



FEDERAL ELECTION COMMISSION

1325 K STREET NW
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2087

Date Filmed 2/21/86 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

Routing Slips, Internal Report (12 day) and

Comment Sheets, Duplicates, Internal Documents

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

X (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)

X (5) Internal Documents

Signed

Dorothy B. Kramer

date

2-13-86

FEC 5-21-77

96240570939

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Committee for Responsible) MUR 2087
Representation in the Fourth)
Congressional District)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 23, 1986, the Commission decided by a vote of 6-0 to take the following actions in MUR 2087:

1. Find no reason to believe that a violation of 2 U.S.C. § 441d(a)(3) occurred.
2. Close the file.
3. Approve and send the letter to the Complainant attached to the First General Counsel's Report signed January 17, 1986.

Commissioners Aikens, Elliott, Harris, Josefiak, McDonald and McGarry voted affirmatively for this decision.

Attest:

1-27-86

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:	Tues.,	1-21-86,	10:59
Circulated on 48 hour tally basis:	Tues.,	1-21-86,	4:00
Deadline for vote:	Thurs.,	1-23-86,	4:00



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 30, 1986

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Wade M. Smith, Chairman
North Carolina Democratic Party
P.O. Box 12196
Raleigh, NC 27605-2196

RE: MUR 2087

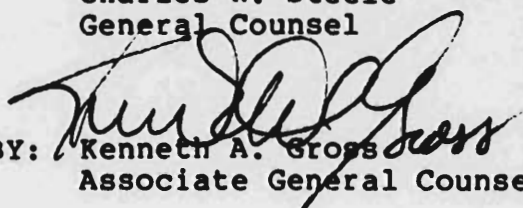
Dear Mr. Smith:

The Federal Election Commission has reviewed the allegations of your complaint dated September 12, 1985, and on January 23, 1986, determined that on the basis of information in your complaint there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, 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



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *pd*
DATE: January 21, 1986
SUBJECT: MUR 2087 - 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 [xk]
Sensitive [kx]
Non-Sensitive []
24 Hour No Objection []
Sensitive []
Non-Sensitive []
Information []
Sensitive []
Non-Sensitive []

Other []

DISTRIBUTION

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

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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEC
COMMISSION SECRETARY
SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION

MUR: 2087 00 JAN 21 410: 59
DATE RECEIVED
BY OGC: 9/19/85
STAFF: Beverly Kramer

COMPLAINANT'S NAME:
RESPONDENT'S NAME:

Wade M. Smith
Committee for Responsible
Representation in the Fourth
Congressional District

RELEVANT STATUTES:

2 U.S.C. § 441d(a)(3)

INTERNAL REPORTS CHECKED:

Public Records

FEDERAL AGENCIES CHECKED:

None

SUMMARY OF ALLEGATIONS

On September 19, 1985, the Commission received a letter from Wade Smith, Chairman of the North Carolina Democratic Party, and a copy of a complaint he filed with the North Carolina Board of Elections.* / Mr. Smith's letter and complaint concerns anonymous literature which was mailed to Democratic precinct chairmen in Wake County North Carolina, which is part of that state's 4th Congressional District. The literature, which is signed only by "The Committee for Responsible Representation in the Fourth Congressional District" contains derogatory background information on two Democrats interested in running for Congress in the Fourth District, and speculates on their chances of unseating the Republican incumbent. Mr. Smith requested the Commission review his complaint and the anonymous literature for any possible violation of Federal election laws.

* / The complaint was previously circulated to the Commission.

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FACTUAL AND LEGAL ANALYSIS

The issue in this matter is whether the Committee for Responsible Representation in the Fourth Congressional District violated 2 U.S.C. § 441d by mailing anonymous literature to Democratic precinct chairmen in Wake County North Carolina. The literature is signed only in the Committee's name, and does not include a disclaimer stating the name of the person who paid for the communication and whether the communication was authorized by any candidate or candidate's committee.

Section 441d(a)(3) of the Federal Election Campaign Act states, in part, that whenever any person makes an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate, such communication shall clearly state the name of the person who paid for the communication, and whether the communication was authorized by any candidate or candidate's committee. Commission regulation 11 C.F.R. § 109.1(b)(2) defines express advocacy as a message that advocates election or defeat, including such expressions as "vote for", "elect" or "defeat". Therefore, if the literature in this case expressly advocates the election or defeat of a clearly identified candidate, the anonymous Respondents have violated § 441d by not affixing a proper disclaimer to their literature.

In Buckley v. Valeo, 424 U.S. 1 (1975), the Supreme Court held that in order for the government to regulate expressive political activity, such activity must "in express terms advocate the election or defeat of a clearly identified candidate for federal office". Buckley, 424 at 44. The Court found that

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express advocacy is typified by such words of exhortation as "vote for," "elect," "support" "cast your ballot for," "Smith for Congress," "vote against," "defeat" and "reject." Buckley, 424 U.S. at 44, 52. In this case, it does not appear that the communication at issue meets the standard set forth in Buckley and the Commission's Regulations.

The four page communication (see Attachment I) in this case contains unflattering background information on two Democrats interested in running for Congress. Although both individuals are clearly identified, only one of them, Dr. David Price, meets the definition of "candidate" under 2 U.S.C. § 431(2) and is the object of this analysis.

The first page of the literature is addressed "Dear Democrat" and serves as a cover letter for the remaining pages. The letter states that the following "has been prepared to give you some background and simply say 'Thank you!' for making November 1986 such an easy win." The letter concludes by predicting that regardless of the eventual and Democratic nominee, "we know the November outcome will be the same."

On page three of the literature, Dr. Price's record as Executive Director and Chairman of the North Carolina Democratic Party is reported and criticized. On page four, the literature speculates that under Dr. Price's leadership, the 4th Congressional seat (held by a Democrat in 1984) was deliberately sacrificed by the North Carolina Democratic Party so that Dr.

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Price could run against the new Republican incumbent in 1986. The literature ends by stating that "THIS MONDALE LIBERAL Democratic PROFESSOR, DR. PRICE, is not a match for the incumbent Congressman in November '86."

In total, the literature in this case contains an unflattering recountenance of Dr. Price's leadership in the North Carolina Democratic Party, and obliquely predicts his chances of unseating the unnamed incumbent in next year's general election. The literature does not, however, contain words of express advocacy for the election or defeat of Dr. Price.

There are several factors to consider in determining that express advocacy does not exist in this case. First, the literature at issue does not contain any words of action, nor does it exhort the reader to take any action in preparation for next year's general election. Although the Office of General Counsel does not believe the exact words listed in Buckley must be present in order to find express advocacy, the literature in this case only recounts and predicts, and does not incite or induce any responsive action by the reader. See FEC v. Central Long Island Tax Reform Immediately Committee, ("CLITRIM") 616 F.2d 45,53 (2d Cir. 1980) (the words "expressly advocating" mean exactly what they say, and are not to be read as including communications created for the express or implied purpose of encouraging election or defeat).

Second, this literature does not fall within the range of previous judicial interpretations of the definition and scope of

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express advocacy. The Supreme Court has clearly stated that express advocacy only includes that spending which is "unambiguously related to the campaign of a particular federal candidate." CLITRIM, 616 F.2d at 53, citing Buckley v. Valeo 424 U.S. at 80. The discussion of public issues, which unavoidably draws in candidates, their voting records and official conduct, while tending naturally and inexorably to exert some influence on voting, falls beyond the reach of the statute. Buckley, 424 U.S. at 42, 50. This holding follows the Supreme Court's earlier emphasis that the freedom to discuss issues and criticize public officials, and oppose or support their continuation in office, constitutes the "central meaning" of the First Amendment. CLITRIM, 616 F.2d at 54 (Kaufman, C.J. and Oakes, J., concurring). See New York Times Co. v. Sullivan, 376 U.S. 254 (1964). Therefore, the express advocacy requirement, "as narrowed...does not reach all partisan discussion for it only requires disclosure of those expenditures that particularly advocate a particular election result." Buckley, 424 U.S. at 80.

While the discussion in this case is certainly partisan, it is not unambiguously related to the campaign of a particular federal candidate. The literature in this case is more of a criticism of the leadership of the North Carolina Democratic Party, than it is an attempt to boost the chances of the unnamed Republican incumbent.

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This recommendation is consistent with previous enforcement actions involving allegations of § 441d violations. In MUR 1828 for example, the Commission found no reason to believe that an anonymous group violated 2 U.S.C. § 441d when it circulated a 49 page booklet concerning the issues in the Hunt-Helms race in 1984. In that case, the Commission determined there was no reason to believe a violation of § 441d occurred, because the booklet did not contain language expressly advocating the defeat of a federal candidate. See also MUR 1802 (ACLU); MUR 1804 (SANE, Inc.); MUR 1815 (Citizens for Constitutional Concerns, Inc.)

Therefore, based on the content of this literature and interpretations of express advocacy, the Office of General Counsel recommends the Commission find no reason to believe that a violation of 2 U.S.C. § 441d(a)(3) occurred and close the file.

RECOMMENDATIONS

1. Find no reason to believe that a violation of 2 U.S.C. § 441d(a)(3) occurred.
2. Close the file.
3. Approve and send the attached letter to the Complainant.

Charles N. Steele
General Counsel

January 17, 1986
Date

BY:

Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

1. Material supplied by Complainant
2. Letter to Complainant

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EXHIBIT A

CAMPAIGN 86
The Fourth Congressional District

Dear Democrat:

Once again the National Organization of Women, the AFL-CIO, the National Education Association, and other liberal based Washington PAC's, along with some few North Carolinians (who have an uncanny ability to pick losers) have decided that the Fourth Congressional District needs their candidate.

Let's face facts. Vocal feminist Wilma Woodard and I've League Duke Professor, Dr. David Price, aren't what you would call representative of most residents in the fourth district.

The following has been prepared to give you some background and simply say "Thank-You!" for making November 1986 such an easy win! Whether the nominee is Ms. Woodard or the Professor, we know the November outcome will be the same.

Thanks Democrats!!

The Committee for Responsible Representation
in the Fourth Congressional
District

Attachment 1

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The NORTH CAROLINA INDEPENDENT, a liberal paper, edited by a woman, is the last place one would expect to find an article critical of MS. WILMA WOODARD.

Yet, in the INDEPENDENT'S July 19-August 1, 1985 issue, MS. WOODARD was named as the BIGGEST DISAPPOINTMENT in the current legislative session.

THE INDEPENDENT states:

"It's no secret that Wake County Senator Wilma Woodard is running for Congress. Boy, is she ever. The normally principled advocate of women's issues and progressive causes suddenly seemed to sell her soul this year for political advantage.

She introduced a bill which would make it easier for small loan companies to take advantage of low-income, unsophisticated borrowers. Then she sponsored a bill to allow retailers to collect triple damages for worthless checks. And when push came to shove on the crucial consumer issue of comparative fault, Woodard sided with business and industry instead of accident victims. Her excuse that the bill would hurt state employees, her Raleigh residents, wasn't much of a smoke screen.

And no doubt she'll have better luck raising campaign money from her new business friends after her performance this session. But there's more to politics than winning. There's principle, which she seems to have misplaced along the way."

Has the article left out something? Yes, but only because the INDEPENDENT, like MS. WOODARD, supports COMPARABLE WORTH.

COMPARABLE WORTH is that theory advocated by MILITANT FEMINISTS that would have women's job compared to plumbers, truck drivers, electricians, farmers, etc. in an attempt to equalize pay. (Does this hint of socialism?) It's like comparing apples and oranges. It can't be done. Rep. Richard Wright, who led the battle to kill the MS. WOODARD'S COMPARABLE WORTH bill, said it is "flawed, invalid and contradictory to sound economic principles."

The strong economy that the residents of the Fourth Congressional District have enjoyed was not built on such socialist principles as COMPARABLE WORTH. The FREE ENTERPRISE SYSTEM is still the basis for our success.

Is MS. WOODARD'S past legislative record an example of her future Congressional record? In all probability, YES. But, thank goodness the voters of the Fourth Congressional District will have a chance to examine thoroughly her record. Most residents would not be comfortable with her past performance to trust her to a national stage.

MS. WOODARD'S Potomac Fever will be suddenly remedied the morning after the November '86 elections.

Thanks, Democrats!!!

PROFESSOR PRICE'S RECORD - A ROLL CALL OF ELECTORAL LOSSES!!!

Under DR. PRICE'S leadership as EXECUTIVE DIRECTOR AND CHAIRMAN of the Democratic Party in North Carolina, the following occurred:

1980 - Popular former N.C. Attorney General, U.S. Senator ROBERT MORGAN DEFEATED by less than 5,000 votes.

Veteran Incumbent RICHARDSON PREYER DEFEATED in the 6th Congressional District.

Congressman LAMAR GUDGER LOSES his eleventh district seat.

1982 - WILL ROGERS said "There is nothing as stupid as an educated man, if you get him off the thing he was educated in."

Dr. Price returned to what he knew best - the ivy halls of DUKE UNIVERSITY. Democrats WON back two Congressional seats and held on to the Fourth District (even after Andrews was charged with a DUI). This was only a temporary win as these seats would be lost again under PROFESSOR PRICE'S leadership in 1984.

1984 - North Carolina's most popular Democratic Governor, JIM HUNT LOSES Senate bid.

Democratic Gubernatorial candidate wins two primaries to meet DEFEAT at the hands of Republicans in November.

4th District - Twelve year Congressional veteran, IKE ANDREWS DEFEATED.

6th District freshman ROBIN BRITT FAILS to win re-election.

11th District Congressman JAMES McC. CLARKE FALLS victim to Republican landslide.

9th District - Democratic nominee, D.G. MARTIN FAILS to defeat Republican challenger in bid for open Congressional seat vacated by Governor Martin.

Legislative races see Republican GAINS in sweep of I-85 Corridor. 12 Republicans in the Senate; 37 in the House!!

Footnote: RANDOLPH CLOUD hired by DR. PRICE at a salary of \$38,000 as a "CONSULTANT" at the Goodwin House in 1983.

THE PRICE/CLOUD CONSPIRACY TO UNSEAT IKE ANDREWS

1982- CLOUD engineers victory for Andrews

1983- PROFESSOR PRICE returns as all powerful EXECUTIVE DIRECTOR and PARTY CHAIRMAN

1984- After two years of impressive political gains and personal attention to the district, ANDREWS is defeated while Cloud and DR. PRICE run the GOODWIN HOUSE.*

*THE GOODWIN HOUSE - headquarters for the NC Democratic Party

1985 - DR. PRICE announces for Congress; CLOUD serves as Campaign Manager.

? ? ? ? ? ? ? ? ? ? ? ? ? ? ?

Was the FOURTH CONGRESSIONAL seat deliberately SACRIFICED by PROFESSOR PRICE and CLOUD in '84 to pave the road for a clean sweep by DR. PRICE in the '86 Democratic Primary?

Is this a record of LEADERSHIP ?? or are FAILURE AND DEFEAT more — descriptive?

Summer 1985 - Following the lead of his mentor, WALTER MONDALE, PROFESSOR PRICE establishes out of state special interest fund to finance his campaign.

WASHINGTON FRIENDS OF DAVID PRICE

Aren't there any in the Fourth District, other than political hacks, who owe some debts to Randolph Cloud?

LUTHER HODGES, JR. (Washington banker and defeated 1978 primary candidate for the Senate) Bankers usually expect a high yield on their investments. What's the deal PROFESSOR?

RICH PREYER (Hasn't lived in Washington since 1980! It must be hard for the PROFESSOR to make friends among current residents of Washington!!)

STU EISENSTADT (Liberal adviser to Carter/MONDALE White House)

BOB WISE (West Virginia Congressman. Why is West Virginia interested in the fourth district of North Carolina?)

STEVE NEAL (5th District Congressman from NC. NEVER before has an incumbent Democratic Congressman involved himself in a contested primary in NC. Neal plans to use HIS chairmanship of a House subcommittee to raise business monies for the PROFESSOR. CONSUMER BEWARE!!!)

WALLACE HYDE, EdD. (Asheville fundraiser and financier of CARTEL/MONDALE Campaigns in N.C.) Not a resident of Washington or the Fourth Congressional District.)

MRS. Jeanette Carl Hyde (Led Democratic fundraising under DR. PRICE at the Goodwin House while actively campaigning for MONDALE during the Spring '84 Primary.)

P.S. Why not have a letterhead printed with CHAPEL HILL PRICE supporters LIGHTNING BROWN AND JOE HERTZENBERG listed!! Stop hiding your supporters and come out of the closet PROFESSOR PRICE!!

Thanks Democrats!!! This MONDALE LIBERAL Democratic PROFESSOR, DR. PRICE, is not a match for the incumbent Congressman in November '86.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Wade M. Smith, Chairman
North Carolina Democratic Party
P.O. Box 12196
Raleigh, NC 27605-2196

RE: MUR 2087

Dear Mr. Smith:

The Federal Election Commission has reviewed the allegations of your complaint dated September 12, 1985, and on , 1986, determined that on the basis of information in your complaint there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, 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

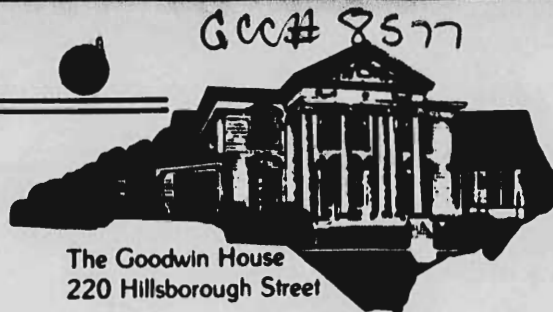
BY: Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

Attachment 2
5

The Democratic Party of North Carolina

Post Office Box 12196
Raleigh, North Carolina 27605-2196 • Telephone (919) 821-2777



September 12, 1985

The Honorable John Warren McGarry
Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

RE: Anonymous and Scurrilous Campaign Literature,
4th District Congressional Election,
North Carolina

Dear Chairman McGarry:

I have petitioned the State Board of Elections of the State of North Carolina to investigate what are believed to be unlawful, corrupt, and unfair campaign practices by a purported committee in the Fourth District Congressional race in North Carolina. We are concerned that these negative and secretive campaign practices disrupt the fair and free electoral process and unfairly distort the voters' perception of candidates and the political process in general. We are enclosing a copy of the verified Petition and ask the Federal Election Commission to review the allegations of the Petition to determine if the purported committee or its secret supporters have violated any provisions of the Federal Election Campaign Act. We ask that this verified petition be accepted as a complaint pursuant to the provisions of 2 USC §437g.

Your prompt consideration of this matter is greatly appreciated.

Sincerely,

Wade M. Smith

Wade M. Smith,
Chairman, North Carolina
Democratic Party

85 SEP 18 P 3:39

RECEIVED
OFFICE OF THE FEC
COMMISSIONER SECRETARY

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IN THE MATTER OF:

**PETITION FOR INVESTIGATION OF CORRUPT ELECTION PRACTICES
PURSUANT TO NORTH CAROLINA GENERAL STATUTES
163-20 AND 163-278
ALLEGING VIOLATIONS OF NORTH CAROLINA GENERAL STATUTES
163-274(7) AND 163-274(8)**

Based on sworn allegations contained herein, the Petitioner alleges and says:

1. The Petitioner, Wade M. Smith, is a citizen and resident of Wake County, and is a registered Democrat and voter of Wake County, and is Chairman of the North Carolina Democratic Party.

2. The Committee for Responsible Representation in the Fourth Congressional District is a purported committee not registered under state or federal law and of no known address or identification.

3. Upon information and belief, the Committee for Responsible Representation in the Fourth Congressional District, and other persons unknown to Petitioner are anonymous and have been distributing scurrilous and anonymous campaign literature in Wake County.

4. Upon information and belief, the violations of the election laws of North Carolina as hereafter alleged occurred in Wake County.

BACKGROUND

5. Under N.C.G.S. 163-274(7) of Article 22, Chapter 163, entitled CORRUPT PRACTICES AND OTHER OFFENSES AGAINST THE ELECTED FRANCHISE, it is unlawful:

For any person to publish in a newspaper or pamphlet or otherwise, any charge derogatory to any candidate or calculated to affect the candidate's chances of nomination or election, unless such publication be signed by the party giving publicity to and being responsible for such charge.

6. Under N.C.G.S. 163-274(8) of Article 22, Chapter 163, entitled CORRUPT PRACTICES AND OTHER OFFENSES AGAINST THE ELECTED FRANCHISE, it is unlawful:

For any person to publish or cause to be circulated derogatory reports with reference to any candidate in any primary or election, knowing such report to be false or in reckless disregard of its truth or falsity, when such report is calculated or intended to affect the chances of such candidate for nomination or election.

7. Article 1, Section 12 of the Constitution of North Carolina provides:

The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the General Assembly for redress of grievances; but secret political societies are dangerous to the liberties of a free people and shall not be tolerated.

8. In the enactment of the Federal Election Campaign Act, Congress left the regulation of certain aspects of Federal elections to the states. In particular, state law regarding election fraud or corrupt acts and practices affecting Federal elections was not preempted by the enactment of the Federal Election Campaign Act. The Code of Federal Regulations in 11 CFR §108.7(c)(4) provides that:

The Act does not supersede state laws which provide for the prohibition of false registration, voting fraud, theft of ballots, and similar offenses.

9. The North Carolina laws prohibiting the publication and distribution of scurrilous campaign literature are designed to protect the integrity of the election process by insuring that the voters' choice of candidates is not influenced though false or derogatory information which is distributed in a secret manner.

ACTS AND PRACTICES OF THE RESPONDENTS

10. Upon information and belief, opponents of the Democratic candidates for the nomination of the Democratic Party for the Fourth Congressional District, with the cooperation of others, distributed by mail a letter addressed to Democrats in the Fourth Congressional District. The letter is attached hereto and incorporated herein, marked Exhibit A. The letter is not signed by the person or persons responsible for its distribution and the letter is clearly calculated to injure the campaign efforts of the named candidates for the Democratic nomination for the Fourth Congressional District.

11. Upon information and belief, no committee under the name, The Committee for Responsible Representation, in the Fourth Congressional District has registered as required pursuant to state and federal law.

12. Upon information and belief, the letter was designed to mislead voters and to distort the record and positions of the Democratic candidates for the nomination of the Democratic Party for the Fourth Congressional District and it contains false statements and distortions calculated to injure the chances of said candidates.

13. The letter has been distributed in and throughout Wake County, North Carolina.

14. Upon information and belief, the attached scurrilous campaign literature was designed to injure the election chances of the Democratic candidates in the Fourth Congressional District.

15. The North Carolina Constitution bars secret political societies, and upon information and belief, Petitioner submits that there exists a secret political society in North Carolina which operates under the name Committee for Responsible Representation in the Fourth Congressional District to distribute anonymous and scurrilous campaign literature.

16. The Petitioners allege that the foregoing acts constitute a continuing practice of violations of the law.

CONCLUSIONS

Upon information and belief, the foregoing acts and practices constitute corrupt practices and other offenses against the elected franchise in violation of N.C.G.S. 163-274(7) and 163-274(8) as follows:

(1) The distribution of the letter was calculated to injure a candidate's chances for election, and in the absence of a disclaimer or identification of the person responsible for its publication, constitutes a corrupt election practice.

(2) The distribution of the letter containing false information and other distortions is calculated to and intended to injure the chances of a candidate for election, upon information and belief, contains a false name for the person or persons responsible for the publication, and constitutes a corrupt election practice.

WHEREFORE, the Petitioner prays that the North Carolina Board of Elections, pursuant to its statutorily authorized powers and

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duties, including subpoena power pursuant to Article 22A of Chapter 163 of the North Carolina General Statutes, conduct an investigation and reach a determination as to whether the laws of the State of North Carolina have been violated by the acts hereinabove alleged or by any other similar and related activity, which is, in the allegations of this Petitioner, a course and pattern of conduct designed to evade the prohibitions of the North Carolina General Statutes on corrupt election activities arising from anonymous and scurrilous campaign literature. Upon determination by the Board of Elections that any such acts constitute campaign violations, the Board has at its disposal appropriate remedies for the investigation or prosecution of such violations pursuant to Chapter 163 or for referral of such matters as it deems appropriate to the Federal Elections Commission. In the alternative, this Petitioner prays that the North Carolina Board of Election refer the matter the District Attorney of the State of North Carolina having jurisdiction over these alleged acts for investigation and prosecution.

This the 12th day of September, 1985.

PETITIONER:


WADE M. SMITH, Chairman
North Carolina Democratic Party

STATE OF NORTH CAROLINA

COUNTY OF WAKE

V E R I F I C A T I O N

WADE M. SMITH, first being duly sworn, deposes and says that he has read the foregoing Petition and knows the contents thereof to be true to his own knowledge except as to those matters and things alleged upon information and belief and as to those matters and things he believes them to be true.

This the 12th day of September, 1985.

Wm M Smith
WADE M. SMITH

SWORN TO AND SUBSCRIBED
BEFORE ME this 12th day
of September, 1985.

Elizabeth F. Clark
Notary Public

Commission Expires: 7-20-86



EXHIBIT A

CAMPAIGN 86
The Fourth Congressional District

Dear Democrat:

Once again the National Organization of Women, the AFL-CIO, the National Education Association, and other liberal based Washington PAC's, along with some few North Carolinians (who have an uncanny ability to pick losers) have decided that the Fourth Congressional District needs their candidate.

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Thanks Democrats!!

[The Committee for Responsible Representation
in the Fourth Congressional
District]

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And no doubt she'll have better luck raising campaign money from her new business friends after her performance this session. But there's more to politics than winning. There's principle, which she seems to have misplaced along the way."

Has the article left out something? Yes, but only because the INDEPENDENT, like MS. WOODARD, supports COMPARABLE WORTH.

COMPARABLE WORTH is that theory advocated by MILITANT FEMINISTS that would have women's job compared to plumbers, truck drivers, electricians, farmers, etc. in an attempt to equalize pay. (Does this hint of socialism?) It's like comparing apples and oranges. It can't be done. Rep. Richard Wright, who led the battle to kill the MS. WOODARD'S COMPARABLE WORTH bill, said it is "flawed, invalid and contradictory to sound economic principles."

The strong economy that the residents of the Fourth Congressional District have enjoyed was not built on such socialist principles as COMPARABLE WORTH. The FREE ENTERPRISE SYSTEM is still the basis for our success.

Is MS. WOODARD'S past legislative record an example of her future Congressional record? In all probability, YES. But, thank goodness the voters of the Fourth Congressional District will have a chance to examine thoroughly her record. Most residents would not be comfortable with her past performance to trust her to a national stage.

MS. WOODARD'S Potomac Fever will be suddenly remedied the morning after the November '86 elections.

Thanks, Democrats!!!

PROFESSOR PRICE'S RECORD - A ROLL CALL OF ELECTORAL LOSSES!!!

Under DR. PRICE'S leadership as EXECUTIVE DIRECTOR AND CHAIRMAN of the Democratic Party in North Carolina, the following occurred:

1980 - Popular former N.C. Attorney General, U.S. Senator ROBERT MORGAN DEFEATED by less than 5,000 votes.

Veteran Incumbent RICHARDSON PREYER DEFEATED in the 6th Congressional District.

Congressman LAMAR GUDGER LOSES his eleventh district seat.

1982 - WILL ROGERS said "There is nothing as stupid as an educated man, if you get him off the thing he was educated in."

Dr. Price returned to what he knew best - the ivy halls of DUKE UNIVERSITY. Democrats WON back two Congressional seats and held on to the Fourth District (even after Andrews was charged with a DUI). This was only a temporary win as these seats would be lost again under PROFESSOR PRICE'S leadership in 1984.

1984 - North Carolina's most popular Democratic Governor, JIM HUNT LOSES Senate bid.

Democratic Gubernatorial candidate wins two primaries to meet DEFEAT at the hands of Republicans in November.

4th District - Twelve year Congressional veteran, IKE ANDREWS DEFEATED.

6th District freshman ROBIN BRITT FAILS to win re-election.

11th District Congressman JAMES McC. CLARKE FALLS victim to Republican landslide.

9th District - Democratic nominee, D.G. MARTIN FAILS to defeat Republican challenger in bid for open Congressional seat vacated by Governor Martin.

Legislative races see Republican GAINS in sweep of I-85 Corridor. 12 Republicans in the Senate; 37 in the House!!

Footnote: RANDOLPH CLOUD hired by DR. PRICE at a salary of \$38,000 as a "CONSULTANT" at the Goodwin House in 1983.

THE PRICE/CLOUD CONSPIRACY
TO UNSEAT IKE ANDREWS

1982- CLOUD engineers victory for Andrews

1983- PROFESSOR PRICE returns as all powerful EXECUTIVE DIRECTOR and PARTY CHAIRMAN

1984- After two years of impressive political gains and personal attention to the district, ANDREWS is defeated while Cloud and DR. PRICE run the GOODWIN HOUSE.*

*THE GOODWIN HOUSE - headquarters for the NC Democratic Party

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Was the FOURTH CONGRESSIONAL seat deliberately SACRIFICED by PROFESSOR PRICE and CLOUD in '84 to pave the road for a clean sweep by DR. PRICE in the '86 Democratic Primary?

Is this a record of LEADERSHIP ? ? or are FAILURE AND DEFEAT more —
descriptive?

Summer 1985 - Following the lead of his mentor, WALTER MONDALE, PROFESSOR PRICE establishes out of state special interest fund to finance his campaign.

WASHINGTON FRIENDS OF DAVID PRICE

Aren't there any in the Fourth District, other than political hacks, who owe some debts to Randolph Cloud?

LUTHER HODGES, JR. (Washington banker and defeated 1978 primary candidate for the Senate) Bankers usually expect a high yield on their investments. What's the deal PROFESSOR?

RICH PREYER (Hasn't lived in Washington since 1980! It must be hard for the PROFESSOR to make friends among current residents of Washington!!)

STU EISENSTADT (Liberal adviser to Carter/MONDALE White House)

BOB WISE (West Virginia Congressman. Why is West Virginia interested in the fourth district of North Carolina?)

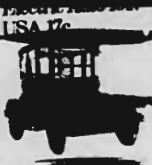
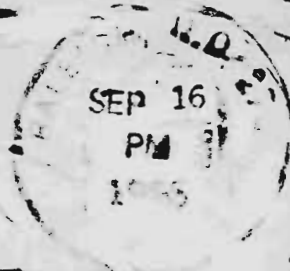
STEVE NEAL (5th District Congressman from NC. NEVER before has an incumbent Democratic Congressman involved himself in a contested primary in NC. Neal plans to use HIS chairmanship of a House subcommittee to raise business monies for the PROFESSOR. CONSUMER BEWARE!!!)

WALLACE HYDE, EdD. (Asheville fundraiser and financier of CARTER/MONDALE Campaigns in N.C.) Not a resident of Washington or the Fourth Congressional District.)

MRS. Jeanette Carl Hyde (Led Democratic fundraising under DR. PRICE at the Goodwin House while actively campaigning for MONDALE during the Spring '84 Primary.)

P.S. Why not have a letterhead printed with CHAPEL HILL PRICE supporters LIGHTNING BROWN AND JOE HERTZENBERG listed!! Stop hiding your supporters and come out of the closet PROFESSOR PRICE!!

Thanks Democrats!!! This MONDALE LIBERAL Democratic PROFESSOR,
DR. PRICE, is not a match for the incumbent Congressman in
November '86.



FROM:
KIRBY, WALLACE, CREECH,
SARDA & ZAYTOUN

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Chairman
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WASHINGTON, DC 20463

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