENT: Commander and Commander, Governor Thompson, Senator Percy, our Representatives Hyde and Martin and you, ladies and gentlemen, I thank you very much for your warm welcome.

I'm delighted to have another chance to speak to the Veterans of Foreign Wars. Last year, I told you that I would fly halfway around the world for the honor of meeting with the VFW. Well, it's not quite that far from Dallas to Chicago -- (laughter) -- but it sure is a great way to wind up a terrific week. (Applause.)

Now, before I say anything else, I want to congratulate all of you for reaching an important milestone, your two million membership goal. (Applause.) You can be proud. For 85 years, the VFW has stood united in support of the values which have made our republic great, and today you're doing it better than ever.

Four years ago, right here in Chicago, I stood before your convention, and when you think back to 1980, it's hard to forget the mess America was in, hard to forget the foolish talk of a malaise, the unfairness of runaway price increases, 21 1/2 percent interest rates, weakened defenses, Americans held hostage and the loss of respect for our nation abroad. It seemed that we woke up every morning wondering what new humiliation our country had suffered overseas, what disappointing economic news lay waiting for us on the front page.

We knew we couldn't continue on that road. We knew we had to change course and get America back on her feet. And we knew that peace and freedom could not be protected without cost and commitment, without perseverance and courage.

One cannot sit in the Oval Office without realizing the awesome responsibility of protecting peace and freedom and preserving human life. The responsibility cannot be met with halfway wishes. It can be met only by a determined effort to pursue and protect peace with all the strength that we can bring to bear.

My deepest commitment is to achieve a stable, enduring peace, not just by being prepared to deter aggression, but also by bringing steadiness to American foreign policy, by being prepared to pursue all possible avenues for arms reduction, by ensuring that our economic strength leads the way to greater stability through growth and human progress and by having the spiritual strength and self-confidence that enables us to reach out to our adversaries.

MORE

Exhibit C

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Well, I think we've come a long way together. In fact, I believe we've closed the books on that dismal chapter of failed policies and self-doubt. May it never return. (Applause.) And our progress wouldn't have been possible without you of the VFW and millions of other concerned Americans.

Gone are the days when we abandon principle and common sense. Gone are the days when we meekly tolerated obvious threats to our peace and security. Gone are the days when we either sought to achieve overnight grandiose arms control agreements that were bound to fail or when we set our sights so low that the agreements permitted the numbers and categories of weapons to soar.

We have made a new beginning, a dramatic, far-reaching step toward a much better, safer and more secure future.

To all of you who have served your country with such courage and distinction, and to all the young men and women who look to their future, I can tell you today from my heart, the United States of America is prepared for peace. (Applause.)

And because we're stronger than before, we can be confident that we're in a position to secure a future of peace, not peace at any price, but a true, meaningful, lasting peace supported by freedom and human dignity.

As I said last night in Dallas, our military serves to protect our freedom and keep the peace. None of the four wars in my lifetime, and you -- none of the wars that you have seen, came about because we were too strong. History shows that weakness invites tyrants to believe that the price of aggression will be cheap. And while military strength alone is not enough to ensure a more secure world, without military strength, there can be no effective diplomacy, no meaningful negotiations, no real security, no lasting peace.

Our military forces are back on their feet, substantially stronger and better able to protect the peace today than they were four years ago. We're still not where we need to be, but we're getting there.

And the payoff is in performance. In Grenada, with less than 72 hours notice, our forces successfully rescued 600 American students, disarmed Cuban and Peoples Revolutionary Armed Forces and restored the chance for democracy to that troubled island. (Applause.)

MORE

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As one company commander of the Army's 1st Ranger Battalion explained -- now quote:

The lead assault elements had less than 24 hours between the time we were issued our final combat orders and our departure for Grenada. We fought with the equipment on which we were trained. The equipment worked throughout the operation. New laser range finders gave accurate distance to targets and the night vision devices operated up to standards. And of the 150 rangers in my company, only 2 had ever seen combat before, yet they all performed like seasoned veterans. What it all adds up to is that our highly motivated soldiers, together with excellent training and reliable weapons, gave us the combat edge.

Well, come to think of it, I seem to remember that it took critics weeks to decide whether it was a good idea to rescue our students. (Applause.) They should have asked the students, for those students were already home. Incidentally, Nancy and I were pleased to have about 400 on the South Lawn on the White House and about 40 of the men who had returned from Grenada, representing all four branches of the service, who had been there. And it was wonderful to hear these young people -- and they were all the same age, the students and the military -- but it was wonderful to hear these youngsters tell us that, yes, they had been prone to kind of look down on the uniform and all, but not any more.

And we heard stories about how, when they were escorted to the helicopters after they had lain overnight and for hours under their beds in the dormitories because of the bullets coming through the buildings, and then our rangers arrived, and when it came time to go to the helicopters, those young fellows in uniform put themselves between the students and where the firing was coming from. (Applause.)

They couldn't keep their hands off of them. It was -- they'd throw their arms around and then they'd come back to us and tell us how wonderful they were. It was a great sight.

Well, that young Army officer said, what he said about his own ranger battalion, about being able to take on combat operations on short notice, get the job done and get it done right, was just as true for our other units. The 22nd Marine Amphibious Unit had just embarked at Morehead City, North Carolina, for a normal rotation to the Eastern Mediterranean when their orders were changed to Grenada. With no advance warning, with very little time, they put together their operational plans, went shore, professionally accomplished their mission, and then continued on their way.

Because we were willing to take decision action, our students today are safe, Grenada is free, and that region of the Caribbean is more peaceful and secure than before. But let no one confuse that situation with an inescapable reality of the modern age.

When it comes to our nuclear forces, I've said it before and I'll say it again, a nuclear war cannot be won and must never be fought. (Applause.) And that's why we've put forward and will continue to pursue one of the most extensive arms control programs in history.

MORE

Exhibit C

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During the months that the START and INF talks were underway, we proposed seven different initiatives and none of these were offered to the Soviets on a take-it or leave-it basis. Indeed, we made a number of adjustments to respond to the stated concerns of the Soviet side, and that's why we've put forward new proposals on reducing the levels of conventional forces in Europe on a worldwide ban on chemical weapons, on ways to help reduce the possibility of conflict in Europe, and why we're working to prevent the spread of nuclear weapons.

Ours is the pursuit of a stable and enduring peace but, at the same time, it would have been indefensible and immoral to allow the deterrent posture we need to protect the peace to continue deteriorating as it was. (Applause.) Now some may insist they're just as committed to a strong deterrent even as they would cancel the B-1 bomber and the Peacekeeper missile. They may deny that a nuclear freeze would preserve today's high, unequal, and unstable levels of nuclear weapons, and they may deny a freeze would reduce any incentive for the Soviets to return to the negotiating table and resume the search for equitable and fair reductions.

But that way of thinking only reminds me of what Sam Rayburn, a very wise Democratic Speaker of the House, once said: Any jackass can kick a barn down but it takes a carpenter to build one. (Laughter.) (Applause.)

When I took office, our newest long-range strategic bomber was 19 years old. Early next month, the first B-1 bomber will roll off the production line. In 1981, our newest strategic submarine was 14 years old. Today, three new Trident submarines are at sea, a fourth was delivered in January, six weeks ahead of schedule, and seven more are under construction on schedule and within budget.

When I took office, the debate on modernizing our aging land-based missiles had gone on for more than a decade. Today we've completed five successful tests of the Peacekeeper and deployment plans are on schedule. And let me take this opportunity to thank all of you for your much-needed support in our battle for the Peacekeeper. We must make sure that no adversary ever has reason to misjudge our deterrent posture or question our resolve to protect the peace, and we couldn't have gotten this far without your help. (Applause.)

MORE

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I've said before many times, I'll say it again, there are -- where you've been of help is there are -- many in Washington that you do not need to make them see the light, just make them feel the heat. (Laughter.) (Applause.)

Now, let me say a word about one of our most important safeguards of peace and freedom, and I'm not talking about bullets or guns, but about heart and spirit. Once again, young Americans wear their uniforms and serve their flag with honor and pride. From the NATO lines to the Demilitarized Zone of Korea and at bases and ports all across America and all over the world, young Americans are carrying on in your footsteps, in the courageous footsteps of those who stood in harm's way so that others might have a chance to find freedom, peace and happiness. In fact, no improvement in our military readiness has been more dramatic or more important than the improvement in the quality and retention of our servicemen and women.

You know, the critics kept telling us that the all-volunteer military would never work, and as soon as the economy turned around we'd be faced with severe enlistment and retention problems. Well, forgive me, but those are the same people who were wrong on inflation. They were wrong on unemployment. They were wrong on interest rates. They were wrong on the recovery. And there they go again. (Applause.) We're now in the 21st month of the best economic recovery since 1949 and last year was the best we've ever had -- (applause) -- the best we've ever had for re-enlistment in both the Navy and Air Force and one of the Army's best years for recruiting. And those trends are continuing. (Applause.)

You know, every time I see a young serviceman or woman I get a lump in my throat thinking of how lucky we are to have them serving our country and protecting our freedom with real honor, courage and competence.

I believe that we've come too far, struggled too hard and accomplished too much to turn back now. Once again the world knows that America will stand up for freedom, democracy and peace with human dignity. And once again America is prepared for peace.

I don't know whether you're aware of this, but in every year from 1975 to 1980, armies, largely supplied by Moscow, or Soviet forces themselves, invaded or seized control of a different country. First, Vietnam, then Angola, followed by Ethiopia and Cambodia -- finally, Afghanistan. Well, since 1981, that pattern has stopped. And in 1983, Grenada was saved. And every once in a while, it's important to remember that success can also be measured by the disasters which do not happen. (Applause.)

Talking about those people in uniform, as I said last night at the Convention -- I quoted what General Marshall had said in World War II when he was asked what was our secret weapon, and he said, "The best damned kids in the world." (Applause.) Well, you aren't kids anymore, but there's another generation who are and they're also -- you can say the same thing about them.

I have to tell a little story -- I promised all my people I wouldn't tell this anymore, I've told it so often, but I have to tell it to you. It has to do with Grenada. Not too long ago, the Armed Forces Journal over in the Pentagon came over and delivered me a little plaque, and they had engraved on that plaque some paragraphs from a letter received from a Marine Lieutenant, flyer of a Cobra, who had been at Grenada and then had gone on to

MORE

Exhibit C

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Lebanon. And he wrote back to the Armed Forces Journal, and he said when he was at Grenada, he noticed that every news story contained someplace the line, "Grenada produces more nutmeg than any other spot on earth." And he decided that appeared so often, that it was a code -- and he had broken the code.

And he said, number one -- Grenada produces more nutmeg than any other spot on earth. Number two -- the Soviets and the Cubans are trying to take Grenada. Number three -- you can't have eggnog without nutmeg. And number four -- you can't have Christmas without eggnog. (Laughter.) And he said, number five -- the Soviets and the Cubans are trying to steal Christmas. (Laughter.) (Applause.) And he said, number six -- we stopped them. (Laughter.) (Applause.)

We can be confident that history is moving in the direction of self-government and human dignity. To paraphrase Jefferson, men and women are not born with saddles on their backs. Political systems, based on a dreadful denial of the human spirit will, in the end, fail.

In our own hemisphere, 26 of 33 Latin American countries today are democracies, or are striving to become democracies. Now this represents 90 percent of the region's population -- up from 50 percent only a decade ago.

MORE

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We see this yearning for freedom and democracy among the brave people of Eastern Europe, in Afghanistan, in Africa, and elsewhere. The spirit of men and women to breathe free is a mighty force that cannot and will not be denied. Our country is the leader of the free world, and today we're providing that leadership.

In my meetings with foreign leaders, they've often told me how good it is to know what the United States stands for once again. (Applause.)

Now, before I close, I want to thank your outgoing Commander-in-Chief, Cliff Olson, for all that he's done, and I want to congratulate your incoming Commander-in-Chief, Billy Ray Cameron. I will always remember your strong support. It stayed rock solid even when the going was rough, but then you've always been a tower of strength. The VFW has always set high standards, lived up to them, and looked out for America, just as you've always looked out for the veteran.

The VFW and the Ladies Auxiliary didn't become great organizations by accident. You've done it through hard work and outstanding leadership. You've done it by serving our nation's veterans in your communities, volunteering your services to our veterans, fighting the good fight for a strong, safe, and secure America, supporting our POW-MIA efforts, sponsoring youth activities, directing your highly acclaimed drug abuse and safety projects, your Voice of Democracy Scholarship Program, and so many other worthwhile projects.

I think of your patriotism and I just have to wonder: How can anyone not believe that the heart of America is good, that the spirit of America is strong, and that the future of America is great?

I wish all Americans could have stood with me this past June on the windswept cliffs of Pointe du Hoc. I wish all Americans could have felt the faith and belief, the loyalty and love of those brave men of Normandy. You know what I mean -- you're the veterans of foreign wars. You've been there.

But one of the rangers of 40 years ago, now 63 years old, the day before we arrived, scaled the 100-foot cliff that he had climbed on D-Day and did in just 7 minutes -- (laughter) -- still one of the best damn kids in the world. (Laughter.) (Applause.)

You understand that we are what we are because of Normandy and a thousand other lonely battlefields. Words could never express the patriotism of generation after generation of American heroes means for the very soul of our nation. But you and I do know that we're free because of those who went to Omaha Beach and Guadalcanal, Mig Alley and Pork Chop Hill, Khe Sanh and the Iron Triangle.

I'll never stop working as hard as I can to make sure that our nation keeps its special commitment to those who served, to those who have kept the torch of liberty burning brightly. Because of you, America's best days are still to come, and with faith, freedom, and courage, there's no limit to what America can and will accomplish. (Applause.)

MORE

Exhibit C

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Forgive me, but before I leave, I must share something with you, because you've evoked memories too moving, too important to ignore. When we visited the Normandy beaches this past spring, we were told that the French citizens came up to those veterans of ours who had returned, took them by the hand, and said, with tears in their eyes, "We were only young at the time, but we will always remember what you did and what it has meant to us."

When I look at you, when I think of all you've lived and known and learned from your lifetime of service, a lifetime of honor, I can't help wondering who, more than you, can better understand how precious are the gifts of life and freedom and faith. Who more than you has the courage and the wisdom to help us protect these gifts for our children and for our children's children?

You are wise men of history whose burdens have become our blessings. Your struggles preserved democracy and today all of us are lifting America into a new springtime of hope. Yes, in my heart I know it is true, America's future must be a future of peace. And, together, we'll see to it that it's done.

I know that your convention ended and that you remained here to receive me, and I'm most grateful to you for that. (Applause.) Thank you and God bless you all. (Applause.)

END

2:21 P.M. CDT

85040513704

85040313705

Ronald E. Robertson

REAGAN-BUSH '84

The President's Authorized Campaign Committee

440 First Street N.W., Washington, D.C. 20001

Paid for by Reagan-Bush '84: Paul Laxalt, Chairman; Angela M. Buchanan Jackson, Treasurer

Federal Election Commission

1325 K Street, N.W.

Washington, D.C. 20463

Atten: Kenneth A. Gross, Esq.
Associate General
Counsel



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1984

Ronald E. Robertson
Chief Counsel
Reagan/Bush '84
440 First Street, N.W.
Washington, D.C. 20001

RE: MUR 1790

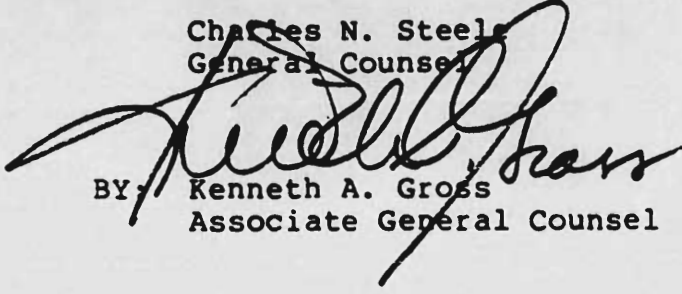
Dear Mr. Robertson:

Your October 3, 1984 request to provide the Reagan/Bush '84 Committee an extension of time to respond to the allegations contained in MUR 1790 has been received and approved. Please submit your response by October 29, 1984.

If you have any questions, please contact Matt Gerson, the staff person assigned to this matter, at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: 
Kenneth A. Gross
Associate General Counsel

85040513706

REAGAN-BUSH '84

The President's Authorized Campaign Committee

RECEIVED AT THE FEC
GCC#4992
84 OCT 8 AM 1:00

October 3, 1984

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Matthew Gerson, Esq.

Re: MUR 1790

Dear Mr. Gerson,

The letter is in response to your request of this date for an explanation of our request for a fifteen (15) day extension to respond to the complaint filed in the above captioned matter that was contained in our letter to Mr. Kenneth A. Gross, Associate General Counsel dated October 1, 1984.

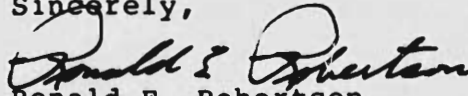
To properly prepare the response of Reagan-Bush '84 in this matter it will be necessary for us to interview and secure materials from White House personnel. Unfortunately, these individuals have extremely demanding schedules and extensive travel commitments during the next thirty (30) days.

In view of these circumstances we were compelled to request the fifteen (15) day extension.

If you have any further questions regarding this matter please give me a call.

Thank you for your cooperation.

Sincerely,


Ronald E. Robertson
Chief Counsel

85040313707

LEAGAN-BUSH'84

President's Authorized Campaign Committee

ald E. Robertson

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Matthew Gerson, Esquire

First Street N.W., Washington, D.C. 20001



WORLD FOOD
USA OCT 20 1984

84 OCT 5 AM 11:45

RECEIVED AT THE REC

REAGAN-BUSH '84

The President's Authorized Campaign Committee

RECEIVED AT THE FEC
GCC# 4959
84 OCT 3 A 8:45

October 1, 1984

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1790

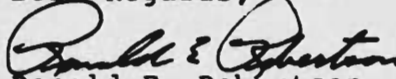
Dear Mr. Gross:

Pursuant to your letter with enclosures dated September 25, 1984, addressed to Angela Buchanan Jackson, Treasurer, Reagan-Bush '84 which we received on September 28, 1984, enclosed please find Statement of Designation of Counsel of Reagan-Bush '84, signed by Angela Buchanan Jackson, Treasurer.

Request is hereby made on behalf of Reagan-Bush '84 for a fifteen (15) day extension of time beyond the fifteen (15) day deadline for filing the response of Reagan-Bush '84 in the above-captioned matter. Based on my calculations, assuming that the requested extension is granted, the deadline for filing the Reagan-Bush '84 response would be October 29, 1984.

Thank you for your attention to this matter.

Best Regards,


Ronald E. Robertson
Chief Counsel

85040513709

REAGAN-BUSH '84

The President's Authorized Campaign Committee

STATEMENT OF DESIGNATION OF COUNSEL

TO: Federal Election Commission
1325 K Street
Washington, D.C. 20463

RE: MUR 1790

NAME OF COUNSEL: Ronald E. Robertson
Chief Counsel

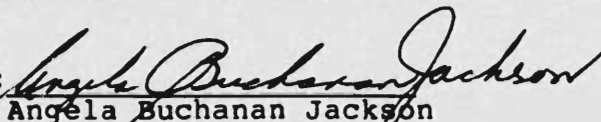
ADDRESS: Reagan-Bush '84
440 First Street
Suite 600
Washington, D.C. 20001

TELEPHONE: (202) 383-1979

The above named individual is hereby designated as counsel for Reagan-Bush '84 and is authorized to receive any notifications and other communications from the Commission and to act on behalf of Reagan-Bush '84 before the Commission.

Date: October 1, 1984

REAGAN-BUSH '84 (General
Election Commission)

BY: 
Angela Buchanan Jackson
Treasurer

440 First Street, N.W.
Washington, D.C. 20001

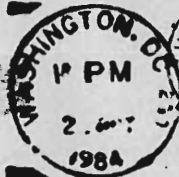
(202) 383-1970

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REAGAN-BUSH '84

The President's Authorized Campaign Committee
Ronald E. Robertson

850405137



U.S. POSTAGE
give
The United

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Mr. Kenneth A. Gross
Associate General Counsel

84OCT 3 48:45

40 First Street N.W., Washington, D.C. 20001



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Angela M. Buchanan Jackson
Treasurer
Reagan-Bush '84
440 First Street, N.W.
Washington, D.C. 20001

Re: MUR 1790

Dear Ms. Jackson:

This letter is to notify you that on September 20, 1984 the Federal Election Commission received a complaint which alleges that the committee and you, as treasurer, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1790. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against the committee and you, as treasurer in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

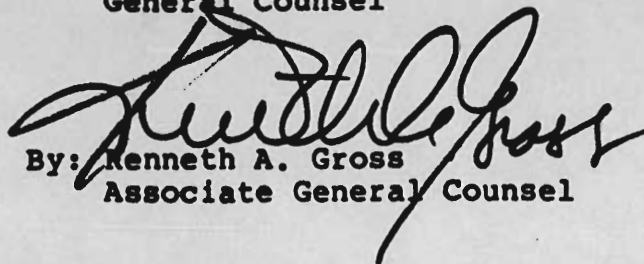
If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

85040513712

If you have any questions, please contact Matthew Gerson, the staff person assigned to this matter at (202) 523-4143. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel


By: Kenneth A. Gross
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: President Ronald Reagan

85040513713



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 25, 1984

Fred Wertheimer
Common Cause
2030 M Street, N.W.
Washington, D.C. 20036

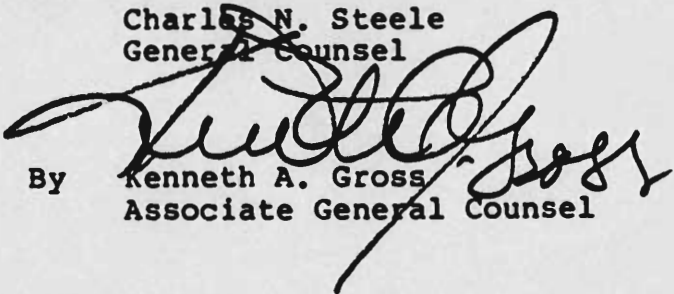
Dear Mr. Wertheimer:

This letter is to acknowledge receipt of your complaint which we received on September 20, 1984, against Angela M. Buchanan Jackson and Reagan-Bush '84, which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Barbara A. Johnson at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By 
Kenneth A. Gross
Associate General Counsel

Enclosure

85040513714



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 25, 1984

Roger M. Witten
WILMER, CUTLER & PICKERING
1666 K Street, N.W.
Washington, D.C. 20006

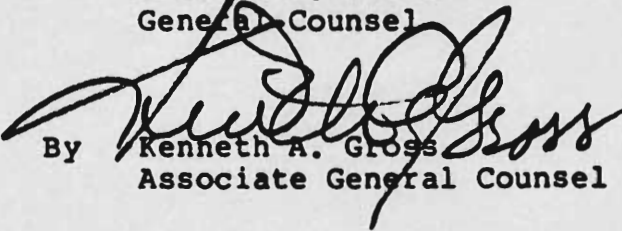
Dear Mr. Witten:

This letter is to acknowledge receipt of your complaint which we received on September 20, 1984, against Angela M. Buchanan Jackson and Reagan-Bush '84, which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondent will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Barbara A. Johnson at (202) 523-4143.

Sincerely,

Charles N. Steele
General Counsel

By 
Kenneth A. Gross
Associate General Counsel

Enclosure

95040513713

GCC#4754

BEFORE THE
FEDERAL ELECTION COMMISSION

COMMON CAUSE

2030 M Street, N.W.
Washington, D.C. 20036
(202) 833-1200,

Complainant,

-v-

REAGAN-BUSH '84,

Respondent.

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
SEP 20 1984
COMPLAINANT
MURPHY
1790

COMPLAINT OF COMMON CAUSE

1. This Complaint charges that President Reagan's speech to the Veterans of Foreign Wars ("V.F.W.") in Chicago on August 24, 1984, was a campaign speech, not official governmental business. Accordingly, the expenses incurred by the President in connection with that trip were "qualified campaign expenses" which under law must be allocated to, paid by, and reported by, the President's principal authorized campaign committee, Respondent Reagan-Bush '84. If, based on the White House's announced intention to treat these expenses as official rather than campaign expenses, Reagan-Bush '84 fails to report those expenses, then it will have violated 2 U.S.C. §434, 26 U.S.C. §9003, 11 C.F.R. §9003.1, and 11 C.F.R. §9004.7.

PARTIES

2. Complainant Common Cause is a nonprofit membership corporation organized under the laws of the District of Columbia.

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It has approximately 250,000 dues-paying members in the fifty states and the District of Columbia. Common Cause is organized to promote, on a nonpartisan basis, its members' interest in open, honest and effective government and political representation. Common Cause seeks to achieve this objective by making government more responsive to the needs and demands of citizens through government and election reforms.

3. Respondent Reagan-Bush '84 registered with the Federal Election Commission ("FEC") on June 18, 1984, as the principal authorized campaign committee for the election of Ronald Reagan to the office of the presidency in 1984.

APPLICABLE STATUTES AND REGULATIONS

4. The Federal Election Campaign Act ("FECA") provides that political committees organized for candidates for the Office of President must comply with reporting requirements: "Each report . . . shall disclose . . . expenditures made to meet candidate or committee operating expenses." 2 U.S.C. §434.

5. The Presidential Election Campaign Fund Act ("Fund Act") provides that in order to be eligible to receive payments from the Presidential Campaign Election Fund, major party presidential candidates must agree to comply with several conditions to ensure the integrity of the presidential public financing scheme, including the requirement to report expenditures under the FECA, as incorporated through 11 C.F.R. §9003.1.

6. The Fund Act also provides that a "qualified campaign expense" includes any expense incurred "by the candidate of a

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political party for the office of President to further his election to such office . . . or by an authorized committee of the candidates . . . to further the election of . . . such candidates" 26 U.S.C. §9002(11).

7. FEC regulations state that expenses for travel relating to a Presidential candidate's campaign are qualified campaign expenses and must be reported by the candidate's authorized committee as expenditures. The regulations specifically provide that "[f]or a trip which includes campaign-related and non-campaign related stops, that portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense and a reportable expenditure If any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related." 11 C.F.R §9004.7. The preamble to the regulation, when promulgated in 1980, explained: "This requirement is necessary to prevent the free use of government conveyance or accommodations for campaign related activity. Such free use would amount to government subsidization of a candidate's campaign and would totally defeat the purposes of the expenditure limitations." 45 Fed. Reg. at 43377 (June 27, 1980).

GROUND'S FOR COMPLAINT

8. On August 22, 1984, Ronald Reagan certified that he agreed to comply with the conditions for eligibility to receive payments from the Presidential Campaign Election Fund, including the requirement that his authorized political committees report campaign expenditures. Five days later, the FEC certified that

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Ronald Reagan was entitled to receive a payment from the Presidential Election Campaign Fund in the amount of \$40,400,000.

9. On August 24, 1984, President Reagan appeared in Chicago to address the 85th Annual Convention of the V.F.W. This trip to Chicago took place one day after President Reagan accepted the Republican presidential nomination. The V.F.W. speech was described by the Chicago Tribune as "the last in six days of campaign events"

10. In his speech to the V.F.W., as reflected in the attached transcript in the Weekly Compilation of Presidential Documents, President Reagan reiterated several themes of his reelection campaign and repeatedly attacked Democratic presidential nominee Walter F. Mondale. Although President Reagan avoided mentioning Mondale's name, the target of his attacks could not be mistaken. The President frequently derided government leadership during the period when Mondale was Vice President. He referred to the "mess America was in," and the "humiliations" and "frustrations" during Mondale's tenure, which he characterized as a "dismal chapter of failed policies and self-doubt." President Reagan went on to attack political leadership during the late seventies, the period when Mondale was Vice-President as ineffective in preventing Soviet aggression. President Reagan specifically criticized Mondale's positions on national security. He disputed Mondale's claim of standing for a strong defense, noting Mondale's opposition to the B-1 bomber and MX missile and Mondale's support of a nuclear freeze. The speech left the audience of veterans chanting "Four more years."

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11. Numerous news accounts, which are attached, noted the clear partisan nature of the speech. On August 25, the Boston Globe headlined its story on the V.F.W. speech with the words "CAMPAIGN SALVOS" and "President raps rival for stand on defense"; the Chicago Tribune used the heading "Bringing the fight to Illinois"; and the Chicago Sun-Times topped the story with "BATTLE FOR ILLINOIS." On NBC Nightly News, Chris Wallace reported "[Reagan] attacked Mondale as soft on defense (words covered by film background) a desire to block B-1 bombers and MX missiles." The Washington Post in a story headed "President Criticizes Mondale for Stance On Security Issues" reported: "[A]lthough his speech to the V.F.W. was a campaign address, White House officials said the trip was 'official business' and would be paid for out of federal budget funds, instead of re-election money provided by the Federal Election Commission from a taxpayer-supported fund."

12. Common Cause, on August 25, sent a telegram to White House Chief of Staff James Baker urging that the V.F.W. trip be paid for by the Reagan campaign and not treated as official business by the President. This was followed by a letter to FEC Chair Lee Ann Elliott, requesting that the Commission clarify that the August 24 V.F.W. address -- and all similar trips -- should be treated as campaign expenditures.

13. The Washington Post reported that White House response to the Common Cause telegram consisted of a statement by White House deputy press secretary Robert Sims that "...that portion

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of the trip was judged to be official'" apparently on the grounds that the President "'was not asking for their votes' directly."

14. Several press accounts following Reagan's V.F.W. speech, including the Washington Post, reported the statement by Edward J. Rollins, Reagan's campaign director, that the President would take some "official" trips during the reelection race because "if you can get away with a couple of official trips in the course of a campaign, we all benefit."

15. The issue of Reagan's V.F.W. appearance was put before James Baker, when, on August 26, he appeared on the NBC television program "Meet the Press." Baker was asked whether he felt that Reagan's Chicago trip was official business. Baker defended the characterization of the speech as "official": "The President didn't go there and ask for votes, and I would question whether he harshly attacked former Vice President Mondale in that speech." He said that that was position "[u]nless the Federal Election Commission rules otherwise"

16. In its advisory opinions the FEC has made clear that whether a speech or other activity is campaign-related depends on its purposes. See e.g., Advisory Opinion 1980-22 (April 15, 1980) CCH Campaign Finance Guide, ¶5479. The timing, content, and evident purpose of President Reagan's speech before the V.F.W. clearly show that it was partisan activity in furtherance of his reelection campaign, not official business, and accordingly should be treated as a campaign expense. The speech came one day after his acceptance of the Republican nomination. It sounded a number of Reagan's campaign themes. It attacked his

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opponent, Democratic nominee Walter Mondale, repeatedly. It argued why Reagan's opponent should be defeated. Numerous news accounts, including those cited above, reported it as a partisan campaign event. The speech was clearly designed primarily "to further" Ronald Reagan's campaign.*/ See Advisory Opinion 1984-13 (May 17, 1984) CCH Campaign Finance Guide, ¶5759.

17. The apparent decision of Reagan-Bush '84 to treat the V.F.W. speech as official business therefore violates the regulatory requirement at 11 C.F.R. §9004.7 to report the speech as a reportable expenditure under FECA and a qualified campaign expense, subject to the spending limits imposed under the Fund.**/

RELIEF

18. Common Cause respectfully urges the FEC to conduct a prompt and thorough investigation into the allegations in this

*/ Determining whether President Reagan's speech is "official" or "campaign-related" cannot hinge on whether he literally asked the audience for votes, the criterion Chief of Staff James Baker would apply. To be sure the Commission has issued advisory opinions indicating that direct solicitation of support for a candidate during a corporate forum would constitute a corporate campaign contribution. See Advisory Opinion 1980-22 supra. But this is but one criterion the FEC could apply in determining whether a speech is campaign-related. As noted above, the over-arching test the FEC has applied requires examining the purpose of the activity. When a candidate attacks his opponent, as Reagan did before the V.F.W., the purpose of the speech is partisan and campaign-related.

**/ Reagan-Bush '84 expenditure reports to the FEC for the month of August, the period when the V.F.W. speech took place, have not yet been filed. However, the statements of White House Chief of Staff James Baker and others connected with the White House and campaign indicate a decision not to report campaign expenditures for the V.F.W. trip.

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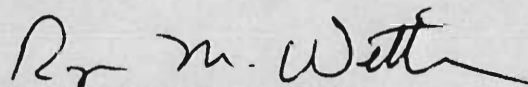
Complaint and declare that the V.F.W. speech constitutes a qualified campaign expense subject to the reporting requirements and spending limits of the FECA and the Fund Act. If the FEC is to fulfill its mission to ensure compliance with the Presidential Election Campaign Act, it must expeditiously resolve the issues raised by the activities of Reagan-Bush '84 before the 1984 presidential campaign develops further.

Respectfully submitted,

Of Counsel:

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September 20, 1984



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Counsel for Common Cause

*/ Ms. Stephens is a third-year law student at Georgetown Law School.

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VERIFICATION

The undersigned counsel for complainant Common Cause swears that the statements in this complaint are based on the sources indicated, and, as such, are true and correct to the best of his information and belief.

R. M. Witten
Roger M. Witten

Subscribed and sworn before
me this 20th day of September,
1984.

Robert V. Carter
Notary Public

My Commission Expires: May 31, 1989

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NBC News
Meet the Press
Aug. 26, 1984

MR. MONROE: President Reagan left Dallas to go to Chicago to appear before the VFW and make a harsh attack on Walter Mondale, the Democratic candidate. The President's people declared that an official trip, not a political trip. Fred Wertheimer of Common Cause says there was nothing official about that, that was a political trip, and the taxpayers should not have to pay for it. Do you feel that was an official trip?

MR. BAKER: Well, I think the - the Federal Election Commission will ultimately determine whether it was official or political. In our view it was an official trip. The President didn't go there and ask for votes, and I would question whether he harshly attacked former Vice President Mondale in that speech. Our counsel cleared it as an official trip. Unless the Federal Election Commission rules otherwise, and these are sometimes very close, very difficult decisions and very gray lines that we have to follow. But until they, - until they say that we're treating it as an official trip. There were no political people on the airplane, no votes were asked for, the President didn't talk about his reelection, he didn't ask anything about wanting to, you know, wanting support or anything like that.

MR. MONROE: Ed Rollins of the White House made a remark to the effect that if a campaign can get away with declaring this kind of a trip official it helps the campaign a great deal. It saves \$50 to \$75,000 every trip, and you apparently are saying that the President is going to continue making this kind of trip, as long as he doesn't ask for votes, if he just attacks Walter Mondale it will not be political but official.

MR. BAKER: No, that's not what I said, Mr. Monroe, and let

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August 26, 1984

Reagan Trip Wasn't Official, Common Cause Contends

By Spencer Rich

Washington Post Staff Writer

The president of Common Cause charged yesterday that President Reagan's trip to Chicago to address the Veterans of Foreign Wars was clearly campaign-related, not public business, and should be charged to the president's campaign fund instead of the government.

Fred Wertheimer, head of the nonprofit group that consistently has worked for tighter campaign spending laws, said in a telegram to White House chief of staff James A. Baker III that the White House decision to treat the trip as official business "constitutes an improper and unauthorized use of taxpayer funds."

In his speech to the VFW Friday, the president attacked Democratic presidential candidate Walter F. Mondale on national security issues and called Mondale part of a "dismal chapter of failed policies and self-doubt."

White House officials said later that the trip would be charged to the government as official business, and Reagan campaign director Edward J. Rollins said there would be more such "official trips" because "if you can get away with a couple of official trips in the course of a campaign, we all benefit." He said such trips would save the campaign \$50,000 to \$75,000 per trip.

In his telegram, Wertheimer said: "With the president's nomination now official, Common Cause sees no justification whatsoever for treating as 'official business' the VFW trip or any other similar campaign-related trip."

In reply yesterday, White House deputy press secretary Robert Sims said that "as always, we looked at the entire work schedule" in advance and "that portion of the trip was judged to be official." He said the president's speech to the VFW "was not asking for their votes" directly.

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for the future of the country. He said the Republicans are the party of new ideas.

PRESIDENT REAGAN: The old stereotype of the kind of pudgy, solid, unimaginative Republican -- there may be a few cartoons around that still want to portray us as that -- but they're lying in their teeth if they do.

WALLACE: The president flew on to Illinois, which the Reagan camp regards as a key battleground. Republican officials say Mondale must sweep the industrial North to have any chance to offset the president's big lead in the South and West.

Mr. Reagan got a warm reception from the Veteran's of Foreign Wars. He attacked Mondale as soft on defense (words covered by film in background) a desire to block B-1 bombers and MX missiles.

PRESIDENT REAGAN: That way of thinking only reminds me of what Sam Rayburn, a very wise Democratic Speaker of the House once said, any jackass can kick a barn down, but it takes a carpenter to build one.

WALLACE: Campaign director Ed Rollins said the president will stay aggressive, moving soon into Mondale's base in the Northeast. And Rollins said the president will take some official trips at taxpayer expense, saving the campaign at least fifty thousand dollars per trip..

Chris Wallace, NBC News, with the Reagan campaign in Chicago.

HIT: 7:02:19

BROKAW: Walter Mondale, for his part today was just as eager to do battle. Lisa Myers reports tonight that he had his own view of what went on here in Dallas.

HIT: 7:02:28

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Administration of Ronald Reagan, 1984 / Aug. 24

initiative, encouraging volunteers came to the idea, and we had a put together, that White House we rally thousands of country that citizens have themselves some problems and always would want to do.

headquarters in and there's hardly a have something to them and say, it's a problem individual that we've read in the press that government and we call them. days later a call care of. And the programs.

I turned on the of fellows out into houses and things and cars and then the TV them, and they Well, some were doctors and some and even some painting houses

they're doing this must be that program in a town year long they collect the elderly, the can't afford to fix the plumbing, to doing. And when complete, then the paint and the then the people go April" is refurbish those people in

Washington, DC, our private sector word throughout as in April," and ally, that heard a good idea," and

took it up. And we haven't talked much about that; it isn't the easiest thing to talk about, I guess. But it is showing that the America that used to have a barn-building bee when a farmer's barn burned, when they used to help the fellow that got injured to harvest his crop and all, that America has always been here. The Government just tried to take some of your fun away from you. And we're stopping that.

Thank you all, and God bless you all. And we're now going to go and talk to the VFW. Thank you.

Note: The President spoke at 10:34 a.m. in the Chantilly Ballroom at the Loew's Anatole Hotel.

Following his remarks, the President, accompanied by Mrs. Reagan, left Dallas and traveled to Chicago, IL.

Veterans of Foreign Wars of the United States

Remarks at the 85th National Convention in Chicago, IL. August 24, 1984

Commander and Commander, Governor Thompson, Senator Percy, our Representatives Hyde and Martin, you, ladies and gentlemen:

I thank you very much for your warm welcome.

I'm delighted to have another chance to speak to the Veterans of Foreign Wars. Last year, I told you that I would fly halfway around the world for the honor of meeting with the VFW. Well, it's not quite that far from Dallas to Chicago—[laughter]—but it sure is a great way to wind up a terrific week.

Now, before I say anything else, I want to congratulate all of you for reaching an important milestone—your 2-million membership goal. You can be proud. For 85 years, the VFW has stood united in support of the values which have made our Republic great, and today you're doing it better than ever.

Four years ago, right here in Chicago, I stood before your convention, and when you think back to 1980, it's hard to forget

the mess America was in, hard to forget the foolish talk of a malaise, the unfairness of runaway price increases, 21½-percent interest rates, weakened defenses, Americans held hostage, and the loss of respect for our nation abroad. It seemed that we woke up every morning wondering what new humiliation our country had suffered overseas, what disappointing economic news lay waiting for us on the front page.

We knew we couldn't continue on that road. We knew we had to change course and get America back on her feet. And we knew that peace and freedom could not be protected without cost and commitment, without perseverance and courage.

One cannot sit in the Oval Office without realizing the awesome responsibility of protecting peace and freedom and preserving human life. The responsibility cannot be met with halfway wishes. It can be met only by a determined effort to pursue and protect peace with all the strength that we can bring to bear.

My deepest commitment is to achieve a stable, enduring peace, not just by being prepared to deter aggression but also by bringing steadiness to American foreign policy, by being prepared to pursue all possible avenues for arms reduction, by ensuring that our economic strength leads the way to greater stability through growth and human progress and by having the spiritual strength and self-confidence that enables us to reach out to our adversaries.

Well, I think we've come a long way together. In fact, I believe we've closed the books on that dismal chapter of failed policies and self-doubt. May it never return. And our progress wouldn't have been possible without you of the VFW and millions of other concerned Americans.

Gone are the days when we abandoned principle and common sense. Gone are the days when we meekly tolerated obvious threats to our peace and security. Gone are the days when we either sought to achieve overnight, grandiose arms control agreements that were bound to fail or when we set our sights so low that the agreements permitted the numbers and categories of weapons to soar.

Aug. 24 / Administration of Ronald Reagan, 1984

We have made a new beginning, a dramatic, far-reaching step toward a much better, safer, and more secure future.

To all of you who have served your country with such courage and distinction, and to all the young men and women who look to their future, I can tell you today from my heart: The United States of America is prepared for peace.

And because we're stronger than before, we can be confident that we're in a position to secure a future of peace, not peace at any price, but a true, meaningful, lasting peace supported by freedom and human dignity.

As I said last night in Dallas, our military serves to protect our freedom and keep the peace. None of the four wars in my lifetime and none of the wars that you have seen came about because we were too strong. History shows that weakness invites tyrants to believe that the price of aggression will be cheap. And while military strength alone is not enough to ensure a more secure world, without military strength, there can be no effective diplomacy, no meaningful negotiations, no real security, no lasting peace.

Our military forces are back on their feet, substantially stronger and better able to protect the peace today than they were 4 years ago. We're still not where we need to be, but we're getting there.

And the payoff is in performance. In Grenada, with less than 72 hours notice, our forces successfully rescued 600 American students, disarmed Cuban and Peoples Revolutionary Armed Forces, and restored the chance for democracy to that troubled island.

As one company commander of the Army's 1st Ranger Battalion explained—now quote: "The lead assault elements had less than 24 hours between the time we were issued our final combat orders and our departure for Grenada. We fought with the equipment on which we were trained. The equipment worked throughout the operation. New laser range finders gave accurate distance to targets, and the night vision devices operated up to standards. And of the 150 Rangers in my company, only 2 had ever seen combat before, yet they all performed like seasoned veterans. What it all adds up to is that our highly motivated sol-

diers, together with excellent training and reliable weapons, gave us the combat edge."

Well, come to think of it, I seem to remember that it took critics weeks to decide whether it was a good idea to rescue our students. They should have asked the students, for those students were already home. Incidentally, Nancy and I were pleased to have about 400 of them on the South Lawn at the White House and about 40 of the men who had returned from Grenada, representing all four branches of the service that had been there. And it was wonderful to hear these young people—and they were all the same age, the students and the military—but it was wonderful to hear these young students tell us that, yes, they had been prone to kind of look down on the uniform and all, but not anymore.

And we heard stories about how, when they were escorted to the helicopters after they'd lain overnight and for hours under their beds in the dormitories because of the bullets coming through the buildings, and then our Rangers arrived, and when it came time to go to the helicopters, those young fellows in uniform put themselves between the students and where the firing was coming from.

They couldn't keep their hands off of them. They'd throw their arms around, and then they'd come back to us and tell us how wonderful they were. It was a great sight.

Well, that young Army officer said—and what he said about his own Ranger battalion, about being able to take on combat operations on short notice, get the job done and get it done right, was just as true for our other units. The 22d Marine Amphibious Unit had just embarked at Morehead City, North Carolina, for a normal rotation to the Eastern Mediterranean when their orders were changed to Grenada. With no advance warning, with very little time, they put together their operational plans, went ashore, professionally accomplished their mission, and then continued on their way.

Because we were willing to take decisive action, our students today are safe, Grenada is free, and that region of the Caribbean is more peaceful and secure than before. But let no one confuse that situation with an inescapable reality of the modern age.

When it comes to our nuclear forces—I've said it before, and I'll say it again—a nuclear war cannot be won and must never be fought. And that's why we've put forward and will continue to pursue one of the most extensive arms control programs in history.

During the months that the START and INF talks were underway, we proposed seven different initiatives, and none of these were offered to the Soviets on a take-it-or-leave-it basis. Indeed, we made a number of adjustments to respond to the stated concerns of the Soviet side, and that's why we've put forward new proposals on reducing the levels of conventional forces in Europe, on a worldwide ban on chemical weapons, on ways to help reduce the possibility of conflict in Europe, and why we're working to prevent the spread of nuclear weapons.

Ours is the pursuit of a stable and enduring peace, but at the same time, it would have been indefensible and immoral to allow the deterrent posture we need to protect the peace to continue deteriorating as it was.

Now, some may insist they're just as committed to a strong deterrent even as they would cancel the B-1 bomber and the Peacekeeper missile. They may deny that a nuclear freeze would preserve today's high, unequal, and unstable levels of nuclear weapons, and they may deny a freeze would reduce any incentive for the Soviets to return to the negotiating table and resume the search for equitable and fair reductions. But that way of thinking only reminds me of what Sam Rayburn, a very wise Democratic Speaker of the House, once said: Any jackass can kick a barn down, but it takes a carpenter to build one. [Laughter]

When I took office, our newest long-range strategic bomber was 19 years old. Early next month, the first B-1 bomber will roll off the production line. In 1981 our newest strategic submarine was 14 years old. Today three new Trident submarines are at sea; a fourth was delivered in January, 6 weeks ahead of schedule; and seven more are under construction, on schedule and within budget.

When I took office, the debate on modernizing our aging land-based missiles had gone on for more than a decade. Today

we've completed five successful tests of the Peacekeeper, and deployment plans are on schedule. And let me take this opportunity to thank all of you for your much-needed support in our battle for the Peacekeeper. We must make sure that no adversary ever has reason to misjudge our deterrent posture or question our resolve to protect the peace, and we couldn't have gotten this far without your help. I've said before many times; I'll say it again, there are—where you've been of help is, there are many in Washington that you do not need to make them see the light, just make them feel the heat. [Laughter]

Now let me say a word about one of our most important safeguards of peace and freedom, and I'm not talking about bullets or guns, but about heart and spirit. Once again, young Americans wear their uniforms and serve their flag with honor and pride. From the NATO lines to the Demilitarized Zone of Korea and at bases and ports all across America and all over the world, young Americans are carrying on in your footsteps, in the courageous footsteps of those who stood in harm's way so that others might have a chance to find freedom, peace, and happiness. In fact, no improvement in our military readiness has been more dramatic or more important than the improvement in the quality and retention of our service men and women.

You know, the critics kept telling us that the all-volunteer military would never work and, as soon as the economy turned around, we'd be faced with severe enlistment and retention problems. Well, forgive me, but those are the same people who were wrong on inflation. They were wrong on unemployment. They were wrong on interest rates. They were wrong on the recovery. And there they go again. We're now in the 21st month of the best economic recovery since 1949, and last year was the best we've ever had for reenlistment in both the Navy and Air Force and one of the Army's best years for recruiting. And those trends are continuing.

You know, every time I see a young service man or woman I get a lump in my throat thinking of how lucky we are to have them serving our country and protecting

our freedom with real honor, courage, and competence.

I believe that we've come too far, struggled too hard, and accomplished too much to turn back now. Once again the world knows that America will stand up for freedom, democracy, and peace with human dignity. And once again America is prepared for peace.

I don't know whether you're aware of this, but in every year from 1975 to 1980, armies, largely supplied by Moscow, or Soviet forces themselves, invaded or seized control of a different country. First, Vietnam, then Angola, followed by Ethiopia and Cambodia—finally, Afghanistan. Well, since 1981, that pattern has stopped. And in 1983, Grenada was saved. And every once in a while, it's important to remember that success can also be measured by the disasters which do not happen.

Talking about those people in uniform, as I said last night at the convention—I quoted what General Marshall had said in World War II when he was asked what was our secret weapon, and he said, "The best damned kids in the world." Well, you aren't kids anymore, but there's another generation who are, and they're also—you can say the same thing about them.

I have to tell a little story—I promised all my people I wouldn't tell this anymore, I've told it so often, but I have to tell it to you. It has to do with Grenada. Not too long ago, the Armed Forces Journal over in the Pentagon came over and delivered me a little plaque, and they had engraved on that plaque some paragraphs from a letter received from a marine lieutenant, flyer of a Cobra, who had been at Grenada and then had gone on to Lebanon. And he wrote back to the Armed Forces Journal, and he said when he was at Grenada, he noticed that every news story contained someplace the line, "Grenada produces more nutmeg than any other spot on Earth." And he decided that appeared so often, that it was a code—and he had broken the code.

And he said, number one, Grenada produces more nutmeg than any other spot on Earth. Number two, the Soviets and the Cubans are trying to take Grenada. Number three, you can't have eggnog without nutmeg. And number four, you can't have Christmas without eggnog. And he

said, number five, the Soviets and the Cubans are trying to steal Christmas. [Laughter] And he said, number six, we stopped them. [Laughter]

We can be confident that history is moving in the direction of self-government and human dignity. To paraphrase Jefferson, men and women are not born with saddles on their backs. Political systems based on a dreadful denial of the human spirit will, in the end, fail.

In our own hemisphere, 26 of 33 Latin American countries today are democracies or are striving to become democracies. Now, this represents 90 percent of the region's population—up from 50 percent only a decade ago.

We see this yearning for freedom and democracy among the brave people of Eastern Europe, in Afghanistan, in Africa, and elsewhere. The spirit of men and women to breathe free is a mighty force that cannot and will not be denied. Our country is the leader of the free world, and today we're providing that leadership. In my meetings with foreign leaders, they've often told me how good it is to know what the United States stands for once again.

Now, before I close, I want to thank your outgoing commander in chief, Cliff Olson, for all that he's done, and I want to congratulate your incoming commander in chief, Billy Ray Cameron. I will always remember your strong support. It stayed rock solid even when the going was rough, but then you've always been a tower of strength. The VFW has always set high standards, lived up to them, and looked out for America, just as you've always looked out for the veteran.

The VFW and the Ladies Auxiliary didn't become great organizations by accident. You've done it through hard work and outstanding leadership. You've done it by serving our nation's veterans in your communities, volunteering your services to our veterans, fighting the good fight for a strong, safe, and secure America, supporting our POW-MIA efforts, sponsoring youth activities, directing your highly acclaimed drug abuse and safety projects, your Voice of Democracy Scholarship Program, and so many other worthwhile projects.

I think of your patriotism, and I just have to wonder: How can anyone not believe that the heart of America is good, that the spirit of America is strong, and that the future of America is great?

I wish all Americans could have stood with me this past June on the windswept cliffs of Pointe du Hoc. I wish all Americans could have felt the faith and belief, the loyalty and love of those brave men of Normandy. You know what I mean—you're the veterans of foreign wars. You've been there.

But one of the Rangers of 40 years ago, now 63 years old, the day before we arrived, scaled the 100-foot cliff that he had climbed on D-day and did in just 7 minutes, still one of the best damn kids in the world. [Laughter]

You understand that we are what we are because of Normandy and a thousand other lonely battlefields. Words could never express what the patriotism of generation after generation of American heroes means for the very soul of our nation. But you and I do know that we're free because of those who went to Omaha Beach and Guadalcanal, Mig Alley and Pork Chop Hill, Khe Sanh and the Iron Triangle.

I'll never stop working as hard as I can to make sure that our nation keeps its special commitment to those who served, to those who have kept the torch of liberty burning brightly. Because of you, America's best days are still to come, and with faith, freedom, and courage, there's no limit to what America can and will accomplish.

Forgive me, but before I leave, I must share something with you, because you've evoked memories too moving, too important to ignore. When we visited the Normandy beaches this past spring, we were told that the French citizens came up to those veterans of ours who had returned, took them by the hand, and said, with tears in their eyes, "We were only young at the time, but we will always remember what you did and what it has meant to us."

When I look at you, when I think of all you've lived and known and learned from your lifetime of service, a lifetime of honor, I can't help wondering, who, more than you, could better understand how precious are the gifts of life and freedom and faith? Who more than you has the courage and the wisdom to help us protect these gifts for

our children and for our children's children?

You are wise men of history whose burdens have become our blessings. Your struggles preserved democracy, and today all of us are lifting America into a new springtime of hope. Yes, in my heart I know it is true: America's future must be a future of peace, and together, we'll see to it that it's done.

I know that your convention ended and that you remained here to receive me, and I'm most grateful to you for that. Thank you, and God bless you all.

Note: The President spoke at 1:57 p.m. in the International Ballroom at the Conrad Hilton Hotel following remarks and an introduction by Billy Ray Cameron, incoming VFW commander in chief.

Illinois and Michigan Canal Legislation

*Remarks on Signing S. 746 Into Law.
August 24, 1984*

Thank you, and thank you all for coming. I'm delighted to be here with Governor Thompson and cosponsors Senator Chuck Percy and Congressman Tom Corcoran and Representatives Henry Hyde and Lynn Martin to sign Senate bill 746.

We're pleased that this legislation enjoyed strong bipartisan support, including cosponsorship by Senator Dixon and the long-time support of Congressman Mel Price.

The legislation commemorates the Illinois and Michigan Canal, which was a main artery of commerce in the 19th century, by designating a National Heritage Corridor from Chicago to LaSalle-Peru, Illinois. The legislation also establishes a National Heritage Corridor Commission to assist local and State entities in any appropriate preservation treatment or renovation of the old structures of the canal. We believe such activity will stimulate tourism, jobs, and economic growth, as well as greater cooperation between local, State, and Federal Governments.

Washington POST
Aug. 25, 1984

Democrat Is Linked To 'Failed Policies'

By David Hoffman
Washington Post Staff Writer

CHICAGO, Aug. 24—President Reagan attacked Walter F. Mondale on national security issues today, using a story about a "jackass" to describe Mondale's opposition to the MX missile and B1 bomber and support for a nuclear freeze.

Quoting the late House Speaker Sam Rayburn, Reagan said of Mondale's approach to arms control: "Any jackass can kick a barn down, but it takes a carpenter to build one."

Fresh from his renomination in Dallas, Reagan used a speech to the 85th annual convention of the Veterans of Foreign Wars to lay out what is expected to be one of his themes in the fall campaign, portraying the former vice president as part of a "dismal chapter of failed policies and self-doubt."

The president said he had put forward "one of the most extensive arms control programs in history," and that his military modernization stopped a "pattern" of Soviet expansionism between 1975 and 1980.

"Every once in a while, it's important to remember that success can also be measured by the disasters which do not happen," Reagan said. He recounted for the 1,500 V.F.W. members patriotic accounts of U.S. servicemen in combat during the 1983 Grenada "rescue" mission.

Reagan used the word "peace" 18 times in a speech in which he said he is "prepared to pursue all avenues for arms reduction," has the "self confidence that enables us to reach out to our adversaries" and that "my deepest commitment is to achieve a stable, enduring peace."

In an interview with Los Angeles Times correspondent George Skelton published today, Reagan said he thinks the Soviets are "frustrated" by the impasse in arms negotiations with the United States. He attributed this to "great traumas" caused by the deaths of two Soviet leaders in three years.

"But we have to find an answer to our problems because the United States and the Soviet Union are the only two that could cause a war, and we're not going to cause a war," Reagan added. "Therefore, I look forward to being able to meet with them. If they are fearful of us, and really fearful, not just a put-on, I

See REAGAN, A6, Col. 1

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Saturday, August 25, 1981

THE WASHINGTON POST

President Criticizes Mondale for Stance On Security Issues

REAGAN, From A1

would like to do what could be done to eliminate that fear and prove to them that we have no designs on anyone. And, at the same time, if that's mixed up with their philosophy of a world revolution and their eventual domination, to let them know that that is the threat to world peace."

Reagan said "I would assume" a summit meeting with the Soviets could be held in a second term but a meeting before then is "less likely."

Reagan's focus on arms control before the V.F.W. today came in the wake of polls showing many Americans were unsettled by his recent quip during a microphone sound-test that he had signed legislation "outlawing Russia" and "the bombing will begin in five minutes."

The polls, including those done for Reagan's reelection campaign, showed that the remark reignited fears Reagan would be too quick to start a war.

"A nuclear war cannot be won and must never be fought," Reagan told the veterans, raising his voice for emphasis.

He said in the newspaper interview he would not tell such jokes

again. "Now that I know that the security of the nation is at stake when people eavesdrop, I won't be doing that anymore," he said.

Reagan promised in 1980 that a defense buildup would force the Soviets to bargain seriously for arms reductions. The president then largely succeeded in winning from Congress the military buildup he wanted and went ahead with the deployment of intermediate-range missiles in Europe. The Soviets have since walked out of both sets of stalled nuclear missile talks in Geneva.

Mondale has blamed Reagan for the stalled talks and said he would put temporary moratoriums on production of new nuclear weapons and would continue the defense buildup at a slower rate.

The president today did not blame the Soviets for walking out of the nuclear arms talks, as he has before, but instead criticized the SALT treaties negotiated in the Nixon, Ford and Carter years.

"Gone are the days when we either sought to achieve overnight grandiose arms control agreements that were bound to fail, or when we set our sights so low that the agree-



By Frank Johnston—The Washington Post

Three V.F.W. generations clasp hands in Chicago. From left, Jim Lahr, Vietnam; Jack Wilson, World War II, and Joe Ambrose, World War I.

ments permitted the numbers and categories of weapons to soar," he said.

Saying he had advanced "seven different initiatives" in the intermediate-range and strategic nuclear weapons talks, Reagan added, "None of these were offered on a take-it or leave-it basis. Indeed, we made a number of adjustments to respond to the stated concerns of the Soviet side."

Without mentioning Mondale by name, Reagan said the Democratic nominee "may deny that a nuclear freeze would preserve today's high, unequal, and unstable levels of nu-

clear weapons" and "may deny a freeze would reduce any incentive for the Soviets to return to the negotiating table and resume the search for equitable and fair reductions."

But Reagan said "that way of thinking" reminded him of Rayburn's remark about a jackass, and the veterans applauded. White House spokesman Larry Speakes said later that Reagan was not describing Mondale but using "an old phrase out of Middle America. If the shoe fits, wear it."

Reagan has opposed the nuclear freeze and called instead for mutually verifiable and equitable arms reductions.

POST cont'd.

- 3 -

Earlier today, in a pep talk to the Republican National Committee before leaving Dallas, Reagan said the campaign ahead "isn't a cakewalk" and "it's no time to sit on our laurels." The president also blasted "freeloading" people who do not pay taxes and Democrats who want to raise taxes.

Exercising a prerogative of incumbency, Reagan held a bill-signing ceremony here for legislation creating a recreational trail and "national heritage corridor" along the 100-mile Illinois and Michigan Canal.

Although his speech to the V.F.W. was a campaign address, White House officials said the trip was "official business" and would be paid for out of federal budget funds, instead of reelection money provided by the Federal Election Commission from a taxpayer-supported fund.

Reagan campaign director Ed Rollins said there will be more such "official trips" because "if you can get away with a couple of official trips in the course of a campaign, we all benefit." He said such trips would save the campaign \$50,000 to \$75,000 a trip.

The president reacted testily in the newspaper interview to recent reports that his hearing is faltering, that he dozes off in Cabinet meetings and "that you may be physically well but mentally you may be slipping."

"Well, it's pretty hard to reassure the American people if the means of communication, meaning the media, have through some kind of journalistic incest decided to gang up on that subject."

Reagan insisted that he does not sleep in Cabinet meetings but was suffering in some meetings from "jet lag."

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Chicago Tribune

Chicagoland

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Saturday, August 25, 1984

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Bringing the fight to Illinois



Tribune photo by Phil Green

Accompanied by the newly-installed VFW commander, Billy Ray Cameron, President and Nancy Reagan acknowledge the applause of the veterans Friday in Chicago.

Reagan: Soviets held in check

By Storer Rowley

CALLING FOR "a stable, enduring peace . . . not peace at any price," President Reagan told the Veterans of Foreign Wars here Friday that a nuclear war cannot be won and must never be fought.

However, Reagan denounced critics who would cancel the strategic B-1 bomber and MX missile programs in favor of a nuclear freeze.

Without naming him, the President took a few swipes at former Vice President Walter Mondale, his rival for the White House, who also was campaigning in Illinois. Among other things, Reagan criticized Democrats for "the mess America

"I believe we've closed the books on that dismal chapter of failed policies and self-doubt," he told the 85th annual VFW convention in the Conrad Hilton Hotel. "May it never return."

WHILE IN CHICAGO, Reagan also signed legislation to create Illinois' first national park along the abandoned 100-mile Illinois & Michigan Canal between Chicago and LaSalle.

His appearance here was the last in six days of campaign events dominated by his acceptance speech before the Republican National Convention Thursday night. Following his brief stay in Chicago, Reagan flew back to Washington and planned a quiet weekend at Camp David.

Reagan received a warm welcome from a VFW audience of more than 2,000, many waving small American flags and interrupting his speech with applause. "You are the wise men of history whose

The Boston Globe

Co. •

SATURDAY, AUGUST 25, 1984

Telephone 929-2000

CAMPAIGN SALVOS

"... that way of thinking (opposition to the B1 bomber and MX missile and endorsement of a nuclear freeze) only reminds me of what Sam Rayburn, a very wise Democratic Speaker of the House, once said: 'Any jackass can kick a barn down, but it takes a carpenter to build one.'"

— President Reagan



President and Mrs. Reagan board Marine helicopter at Andrews Air Force Base en route to a weekend stay at Camp David. AP PHOTO

President raps rival for stand on defense

By Benjamin Taylor
Globe Staff

CHICAGO — President Ronald Reagan, flush with the optimism generated by the Republican con-

vention, yesterday likened Walter F. Mondale's defense policies to those of a "jackass," as he continued the harsh attacks on the Democrats that marked his nomination acceptance speech in Dallas Thursday night.

On his way back to Washington from the convention in Dallas, Reagan stopped in Chicago, where in a speech to the 85th national convention of the Veterans of Foreign Wars, he stressed the patriotic themes that suffused the four-day GOP convention.

He also used the speech to criticize sharply Mondale for supporting a nuclear freeze and wanting to cancel the B1 bomber and MX missile programs.

"Now, some may insist they're just as committed to a strong de-

REAGAN Page 8

From Page 1

Reagan

Continued from page 1

burdens have become our blessings," said an emotional Reagan.

It was before the same group four years ago that Reagan called the Vietnam War a noble cause. This time, Reagan made no reference to Vietnam, pointing out that since his administration has been in power the Soviet Union has been checked in its attempts to expand its influence through the forceful acquisition of territory.

"SINCE 1981, that pattern has stopped, and in 1983 Grenada was saved," he said, referring to the American invasion of the Caribbean island.

People in the audience shouted "Four more years, four more years!" But outside the hotel, about 25 demonstrators protested Reagan's policies on Central America and the environment.

After the speech, the President and Nancy Reagan joined Gov. James Thompson, several members of Illinois' congressional delegation and an audience of 100 in the Hilton's Grand Ballroom, where Reagan signed the bill creating the Illinois & Michigan Canal National Heritage Corridor. Reagan said the bill would "stimulate tourism, jobs and economic growth" along the canal route.

In the audience were the original cosponsors, Rep. Tom Corcoran and Sen. Charles Percy, as well as Reps. Henry Hyde and Lynn Martin, all Illinois Republicans.

The park land will be owned by Illinois and overseen by a locally appointed federal commission. It will be a unique U.S. cultural and recreational area, because the federal government will not buy land for it or increase federal land-use and environmental standards in relation to it.

THE PRESIDENT'S 2½-hour visit to Chicago marked his second trip to Illinois in five days and reflected his concern over the neck-and-neck presidential race here. Mondale also made his first post-nomination visit to the state with an appearance in Springfield Friday.

Moving out of the Republican National Convention in Dallas, where he accepted his party's tumultuous nomination to run for a second term, Reagan chose the sympathetic VFW as a forum for what his aides called a watershed speech to defend his record arms build-up.

"Gone are the days when we abandoned principle and common sense," Reagan said. "Gone are the days when we meekly tolerated obvious threats to our peace and security. Gone are the days when we either sought to achieve overnight grandiose arms-control agreements that were bound to fail or when we set our sights so low that the agreements permitted the numbers and categories of weapons to soar."

Echoing his acceptance speech in Dallas, in which he said that "not one inch of soil has fallen to the communists" while he has been in the White House, Reagan trumpeted his administration's military rescue

of Grenada from communist clutches.

BUT THE President also emphasized his policies of peace through strength and efforts at arms control, noting that: "We have made a new beginning, a dramatic, far-reaching step toward a much better, safer and more secure future."

Saying he spoke from the heart, the President also told the veterans: "The United States of America is prepared for peace. And because we are stronger than before, we can be confident that we are in a position to secure a future of peace—not peace at any price, but a true, meaningful, lasting peace supported by freedom and human dignity."

As on Thursday, he reaffirmed that "our military serves to protect our freedom and keep the peace. None of the four wars in my lifetime, and none of the wars you have seen, came about because we were too strong."

Without military strength, he said, "there can be no effective diplomacy, no meaningful negotiations, no real security, no lasting peace."

"OUR MILITARY forces are back on their feet, substantially stronger and better able to protect the peace today than they were four years ago," he said. "We're still not where we need to be, but we're getting there."

U.S.-Soviet nuclear arms control talks have been broken off for nine months, but Reagan said that the United States offered seven initiatives during those talks in Geneva on reducing medium- and long-range nuclear weapons.

Though no substantial agreements have been reached with Moscow since he took office, Reagan touted administration proposals for reducing the conventional forces in Europe, banning chemical weapons worldwide and preventing the spread of nuclear weapons.

Reagan and Vice President George Bush accepted their nominations in a boisterous and predictable wind-up of a most predictable Republican convention. By Friday morning, the party's almost unrestrained confidence about winning the Nov. 6 election was getting so out of hand that Reagan warned the Republican National Committee at a morning meeting to come back down to Earth.

"MY FRIENDS," he told the committee at his heavily guarded hotel headquarters in Dallas, "1984 isn't a cakewalk. It's no time to sit on our laurels."

It is, he said, "the year when we can get out there in the union halls and at the VFW and the church meetings and get out the word" on how the Republicans are the party of the future.

Reagan said in a newspaper interview that he planned to stop joking about bombing the Soviet Union. "Now that I know that the security of the nation is at stake when people eavesdrop, I won't be doing that any more," he said.

President raps rival's arms stand

■ REAGAN

Continued from Page 1

terrent, even as they would cancel the B1 bomber and the [MX] missile," Reagan said. "They may deny that a nuclear freeze would preserve today's high, unequal and unstable levels of nuclear weapons; and they may deny a freeze would reduce any incentive for the Soviets to return to the negotiating table and resume the search for equitable and fair reductions.

On building a barn

"But that way of thinking," he continued, "only reminds me of what Sam Rayburn, a very wise Democratic Speaker of the House, once said: 'Any jackass can kick a barn down, but it takes a carpenter to build one.'"

Reagan, who rarely fails to mention what he calls the failures of the Carter Administration, and who has made no secret of his desire to tie Mondale to those policies, said, "I believe we've closed the books on that dismal chapter of failed policies and self-doubt."

As the mood among the party faithful grew increasingly euphoric in Dallas during the course of the week, Reagan aides, pointing to in-house polls showing Mondale's decline in popularity after an initial surge in the wake of the Democratic convention — and of his selection of Rep. Geraldine A. Ferraro as a running mate — began to talk about the hope of a landslide victory that would retain GOP control of the Senate, and increase the number of conservatives in the House to the point where they would have a "governing coalition."

But Reagan, in one last speech to members of the Republican National Committee before he left Dallas, injected a note of caution by saying that "1984 isn't a cakewalk. . . . It's no time to sit on our laurels."

Reagan plans officially to begin his campaign on Labor Day in California and Utah, and the cam-



The Republican nominees and their wives wave to cheering delegates at Thursday night's closing session of party's convention in the Dallas Convention Center. From left are Vice President George Bush, his wife, Barbara; Nancy Reagan and the President. AP PHOTO

paign director, Edward J. Rollins, said that in the second week, Reagan will campaign in the Northeast. "We're going to go into [Mondale's] turf and take him on," Rollins said.

In an interview published in the Los Angeles Times yesterday, meanwhile, the 73-year-old Reagan, who often deals with questions about his age with self-deprecating jokes, was uncharacteristically defensive on the subject. "The media have, through some kind of journalistic incest, decided to gang up on the subject," Reagan said.

The issue of Reagan's age has surfaced recently as a result of a remark by Michael K. Deaver, deputy White House chief of staff, that Reagan sometimes nods off at Cabinet meetings; Reagan's off-the-record joke about bombing Russia, and a recent incident in California where his wife, Nancy, seemed to prompt him with an answer to a reporter's question.

When asked in the Los Angeles Times interview what assurance he could give the American people that he was not slipping mentally, Reagan responded, "Well, it's pretty hard to assure the American people if the means of communication — meaning the media — have through some kind of journalistic incest decided to gang up on the subject."

As an example, Reagan pointed to reports that he stumbled over the two sentence, 16-word statement he read formally opening the Olympics. Reagan said he decided to reverse the two sentences because he felt the first sen-

tence as originally written was the "applause line."

As to Deaver's remark, Reagan said that because of jet lag, he sometimes has "to battle to stay with" meetings.

Many patriotic allusions

When he addressed the VFW convention in 1980, Reagan described Vietnam as a "noble cause," and while he made only a passing reference to that subject this time around, there were plenty of allusions to patriotism to follow up the convention, where a gigantic American flag descended behind the podium as a backdrop to the close of Reagan's speech Thursday night.

Some people in the crowd of more than a 1000 at the VFW gathering expressed disappointment that Reagan did not address their legislative priorities, which include more money for Veterans Administration hospitals and health care, and a program to deal with the Agent Orange problem.

But Reagan's brand of patriotism yesterday did not disappoint the organization, which four years ago broke an 80-year practice of not endorsing presidential candidates by formally backing Reagan.

Stating that he gets a lump in his throat whenever he sees an American in uniform, Reagan told the crowd, "I think of your patriotism and I just have to wonder how can anyone not believe that the heart of America is good, that the spirit of America is strong and that the future of America is great?"

WARMER
Sunny. High in the lower
80s. Page 2
TV listings: P. 33

Sun-Times

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Metro
Final

CHICAGO, SATURDAY, AUGUST 25, 1984 25c CITY, SUBURBS 35c ELSEWHERE

BATTLE FOR ILLINOIS

'U.S. prepared for peace,' Reagan tells the VFW here

By Jerome R. Watson
and Basil Talbott Jr.

Declaring that "America is prepared for peace," President Reagan told the Veterans of Foreign Wars here yesterday that a strong economic recovery and military buildup have put the United States in position to forge a stable, enduring peace.

Addressing the VFW's 85th national convention, at the Conrad Hilton Hotel, Reagan said that under his

• Related stories on Pages 4 and 5.

leadership, communist territorial gains have been stopped and "we've closed the book on that dismal chapter of failed policies and self-doubt"—the Carter-Mondale era.

Reagan, who four years ago revived an old debate when he told the VFW that the Vietnam War was "a no-

ble cause," flew here to address the organization after accepting the Republican presidential nomination Thursday night in Dallas.

A Sun-Times poll showed Reagan and Walter F. Mondale running neck-and-neck in Illinois, one of several states the Democrat must win to have any chance of upsetting Reagan Nov. 6.

Recalling his 1980 appearance before the VFW, Reagan said, "It's hard to forget the mess America was in, hard to forget the foolish

Turn to Page 4



SUN-TIMES/Barry Jarvinen

President Reagan greets the VFW commander in chief, Billy Ray Cameron, yesterday as he arrives at the 85th annual convention of the veterans organization.

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U.S. prepared, Reagan insists

Continued from Page 1
talk of malaise, the unfairness of runaway price increases, 21.5 percent interest rates, weakened defenses, Americans held hostage and the loss of respect for our nation abroad. It seemed that we woke up every morning wondering what new humiliation our country had suffered overseas, what disappointing economic news lay waiting for us on the front page."

Although Reagan consistently blames President Jimmy Carter for a decline in U.S. defenses, the trends he decries actually were rooted in the administrations of Presidents Richard M. Nixon and Gerald R. Ford.

Reagan came to Chicago from Dallas, where he gave a pep talk to members of the Republican National Committee yesterday morning, urging them not to view his re-election as "a cakewalk."

"It's no time to sit on our laurels," he told the new national committee as he began his fall campaign.

In Chicago, without mentioning them, Reagan disputed studies claiming that U.S. military readiness has declined during his administration.

He said there has been a substantial improvement in

readiness, as reflected in the successful military action in Grenada; improved enlistment and retention rates in the services, and the production of new ships, planes and missiles.

Disputing Mondale's claim of standing for a strong defense, Reagan noted his opponent's opposition to the B-1 bomber and MX missile and Mondale's support of a nuclear freeze, which Reagan said would "preserve today's high, unequal and unstable levels of nuclear weapons [and] reduce any incentive for the Soviets to return to the negotiating table and resume the search for equitable and fair negotiations."

"But that way of thinking only reminds me of what Sam Rayburn, a very wise Democratic speaker of the House, once said: 'Any jack-ass can kick down a barn but it takes a carpenter to build one.'"

Reagan maintained that he made serious efforts to engage the Soviet Union in arms negotiations, and said: "Ours is the pursuit of a stable and enduring peace."

Reagan unabashedly celebrated the Grenada intervention and derided Democrats, including Mondale, who have criticized the October, 1983, ouster of a Marxist regime

from the Caribbean island.

"I don't know whether you're aware of this, but in every year from 1975 to 1980, armies largely supplied by Moscow or Soviet forces themselves invaded or seized control of a different country," Reagan said.

"First, Vietnam; then, Angola; followed by Ethiopia and Cambodia, and finally Afghanistan. . . . Every once in a while, it's important to remember that success can also be measured by the disasters which do not happen."

Reagan recalled his June visit to the D-Day beaches of Normandy and said: "I wish all Americans could have stood with me this past June on the windswept cliffs of Pointe du Hoc. I wish all Americans could have felt the faith and belief, the loyalty and love of those brave men of Normandy. You know what I mean—you're the Veterans of Foreign Wars—you've been there."

The veterans interrupted the president with applause several times and chanted, "Four more years," before and after his talk.

Reagan landed in Air Force One at the military section of O'Hare Airport at 1:20 p.m., and departed for Washington at 3:25 p.m.

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR #

1790

Date Filmed 2/28/85 Camera No. 7

Cameraman JRL



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MUR 1790

86040614757

STATEMENT OF REASONS:

MUR 1790

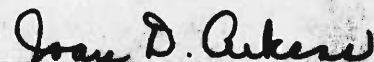
In Mur 1790, we rejected the recommendation of the General Counsel to Find Reason to Believe that respondent violated the Federal Election Campaign Act, as amended, and the Presidential Election Campaign Fund Act, and voted to find No Reason to Believe that a violation occurred, for the following reasons:

The event in question at which President Reagan spoke was the VFW convention held in Chicago, Illinois on August 24, 1984. This was an annual convention to which sitting Presidents are routinely invited to speak.

In reflecting on the duties, functions and business of the high office of President, and in considering, among many other things, the setting of the speech, the date of the speech, the audience, and the remarks themselves, we concluded that the appearance by the President was not campaign related. Accordingly, the cost of the trip was, in our opinion, properly defrayed with government funds.

We were not persuaded by the General Counsel's report that the reaction of the audience and the media to the speech, and the coincidental timing of the event immediately after the Republican Nominating Convention caused the event to become campaign related.

It is undisputed that the event in no way involved the express advocacy of the election or defeat of any candidate nor the solicitation of contributions for any candidate. Our decision rested on the totality of circumstances presented in this matter.


JOAN D. AIKENS
Chairman


JOHN WARREN MCGARR
Vice Chairman

DATE: October 1, 1986

86040314758

STATEMENT OF REASONS
COMMISSIONER LEE ANN ELLIOTT

My reasons for rejecting the General Counsel's recommendation in MUR 1790 are those I stated during the Commission's discussion of the matter on January 8, 1985:

"My objection goes to the standards that are appearing for the first time ^{1/} before the Commission at the table on Page ^{2/} 8 as some new standards that are not in our Act or in our Regulations. I find only the fourth one (t)hat the remarks themselves are the correct standards here. I do not believe that the setting of the remarks, the timing of the event or the reaction that the remarks invoke (are the standards)....(T)he legislative history says: 'However, if during the course of the speech, the candidate asks for support, that would convert an otherwise noncampaign event into one which is campaign related and would require travel costs to be allocated and recorded as expenditures.' So, we have in our legislative history, just the remarks themselves."^{3/}

It was clear to me that given all the facts and circumstances, the speech contained no express advocacy nor were there any solicitations for contributions. Ronald Reagan appeared at this event as The President of the United States and not as the Republican nominee for the presidency in 1984.

9-24-86
Date


Lee Ann Elliott
Commissioner

1/The General Counsel's Office recognized they were applying a new test in this matter: "At page 8, when we discussed standards that we propose..." (emphasis added). (Statement of Mr. Gerson for The General Counsel, partial transcript of Commission meeting of January 15, 1985, discussion on MUR 1790, Page 2).

2/Page 8 of the General Counsel's Report on MUR 1790, signed December 21, 1984. (copy attached).

3/Partial transcript of an Executive Session of January 8, 1985, discussion on MUR 1790, page 1.

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GENERAL COUNSEL

-8-

The respondent's last argument cites several advisory opinions where the Commission found no "contribution" or "expenditure" in violation of the federal election laws when the major purpose of an activity involving a Federal office holder, who is also a Federal candidate, is not to influence his nomination or election, but, instead, is in connection with his official duties. Finding that an activity was not an expenditure or "contribution" "was conditioned on (i) the absence of any communication expressly advocating the nomination or election of the person appearing or the defeat of any other Federal candidate, and (ii) the avoidance of any solicitation, making, or acceptance of campaign contributions for the candidate in connection with the activity." AO 1980-222/

General Counsel's Analysis

The Office of the General Counsel is of the opinion that whether an event is "campaign-related" depends upon the setting in which the remarks are made, the timing of the event at which the remarks are made, the reaction that the remarks evoke, as well as the remarks themselves. It would be compelling evidence that an event was campaign-related if, during an elected official's remarks, he expressly advocates his election or solicits contributions. This Office does not consider this an exhaustive list and does not believe that any one factor is dispositive. Instead, many factors and circumstances of varying significance must be considered and only the totality of the circumstances determines whether an event is "campaign-related."

2/ The Complainant discusses AO 1980-22 in its complaint at pages 6 and 7.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 27, 1986

Roger M. Witten, Esquire
Wilmer, Cutter & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420

Re: MUR 1790
Reagan-Bush '84 General Election Committee,
and Angela M. Buchanan Jackson, as treasurer.

Dear Mr. Witten:

As you know, on January 15, 1985, the Commission dismissed the administrative complaint which you previously filed on behalf of your client Common Cause in the above-captioned matter. Common Cause then appealed that dismissal to the United States District Court for the District of Columbia, which, on June 26, 1986, remanded the matter to the Commission for the issuance of a statement of reasons for the Commission's dismissal decision.

This is to notify you that on August 19, 1986, the Commission decided not to appeal but to accept the remand, and to issue reasons for its decisions. Copies of the statements of reasons subsequently prepared by three of the Commissioners, which will be placed on the public record in connection with this matter, are enclosed for your information.* /

* / Frank Reiche, the Commissioner who cast the fourth vote to dismiss the administrative complaint, is no longer a member of the Commission.

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Letter to Roger M. Witten, Esquire
MUR 1790
Page 2

Should you have any questions with respect to this matter,
please contact Commission staff attorney Robert Bonham at 376-
5690.

Sincerely,



Charles N. Steele
General Counsel

Enclosures.

cc: Carol F. Lee, Esquire

86040614762

STATEMENT OF REASONS:

MUR 1790

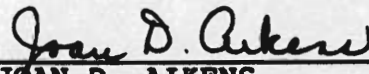
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JOAN D. AIKENS
Chairman


JOHN WARREN MCGARR
Vice Chairman

DATE: October 1, 1986

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9-24-86

Date

Lee Ann Elliott
Lee Ann Elliott
Commissioner

1/The General Counsel's Office recognized they were applying a new test in this matter: "At page 8, when we discussed standards that we propose..." (emphasis added). (Statement of Mr. Gerson for The General Counsel, partial transcript of Commission meeting of January 15, 1985, discussion on MUR 1790, Page 2).

2/Page 8 of the General Counsel's Report on MUR 1790, signed December 21, 1984. (copy attached).

3/Partial transcript of an Executive Session of January 8, 1985, discussion on MUR 1790, page 1.

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-8-

The respondent's last argument cites several advisory opinions where the Commission found no "contribution" or "expenditure" in violation of the federal election laws when the major purpose of an activity involving a Federal office holder, who is also a Federal candidate, is not to influence his nomination or election, but, instead, is in connection with his official duties. Finding that an activity was not an expenditure or "contribution" "was conditioned on (i) the absence of any communication expressly advocating the nomination or election of the person appearing or the defeat of any other Federal candidate, and (ii) the avoidance of any solicitation, making, or acceptance of campaign contributions for the candidate in connection with the activity." AO 1980-222/

General Counsel's Analysis

The Office of the General Counsel is of the opinion that whether an event is "campaign-related" depends upon the setting in which the remarks are made, the timing of the event at which the remarks are made, the reaction that the remarks evoke, as well as the remarks themselves. It would be compelling evidence that an event was campaign-related if, during an elected official's remarks, he expressly advocates his election or solicits contributions. This Office does not consider this an exhaustive list and does not believe that any one factor is dispositive. Instead, many factors and circumstances of varying significance must be considered and only the totality of the circumstances determines whether an event is "campaign-related."

2/ The Complainant discusses AO 1980-22 in its complaint at pages 6 and 7.



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 27, 1986

John J. Duffy, Esquire
Pierson, Ball & Dowd
1200 18th Street, N.W.
Washington, D.C. 20036

Re: MUR 1790
Reagan-Bush '84 General Election Committee,
and Angela M. Buchanan Jackson, as treasurer.

Dear Mr. Duffy:

As you know, on January 15, 1985, the Commission dismissed the administrative complaint which Common Cause filed against your client the Reagan-Bush '84 General Election Committee in the above-captioned matter. Common Cause then appealed that dismissal to the United States District Court for the District of Columbia, which, on June 26, 1986, remanded the matter to the Commission for the issuance of a statement of reasons for the Commission's dismissal decision.

This is to notify you that on August 19, 1986, the Commission decided not to appeal but to accept the remand, and to issue reasons for its decisions. Copies of the statements of reasons subsequently prepared by three of the Commissioners, which will be placed on the public record in connection with this matter, are enclosed for your information.*

*/ Frank Reiche, the Commissioner who cast the fourth vote to dismiss the administrative complaint, is no longer a member of the Commission.

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Letter to John J. Duffy, Esquire
MUR 1790
Page 2

Should you have any questions with respect to this matter,
please contact Commission staff attorney Robert Bonham at 376-
5690.

Sincerely,



Charles N. Steele
General Counsel

Enclosures.

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STATEMENT OF REASONS:

MUR 1790

In Mur 1790, we rejected the recommendation of the General Counsel to Find Reason to Believe that respondent violated the Federal Election Campaign Act, as amended, and the Presidential Election Campaign Fund Act, and voted to find No Reason to Believe that a violation occurred, for the following reasons:

The event in question at which President Reagan spoke was the VFW convention held in Chicago, Illinois on August 24, 1984. This was an annual convention to which sitting Presidents are routinely invited to speak.

In reflecting on the duties, functions and business of the high office of President, and in considering, among many other things, the setting of the speech, the date of the speech, the audience, and the remarks themselves, we concluded that the appearance by the President was not campaign related. Accordingly, the cost of the trip was, in our opinion, properly defrayed with government funds.

We were not persuaded by the General Counsel's report that the reaction of the audience and the media to the speech, and the coincidental timing of the event immediately after the Republican Nominating Convention caused the event to become campaign related.

It is undisputed that the event in no way involved the express advocacy of the election or defeat of any candidate nor the solicitation of contributions for any candidate. Our decision rested on the totality of circumstances presented in this matter.



JOAN D. AIKENS
Chairman



JOHN WARREN MCGARRY
Vice Chairman

DATE: October 1, 1986

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STATEMENT OF REASONS

COMMISSIONER LEE ANN ELLIOTT

My reasons for rejecting the General Counsel's recommendation in MUR 1790 are those I stated during the Commission's discussion of the matter on January 8, 1985:

"My objection goes to the standards that are appearing for the first time 1/ before the Commission at the table on Page 8 2/ as some new standards that are not in our Act or in our Regulations. I find only the fourth one (t)hat the remarks themselves are the correct standards here. I do not believe that the setting of the remarks, the timing of the event or the reaction that the remarks invoke (are the standards)....(T)he legislative history says: 'However, if during the course of the speech, the candidate asks for support, that would convert an otherwise noncampaign event into one which is campaign related and would require travel costs to be allocated and recorded as expenditures.' So, we have in our legislative history, just the remarks themselves."3/

It was clear to me that given all the facts and circumstances, the speech contained no express advocacy nor were there any solicitations for contributions. Ronald Reagan appeared at this event as The President of the United States and not as the Republican nominee for the presidency in 1984.

9-24-86

Date

Lee Ann Elliott
Lee Ann Elliott
Commissioner

1/The General Counsel's Office recognized they were applying a new test in this matter: "At page 8, when we discussed standards that we propose..." (emphasis added). (Statement of Mr. Gerson for The General Counsel, partial transcript of Commission meeting of January 15, 1985, discussion on MUR 1790, Page 2).

2/Page 8 of the General Counsel's Report on MUR 1790, signed December 21, 1984. (copy attached).

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-8-

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General Counsel's Analysis

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2/ The Complainant discusses AO 1980-22 in its complaint at pages 6 and 7.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

128-25-88

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MUR 1790 .

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 15, 1988

Roger M. Witten, Esquire
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037-1420

Re: MUR 1790
Reagan-Bush '84 General Election Committee,
and Angela M. Buchanan Jackson, as treasurer.

Dear Mr. Witten:

On January 15, 1985, the Commission dismissed the administrative complaint you previously filed on behalf of your client Common Cause in the above-captioned matter. Common Cause then appealed that dismissal to the United States District Court for the District of Columbia, which recently remanded the matter to the Commission for further proceedings consistent with the Court's June 15, 1988 memorandum opinion.

This is to notify you that on June 28, 1988, the Commission determined to reopen consideration of the matter under review for the purpose of issuing new statements of reasons in accordance with the court's order. Copies of the statements of reasons subsequently prepared by three of the Commissioners, which will be placed on the public record in connection with this matter, are enclosed for your information.*

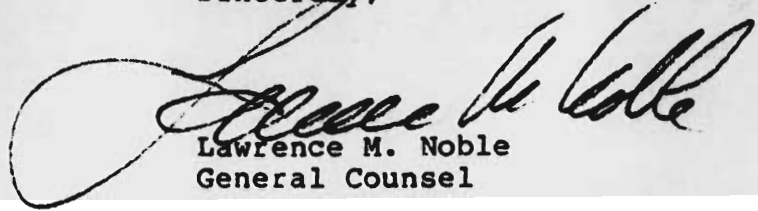
*/ Frank Reiche, the Commissioner who cast the fourth vote to dismiss the administrative complaint, is no longer a member of the Commission.

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Roger M. Witten, Esquire
MUR 1790
Page 2

Should you have any questions with respect to this matter,
please contact Commission staff attorney Robert Bonham at
376-5690.

Sincerely,



Lawrence M. Noble
General Counsel

Enclosures.

cc: Carol F. Lee, Esquire

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 15, 1988

John J. Duffy, Esquire
Piper & Marbury
1200 Nineteenth Street, N.W., Suite 700
Washington, D.C. 20036

Re: MUR 1790
Reagan-Bush '84 General Election Committee,
and Angela M. Buchanan Jackson, as treasurer.

Dear Mr. Duffy:

On January 15, 1985, the Commission dismissed the administrative complaint Common Cause filed against your client the Reagan-Bush '84 General Election Committee in the above-captioned matter. Common Cause then appealed that dismissal to the United States District Court for the District of Columbia, which recently remanded the matter to the Commission for further proceedings consistent with the Court's June 15, 1988 memorandum opinion.

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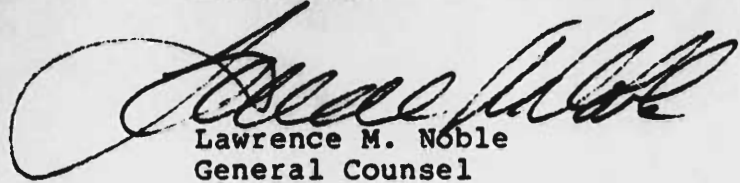
*/ Frank Reiche, the Commissioner who cast the fourth vote to dismiss the administrative complaint, is no longer a member of the Commission.

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John J. Duffy, Esquire
MUR 1790
Page 2

Should you have any questions with respect to this matter,
please contact Commission staff attorney Robert Bonham at
376-5690.

Sincerely,



Lawrence M. Noble
General Counsel

Enclosures.

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MUR 1790

Commissioner Joan D. Aikens
Commissioner John Warren McGarry

In MUR 1790, the Commission considered allegations that Reagan-Bush '84, and Angela M. Buchanan Jackson, as treasurer, violated 2 U.S.C. §434 and 11 C.F.R. §§9003.1 and 9004.7 by failing to pay for expenses and reporting payments relating to a trip made by President Reagan to Chicago on August 24, 1988 to address the National Convention of the Veterans of Foreign Wars. The complaint alleged that the trip was campaign-related and not official government business and that the expenses of the trip should have been charged to Reagan-Bush '84, President Reagan's authorized campaign committee, rather than to the United States Government.

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We disagreed with the complainant that the trip was campaign-related within the meaning of the Act and regulations. We voted to reject the General Counsel's recommendations and voted instead to find no reason to believe that the alleged violations occurred and to close the file. We reached our conclusion upon application of a "totality of the circumstances" test which, as demonstrated by the discussion below, was fully consistent with relevant prior Commission decisions. We remain convinced that use of that legal standard was appropriate and that our conclusion based upon it was wholly justified by the facts of this case.

II. APPLICABLE STATUTES AND REGULATIONS

The Federal Election Campaign Act requires political committees, including political committees authorized by Presidential candidates, to report "expenditures made to meet candidate or committee operating expenses." 2 U.S.C. §434(b)(4)(A). The Presidential Election Campaign Fund Act incorporates that reporting requirement as it applies to publicly funded Presidential candidates and their committees through its implementing regulations. Those regulations provide that major party Presidential candidates must agree to comply with the

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requirement, among many others, to report "qualified campaign expenses" pursuant to the provisions of the Federal Election Campaign Act in order to be eligible to receive payments from the Fund. 11 C.F.R. §9003.1. The term "qualified campaign expense" includes any expense incurred by a Presidential candidate or the candidate's authorized committee to further his or her election. 26 U.S.C. §9002(11). The Commission's regulations state that travel costs relating to a Presidential candidate's campaign are qualified campaign expenses. ^{1/}

^{1/} 11 C.F.R. §9004.7(a) provides:

Notwithstanding the provisions of 11 C.F.R. Part 106, expenditures for travel relating to a Presidential or Vice Presidential candidate's campaign by any individual, including a candidate, shall, pursuant to the provisions of 11 C.F.R. §9004.7(b), be qualified campaign expenses and be reported by the candidate's authorized committee(s) as expenditures.

III. STATEMENT OF FACTS

The Veterans of Foreign Wars is a non-profit non-partisan membership organization committed to addressing the concerns of almost two million veterans of military service to the United States. Its constitution and by-laws expressly preclude endorsements of political candidates.

In early 1984, the V.F.W. made plans to hold a National Convention, which has been an annual event for the last 84 years. On March 1, 1984, six months before the convention was to be held, Clifford G. Olson, Jr., the National Commander of the V.F.W. extended an invitation to President Reagan to address the membership gathered in Chicago, Illinois at the 1984 National Convention. This invitation has been traditionally extended by the V.F.W. to the sitting President of the United States. President Reagan had been the recipient of similar speaking invitations, the last as recently as 1983. The V.F.W. invitation specified that President Reagan should express his views on national security and foreign policy matters, topics of great concern to veterans. MUR 1790, Respondent's Reply to the Complaint at Exhibit B.

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President Reagan agreed to and did appear to address approximately 7,000 members of the V.F.W. on August 24, 1984, almost six months after the invitation was extended. In his remarks, President Reagan clearly focussed on matters of concern to V.F.W. members -- military readiness and military strength during a period in history marked by political unrest and uncertainty in Iran and in Grenada and the military response to those situations by the United States. He emphasized the need for, and his Administration's commitment to, maintaining the readiness and strength of our military forces to demonstrate that the United States is a leader in peace, not an instigator of war. In his address to the V.F.W., the President defended the position taken by his Administration in the area of foreign policy and national security matters.

At no time before, during or after President Reagan's speech did he or any of his staff mention his candidacy or any other candidacy, his election or any election activity. At no time did President Reagan or any member of his staff advocate the election or defeat of any candidate for Federal office nor did President Reagan or his staff solicit anyone present at this event for contributions in support of any candidate for Federal office.

President Reagan concluded his address by complimenting and honoring the membership and leadership of the V.F.W. for their continuing commitment to the interests and concerns of veterans to this country.

IV. ISSUE PRESENTED

The sole question presented by the complaint was whether President Reagan's trip to Chicago to address the National Convention of the Veterans of Foreign Wars was campaign-related and, thus, should have been paid for with campaign funds and reported by Reagan-Bush '84, or was, instead, undertaken in performance of President Reagan's official duties as an incumbent President and, thus payable with appropriated funds of the United States Government.

V. APPLICABLE LEGAL STANDARD

During the course of its thirteen year history, the Commission has frequently been called upon to determine whether specific activity of a Federal officeholder is related to performance of official duties or is campaign-related. In making these difficult determinations, the Commission has

consistently applied a legal standard that has been described as a "totality of circumstances" test, involving examination of several factors.

The first factor to be examined is whether the factual situation involves activity "expressly advocating" any candidacy for Federal office.^{2/} The second factor to be examined is whether the factual situation involves any communication that can be said to solicit contributions for a candidate for federal office. After an examination for the presence of communications constituting express advocacy or solicitations for contributions, the Commission has considered the timing, setting and purpose of an event in conjunction with other activity that may be occurring. All of these factors are reviewed by the Commission as relevant and important factors within the "totality of circumstances" standard.

^{2/} 11 C.F.R. 109.1(b)(2) provides that "expressly advocating" means "any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as 'vote for', 'elect', 'support', 'cast your ballot for', and 'Smith for Congress', or 'vote against', 'defeat' or 'reject'."

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VI. FACTUAL AND LEGAL ANALYSIS

We believe that a full and fair review of the facts and circumstances presented by this case leads to the conclusion that President Reagan's appearance at the 85th Annual Convention of the Veterans of Foreign Wars was part of his official duties as President and was not "related" to his campaign for re-election within the meaning of the Act and regulations. This conclusion properly recognizes the President's role as a ceremonial and symbolic leader. It thus rejects the apparent notion that all actions taken after a nominating convention by a President -- whether it be as Head of State, Commander-in-Chief, Minister of Foreign Affairs, Chief Law Enforcer or one of the many other roles filled by the President -- should be automatically viewed as campaign-related and paid for by his campaign committee. Indeed, the facts indicate that the President's appearance before the V.F.W. Convention -- a national organization with a keen interest in military and foreign policy affairs -- was consistent with the duties and responsibilities of an incumbent President. The President was simply performing the important function of any President which is to provide members of the

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public with information on significant matters. In so doing, he was addressing the concerns and fears of a large segment of the population which had served in the United States military forces in wartime and in peacetime. This is particularly important with respect to foreign affairs where the President has long been viewed as "the sole organ of the nation in its external relations, and its sole representative with foreign nations." 10 Annals of Cong. 596, 613-614 (1800) (Remarks of then-Representative John Marshall).

In applying the "totality of circumstances" test to this case, we first examined the evidence presented to determine whether any part of the event contained any clear express advocacy of President Reagan's re-election or of his opponent's defeat, and found that the President's remarks contained no such express advocacy. Nowhere in the text of President Reagan's remarks was there any "communication containing a message advocating election or defeat" of any candidate for any office. 11 C.F.R. §109.1(b)(2).

The General Counsel acknowledged that the event involved no express advocacy, but stated "while the President did not expressly advocate his re-election, certain sections of his

speech may have been designed to create a campaign atmosphere in light of the fact that he had just arrived from the Republican National Convention." (emphasis added). MUR 1790, First General Counsel's Report at 2. To support the statement relating to the creation of a "campaign atmosphere," the General Counsel excerpted the following segments of the address:

The honor of meeting with the VFW ... is a great way to wind up a terrific week.

Four years ago, right here in Chicago, I stood before your convention, and when you think back to 1980, it's hard to forget the mess America was in, hard to forget the foolish talk of a malaise, the unfairness of runaway price increases, 21 1/2-percent interest rates, weakened defenses, Americans held hostage, and the loss of respect for our nation abroad. It seemed that we woke up every morning wondering what new humiliation our country had suffered overseas, what disappointing economic news lay waiting for us on the front page.

...Well, I think we've come a long way together. In fact, I believe we've closed the books on that dismal chapter of failed policies and self-doubt.

As I said last night in Dallas ...

Our military forces are back on their feet, substantially stronger and better able to protect the peace today than they were 4 years ago.

Now, some may insist they're just as committed to a strong deterrent even as they would cancel the B-1 bomber and the Peacekeeper

missile. They may deny that a nuclear freeze would preserve today's high, unequal, and unstable levels of nuclear weapons, and they may deny a freeze would reduce any incentive for the Soviets to return to the negotiating table and resume the search for equitable and fair reductions.

MUR 1790, First General Counsel's Report at 2-3.

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The General Counsel conceded that there was a total absence of express advocacy in these remarks. Every sentence excerpted by the General Counsel relates to the stated policies and concerns of President Reagan's Administration with respect to maintaining a strong military position, not to his re-election campaign. We rejected the General Counsel's reasoning that references to past public concern over the weakening economy, inflation, rising interest rates and reduced military budgets converted this appearance into a campaign event. We rejected the General Counsel's characterization of those remarks as an attempt to create a "campaign atmosphere." The remarks by this incumbent President should properly be viewed as an accounting for Administration policies and actions in the critical area of military readiness.

Next, we examined the facts presented for any evidence of solicitation of contributions on behalf of President Reagan's

campaign by the President, his staff or anyone associated with the Veterans of Foreign Wars and found no such solicitations.

Some Commissioners have suggested that upon finding no express advocacy nor any solicitation for contributions, the inquiry should then cease with the conclusion that the event was not campaign-related. While we would agree that these are important and potentially determinative factors if present, we believed we must look further to the timing, the setting and the purpose of the event as integral components of the "totality of circumstances" test and as necessary to the ultimate determination that certain activity is or is not campaign-related.

With respect to timing, it is true that President Reagan made his appearance at this particular V.F.W. Convention one day after he was formally renominated by the Republican Party at its nominating convention in Dallas. However, it is also true that the National Convention of the V.F.W. is an annual fall event, and that the invitation to President Reagan was extended six months before the Republican National Convention. There is absolutely no evidence to suggest that the V.F.W. calculated its national convention to coincide with the timing of President

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Reagan's possible renomination. To argue that the timing of this appearance makes it a campaign event would mean that no incumbent President could make an official appearance to perform officeholder duties after the date of renomination. This approach would cripple a sitting President who must continuously explain and champion his Administration's policies to the public. Indeed, it is well-recognized that "the White House is first and foremost a place of public leadership." J. Barber, The Presidential Character 5 (1974.) We rejected the argument that the timing of President Reagan's appearance in close proximity to his renomination at the Republican National Convention converted the appearance into a campaign event.

We then examined the setting of President Reagan's appearance in Chicago. His speech was part of a series of events planned for the annual national convention of this non-partisan, non-profit organization. This appearance before an important segment of the general public was no different in terms of setting and audience from hundreds of other appearances President Reagan has made during his tenure as President. In fact, President Reagan had spoken to the same group in the same tone on the same topics on prior occasions. Members of Congress continually must meet with constituent groups with specific

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concerns in their Congressional districts; similarly, the President must meet frequently with and address the concerns of larger constituent groups.^{3/} Upon reviewing the setting of this event, we concluded it was an appearance in furtherance of a President's official duties and not "campaign-related."

Finally, we considered the purpose of the appearance in the context of the V.F.W. National Convention. The evidence presented indicated that the V.F.W. has a past history of inviting incumbent Presidents to address its membership on issues of great concern to veterans of military service. Invitations extended and accepted by those Presidents enhance the stature and dignity of this membership organization and encourage its membership to continue to fund and support its goals. Again,

^{3/} This Commission has acknowledged in many advisory opinions dealing with similar factual situations, that officeholders make frequent appearances in performance of official officeholder duties before the very people who will vote on the officeholder's re-election without the event being campaign-related. See AO 1980-22, 1 Fed. Elec. Camp. Fin. Guide (CCH)¶5479 (April 15, 1980); AO 1981-37, 1 Fed. Elec. Camp. Fin. Guide (CCH)¶5623 (Oct. 13, 1981); AO 1982-56, 1 Fed. Elec. Camp. Fin. Guide (CCH)¶5694 (Oct. 29, 1982).

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there was no evidence to suggest that the V.F.W.'s invitation was calculated to be a campaign opportunity for President Reagan. At no time before, during or after the event did President Reagan or his staff meet with V.F.W. representatives. The evidence is overwhelming that the purpose of President Reagan's address was to inform and defend his Administration's actions and policies before an audience that was particularly attuned to and concerned about foreign policy and national security matters.

After considering all of these elements within the totality of circumstances test -- including the presence or absence of express advocacy, the presence or absence of solicitation of contributions, the timing, setting and purpose of the event -- we concluded that reasonable persons would conclude that the appearance was made in performance of President Reagan's official duties. We, therefore, voted to reject the General Counsel's recommendations to find reason to believe that respondents had violated 2 U.S.C. §434(b)(4) and 11 C.F.R. §§9003.1 and 9004.7 and to close the file.

VII. DISCUSSION OF COMMISSION PRECEDENT

Our approach in analyzing this case is not new or novel. Our consideration of the totality of circumstances is totally consistent with the approach recommended by the General Counsel in his Report in this matter and adopted by the Commission in many advisory opinions. A brief review of those agency precedents is instructive on the question of whether certain activity is campaign-related.

In AO 1977-42, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5312 (May 12, 1988), the Commission considered the totality of circumstances and ruled that a corporation employing a radio talk show host, who became a candidate for federal office, would not make a contribution in violation of 2 U.S.C. §441b by continuing to pay him compensation during his period of candidacy. The Commission reasoned that the major purpose of the salary payments was other than to influence his nomination or election even though his continued appearances during his candidacy on the air might indirectly benefit that candidacy. The Commission noted that the relationship between the broadcast corporation and its employee pre-dated the individual's candidacy. Thus, considering the totality of circumstances, including the timing, setting and

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purpose of the activity, the Commission concluded that the activity was not campaign-related. The Commission also conditioned its holding on the absence of express advocacy communications and solicitation of contributions in support of any candidate for federal office.

The issue of whether Federal officeholder activity during a period of candidacy is campaign-related or in furtherance of official duties was presented in AO 1977-54. 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5301 (March 24, 1978). In that matter, a Member of Congress, who was also a candidate, became Chairman of a statewide petition drive to stop ratification of the Panama Canal Treaty, necessitating many public appearances, and the use of his name in mailings and newsletters and on media advertisements. In applying a "totality of circumstances" test in determining this Member's activity was not campaign-related, the Commission did emphasize that the facts indicated the communications at issue would neither contain express advocacy messages nor solicit contributions. These two factors, however, were not the sole basis for the Commission's ruling.

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The Commission also considered the stated purpose of the Member's activity, which was to defeat the ratification of a significant treaty with a foreign country and not to influence the nomination or election of any candidate to Federal office. In addition, the Commission also considered the setting of the event in the Member's home state and was persuaded that the requestor would work to minimize his efforts within his district and would deliberately focus his attention on activity outside his congressional district. Finally, the Commission considered the fact that the proposed activity by the Member of Congress would occur at a time when the Member was a candidate for re-election. In AO 1977-54, the Commission applied a "totality of circumstances" test and did not rely solely on a two-prong test consisting of an examination for the presence of express advocacy and solicitations for contributions.

In AO 1978-4, 1 Fed. Elec. Camp. Fin. Guide (CCH)¶ 5293 (Feb. 24, 1978), the Commission considered the appearance of a Federal officeholder at a dinner commemorating his long-standing service in Congress. The Commission considered the timing of the event in March of an election year, the setting of the dinner in the Congressman's home district, the non-partisan, non-profit nature of the organizing committee and the stated purpose of the

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event which was to celebrate the honoree's twenty-five years of Congressional service and that the event would include neither advocacy of any candidate nor any solicitations for contributions. The Commission ruled that the purpose of the event was not to influence the honoree's re-election campaign, even though the event was held during an election year. Although the Commission clearly conditioned its holding on the absence of express advocacy and solicitation for contributions, the other factual considerations discussed show that the Commission applied a "totality of circumstances" test.

The Commission again used the totality of circumstances standard in AO 1978-15, 1 Fed. Elec. Camp. Fin. Guide (CCH)¶5304 (March 30, 1978), to determine whether the appearance of a Federal officeholder as the host of a charity fundraising event was campaign-related. The Commission took into consideration the fact that the officeholder's commitment to the charitable organization pre-dated his candidacy, the fact that the major purpose of the event was to raise funds for a legitimate charitable cause, assurances by the requestor that there would be no advocacy of any candidate nor any solicitation for campaign contributions and the fact that the officeholder would have no

control over the content and distribution of literature publicizing the event. Based on consideration of all of these factors, the Commission concluded that the activity in question was not campaign-related.

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In AO 1980-16, 1 Fed. Elect. Camp. Fin. Guide (CCH) ¶5474 (March 21, 1980), the Commission was presented with a situation involving the appearance of candidates for Federal office at a celebrity golf tournament held to raise money for leukemia research. In an opinion that has been cited for the proposition that the Commission adopted a two-prong test, the Commission considered not only the absence of express advocacy and solicitations for contributions but also the setting of the candidate appearances -- a well-known golf tournament; the stated purpose of the event -- to raise funds for a legitimate charitable cause; and the timing of the event -- at a time when invited Federal officeholders were candidates for re-election. Based on all of these facts, and applying a "totality of circumstances" test, the Commission ruled that the appearances of Members of Congress, as described, would not be campaign-related.

The Commission again adopted a "totality of circumstances" approach in considering whether the appearance of Federal

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officeholders and candidates at a town meeting would be campaign-related in AO 1980-22, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5479 (April 15, 1980). The Commission reviewed the setting of the forum where the iron and steel industry was facing critical production problems, the fact that discussion during the forum would be limited to these particular industry problems and concerns, the fact that the purpose of the meeting was other than to influence the nomination or election of any candidate, which fact was bolstered by the requestor's statement that neither the introductory comments by the sponsor nor subsequent remarks by the officeholders would relate to campaign activity but would be strictly limited to issues facing the steel industry. After considering all of these factors, the Commission concluded that the participation of the Federal officeholders, even though they may have been candidates at the time, was not campaign-related. The Commission recognized that Federal officeholders must make appearances related to official duties and that these appearances may occur during a period of candidacy without converting the appearance into campaign activity. The Commission did caution that there should be no express advocacy of any candidate nor any solicitation of contributions for any candidate and conditioned its approval on their absence. Although the absence of

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communications constituting "express advocacy" and solicitations for contributions were considered critical elements by the Commission in reaching a decision in this matter, it is apparent that the Commission also considered the elements of timing, setting and stated purpose of the candidate appearances which are integral components of the "totality of circumstances" standard.

The Commission was called upon in AO 1981-37, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5623 (Oct. 13, 1981), to determine whether appearances by an incumbent Member of Congress as moderator of a series of public affairs forums involving prominent public figures paid for by corporations would result in prohibited corporate contributions to the Member's campaign for re-election. In concluding that the Congressman's appearances would not be campaign-related, the Commission noted that the purpose and focus of the activity was not to influence the nomination or election of any candidate for federal office, but, rather, to provide a public forum for legitimate discussion of issues and that the incumbent's participation in the program was part of his official duties as a Member of Congress. In addition, the Commission took into consideration the requestor's statement that no political advertising would be sold by the corporate sponsor during or adjacent to the programs and further, that the sale of program

tapes and transcripts would be limited. The Commission cautioned, however, that its conclusion was conditioned on the absence of any communications in conjunction with the proposed programs advocating the election or defeat of a clearly identified candidate and the absence of communications soliciting contributions for any Federal candidate.

In AO 1982-15, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5656 (April 19, 1982), the Commission concluded that a law firm could continue to run advertisements promoting its services even though one of its partners had become a candidate for Federal office. In analyzing this factual situation to determine whether the facts indicated that the activity was campaign-related, the Commission considered the law firm had a past history of engaging in similar advertising practices. It also noted that the major purpose of the activity was to promote the services of the law firm and not to influence the partner/candidate's nomination or election to federal office. In addition, the frequency of the ads in question did not increase as the election approached, and there was no mention of the partner's candidacy in any of the ads. The Commission recognized that an individual who becomes a candidate should be able to continue gainful employment without

the activities of that employment being considered campaign-related.

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In AO 1982-56, 1 Fed. Elec. Camp. Fin. Guide (CCH)¶5695 (Oct. 29, 1982), the Commission considered the appearance of a Federal officeholder in an advertisement endorsing a candidate for state office. In applying a "totality of the circumstances" test, the Commission considered the stated purpose of the advertisement, which was to influence a state candidacy rather than the nomination of the Federal officeholder, the text of the ad which mentioned only the non-federal candidacy, and made no mention of the Federal officeholder's candidacy, the absence of express advocacy, and the absence of solicitations for contributions for any candidate. Based upon application of the "totality of circumstances" test, the Commission concluded that the Federal officeholder did not engage in campaign-related activity, and payment of the expenses of these ads by the state candidate did not result in an in-kind contribution to the Federal officeholder's campaign.

Advisory Opinion 1984-13, 1 Fed. Elec. Camp. Fin. Guide (CCH)¶5759 (May 17, 1984), issued to the National Association of Manufacturers provides perhaps the clearest illustration of the

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Commission's decision-making process. In that opinion, the Commission ruled that appearances of candidates and party representatives at an event sponsored and financed by one or more corporations and held simultaneously with the Republican Party's National Convention in Dallas in 1984 constituted campaign-related activity which was impermissible under the Act. Once again applying a totality of circumstances test to the facts presented, the Commission concluded that even though the corporate sponsors had agreed not to expressly advocate the election or defeat of any candidate for Federal office or solicit contributions for any candidate, the timing and the purpose of the event clearly linked it to the upcoming congressional elections and gave the event partisan overtones. The clear purpose of the event was to provide a showcase for Republican candidates just before critical primary elections and the 1984 general election. In applying the "totality of circumstances" test, the Commission found the activity impermissible even in the absence of express advocacy and solicitation of contributions.

This examination of precedent demonstrates that the Commission has consistently applied a "totality of circumstances" test to distinguish between campaign-related activity and activity in furtherance of official Federal officeholder duties.

Even in those advisory opinions that appeared to rely on a "two-prong test," it is clear that in each instance, the Commission took into account factors in addition to the presence of express advocacy and the presence of solicitation for contributions.^{4/}

VIII. CONCLUSION

Our vote to find No Reason to Believe against Reagan-Bush '84 and its treasurer was based on a legally sound application of the "totality of circumstances" test to determine whether

^{4/} Some months after the Commission voted to close the file with reference to MUR 1790, the Court of Appeals for the District of Columbia Circuit issued its ruling in Orloski v. Federal Election Commission, 795 F.2d 156 (D.C. Cir. 1986), a case involving corporate funding of an event sponsored by an incumbent officeholder. With respect to the legal standard to be applied in such a determination, the Court of Appeals stated that it would not be arbitrary, capricious and contrary to law for the Commission to apply a two-prong test. The Court of Appeals did not rule that the two-prong test was the only permissible interpretation of the Federal Election Campaign Act with respect to the case before it. Nothing in this Statement of Reasons is inconsistent with the Court of Appeals decision in Orloski v. Federal Election Commission. See Orloski at 165-167.

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specific activity involving the President of the United States was within the realm of official duties and responsibilities of that office, or was instead campaign-related activity. We saw no reason to hold an incumbent President to a different or higher standard than an incumbent Member of Congress engaged in official officeholder duties while a candidate. As the law does not preclude Federal officeholders from making public appearances before voters in their states or Congressional districts, nor should it preclude the President of the United States, who has a more significant public role to perform as a world leader, from making public appearances to explain and defend his Administration's policies.

Although we came to a different conclusion than did the General Counsel in applying the law to the facts of this case, we believe the result we reached was in full accord with past agency precedents, as previously discussed, and wholly justified by the facts before us. Furthermore, our conclusion was certainly consistent with the result reached by those Commissioners who may have applied the "two-prong test," under which the presence of either express advocacy or solicitation of contributions would be conclusive as to whether the activity is

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campaign-related. In our view, however, the absence of both express advocacy and solicitation of contributions does not end the inquiry. Examination of activity for the presence or absence of "express advocacy" communications or solicitations for contributions represents a critical threshold inquiry in determining whether an event is campaign-related. The presence of either element would almost certainly decide the issue, and preclude the need for further examination of other factors within the "totality of circumstances". But the absence of either element in the "two-prong test" does not, in our opinion, prevent the Commission from reviewing other factors, such as the timing, setting or purpose of the event, and reaching the conclusion that the activity was campaign-related rather than within the duties of an officeholder.

As a preliminary consideration, the "two-prong test" may result in a finding that activity was inescapably campaign-related. The test does not serve, however, to prove that activity is unarguably or conclusively not campaign-related. Such a conclusion demands examination of the "totality of the circumstances" as applied in the present matter. Although the two components of the two-prong test are critical components

of the "totality of circumstances" test, we cannot ignore the purpose, timing and setting of the activity, each of which may bear heavily on whether an event was, in fact, campaign-related.

Finally, we would again note that application of either test or standard in this case would support our conclusion that the event in question was not campaign-related, and would support our finding of no Reason to Believe that respondents had violated the Federal Election Campaign Act or Commission regulations.

7/13/88
Date

Joan D. Aikens
Joan D. Aikens
Commissioner

7/13/88
Date

John Warren McGarry
John Warren McGarry
Commissioner

BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF

Reagan-Bush '84
General Election Campaign
Angela M. Buchanan Jackson
as treasurer

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STATEMENT OF REASONS

Commissioner Lee Ann Elliott

I. INTRODUCTION

On June 15, 1988, Judge Pratt of the United States District Court for the District of Columbia requested the Federal Election Commission reconsider its dismissal of Matter Under Review 1790 and provide an additional explanation for not voting to pursue this administrative complaint. Common Cause v. Federal Election Commission, No. 86-3465, slip op. at 11. The court found the Commission had not adequately addressed the needs of its first remand which sought statements explaining the legal standards applied in dismissing the complaint. Id. at 4-6.; Common Cause v. FEC, 676 F. Supp. 286, 292 (D.D.C. 1986).

The following statement sets out my reasons for voting against the staff recommendation in MUR 1790 and explains why my vote is, in fact, consistent with years of applicable Commission precedent, the Federal Election Campaign Act and its legislative history, and the law of this circuit.

II. FACTS AND ISSUES PRESENTED

On August 22, 1984, Ronald Reagan was nominated by the Republican Party as its candidate for President of the United States.

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On August 24th, President Reagan left the Republican Convention in Dallas and flew to Chicago to address the 85th annual convention of the Veterans of Foreign Wars ("VFW"). The VFW is a non-profit, non-partisan organization whose constitution and by laws prohibit it from endorsing political candidates. The VFW extended its invitation to President Reagan on March 1, 1984, six months prior to the President's nomination, and asked him to discuss his administration's policies on national security and foreign affairs.

At the VFW convention, President Reagan clearly focused his remarks to the issues requested in the VFW's invitation. The President discussed his administration's commitment to the readiness and strength of our military and addressed international issues of concern to American veterans. President Reagan did not expressly advocate his candidacy during his speech, did not mention his opponent or the upcoming election, and did not solicit contributions from the audience. This speech was considered part of President Reagan's official duties as head-of-state. Accordingly, the speech's costs were paid from funds appropriated for the official functioning of the office of the President.

On September 20, 1984, Common Cause filed a complaint with the Federal Election Commission alleging the August 24, 1984 speech by President Reagan was "campaign-related" and should be paid by the President's authorized re-election committee and reported to the Commission as a "qualified campaign expense." 2 U.S.C. §434; 11 C.F.R. §§9003.1, 9004.7.

The Presidential Election Campaign Fund Act requires publicly financed presidential candidates to pay for all "qualified campaign expenses" from funds made available under 26 U.S.C. §9001 et. seq.

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The Federal Election Campaign Act ("Act") requires presidential candidates to regularly report these qualified campaign expenses to the Commission. 2 U.S.C. §434(b).

Commission regulations define a "qualified campaign expense" as an expense incurred during a reporting period "to further a candidate's election to the office of President." 11 C.F.R. §9002.11(a) Travel costs "relating to a presidential candidate's campaign" are specifically included in the definition of qualified campaign expenses at 11 C.F.R. §9004.7(a). Commission regulations further provide that "if any campaign activity, other than incidental contacts, is conducted at a stop, the stop shall be considered campaign-related." 11 C.F.R. §9004.7(b). See also 11 C.F.R. §106.3. The only issue in this case, therefore, is whether President Reagan's August 24, 1984 speech to the VFW was "campaign-related" requiring the President's committee to pay for and report this expenditure as a qualified campaign expense.

In support of its allegation that President Reagan's speech was campaign related, Common Cause complained the President "reiterated several themes" of his campaign and that the audience and press reacted as if the remarks were a campaign speech. Citing one Advisory Opinion, Common Cause stated the "FEC has made clear that whether a speech or other activity is campaign-related depends on its purposes" and that the "evident purpose" of the President's speech "was partisan activity." Complaint at 4-6.

In response to the complaint, the Reagan-Bush '84 Committee stated that the Department of Justice and the Comptroller General of the United States have analyzed when the President's travel is "political" or "official." These departments recognize that:

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Statement of Reasons

MUR 1790

Commissioner Lee Ann Elliott

Page 4

appearing at party functions, fundraising and campaigning for specific candidates are the principal examples of travel which should be considered political. On the other hand, travel for inspections, meetings, non-partisan addresses and the like ordinarily should not be considered 'political' travel even though they may have partisan consequences.

Response at 3-4 quoting affidavit of Asst. Atty. Gen. Olson. Accordingly, the departments concluded that travel expenses for official appearances by the President to explain his administration's policies are legitimately paid from official funds. Response at 4 quoting Memo. of Comptroller General.

The Reagan-Bush Committee also analyzed four of the Commission's Advisory Opinions in which the Commission held events were not campaign-related "based on (1) the absence of any communication expressly advocating the election or defeat of Federal candidates, and (2) avoidance of any solicitation, making or acceptance of campaign contributions for federal candidates." The Committee concluded that since no advocacy or solicitation occurred during the speech, the Commission should find no reason to believe the Campaign Act had been violated. Response at 7-8, 11.

On December 21, 1984, the FEC's General Counsel recommended the Commission find reason to believe Reagan-Bush '84 violated 2 U.S.C. §434(b)(4) and 11 C.F.R. §§9003.1 and 9004.7 in connection with the VFW speech. The General Counsel conceded the President did not expressly advocate his re-election but that his speech was "designed to create a campaign atmosphere" and "nurtured the campaign spirit."

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Counsel urged the Commission look past the words "campaign-related" in our regulations and instead use a broader inquiry that "supports the spirit of" the Explanation and Justification to our presidential regulations. See 45 Fed. Reg. 43377 (1980); MUR 1790, 1st Gen. Cnsl. Rept. ("Report"), Dec. 24, 1984, at 2, 3, 6, 10.

Counsel did not directly analyze the Advisory Opinions cited by the Reagan-Bush Committee in which the Commission applied a "two-prong test" in evaluating political speech. Instead, Counsel advocated that the Commission consider "many factors and circumstances of varying significance" including "the setting in which the remarks are made, the timing of the event at which the remarks are made, the reaction that the remarks evoke, as well as the remarks themselves." On this "totality of circumstances" approach, Counsel recommend the Commission find reason to believe the cited violations occurred. Report at 8-9.

In considering the General Counsel's Report and using applicable Commission precedent in this area, I voted with the majority to reject the General Counsel's recommendation and find no reason to believe the Act had been violated. In my opinion, President Reagan was invited to and appeared at the VFW convention as President of the United States, and not as the Republican Party's nominee in the 1984 general election.

III. DISCUSSION

The following discussion sets out my reasons for using a "two-prong" test for evaluating an officeholder's speech and states how I applied that test to the facts of this case. This discussion will sort

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out what appears to be, but is not, conflicting precedent and will comment on Counsel's suggestion to use a "totality of circumstances" approach for this case. Lastly, I will discuss when a "totality of circumstances" approach is appropriate in evaluating a candidate's speech.

1. Background of the "two-prong" test.

An officeholder's speech will be considered campaign-related only if it expressly advocates the election or defeat of a clearly identified candidate or solicits contributions on behalf of a federal candidate. This "two-prong" test is sensible and workable Commission precedent and has repeatedly been held a permissible construction of the Act. Further, the "two-prong" test avoids subjective or imponderable considerations when evaluating an officeholder's speech.

In using the "two-prong" test, I have properly followed the Supreme Court's guidance that the Act does not apply to an incumbent's non-campaign appearances as an officeholder. Buckley v. Valeo, 424 U.S. 1, 84 n. 112 (1976) (recognizing that legislators have a duty to "communicate with their constituents" and have an "other role as politicians" to win elections.) In accepting that officeholders have a continuing responsibility to report to their various constituencies, even while they are candidates for re-election, I consistently apply the Court's guidance that the Act is not intended to regulate speech by officeholders in their role as officeholders.

To determine when an officeholder is speaking in a "campaign-related" manner that is regulated by the Act, I have joined the Commission's examination of whether 1) there are communications expressly advocating the election of the officeholder as a candidate or

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the defeat of his opponent; or 2) whether contributions to the candidate's campaign are solicited or accepted. See, e.g., Advisory Opinion ("AO") 1977-42, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5313; AO 1977-54, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5301; AO 1978-4, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5293; AO 1979-25, 1 Fed. Elec. Camp. Guide (CCH) ¶ 5410; AO 1980-16, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5474; AO 1980-22, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5479; AO 1980-89, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5537; AO 1981-37, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5623; See also Matter Under Review (MUR) 1476 Exp. 1st. Gen. Cnsl. Rept., Oct. 29, 1982; MUR 1555, Gen. Cnsl. Rept., Oct. 6, 1983; Pre-MUR 123-MUR 1699, 1st Gen. Cnsl. Rept., June 27, 1984 (citing MUR 1458, Gen. Cnsl. Brief, Dec. 7, 1982); See generally AO 1984-48, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5789 (approving cost guidelines for campaign-related use of state-owned aircraft); MUR 1729, Gen. Cnsl. Rept., Jan. 3, 1985 (reason to believe was found since dinner proceeds were forwarded to campaign committee, but see statements of Commissioners Elliott, Aikens and Reiche asking "the record reflect that they had disassociated themselves from the [totality of circumstances] standards, on page 3 of the staff report." Federal Election Commission minutes of an Executive Session, Tuesday, January 15, 1985, Agenda item E., page 10); MUR 1686, Gen. Cnsl. Rept., Jan. 15, 1985 (attending a fundraiser is campaign-related trip).

These precedents stretching over 11 years of the Commission's 13 year history confirm a consistent application of the "two-prong" test to determine if an officeholder's speech is campaign-related. The necessity for this statement of reasons, however, requires an examination of a few of these precedents in some detail.

In AO 1977-54, the Commission was asked whether an officeholder's participation in an issue-related petition drive would be considered "campaign-related" activity subject to the Act. The Commission's answer represents a seminal use of the "two-prong" test and clearly recognizes the continuing responsibilities of officeholders:

expenses of the petition drive...would not be considered as contributions to or expenditures by Mr. Gingrich's campaign. However, the Commission assumes that such activity (i) will not occur in circumstances involving the solicitation, making or accepting of campaign contributions for Mr. Gingrich's campaign committee, and (ii) will not include any communication expressly advocating his nomination or election to Federal office or the defeat of another candidate for Federal office.

(CCH) at ¶ 5302.

In AO 1980-16, the Commission was asked whether "corporations may contribute transportation, lodging and meals" to Congressmen and Senators for their participation in a charitable event without making a prohibited contribution. The Commission's answer was simple and unanimous:

so long as the event does not involve any solicitation of campaign contributions to candidates for Federal office participating in the event, or any

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advocacy in support of their election, corporations may provide transportation, lodging and meals to celebrities that include candidates for Federal office and not be in violation of the Act.

(CCH) at ¶ 5475.

In AO 1980-22, the Commission was asked whether an incorporated trade association could invite federal officeholders, who may also be candidates, to a "series of 'town meetings' to discuss the future of the steel industry." The Commission concluded that officeholders could be invited to address the forum, but the Commission specifically "conditions its conclusion on the avoidance of any campaign contribution solicitations, or advocacy supporting or opposing any candidate for Federal Office." (CCH) at ¶ 5479-80 citing AO 1978-56, AO 1978-15, AO 1977-54, and AO 1977-42.

Lastly, in AO 1981-37, the Commission was asked whether a Congressman could participate in a series of "public affairs programs" without violating any provision of the Act. While the Commission noted that the Congressman's "involvement in the public affairs program may indirectly benefit future campaigns," the Commission found no violation of the Act "conditioned, however, on (i) the absence of any communication expressly advocating your nomination or election or the defeat of any other candidate, and (ii) the avoidance of any solicitation, making or acceptance of campaign contributions in connection with this activity." (CCH) at ¶ 5623.

Although AO 1981-37 went on to "note" other facts, the Commission expressly overruled:

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those portions of Advisory Opinions 1975-8, 1975-13, 1975-20, and 1975-108 which hold that all speeches of a candidate for Federal office made before a substantial number of people, who comprise a part of the electorate with respect to which the individual is a candidate, are presumably made for the purpose of enhancing the individual's candidacy. In addition this opinion qualifies Advisory Opinion 1977-31 where the Commission held that a corporation's employment of a candidate as an announcer for a series of corporate sponsored radio announcements constituted something of value, and therefore, a contribution of the candidate.

Id.

Although, these are only four examples of the many years of reliance on the "two-prong" test, it is clear that the "two-prong" test decided every case where an officeholder, as an officeholder, was appearing at an event. Different characterizations of these opinions may now exist, placing new emphasis on the opinion's statement of facts. While it is true each of these opinions also described the facts of the request in its answer, as every Advisory Opinion ever issued by the Commission has, there is no indication the Commission's recital of the facts acted as a substitute for its legal application of the "two-prong" test.

The "two-prong" test has been and continues to be sensible and workable Commission precedent. It is a clear, objective and understandable method for evaluating the speech of an officeholder

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who may also be a candidate for election. The "two-prong" test recognizes that officeholders have a continuing responsibility to comment on the issues of the day. See Buckley at 42. This test clearly divides when an officeholder is speaking to his constituency from when a candidate is speaking to the electorate. The "two-prong" test is the precedent of this Commission and shall continue to be until a majority overrules these prior decisions or the judiciary finds it an impermissible interpretation of the statute.

The federal courts have repeatedly held or acknowledged the "two-prong" test to be a "permissible construction" of the Act. Orloski v. FEC, 795 F.2d 156, 161-67 (D.C. Cir. 1986) aff'g Orloski v. FEC, No. 83-3513 (D.D.C. Dec. 6, 1984); Common Cause v. FEC, No. 86-3465 slip op. at 3; Common Cause v. FEC, 676, F. Supp. 286, 290 (D.D.C. 1986). In fact, the "two-prong" test "represents a reasonable accommodation between the Act's objectives and administrative exigencies" and "is sufficiently reasonable to be entitled to judicial deference." Orloski at 165, 167.1/

1/ In my opinion, Orloski is not "arguably distinct" because it involves "corporate donations for congressional incumbents." At issue is whether its rationale applies to this case. I find its rationale quite applicable since we are applying the legal standard of "campaign-related" not the prohibitions of 2 U.S.C. §441b. "Campaign-related" stands as a legal threshold not only for corporate donations to an incumbent's activities, but also governs the allocation of party committee overhead and certain political party expenditures on behalf of candidates, 11 C.F.R. §106.2. See also 2 U.S.C. §441a(d); congressional and senatorial travel with or without use of government conveyance, 11 C.F.R. §106.3; partisan and non-partisan appearances, 11 C.F.R. §114.3-4; the possible making of contributions or expenditures, AO 1977-54; is relevant in determining "candidacy" under 2 U.S.C. §433 and guiding the reporting under 2 U.S.C. §434; is helpful in determining state-by-state expenditure (Footnote continued on next page)

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The most attractive aspect of the "two-prong" test is its equitable and objective application for distinguishing between "official" and "campaign-related" speech. This objective test allows officeholders to understand the law before making a speech and conform their conduct to clearly articulated standards. The objective "two-prong" test also does not unduly compromise the Act's purposes. There is nothing in the Act's legislative history indicating the Commission's application of the "two-prong" test is contrary to any expressed intention of Congress. See Orloski at 165-66. Quite the opposite, Congress has expressly left it to the Commission in matters such as these to "formulate policy with respect the the Act." 2 U.S.C. §437c(b)(1).

There is also no legislative history indicating Congress intended the Commission's policy to include officeholder's speech within the definition of "expenditure." Further, there is "no legislative history

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allocations under the Presidential Primary Matching Payment Account Act, 2 U.S.C. §9031 et. seq.; and obviously can determine whether an incumbent President must use campaign money for use of government conveyance in delivering a speech. Accordingly, "campaign-related" is more than just a method of analyzing corporate donations or travel. It is a legal prefix that applies in many of the Act's factual settings.

Even if the view is taken that "campaign-related" does not have universal application but is limited to corporate expenditures, its use is still perfectly analogized to this case since corporate expenditures are held to be prohibited, even if an officeholder is appearing as an officeholder, when those expenditures "expressly advocate" a federal candidate's election or defeat. Orloski at 166-67. This holding was recently adopted by the Supreme Court when it stated, "[w]e therefore hold an expenditure must constitute 'express advocacy' in order to be subject to the prohibition of §441b." FEC v. Massachusetts Citizens for Life, Inc., ("MCFL") 107 S. Ct. 616, 623 (1986). See also AO 1978-46. Accordingly, the "express advocacy" threshold for prohibiting a corporate expenditure is the same "express advocacy" threshold for regulating an officeholder's speech.

to guide us in determining the scope of the critical phrase 'for the purpose of influencing any election'." Buckley at 77. Accordingly, the Commission's interpretation of the Act continues to be judicially deferrable, and "logical, reasonable and consistent with the overall statutory framework." Orloski at 167. The reasonableness of this policy is enhanced when viewed against 11 years of even-handed application.

Complainant disagrees with the Commission's long standing policy and apparently believes that any officeholder's speech that appears to have a "purpose" to "further" his election should be "campaign-related." Complaint at 6-7.

I specifically reject the complainant's suggestion that the Commission conduct a subjective inquiry into "purpose" and make a legal determination based on a speaker's or listener's "state of mind" rather than on what is actually said. First, complainant points to nothing in the Act or its legislative history that promotes a subjective-purpose approach over our objective test for defining when a speech is campaign-related.

Second, if "intent" is what the complainant seeks to uncover, then complainant should understand the "two-prong" test does not ignore intent since "it is common legal practice to infer intent from underlying circumstances." Orloski at 162. With a "two-prong" test, the Commission can infer the probable intent of the speaker by objectively focusing on what is said.

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Third, a purpose approach that conditions liability for remarks on the subjective basis of "intending" to have an "effect or impact" on an election swings far wide of the permissible reach of the statute. The Federal Election Campaign Act does not regulate "intending effects or impacts," it regulates campaign contributions to prevent corruption or the appearance of corruption. Buckley at 23-29. Grasping at "impacts" takes the Commission away from its assigned role. As the Supreme Court cautioned in Buckley, "the distinction between discussion of issues and candidates and advocacy of election or defeat may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions." Id. at 42. Further, even though the discussion of public issues by officeholders may "tend naturally and inexorably to exert some influence on voting at elections," Id. at 42 n.50, that influence alone will not bring remarks within the regulated area of campaign finance.

Accordingly, the Commission must not imply "campaign-related" intent to every speech by an officeholder, even while a candidate, or speculate on the possible impact his or her speech may have on voting. The Commission must objectively look at the words of a speech and apply settled factors of the "two-prong" test. To do otherwise replaces an objective review of the message itself with a subjective critique of the motivation of the speaker. See FEC v. Furgatch, 807 F.2d 857, 863 (9th Cir.) ("to fathom [the speaker's] mental state would distract us unnecessarily from the speech itself") cert. denied, 108 S. Ct. 151 (1987).

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In enforcing the Act, regulating an officeholder's speech on a "purpose" basis would produce an incomprehensible trail of standardless decisions contrary to the goals of the Act and inconsistent with an officeholder's right to speak. "Purpose" analysis is wholly subjective and promotes ad-hoc, after-the-fact decision making. An ever-shifting majority of Commissioners would review each speech and decide whether it conveyed a "campaign-related purpose" to them, in their own individual hearing or reading. This approach would destroy the legal status of "campaign-related" messages and encourage the Commission to abandon its reasoned application of precedent in favor of an entirely subjective and arbitrary review of the facts. This approach must not be followed since officeholders must know in advance of making a speech whether it contains a regulated "campaign-related" appeal. See Buckely at 41 n.48 quoting Grayned v. City of Rockford, 408 U.S. 104, 108-109 (1972) (vague laws not only "trap the innocent by not providing fair warning," they foster "arbitrary and discriminatory application" and inhibit protected expression by inducing citizens to "steer far wider of the unlawful zone" than necessary); Orloski at 165 (a "subjective test based on the totality of the circumstances would inevitably curtail permissible conduct.")

Lastly, a purpose analysis that considers "the reaction the remarks evoke" abandons all objective review of speech and subjects officeholders to the wildly divergent views of their listeners. It is unthinkable to hold an officeholder subject to campaign finance laws

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just because of what a listener, in his own individual hearing, might deduce from a message. Speech is subject to the Act depending on what it says, not the varied understanding potential recipients may have. Further, the complainant is inducing the Commission to consider press commentary and reaction to a speech in deciding whether a speech is "campaign-related." It is bad enough the Commission is urged to use its own subjectivity in these matters, but to discharge our statutory responsibility on the basis of another's subjective beliefs is an abdication of our authority. A few well-placed "listeners" or reporters could convert legitimate constituent-related speech into campaign-related advocacy. There is no reason the Commission should bring otherwise permissible speech within the government's control on the basis of another's subjective beliefs or commentary. Simply put, speakers cannot be placed at the mercy of their listeners or the press. Such an analysis "offers no security for free discussion....and compels the speaker to hedge and trim." Buckley at 42-43 quoting Thomas v. Collins, 323 U.S. 516, 535 (1945); see also United States v. United Auto Workers, 352 U.S. 567, 595-96, (Douglas J., dissenting).

Nothing in the Act or the Commission's history compels me to adopt the complainant's vague and shifting subjective inquiry for this case. Complainant's invitation to entertain some purpose disembodied from the Act is a sure way to frustrate the statute rather than implement it. See Walton v. United Consumers Club, Inc., 786 F.2d 303, 310

(7th Cir. 1986). The clear and equitably applied objective criteria of the "two-prong" test are, and continue to be, the standards properly applied to this case.^{2/}

2. Application of the "two-prong" test.

Applying the "two-prong" test to President Reagan's remarks at the VFW convention yields no "campaign-related" message since the President did not expressly advocate his election or his opponent's defeat, nor did he solicit or receive any campaign contributions. No solicitations were made, obviously, since the Reagan-Bush Committee was operating under The Presidential Election Campaign Fund Act. 26 U.S.C. §9001 et. seq. The inquiry into "express advocacy" however, requires a little more detail.

2/ Disagreement with the General Counsel is of no significance for the Commissioners are not "required to accept the advice of some members of [its] legal staff," since "[t]he Commissioners are appointed by the President to administer the agency, the agency's staff is not." San Luis Obispo Mothers for Peace v. NRC, 751 F.2d. 1287, 1327 (D.C. Cir. 1984) (language from Section IV of opinion, the court later vacated Section III-B of the decision for en banc consideration, 760 F.2d. 1320) See also Stark v. FEC, Civil Action No. 87-1700, Slip op. at 10. (Opinion filed February 8, 1988) (Jackson, J.) ("This court reads Democratic Congressional Campaign Committee v. FEC to require that the same deference be accorded the reasoning of "dissenting" Commissioners who prevent Commission action...as is given the reasoning of the Commission when it acts affirmatively.")

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In Buckley v. Valeo, the Supreme Court narrowed the scope of §608(e) of The Federal Election Campaign Act to words of "express advocacy" to salvage the statute from its constitutional deficiencies of vagueness and overbreadth. Buckley at 42-45. The Court stated:

in order to preserve the provision against invalidation on vagueness grounds, §608(e)(1) must be construed to apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office.

Id. at 44.

This narrowing was also necessary to bring the statute to the level of the governmental interests advanced for its passage and satisfy the exacting scrutiny applicable to limitations on core first amendment rights. Id. at 44-45. Accordingly, the Court put forth a list of words of advocacy of election or defeat, such as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," "reject." Id. at 44 n.52.

Courts have begun to look beyond communications containing these key phrases in finding "express advocacy." Furgatch at 863; FEC v. Central Long Island Tax Reform Immediately Committee, ("CLITRIM") 616 F.2d 45 (2d Cir. 1980). While "express advocacy" does not mean "implied" advocacy, CLITRIM at 53, it does recognize that the "short list of words included in the Supreme Court's opinion in Buckley does not exhaust the capacity...to expressly advocate." Furgatch at 863.

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In order to fully understand and apply "express advocacy" without problematic inquiry into effect, purpose or subjective intent, it is important to make reference to some objective circumstances. Id. While inquiry into the context of speech invites difficult first amendment questions, "context remains a consideration, but an ancillary one, peripheral to the words themselves." Id. Importantly, an inquiry into context must fit within the legal definition of express advocacy, and not become its own separate factor, since context cannot become its own standard "supply[ing] a meaning that is incompatible with, or simply unrelated to, the clear import of the words." Id. at 864.

Bringing context within the definition of "express advocacy" means according limited legal significance to external factors to round out the words listed in Buckley. When this is done carefully, "express advocacy" preserves the efficacy of the Act while not treading upon the responsibilities of officeholders.

Even when referring to external factors, the speech itself must still be "susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate" in order to constitute "express advocacy." Furgatch at 864. Including the context of speech within an analysis of "express advocacy" properly expands our inquiry to find no express advocacy "when reasonable minds could differ as to whether (the speech) encourages a vote for or against a candidate." Id.

Applying the legal standard of "express advocacy," while including contextual facts within it, is necessary to prevent a

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chill on protected forms of officeholder speech. Applying "express advocacy" as the law discourages complainants from merely or pejoratively describing a set of facts and declaring "therefore a violation exists." By using "express advocacy," the regulated community will know the Commission applies legal standards and does not propel facts as facts into legal conclusions, but will use facts to help define "express advocacy." This avoids the distracting, subjective and ungovernable notions of purpose and effect, and allows officeholders to know the law of campaign finance before speaking to their constituencies.

In looking for "express advocacy" in President Reagan's remarks to the VFW, I first read the text of his speech for words of advocacy such as those listed in Buckley. Finding none, I next examined the speech, with limited reference to external factors, to determine if it could be interpreted as other than an exhortation to vote for or against a specific candidate. I concluded that the speech does not advocate the re-election of the President or the defeat of his opponent. Although others disagree, when reasonable minds differ over whether remarks exhort listeners to take action, then "express advocacy," by definition, does not exist.

I agree with the conclusion that no "express advocacy" exists knowing that President Reagan was invited to address the convention as President of the United States and not as the Republican nominee in the 1984 general election. His appearance was that of head-of-state and his remarks were on issues of importance to America's veterans. In addressing the VFW membership, President Reagan was fulfilling a responsibility that executive and legislative officeholders perform everyday: reporting to their various constituencies on topics of government and governance. Just because the President also happened

to be a candidate for re-election did not prevent him from continuing to act as an officeholder or speak as one. Lastly, I was not presented with a factor as in Furgatch where the "timing of the advertisement less than a week before the election left no doubt" that the ad was "an express call to action." Furgatch at 865.

In summary, application of the "two-prong" test to determine if President Reagan's speech to the VFW was "campaign-related" proved to be a sensible and workable application of Commission precedent. Objectively judging his speech, as opposed to subjectively judging his appearance, preserved the goals and prohibitions of the Act without treading upon an officeholder's responsibilities or entangling the Commission in subjective considerations.

3. Rejection of a "totality of circumstances" approach for officeholder speech.

The totality of circumstances approach is described in many ways since any case attempting to apply it contains a variety of new circumstances needing to be included. Over time, phrases such as "purpose," "intent," "setting," "timing," "desired effect," "intended impact," "underlying design," "speaker's motivation," "what a listener should," and "press commentary" have been used to characterize circumstances as violations. Each of these factors has no authoritative or precedential weight on its own. Only when all these "circumstances of varying significance" are included does a totality of circumstances approach yield a violation.

Even when a case is successfully made "in consideration of the totality of circumstances," no true precedent has been created

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since no one factor can be considered exculpatory or dispositive. With this, an officeholder will not know what factor should be avoided in their next speech or appearance. Instead of providing precedent, a totality of circumstances approach appears to be legal argument by the pound: when all the circumstances are added and the scale tips toward a violation, then the Commission must act.

Advocates of the totality of circumstances approach claim it contains two types of considerations apart from the "two-prong" test. First, the totality of circumstances includes a consideration of the objective elements of "time" and "place." Second, the totality of circumstances includes the more subjective elements of "purpose," "intent," "audience reaction," "press coverage," "atmosphere" and "campaign spirit." Complaint at 6-7; Report at 3-4, 8-10.

If viewed closely, it is clear that the totality of circumstance's objective elements are already included within the "two-prong" test's definition of "express advocacy." See supra at 18-19. Objective criterion already support whether the speech, itself, is "express advocacy." Id; Furgatch at 863-64. Advocates of a totality of circumstances approach do not have to worry, therefore, that the "two-prong" test does not consider objective elements of speech. Quite the opposite, context is already subsumed within the definition of "express advocacy" and, importantly is part of a legal framework for analysis and not just part of a loosely connected review of facts.

This leaves the subjective elements of the totality of circumstances approach outside the "two-prong" test and, in my opinion, that is exactly where they should stay. The subjective considerations

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of "purpose," "intent," and "effect" should not be part of any inquiry into campaign-related speech. These factors are too subjective and ungovernable, and their use attempts to characterize an officeholder's appearance at an event rather than analyze what is actually said. It is unthinkable to hold an officeholder continually subject to campaign finance laws on the basis of "press reaction," "effect" or what others deduce as some "underlying intent." Further, the totality of circumstances recognizes "campaign atmosphere" and remarks that "nurtured the campaign spirit" as factors in regulating speech. Report at 2, 3. The Commission must regulate campaign finance within the Act, not "atmospheres" and "nurtured spirits." We must continually look to the settled, objective, and judicially endorsed criterion of the "two-prong" test. We must not advocate a view that goes past our Act to "support the spirit" of the Explanation & Justification to our regulations. Id. at 6.

Accordingly, the totality of circumstances approach for analyzing officeholder speech is really not applicable for officeholders. Its objective elements are already part of the "two-prong" test's legal inquiry into "express advocacy" and its subjective elements are too vaporous upon which to rest a legal conclusion.

4. Appropriate use of a totality of circumstances approach.

It has been asserted that the Commission has, on occasion, applied a totality of circumstances approach to other cases which renders the application of the "two-prong" test to this case arbitrary, capricious or contrary to law. While it is true the Commission

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has entertained a totality of circumstances in some opinions,^{3/} that does not mean our precedent is not in order. The Commission has rightly applied a totality of circumstances approach in cases where 1) candidates, who are not officeholders, may be engaging in "campaign-related" activity. See e.g., AO 1977-42, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5315, AO 1978-15, 1 Fed. Elec. Camp. Guide (CCH) ¶ 5304, AO 1982-15, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5656, AO 1984-13, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5759; or 2) when officeholders engage in activity that is not normally part of their continuing responsibilities as officeholders, See e.g., AO 1982-56, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5695; and 3) when a group invites candidates, some of whom may also be officeholders, as candidates to appear at a function. See e.g., AO 1986-26, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5866, AO 1986-37, 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶ 5875; AO 1988-22, issued July 5, 1988.

The first four Advisory Opinions describe activity by candidates who are not officeholders. For example, AO 1977-42 involves a non-officeholder candidate appearing in a series of weekly radio programs^{4/}, AO 1978-15 involves a non-officeholder candidate appearance in advertisements for a charitable fundraiser and AO 1982-15 involves a non-officeholder candidate appearing in advertisements for his law

^{3/} It has been argued that other opinions, such as AO 1977-42, AO 1980-16, AO 1980-22 and AO 1981-37, See supra at 8-10, also used a totality of circumstances approach. That is a revision of what those opinions actually say.

^{4/} Although this opinion is routinely cited as part of the "two-prong" line of precedent, it can be mentioned as a totality of circumstances case since the opinion does once refer to "purpose" in its answer.

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firm. In all of these cases, no officeholders or officeholder activity is present. The very necessity for a "two-prong" test is absent since there is no danger of treading upon the official responsibilities of the officeholders. See supra at 10-13; Buckley at 84 n.112.

In AO 1984-13 an incorporated association sought to invite candidates as speakers to an afternoon conference. The requestor stated that:

its invitations to potential speakers for the afternoon session will be based on their status as congressional candidates and not on any other basis, such as a Federal or state officeholder. In fact, you indicate that all potential invitees will be "challengers in congressional races." You do not intend to invite any incumbent Federal officeholder to speak at the session. [emphasis added].

(CCH) at ¶ 5759.

The Commission held that this event is linked by its "timing and purpose" to elections and "the appearances of these candidates in these circumstances will inevitably be campaign-related." Id. Once again, there are no officeholders speaking to their constituencies so there is no reason to apply a "two-prong" test. These individual speakers were invited to this event in only one capacity, as candidates for federal office. When candidates qua candidates speak at an event, it is appropriate to use a totality of circumstances approach. It is necessary to distinguish this approach from the inquiry into

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officeholder speech as the opinion did in footnote three where it said this "event is distinguished from...Advisory Opinions 1983-23, 1980-22, 1980-16, 1978-15, and 1978-4." Id. See supra at 7-10. In my concurrence to this opinion, I agreed "with the results reached in Advisory Opinion 1984-13...these individuals were intended to appear within their capacity as candidates. " (CCH) at ¶ 5759 (Concurrence of Commissioner Elliott, disagreeing with partisan, non-partisan analysis and application of 11 C.F.R. §§114.3, 114.4).

In Advisory Opinion 1982-56, the Commission was presented with an officeholder appearing in a series of local advertisements endorsing candidates for local office. Because endorsing candidates is not part of the continuing responsibility of an officeholder, that speech may be subject to a totality of circumstances approach.

Lastly is a series of opinions that use a totality of circumstances approach in evaluating candidates' speeches at various conventions or meetings. In AO 1986-37 for example, the Commission was asked whether a foundation's invitations to individuals "on the basis of their candidacy or potential candidacy" for the "presidency in 1988" would be considered "campaign-related" activity governed by the Act. The Commission answered that it would, saying that the absence of "express advocacy" on the solicitation of contributions does not preclude the event from being "campaign-related." Again, this is the right result since inviting candidates as candidates, even if some of them are officeholders, allows a totality of circumstances approach.

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Hopefully, this review has sorted out what appears to be, but is not, conflicting advisory precedent. On the one hand, there is consistent application of the "two-prong" test for officeholders speech for the important reasons stated in Buckley, Orloski and in recognition of the goals and limits of the Act. On the other hand, there is the totality inquiry for candidates as candidates, that clearly distinguishes itself from officeholder precedent yet remains compatible with the "two-prong" test and the purposes of the Act.

III. CONCLUSION

The Supreme Court has stated that the Commission cannot constitutionally regulate the discussion of all public issues even if the discussion "draws in candidates and their positions, their voting records and other official conduct." Buckley at 42 n.50 (emphasis added). Although an officeholder's discussion of issues may "naturally and inexorably...exert some influence on voting at elections," Id., the Commission may only regulate an officeholder's remarks if they contain "express advocacy" or the solicitation of contributions. Limiting an officeholder's speech on any other basis conflicts with decisions that clearly divide the regulated advocacy of campaigns and elections from an officeholder's free discussion of issues. Buckley at 42-45; CLITRIM at 53.

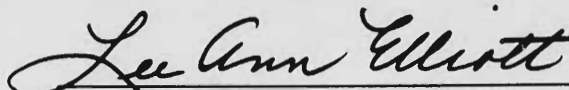
I rejected the General Counsel's recommendation to apply a totality of circumstances approach to MUR 1790 because it was not the correct Commission precedent. It had never been applied to officeholder speech and hopefully never will. Therefore, following Counsel's recommendation in this case would not have been following Commission precedent. Accordingly, I have acted "in conformity with FEC precedent" by voting there is no "reason to believe" this speech was "campaign-related."

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Lastly, I want to assure that no offense was intended when I prepared my first statement for this case. I prepared that statement as an elaboration of the very comments I made when voting on this matter with my colleagues. After years of working closely in a collegial body, I feel it is important to put forward positive statements of one's own opinions rather than a detailed criticism of the positions and opinions of fellow Commissioners.

This was also the Commission's first attempt to comply with a new and difficult procedure to aid in the review of our work. Hopefully, this public procedure will not polarize or create schisms among the Commissioners or create inflexible published positions such that change cannot occur. The Federal Election Commission is an even-numbered, bi-partisan agency that decides difficult questions in an evolving and politically-charged area. See Orloski at 167. We are often at our best when we reach consensus agreement for a plurality of reasons.

July 14, 1988



Lee Ann Elliott
Commissioner

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