FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 689

Date Filmed 6/16/80 Camera No. --- 2

Cameraman SPC

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 27, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert C. Grant
Inter-Mark Associates
114 East Ridgewood Parkway
Denville, New Jersey 97834

Re: MUR 689

Dear Mr. Grant:

This is in reference to the complaint you filed with the Commission on August 25, 1978, concerning the 13th District TRIM Committee. Based on your complaint, the Commission determined there was reason to believe that the 13th District TRIM Committee violated sections 434(e) and 441d of the Federal Election Campaign Act of 1971, as amended.

On August 1, 1978, the Commission had filed suit in U.S. District Court for the Eastern District of New York against the Central Long Island TRIM Committee on facts essentially identical to those set out in your complaint. Pursuant to 2 U.S.C. §437h(a), that suit was certified to the U.S. Court of Appeals for the Second Circuit for resolution of several constitutional issues which had been raised by way of defenses and counterclaims. Since the two cases were virtually identical, the Commission held MUR 689 in abeyance pending the Second Circuit's decision in CLITRIM.

By opinion dated February 5, 1980, the Second Circuit held that no case or controversy had been presented in that the TRIM Bulletin did not "expressly advocate" the election or defeat of a clearly identified candidate. The Court ordered the District Court to dismiss the Commission's complaint, which action was accomplished on April 11, 1980. A copy of the Court of Appeals' opinion is enclosed.

In view of the Second Circuit's opinion, the Commission concluded on May 14, 1980 that further action against 13th District TRIM Committee was not warranted. Accordingly, the file in the matter has been closed.

This matter will become part of the public record within thirty days. If you wish to submit any factual or legal materials to appear on the public record please do so within ten days.

If you have any questions, please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

UJC
5-14-80

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 27, 1980

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

F. William Ford, Chairman
13th District TRIM Committee
P.O. Box 5241
Clinton, New Jersey 08809

Re: MUR 689

Dear Mr. Ford:

This is to advise you that, on May 14, 1980, the Commission voted to take no further action against your Committee in MUR 689 and to close its file in the matter.

If you have any questions please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

VJC
5-14-80

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 584
Oregon TRIM Committee 1st Congressional District	)	
	)	MUR 689
13th Congressional District (New Jersey) TRIM Committee	)	
	)	MUR 690
16th Congressional District (California) TRIM Committee	)	
	)	MUR 696
Nassau County (New York) TRIM Committee	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on May 14, 1980, the Commission decided by a vote of 6-0 to take the following actions regarding MURs 584, 689, 690, and 696:

1. Take no further action with regard to:
   - (A) Oregon TRIM Committee, 1st Congressional District in MUR 584;
   - (B) 13th Congressional District (New Jersey) TRIM Committee in MUR 689;
   - (C) 16th Congressional District (California) TRIM Committee in MUR 690;
   - (D) Nassau County (New York) TRIM Committee in MUR 696.
2. Close the file in each of the above matters.

(Continued)

3. Authorize the Office of General Counsel to send the letters of notification as attached to the above-named report.

Voting for this determination were Commissioners Aikens, Friedersdorf, Harris, McGarry, Reiche, and Tiernan.

Attest:

5/14/80
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

Report Signed: 5-9-80
Received in Office of the Commission Secretary: 5-9-80, 3:57
Circulated on 48 hour vote basis: 5-11-80, 11:00

May 9, 1980

MEMORANDUM TO: Marjorie W. Emmons

FROM: Elissa T. GArr

SUBJECT: MURs 584, 689, 690, 696

Please have the attached General Counsel's Report distributed to the Commission on a 48 hour tally basis. Thank you.

BEFORE THE FEDERAL ELECTION COMMISSION
May 5, 1980

7

In the Matter of)
)
Oregon TRIM Committee)
1st Congressional District) MUR 584
)
13th Congressional District)
(New Jersey) TRIM Committee) MUR 689
)
16th Congressional District)
(California) TRIM Committee) MUR 690
)
Nassau County (New York))
TRIM Committee) MUR 696

GENERAL COUNSEL'S REPORT

I. STATEMENT OF THE CASE

All these cases essentially are based on the same facts.

In each, the local Tax Reform Immediately (TRIM) Committee 1/ printed and distributed to the public, one or more "TRIM Bulletins." These Bulletins set forth (1) positions with respect to certain economic and tax issues, (2) the voting records of the local member of Congress on specific legislation concerning these issues, along with a characterization of votes as "For Lower Taxes and Less Government" or "For Higher Taxes and More Government," and (3) a commentary reflecting National TRIM's views as to the merits of the bills identified.

The Commission determined that the TRIM Bulletin in each of these cases were communications which "expressly advocated" the defeat of the Representative identified therein. Since it was

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1/ It is believed that each of these local TRIM Committees is part of the National TRIM network. National TRIM, itself an unincorporated organization, is a committee which has been established by the John Birch Society, Inc.

was considered likely that the 1st District (Oregon), 13th District (New Jersey) and Nassau County (New York) TRIM Committees each had spent in excess of $100 to print and distribute the Bulletins, the Commission found reason to believe that each violated 2 U.S.C. §434(e) in failing to report their costs as independent expenditures. Since the Bulletins did not include a statement of authorization/non-authorization, the Commission found reason to believe each committee violated 2 U.S.C. §441d. 2/ The 16th District (California) TRIM Committee purchased a newspaper advertisement, at an estimated cost of $500, in addition to printing and distributing the TRIM Bulletin. In view of the likelihood that 16th District TRIM may have spent in excess of $1,000 in media advertisements and TRIM Bulletins, the Commission found reason to believe that 16th District TRIM had violated 2 U.S.C. §433 by failing to file as a political committee and that it had violated 2 U.S.C. §434(b)(13) by failing to report its independent expenditures. 16th District TRIM also was found to have violated 2 U.S.C. §441d.

By memo dated June 8, 1979, the General Counsel advised the Commission that this office would hold the four MUR's in abeyance until the U.S. Court of Appeals for the Second Circuit had issued its decision in Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, et al. The issues raised in that action were identical to those presented in the four MUR's, except for the additional issue of failure of the 16th District TRIM to register as a political committee in MUR 690.

2/ The Commission also found reasonable cause to believe that Oregon TRIM Committee, 1st Congressional District, had violated the cited statutes.

In an opinion dated February 5, 1980, the Second Circuit held that 2 U.S.C. §§434(e) and 441d were inapplicable to CLITRIM's activities, so that no case or controversy was presented for adjudication. Particularly, the Court found that: "The CLITRIM Bulletin of Fall, 1976, contains nothing which could rationally be termed express advocacy." Accordingly, the case was remanded to the U.S. District Court for the Eastern District of New York with directions to dismiss the Commission's complaint. The District Court ordered that dismissal on April 11, 1980.

II. LEGAL ANALYSIS

Since the activities of Oregon TRIM Committee, 1st Congressional District in MUR 584; 13th Congressional District (New Jersey) TRIM Committee in MUR 689; 16th Congressional District (California) TRIM Committee in MUR 690; and Nassau County (New York) TRIM Committee in MUR 696 were identical to those of Central Long Island TRIM Committee in all essential regards, we are compelled to conclude that their publications, like CLITRIM's, did not expressly advocate the defeat of a clearly identified candidate and, thus, are not subject to the provisions of the FECA cited above.

In order to pursue the issue of whether the 16th District TRIM violated 2 U.S.C. §433 by failing to file as a political committee it would be necessary to determine if it, indeed, exceeded the $1,000 threshold, and if such expenditures were for the purpose of influencing an election. Determination of these facts would require further investigation. Because this office has never been able to locate the Chairman from the outset of the investigation we feel that such investigation is unwarranted in the circumstances.

III. GENERAL COUNSEL'S RECOMMENDATION(S)

1. Take no further action with regard to:

   (A) Oregon TRIM Committee, 1st Congressional District in MUR 584;

   (B) 13th Congressional District (New Jersey) TRIM Committee in MUR 689;

   (C) 16th Congressional District (California) TRIM Committee in MUR 690;

   (D) Nassau County (New York) TRIM Committee in MUR 696.

2. Close the file in each of the above matters.

3. Authorize the Office of General Counsel to send the letters of notification attached.

8 May 1980
Date

Charles N. Steele
General Counsel

Attachments

Letters of Notification to Complainants (4)
Letters of Notification to Respondents (4)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

F. William Ford, Chairman
13th District TRIM Committee
P.O. Box 5241
Clinton, New Jersey 08809

Re: MUR 689

Dear Mr. Ford:

This is to advise you that, on , 1980, the Commission voted to take no further action against your Committee in MUR 689 and to close its file in the matter.

If you have any questions please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Chairman
Nassau County TRIM Committee
P.O. Box 41
New Hyde Park, New York 11040

Re: MUR 696

Dear Sir:

This is to advise you that, on , 1980, the Commission voted to take no further action against your Committee in MUR 696 and to close its file in the matter.

If you have any questions please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Randy Van Hecke, Chairman
Oregon TRIM Committee
1st Congressional District
5501 N.W. Front
Portland, Oregon 97201

Re: MUR 584

Dear Mr. Hecke:

This is to advise you that, on , 1980, the Commission voted to take no further action against your Committee in MUR 584 and to close its file in the matter.

If you have any questions please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert K. Herrling
Chairman
16th Congressional District
TRIM Committee
48 San Miquel Avenue
Salinas, California 93901

Re: MUR 690

Dear Mr. Herrling:

This is to advise you that, on , 1980, the Commission voted to take no further action against your Committee in MUR 690 and to close its file in the matter.

If you have any questions please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Daniel Mooney
4250 Veterans Memorial Highway
Holbrook, New York 11740

Re: MUR 696

Dear Mr. Mooney:

This is in reference to the complaint you filed with the Commission on May 8, 1978, concerning the Nassau County TRIM Committee. Based on your complaint, the Commission determined there was reason to believe that the Nassau County TRIM Committee, violated sections 434(e) and 441d of the Federal Election Campaign Act of 1971, as amended.

On August 1, 1978, the Commission had filed suit in U.S. District Court for the Eastern District of New York against the Nassau County TRIM Committee on facts essentially identical to those set out in your complaint. Pursuant to 2 U.S.C. §437h(a), that suit was certified to the U.S. Court of Appeals for the Second Circuit for resolution of several constitutional issues which had been raised by way of defenses and counterclaims. Since the two cases were virtually identical, the Commission held MUR 696 in abeyance pending the Second Circuit's decision in CLITRIM.

By opinion dated February 5, 1980, the Second Circuit held that no case or controversy had been presented in that the TRIM Bulletin did not "expressly advocate" the election or defeat of a clearly identified candidate. The Court ordered the District Court to dismiss the Commission's complaint, which action was accomplished on April 11, 1980. A copy of the Court of Appeals' opinion is enclosed.

In view of the Second Circuit's opinion, the Commission concluded on , 1980 that further action against Nassau County TRIM Committee was not warranted. Accordingly, the file in the matter has been closed.

This matter will become part of the public record within thirty days. If you wish to submit any factual or legal materials to appear on the public record please do so within ten days.

If you have any questions, please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert C. Grant
Inter-Mark Associates
114 East Ridgewood Parkway
Denville, New Jersey 97834

Re: MUR 689

Dear Mr. Grant:

This is in reference to the complaint you filed with the Commission on August 25, 1978, concerning the 13th District TRIM Committee. Based on your complaint, the Commission determined there was reason to believe that the 13th District TRIM Committee violated sections 434(e) and 441d of the Federal Election Campaign Act of 1971, as amended.

On August 1, 1978, the Commission had filed suit in U.S. District Court for the Eastern District of New York against the Central Long Island TRIM Committee on facts essentially identical to those set out in your complaint. Pursuant to 2 U.S.C. §437h(a), that suit was certified to the U.S. Court of Appeals for the Second Circuit for resolution of several constitutional issues which had been raised by way of defenses and counterclaims. Since the two cases were virtually identical, the Commission held MUR 689 in abeyance pending the Second Circuit's decision in CLITRIM.

By opinion dated February 5, 1980, the Second Circuit held that no case or controversy had been presented in that the TRIM Bulletin did not "expressly advocate" the election or defeat of a clearly identified candidate. The Court ordered the District Court to dismiss the Commission's complaint, which action was accomplished on April 11, 1980. A copy of the Court of Appeals' opinion is enclosed.

In view of the Second Circuit's opinion, the Commission concluded on   , 1980 that further action against 13th District TRIM Committee was not warranted. Accordingly, the file in the matter has been closed.

This matter will become part of the public record within thirty days. If you wish to submit any factual or legal materials to appear on the public record please do so within ten days.

If you have any questions, please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael Call
Re-elect Les AuCoin Committee
8665 S.W. Canyon Road
Portland, Oregon 97225

Re: MUR 584

Dear Mr. Call:

This is in reference to the complaint you filed with the Commission on May 8, 1978, concerning the Oregon TRIM Committee 1st Congressional District. Based on your complaint, the Commission determined there was reason to believe that the Oregon TRIM Committee, 1st Congresional District violated sections 434(e) and 441d of the Federal Election Campaign Act of 1971, as amended.

On August 1, 1978, the Commission had filed suit in U.S. District Court for the Eastern District of New York against the Central Long Island TRIM Committee on facts essentially identical to those set out in your complaint. Pursuant to 2 U.S.C. §437h(a), that suit was certified to the U.S. Court of Appeals for the Second Circuit for resolution of several constitutional issues which had been raised by way of defenses and counterclaims. Since the two cases were virtually identical, the Commission held MUR 584 in abeyance pending the Second Circuit's decision in CLITRIM.

By opinion dated February 5, 1980, the Second Circuit held that no case or controversy had been presented in that the TRIM Bulletin did not "expressly advocate" the election or defeat of a clearly identified candidate. The Court ordered the District Court to dismiss the Commission's complaint, which action was accomplished on April 11, 1980. A copy of the Court of Appeals' opinion is enclosed.

In view of the Second Circuit's opinion, the Commission concluded on   , 1980 that further action against Oregon TRIM Committee was not warranted. Accordingly, the file in the matter has been closed.

This matter will become part of the public record within thirty days. If you wish to submit any factual or legal materials to appear on the public record please do so within ten days.

If you have any questions, please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Gwendolen S. Buck
Bernstein, Zerbe and Buck
Post Office Box 607
Pacific Grove, California 93950

Re: MUR 690

Dear Ms. Buck:

This is in reference to the complaint you filed with the Commission on August 25, 1978, concerning the 16th Congressional District TRIM Committee. Based on your complaint, the Commission determined there was reason to believe that the 16th Congressional District TRIM Committee violated sections 433, 434(b)(13) and 441d of the Federal Election Campaign Act of 1971, as amended.

On August 1, 1978, the Commission had filed suit in U.S. District Court for the Eastern District of New York against the Central Long Island TRIM Committee on facts essentially identical to those set out in your complaint. Pursuant to 2 U.S.C. §437h(a), that suit was certified to the U.S. Court of Appeals for the Second Circuit for resolution of several constitutional issues which had been raised by way of defenses and counterclaims. Since the two cases were virtually identical, the Commission held MUR 690 in abeyance pending the Second Circuit's decision in CLITRIM.

By opinion dated February 5, 1980, the Second Circuit held that no case or controversy had been presented in that the TRIM Bulletin did not "expressly advocate" the election or defeat of a clearly identified candidate. The Court ordered the District Court to dismiss the Commission's complaint, which action was accomplished on April 11, 1980. A copy of the Court of Appeals' opinion is enclosed.

In view of the Second Circuit's opinion, the Commission concluded on   , 1980 that further action against 16th Congressional District TRIM Committee was not warranted. Accordingly, the file in the matter has been closed.

This matter will become part of the public record within thirty days. If you wish to submit any factual or legal materials to appear on the public record please do so within ten days.

If you have any questions, please contact Vincent J. Convery, Jr., the attorney assigned to this matter, at 202-523-4000.

Sincerely,

Charles N. Steele
General Counsel

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS

DATE: JUNE 18, 1979

SUBJECT: MURs 584, 689, 690, and 696 - Interim Investigative Report dated 6-8-79

The above-named document was circulated on a 24 hour no-objection basis at 4:00, June 14, 1979.

The Commission Secretary's Office has received no objections to the Interim Investigative Report as of 9:00 this date.

June 14, 1979

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MURs 584,689,690,696

Please have the attached Interim Invest Report on the above mentioned MURs distributed to the Commission.

Thank you.

BEFORE THE FEDERAL ELECTION COMMISSION

June 8, 1979

In the Matter of	)	
	)	
Oregon TRIM	)	MUR 584
Thirteenth District TRIM	)	MUR 689
California TRIM	)	MUR 690
Nassau County TRIM	)	MUR 696

INTERIM INVESTIGATIVE REPORT

Four matters presently pending before the Commission involve local TRIM committees as captioned above. These matters will be held in abeyance pending the decision of the United States Court of Appeals for the Second Circuit in Federal Election Commission v. Central Long Island TRIM Committee.

Date: 6/11/79

William C. Oldaker
General Counsel

FEDERAL ELECTION COMMISSION
1325 K STREET N.W
WASHINGTON,D.C. 20463

EXECUTIVE SESSION
April 19, 1979

April 12, 1979

MEMO TO: THE COMMISSION

FROM: William C. Oldaker
General Counsel

Charles N. Steele
Associate General Counsel

SUBJECT: Comparison of the AFSCME and TRIM enforcement proceedings and AOR 1978-62

Congressman Toby Moffett has requested an advisory opinion on behalf of Public Citizen, Inc. (AOR 1978-62). At the Commission's request, the General Counsel has examined the potential impact of proposed AO 1978-62 on actions that have been filed against the local affiliates of Tax Reform Immediately ("National TRIM") and against the American Federation of State, County and Municipal Employees ("AFSCME").[1] The thread that ties these cases together is the meaning of the statutory term "express advocacy"[2] and the

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[1] Federal Election Commission v. Northwest Jersey TRIM Committee, Civil Action No. 78-2025 (D.N.J., filed August 22, 1978); Federal Election Commission v. Central Long Island TRIM Committee, 78 Civ. 1658 (E.D.N.Y., filed August 1, 1978); and Federal Election Commission v. American Federation of State, County and Municipal Employees, Civil Action No. 78-2114 (D.D.C., filed November 7, 1978).

[2] Throughout this memorandum, the terms "expressly advocate," "express advocacy" and "expressly advocating" are used for the language utilized by Congress in amending the statute in 1976, subsequent to the Supreme Court's discussion in Buckley v. Valeo, 424 U.S. 1, 43-44 and n.52., of its difficulties with the potential scope of the statute. Congress put the term "expressly advocate," or variations of it, in five sections of the Act: 2 U.S.C. §§ 431(f)(4)(C); 431(p); 434(b)(13); 434(e); 441d.

EXECUTIVE SESSION
April 19, 1979

April 12, 1979

MEMO TO: THE COMMISSION

FROM: William C. Oldaker
General Counsel

Charles N. Steele
Associate General Counsel

SUBJECT: Comparison of the AFSCME and TRIM enforcement proceedings and AOR 1978-62

Congressman Toby Moffett has requested an advisory opinion on behalf of Public Citizen, Inc. (AOR 1978-62). At the Commission's request, the General Counsel has examined the potential impact of proposed AO 1978-62 on actions that have been filed against the local affiliates of Tax Reform Immediately ("National TRIM") and against the American Federation of State, County and Municipal Employees ("AFSCME").[1/] The thread that ties these cases together is the meaning of the statutory term "express advocacy"[2/] and the

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[1/] Federal Election Commission v. Northwest Jersey TRIM Committee, Civil Action No. 78-2025 (D.N.J., filed August 22, 1978); Federal Election Commission v. Central Long Island TRIM Committee, 78 Civ. 1658 (E.D.N.Y., filed August 1, 1978); and Federal Election Commission v. American Federation of State, County and Municipal Employees, Civil Action No. 78-2114 (D.D.C., filed November 7, 1978).

[2/] Throughout this memorandum, the terms "expressly advocate," "express advocacy" and "expressly advocating" are used for the language utilized by Congress in amending the statute in 1976, subsequent to the Supreme Court's discussion in Buckley v. Valeo, 424 U.S. 1, 43-44 and n.52., of its difficulties with the potential scope of the statute. Congress put the term "expressly advocate," or variations of it, in five sections of the Act: 2 U.S.C. §§ 431(f)(4)(C); 431(p); 434(b)(13); 434(e); 441d.

Commission's responsibility in determining how and when it will address that question. In fact, in some degree the question presented is whether the Commission should issue rulings, after examining documents, that particular communications do or do not "expressly advocate."

I. ADMINISTRATIVE PROCEEDINGS LEADING TO THE COURT CASES

All of the court cases resulted from complaints filed with the Commission which were resolved in the following fashion (See Attachment 1 for details, and details of related MURs).

The Central Long Island TRIM Committee ("CLITRIM") and the Northwest Jersey TRIM Committee ("NWJTRIM") both were local units of the National TRIM organization. Both local committees printed copy which had been sent to them by the National TRIM. This copy, as printed, included a "box score" which characterized the voting record of the locality's Congressional representative on various bills, the impact of which National TRIM deemed to be inflationary. The copy was printed as part of the TRIM bulletin - a single sheet, often folded, which, in addition to the ratings, contained material about TRIM. The Bulletin distributed by CLITRIM characterized the voting record of Congressman Jerome Ambro. Daniel C. Mooney complained to the Commission that the Bulletin was directed at defeating Mr. Ambro. The Bulletin distributed by NWJTRIM characterized the voting record of Congresswoman Helen Meyner. Complainant Robert C. Grant protested that it expressly advocated Mrs. Meyner's defeat without having the disclaimer required by § 441d. Conciliation efforts with CLITRIM failed, as the chairman of that organization asserted a constitutional right to print the Bulletin without having to report its costs pursuant to § 434(e) or to include a disclaimer required by § 441d. Conciliation efforts with NWJTRIM were unsuccessful, as the man who chaired NWJTRIM from its creation asserted that he was no longer the chairman and the individual he identified as being the new chairman advised the Commission that he had declined that position.

The AFSCME case arose indirectly from a complaint which involved the publication in a Wisconsin newspaper of a cartoon lampooning President Ford. One of the persons responsible for placing the advertisement indicated that she had obtained an original copy of the cartoon from AFSCME, and then caused it to be reproduced in the newspaper. AFSCME admitted that it had reproduced the cartoon and had distributed it among its membership. During the Commission's investigation, AFSCME advised the Commission of its costs. However, it also asserted a statutory and constitutional right to refrain from reporting those costs as part of its "Packwood" reports.[3/] Conciliation efforts were unsuccessful as AFSCME continued to assert that the cost of communication

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[3/] In connection with the 1976 General Election, AFSCME did report "Packwood" costs (see 2 U.S.C. § 431(f)(4)(C)) of approximately $17,000 in support of numerous Senate and House candidates, and of approximately $23,000 in support of the Carter-Mondale candidacy.

need not be reported as it did not "expressly advocate" election of Mr. Carter or defeat of Mr. Ford.

II. CONGRESSMAN MOFFETT'S ADVISORY OPINION REQUEST

On August 15, 1978, Congressman Moffett requested an advisory opinion concerning the application of the Act to certain activities of Public Citizen, Inc. According to Cong. Moffett's August letter and November supplementary response, Public Citizen is a non-profit, non-membership, tax-exempt corporation established to promote and publicize issues of importance and interest to consumers. To this end, it engages in litigation, lobbying and educational projects which Cong. Moffett believes to be "limited to the advocacy of its views on specific consumer issues." Congressman Moffett states that Public Citizen has not established a separate segregated fund to report and handle any expenditures in connection with a federal election, but asserts that Public Citizen never endorses particular candidates or advocates the election or defeat of any candidate.

Cong. Moffett states that Public Citizen wants to compile and distribute to selected members of the public (1) a chart characterizing Members of Congress on specific issues of interest to Public Citizen which compares each member's vote on specific legislation with Public Citizen's overall "pro consumer" position (2) detailed profiles of twelve Members of Congress of interest to Public Citizen which more elaborately describe these congressmen's attitudes towards their job and sets them off against Public Citizen's statement of its beliefs and (3) the tabulated results of questions it asks Congressional and Senatorial candidates to answer regarding the consumer issues it identifies as important. Cong. Moffett asks the Commission to conclude that none of Public Citizen's activities in distributing these materials are reportable under section 434(e) or are prohibited under section 441b.

III. STATUTORY PROVISIONS

The first of the five statutory provisions (see footnote 1) using the term "expressly advocate" is § 431(f)(4)(c), the "Packwood amendment," which was added in 1976 to require reporting the costs of a campaign by a labor organization or corporation of internal communications which "expressly advocate" candidate selection in a particular election. Initially proposed as part of the new section 441b, the conference committee broadened it to require reporting by <u>all</u> membership organizations (including labor organizations) as well as by corporations; since it no longer applied solely to § 441b organizations it was moved to its present location in the definition section.

Introduced and passed in the Senate with relatively little relevant debate, the provision underwent changes in conference, for which there is only suggestive legislative history. Not only did the conference broaden the class to which the requirement applied, it changed the requirement to include all costs of communication in the campaign rather than merely expenditures, removing part of the provision which stated that they would be reported in accordance with the requirements of § 434(e). The statute thus came to require the reporting of all costs of communications in campaigns to members and only where the costs for a particular election exceeded $2,000 for communications "expressly advocating."

The term "expressly advocate" is also prominent in § 441d, which requires for general public advertisements the identification of those financially responsible for communications "expressly advocating." Those financially responsible are divided into two groups: candidate authorized for which that is required to be stated, and; those unauthorized, which must name the person responsible. For both, the Congress explicitly required the Commission to write regulations; in accordance with the apparent interests of Congress, the Commission has restricted itself largely to regulations which define, physically, the term clearly and conspicuously. See C.F.R. 109.4.

Political committees are, of course, required to report expenditures for such general public advertising. Indeed, § 434 (b)(13) redundantly makes clear that, for political committees, independent expenditures (already defined by § 431(p) as those "expressly advocating") must be reported where they "expressly advocate," thereby accounting for two more uses of the term in the statute. The impact for political committees is thus the inclusion of the authorized language in § 441d in such general public advertising, and the requirement for a certification, under penalty of perjury, that the expenditure was independent.

For other than political committees, the impact, in conjunction with § 434(e), is to trigger the public disclosure and identification requirements. It is that requirement whose constitutionality was established by the court in Buckley which held that, as so construed, § 434(e) was constitutional; Congress drafted the 1976 version of § 434(e) to comport with that opinion. (H. Rep. No. 94-1057, Conference report, p. 38; FEC Legislative History (1976), p. 1032; S. Rep. No. 94-677, p. 6; FEC Legislative History (1976) p. 1032)

Commission regulations deal with the term "expressly advocate" in section 109 on Independent Expenditures, where § 109.1(b)(2) adds the language of the Supreme Court's footnote 52 in Buckley as examples ("including but not limited to") of "any communication containing a message advocating election or defeat." Section 114 which sets forth regulations for corporate and labor organization activity contains no separate provision for reporting of Packwood costs but does refer to the reporting requirements: the Commission regulations (11 C.F.R. 100.7b)(5); 11 C.F.R. 114.5(c)(2)(i)) require them to be reported separately, on Form 7.

IV. ANALYSIS

The cross-analysis of AOR 1978-62 and the three court cases appears simple because of the similarity of the statutory language employed by Congress in the five sections. Those provisions, however, have separate histories, and the Commission's overall approach to many problems is thus implicated. These problems are further complicated because certain questions-- e.g. the standing questions raised by the AOR-- involve other considerations about the Commission's power and responsibilities. This section thus starts with a short history of the various provisions.

A. Statutory History

1. History of 441b

a) General Background - 441b

Under 2 U.S.C. § 441b(a) "any corporation whatever" is barred from making "a contribution or expenditure in connection with any [Federal] election"; also, it is unlawful "for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section [§ 441b]." For purposes of § 441b, the term "contribution or expenditure" is defined as including "any direct or indirect payment, distribution... or gift of money, or any services, or anything of value... to any candidate, campaign committee, or political party or organization, in connection with any [Federal] election."[4/] In addition, the terms "contribution" and "expenditure" are defined by 2 U.S.C. § 431(e) and (f) to have certain meanings when used

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[4/] Commission regulations clearly indicate that corporations are barred from making independent expenditures except from a separate segregated fund. 11 C.F.R. 109.1(b)(1) and 114.4(a)(1). The Commission's Explanation and Justification of § 114.1(a)(1) states that it is intended "to make clear that corporations or labor organizations may not make independent expenditures on behalf of Federal candidates." House Document No. 95-44, page 101, January 12, 1977. 2 U.S.C. § 441b(b)(2)(C) permits any corporation to establish and administer a political fund and defray administrative expenses of the fund from general corporate funds. Such a fund, if established by Public Citizen, could defray the expenses of the voting charts. See 11 C.F.R. 114.5(i).

throughout the Federal Election Campaign Act of 1971, as amended.[5] Commission regulations specifically provide that activities permitted by Part 114 are not prohibited contributions or expenditures for purposes of 441b. 11 C.F.R. 114.1(a)(2).

The legislative history of 18 U.S.C. § 610 is replete with versions of § 610 that it was intended to bar use of corporate or union funds to influence political elections, to campaign for or against a (Federal) candidate. Senator Taft stated during the 1947 debates which were to make permanent the wartime extension of the original prohibition on corporations to labor organizations: "It is a question of fact: was the corporation using its money to influence a political election?" 93 Cong. Rec. 6439 (1947) He concluded that "the prohibition would not apply to merely a bare statement of actual fact and simply direct quotations... not colored in any way... [It] would depend in each case, on the character of the publication." 93 Cong. Rec. 6447 During those same debates it was made clear that opinion was decided as to whether the prohibition did extend to the printing of a public official's voting record. See, e.g. 93 Cong. Rec. 6446-6447 (1947).

5/ As a result of the 1976 amendments, 2 U.S.C. § 431 provides that when "used in this chapter [title and title IV of this Act]" the terms "contribution" and "expenditure" have the meanings given them in § 431. Before the 1976 amendments, the internal definitions of § 441b (then 18 U.S.C. § 610) were exclusive since 18 U.S.C. § 591, as amended by the 1974 amendments, provided that its definitions would apply: "Except as otherwise specifically

2. Hansen amendment in 1941 to § 610

The legislative history of the 1971 amendment to 18 U.S.C. § 610 ("Hansen amendment") reflects similar Congressional intent regarding the scope of the ban on corporate contributions and expenditures. In explaining his amendment which was eventually enacted (Public Law 92-225) Representative Hansen explained that the basic intent of 18 U.S.C. § 610 is to:

> prohibit the use of union or corporate funds for active electioneering directed at the general public on behalf of a candidate in a Federal election... The legislative history of section 610 demonstrates that it was not Congress' intent in passing this provision to completely exclude these organizations from the political arena...
>
> 117 Cong. Rec. 43379 (1971).

Mr. Hansen also pointed out that his amendment would require political activities of corporations and unions "that are designed to elect specific candidates... [to] be financed out of a separate political fund." Daily Ed. 11/30/71 H11480. Clearly, the financing of political activity designed to elect specific candidates

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5/ cont'd

provided." (88 Stat. 1268). 18 U.S.C. § 610 had other specific definitional provisions. See *Ash v. Cort*, 496 F.2d 416, 424 (1974) decided when, as now, the general definitional sections pertaining to § 610 did not have the specific exception language. This exception language is absent from 2 U.S.C. § 431, and 2 U.S.C. § 441b is one of the many sections to which § 431 applies. The Commission has never concluded whether the internal definitions only clarify or explicate the category of activities that are covered or excepted under 2 U.S.C. § 441b, or whether they continue to apply as an amplification of the § 431 definitions.

must come from a separate political fund because otherwise it is prohibited under the general rule barring contributions or expenditures "in connection with" Federal elections.

3. Packwood amendment in 1976

As reported out of Committee, the Senate version of the 1976 FECA Amendments S. 3065) contained substantially the same prohibition on contributions and expenditures by national banks, corporations and labor organizations as was contained in the old 18 U.S.C. § 610. Section 321(a) of the bill, in pertinent part, prohibited corporations and labor organizations from making contributions or expenditures in connection with any election for Federal office. Section 321(b)(1), in pertinent part, stated that contributions and expenditures "shall not include communications by a corporation to its stockholders and executive and administrative personnel and their families, or by a labor organization to its members and their families on any subject...."

To the latter provision, Senator Packwood offered the following amendment:

> "except that expenditures for any such communications which expressly advocate the election or defeat of a clearly identified candidate must be reported to the Commission in accordance with section 304(e)." Section 304(e), now codified as 2 U.S.C. § 434(e), required the reporting of independent expenditures made by persons other than political committees or candidates).

Passed in the Senate with relatively little debate, the provision was first subjected to change as a result of the Senate's acceptance of Senator Cannon's amendment in the form of a substitute to S. 3065.[6] That amendment changed the Packwood Amendment in the following particulars: (a) It removed the provision from Section 321 of the bill and placed it into Section 304(e); (b) It broadened the category of those entities which were required to report to include not only corporations, and labor organizations, and other membership organizations and; (c) It removed the term "expressly advocate" and replaced it with "explicitly advocates." (d) It instituted a threshold reporting amount of "$1,000 per candidate per election."

The provision underwent further changes in the Conference Committee, as follows: (a) It was made to require the reporting of all "costs directly attributable to communications which expressly advocated," rather than require the reporting of "expenditures for communications which explicitly advocate." (b) The requirement that the reporting be accomplished "in accordance with section 304(e)" or more specifically, "under paragraph (1) [of section 304(e)]" was deleted. (c) It provided for a reporting threshold amount of "$2,000 per election." (d) The entire provision, as so revised, was moved from Section 304(e) of the bill

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[6] The Packwood Amendment, as it appeared in Section 304(e) of the final Senate version of the 1976 Amendments, was as follows:

> "A corporation, labor organization or other membership organization which explicitly advocates the election or defeat of a clearly identified candidate through a communication with its stockholders or members and their families shall, notwithstanding the provisions of section 301 (f)(4)(C) [see 18 U.S.C. § 591(f)(4)(C), above], report such expenditures in excess of $1,000 per candidate per election under paragraph (1) to the extent that they are directly attributable to such communications."

(2 U.S.C. § 434(e)), and was placed into its present location in part of 2 U.S.C. § 431(f) which sets out those activities which are exempted from the term "expenditure."[7]

2. History of 437a

In the 1974 Amendments to the Act, Congress specifically focused on the expending of funds by any person[8] (other than an individual) to publish and distribute "to the public any material ... setting forth the candidate's position on any public issues, his voting records, or other official acts" (in the case of a candidate who holds or has held Federal office)" 2 U.S.C. § 437a.

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[7] As finally signed into law, the Packwood Amendment is as follows:

> "Expenditure' does not include any communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office except that the costs incurred by a membership organization, including a labor organization, or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed $2,000 per election, be reported to the Commission."

[8] The term "person" was then, and continues to be, defined in 2 U.S.C. § 431(h) as meaning, *inter alia*, an association, corporation and labor organization.

Section 437a required that the expending "person" file reports disclosing both the sources of funds used to carry out the described activity as well as the payments made from those funds. The reporting details for both receipts and expenses were to be the same as required from political committees. See 2 U.S.C. § 434. Section 437a was declared unconstitutional in Buckley v. Valeo, 519 F.2d 821 (1975) was not appealed to the Supreme Court and was repealed in 1976.

3. History of 434(e)

In Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court upheld the constitutionality of the predecessor of the present section 434(e). 424 U.S. at 76-82. The section which was before the Court in Buckley applied reporting requirements to "[e]very person ... who makes contributions and expenditures." Id. 424 U.S. at 77. The terms "contribution" and "expenditure" were defined by the Act in terms of the use of money or other valuable assets "for the purpose of .... influencing" the nomination or election of candidates for federal office. The Court expressed the view that the section was intended only to reach that activity which "expressly advocate[d] the election or defeat of a clearly identified candidate." As thus limited, section 434(e) was held not unconstitutionally vague and did not constitute a prior restraint on first amendment rights. Id. 424 U.S. at 81.

Following the Court's decision in Buckley, Congress amended the Federal Election Campaign Act and added the phrase "express advocacy" to section 434(e) and limited application of the section to persons" other than political committees and candidates."

4. History of 441d

Section 441d, which requires a statement of authorization or nonauthorization where a communication is one which expressly advocates the election or defeat of a clearly identified candidate was put in its present form in 1976. The forerunners of this section were 18 U.S.C. § 612 (which provided criminal sanctions for anyone willfully publishing or distributing communications relating to any person who had publicly declared his intention to seek federal office which did not contain the names of those responsible for the publication) and 2 U.S.C. § 432(e) (which required a statement of nonauthorization by any political committee which solicited or received contributions or made expenditures on behalf of a candidate). While these sections of the Act were not expressly discussed in Buckley v. Valeo, supra,[9/] the subsequent legislative amendment makes it clear that Congress considered them in the same light as §§ 434(e) and 437a.

B. Case Law

1. § 441b (§ 610)

In United States v. CIO, 335 U.S. 106 (1948), a weekly union periodical sent to union members which urged them to vote for

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[9/] A district court had expressly held 18 U.S.C. § 612 constitutional (United States v. Scott, 195 F. Supp. 440 (D.N.D. 1961)) while a circuit court had considered the section and refused to hold it unconstitutional. (United States v. Insco, 496 F.2d 204 (5th Cir. 1974)).

a particular Federal candidate was held to be outside the scope of activity prohibited by 18 U.S.C. § 610 (the predecessor statute to 2 U.S.C. § 441b). However, in United States v. UAW-CIO, 352 U.S. 567 (1957) the Supreme Court held that a union-sponsored (i.e. financed from general union funds) commercial TV broadcast to the general public containing a message influencing the electorate to select particular Federal candidates would be prohibited The Court stated:

> The evil at which Congress struck in [18 U.S.C. § 610 now 2 U.S.C. § 441b is the use of corporate or union funds to influence the public at large to vote for a particular candidate or particular party. Id. at 352 U.S. 589.

In its language remanding the case for trial, the Court indicated that the elements of establishing a violation of 18 U.S.C. § 610 required a showing whether the broadcast constituted "active electioneering or simply state[d] the record of particular candidates on economic issues? Did the union sponsor the broadcast with the intent to effect the results of the election?" Id. at 592. The Government's prosecution after remand resulted in a jury verdict of acquittal for the union. The charge to the jury pointed out the union's statement that the broadcast communication was made with the intent to affect election results through enlightening its own members and identified specific candidates.[10]

In United States v. Lewis Food Company, 366 F.2d 710, 712 (1966), the court, accepting the UAW rule that § 610 prohibited activity "designed to influence the public at large to vote for or against particular candidates," reversed the lower courts.

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[10] Labor Law Journal, CCH, October 1958, pages 733-735.

It had dismissed the indictment as failing to state a violation of § 610, on the ground that public ads purchased by the corporation were not active electioneering but merely stated voting records. The ad, in 35 newspapers, titled: IMPORTANT NOTICE TO VOTERS, urged voters to look at their candidate's voting record, and vote for candidates who believe in "constitutional principles."[11/] The Court of Appeals remanded the case for trial on whether the ad went beyond the bounds of only publicizing the voting record of Federal candidates but, rather was not intended to give an objective report on the voting records. The court noted that the ads made plain the corporation's opinion that those officeholders given low ratings on votes "in favor of constitutional principles" should not be re-elected. *Id.* at 712.[12/]

A substantial number of other lower Federal court cases have reviewed the scope of § 610 prohibitions in light of the constitutional considerations underlying the cited Supreme Court decisions. These cases fall into two basic categories of transactions where corporate or union funds were contributed or expended. One

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[11/] A listing then followed naming 32 Federal officeholders (and 120 State legislators) representing California, many of whom were candidates to be selected in a California primary held the day after the ad appeared. Next to each name was a percentage rating based on the listed officeholder/candidates' "votes in favor of constitutional principles." The voting record was not described in any detail or manner other than to state the corporation's appraisal by a percentage rating.

[12/] The trial resulted in a plea of *nolo contendere* by the corporation and a fine of $100. "Corporations and Labor Unions in Electoral Politics," Annals, AAPSS, 425, May 1976, page 39, footnote 21.

category, by far the larger of the two, covers transactions where money (or thing of value) is conveyed by the corporation or union to a candidate or political committee, the committee thus acquires the capacity to expend the funds (or consume the thing of value) for the purpose of promoting or advancing his/her campaign, or carrying out the political function and purposes of the recipient organization.[13] The second category of cases involves transactions where the corporation or union spent funds to finance political communications that reached the public but no money or anything of value which the candidate (or committee) could then expend or consume for campaign purposes was actually conveyed.[14]

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[13] *United States v. Pipefitters Local No. 562*, 434 F.2d 1116 (8th Cir. 1970), rev'd on other grounds, 407 U.S. 385 (1972); *United States v. Silverman*, 430 F.2d 106 (2d Cir. 1970); *United States v. Boyle*, 482 F.2d 755 (D.C. Cir.), *cert. denied*, 414 U.S. 1076 (1973); *Miller v. American Telephone and Telegraph Company*, 507 F.2d 759 (3d Cir. 1974); *United States v. Barket*, 530 F.2d 181 (8th Cir. 1975), 530 F.2d 189 (8th Cir. 1976); *United States v. Construction & General Laborers Local Union #264*, 101 F. Supp. 869 (W.D.Mo. 1951); *United States v. First Nat'l Bank of Cincinnati*, 439 F. Supp. 1251 (S.D. Ohio 1971); *United States v. Chestnut*, 394 F. Supp. 581 (S.D.N.Y. 1975), aff'd, 533 F.2d 40 (2d Cir.), *cert. denied*, 429 U.S. 829 (1976); *United States v. Russell*, 415 F. Supp. 9 (W.D. Tex. 1975); *United Statcs v. Clifford*, 409 F. Supp. 1070 (E.D.N.Y. 1976); *United States v. Phillips Petroleum Company*, 435 F. Supp. 622 (N.D. Okl. 1977); *Federal Election Commission v. Weinsten*, 462 F. Supp. 243 (S.D. N.Y. 1978).

[14] *United States v. Painters Local Union No. 481*, 172 F.2d 854 (2nd Cir. 1949), rev'g 79 F. Supp. 516 (D. Conn. 1948); *United States v. Lewis Food Co.*, 366 F.2d 710 (9th Cir. 1966), rev'g 236 F. Supp. 504; *United States v. Anchorage Central Labor Council*, 193 F. Supp. 504 (D. Ala. 1961). The lower court decisions in *Ash v. Cort* considered corporate expenditures for public political messages but in view of Supreme Court reversal are of dubious effect. See *Cort v. Ash*, 422 U.S. 66 (1975) rev'g *Ash v. Cort*, 496 F.2d 416 (3rd Cir. 1974), see also *Ash v. Cort*, 350 F. Supp. 227 (E.D. Pa. 1972).

Since the *Pipefitters* decision, the major decision by the Court on the subsequent amendments to what is now § 441b is the opinion in *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978), which expressly stated that its decision invalidating a state restriction on corporate expenditures to influence voting on referenda issue did not speak to the prohibition of § 441b (435 U.S. at 788 n.26). It expressly ruled that the question it answered was the balance for the public good in having corporation (or union) expenditures, not whether such organizations have first amendment rights independent of their members. 435 U.S. at 775-776 Thus, the extent to which any of the constitutional analysis in *Buckley* affects the separate status of § 441b organizations has never been ruled upon.

2. Case Law - 434(e), 441d and 437a

While *Buckley v. Valeo*, 424 U.S. 1 only discussed 434(e) its analysis was deemed by Congress as applicable to 441d, which was also amended in 1976. Moreover, while the Supreme Court itself did not rule on 437a, its opinion leads to the conclusion that, had the Court of Appeals decision been appealed, it would have been affirmed.

In fact, courts had earlier expressed doubts about the reach of the statutory provisions as applied to groups whose only connection with the Act was publishing material about candidates. In *U.S. v.*

National Committee for Impeachment, 469 F.2d 1135, 1142 (2nd Cir. 1972), the court concluded that the Act could not be construed to deem an *ad hoc* group to be a political committee solely because of publication of an ad which named candidates. A similar result was reached in *ACLU v. Jennings,* 316 F. Supp. 1041, 1057 (D.D.C. 1973)(3 judge court), vacated as moot sub. nom. *Staats v. ACLU*, 422 U.S. 1030 (1975), where the court said the reporting and disclosure requirements must be restricted "only to committees, soliciting contributions or making expenditures *the major purpose of which* is the nomination or election of candidates." (Emphasis added) In short, the courts, in construing the Act, have always concluded that the public interest in disclosure by groups only occasionally publishing material which would influence an election is for less substantial than for groups regularly seeking to influence the election process; conversely the danger in chilling rights of association and expression are at their highest for such groups who must not be deterred from such communications from fear that having to report will force disclosure. Section 434e reflects that difference, and triggers reporting only if the communications expressly advocate; a corollary underlying that concludion in that the existence of the obligation to report must be clear.

C. Summary

1. § 441b

The longstanding interpretation of § 441b (§ 610) as prohibiting both contributions and expenditures directed at the general public has been reaffirmed by Congress in successive enactments. The prohibition has always been considered to reach broadly, balanced by the dual protection for internal communications and for external communications financed by the organization by voluntary contributions from the members.

The suggestion is made that doubt is cast on the underlying premises by *Buckley v. Valeo*, 424 U.S. 1 and *First National Bank v. Bellotti*, 435 U.S. 765. Yet nothing in either of those cases suggests that the Court has concluded that Congress cannot constitutionally impose stricter regulations on 441b organizations. *Bellotti* itself explicitly states that it is not premised on the fact that the corporation there had first amendment rights like unto those of individuals. Rather, the court premised its conclusion not on corporate rights, but upon the broader implications of the first amendment upon communication, and the remoteness of the interests in restricting corporate expenditures on specific legislative questions on the public ballot for referendum vote *Bellotti*. In fact, the court explicitly acknowledged that the prohibition of independent expenditures by corporations with regard to candidates posed entirely different considerations, and could, constitutionally, be found by Congress to warrant control. *Bellotti*, 435 U.S. at 788, n.26.

Buckley v. Valeo, 424 U.S. 1, presented even a more remote expression on the Congressional prohibition of contributions and expenditures by corporations and labor organizations. No attack was launched on the sections dealing with those categories of organization; presumptively, therefore, the opinion does not speak to those questions. Absent the assumption that corporations or labor organizations are identical for all constitutional purposes to individual citizens, there is no reason to assume that implications from the Buckley opinion. Numerous decisions by the Court reject that assumption and conclude that the power accorded both corporations and labor organizations is so great as to warrant special regulation.

2. § 434(e)

In contrast, Congress, at the urging of the courts, has concluded that the interest in disclosure for groups who do not regularly participate in electoral politics or a political committee, is extremely truncated. Only a clear showing that the literature in question was designed to influence elections by expressly advocating would support a reporting requirement.

3. § 437a - Voting Charts

Courts have warned that, in addition to the narrow scope of the statute for certain types of organizations, they wil require for certain types of materials-- most particularly, voting charts-- a strong showing that the interest in distributing them was to influence an election above and beyond the mere publication of them. Congress has adopted that reading by repealing section 437a.

V. CONCLUSION

A. Effect of the Originally Proposed AO

The impact of the original proposed advisory opinion (Att. 2) would result from the Commission's conclusion that the documents do not "expressly advocate," a ruling which would, as its premise, conclude that nothing was relevant to the decision except the documents in question. In the context which has generally been considered to present the strongest case for protection of the electoral process from both the actuality and the appearance of improper influence--that of a corporation directly spending its treasury funds in connection with elections-- the Commission would effectively approve any use of the particular documents, on the grounds that they did not represent express advocacy. There seem to be at least three direct results:

(1) the Commission would decide that, for 441b organizations, any communications to the general public would not have to be financed through a separate segregated fund unless they directly advocated the election or defeat of a particular candidate;

(2) the Commission would decide that it was its responsibility to issue such "direct advocacy" rulings, rather than concluding that, where complaints about particular materials were received, it should place the issues before the courts if it finds probable cause to believe that either the reporting or disclaimer requirements have been violated, on the basis of the documents and other evidence relating to their distribution and the organization which distributed them.

(3) the Commission would decide that only the documents themselves, not extrinsic evidence such as method and timing of distribution (before the election, in the district), statements by persons responsible, etc. were relevant to the statutory questions. In effect, the Commission would accept the responsibility to examine, document by document, materials placed before it.

These results raise certain problems.

(1) This conclusion should not be reached, at least not without an extensive reworking of the regulations, which are certainly premised on the opposite conclusion. The overall structure of the Act which bans contributions or expenditures for § 441b organizations, unless financed through a separate segregated fund and the long legislative history negate the conclusion that Congress intended that the statutory provisions were to be read so narrowly. Nothing in the *Buckley* or *Bellotti* decisions reaches the conclusion that Congress constitutionally cannot so structure the limitations and disclosure law for § 441b organizations. In fact, much in both those decisions supports the conclusion that the court has always felt that Congress could so classify organizations and corporations. In any event, the conclusion that the law should be so narrowly construed would certainly seem one appropriate for public debate.

Moreover, while the initially proposed AO does not directly rule on the issue, Public Citizen's request-- emphasizing the non-profit, non-membership, tax exempt status-- suggests the argument that § 441b must be construed so as to allow certain classes of organizations which utilize the corporate form not to fall under its limitations. Arguments that particular types of corporations should not be covered are among the commonest made to the Commission and the courts. While the Commission has rejected that view, the questions have caused debate with regard to particular kinds of corporations. See, e.g., AO 1977-32. Moreover, while the 1976 amendments demonstrate that Congress intended to cover more than solely business organizations, they did not directly bar the Commission from also concluding that within the broadened class, distinctions might be necessary. The AOR demonstrates-- as do court cases-- that the two propositions are interrelated. Public comment on how to balance the competing interests would seem appropriate in such circumstances.

2(a) With regard to the Commission's issuance of "directly advocating" rulings the statutory scheme suggests that, for political committees and § 441b organizations the statutory terms "in connection with" and "for the purpose of influencing" deliberately overlap so that those organizations with "expressly advocate" must report broadly, including within its reports, as a separate narrow category, independent expenditures "expressly advocating." It would seem that the orgindary responsibility of the Commission is not to issue "expressly advocating" rulings.

(b) Thus, only with regard to organizations other than political committees or § 441b organizations would it ever seem necessary that the Commission rule whether a particular activity "expressly advocated." Even in those instances, it seems likely that the actual question will in many cases be whether a particular organization, is actually operating as a political committee.

(3) It may be that the Commission should conclude that extrinsic evidence of the intent of the organization distributing materials naming candidates is not relevant to their reporting requirements. Here, again, that conclusion should only be reached after regulatory debate and articulation. Certainly, it is hard to conceive that the Congress which passed the Act so intended. Moreover, footnote 52 of the Court's opinion in *Buckley* does not directly bar any examination of extrinsic evidence.[15] The Commission, in its regulations, did not reach that conclusion, rather, it adopted the magic words only as examples in § 109.1(b)(2).

Issuance of the original advisory opinion would undercut the present court cases, and the Commission should then seek a non-suit for them. Both AFSCME and TRIM would be able to argue to the courts initially that they were being sued only because they did not obtain prior opinions - express advocacy rulings. Decision in the Commission's favor would require convincing the court that, if Public Citizen's materials did not "expressly advocate," it was sufficiently clear that TRIM's and AFSCME's did to distinguish the cases. On the face of the materials, such a distinction seems difficult to establish, much less to

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[15] Defendants in all cases argue strenuously that it bars any examination of motive or intended effect.

establish with the clarity that the court would require. As TRIM involves "vote rating charts," it would be able to contend that even if the court were to conclude that some differences existed between its presentation and that of Public Citizen, the decisions by the courts in Buckley made clear that courts should scrutinize with particular care not only the impact on such organizations but also the reach of materials such as voting charts. While AFSCME does not involve a voter rating, and might well be easier to distinguish from Public Citizen on that count, nonetheless it will have a strong argument that internal communications have always called into question constitutional guarantees far stronger than any involving external communications as well as the argument that the effect of the new amendment and the Commission's then only proposed regulations did not clearly require reporting as part of its campaign of direct advocacy for candidate Carter, the costs of a communication lampooning then the candidate opponent, President Ford. There are thus several arguments on which the courts are likely to dispose of the Commission's cases.

B. Alternate Courses

(1) Non issuance of an advisory opinion

The Commission has already tentatively concluded that Cong. Moffett has no standing to obtain an advisory opinion with regard to the "voter profiles" and the "issue questionnaires." That conclusion rests on two propositions: (1) with regard to neither has Cong. Moffett any "personal" involvement-- he is not the subject of the voter profile and he is not involved in distributing the results of the questionnaires, he merely has answered them and (2) with regard to the questionnaires, there is an insufficient lack of facts to establish any connection between Moffett and that activity. In contrast, the Commission's tentative conclusion on the voting chart was that, Cong. Moffett had established that he might potentially be subject to the Act because, since the voting chart listed him, he might be deemed to have accepted a contribution because Public Citizen's expenditure was incurred on his behalf.

The proposed opinion thus leaves many of the central issues raised by Cong. Moffett's request unanswered, presumably to be resolved by other methods. i.e. regulations. In fact, as noted in section C, the General Counsel submits that the Commission should in any event, give priority to rewriting Part 114 of its Regulations to deal both with these problems and other problems relating to the Commission's overall approach to 441b, and should so state in whatever opinion it decides to issue.

It may be argued Cong. Moffett has neither established sufficient harm to his interest to establish standing and nor afforded sufficient facts to enable the Commission to render an advisory opinion even on the voting charts issue. Alternatively, it may be argued as the "voting charts" issue presents a severable question, it is submited that a narrow opinion, could issue effectively deciding that the cost of preparing such "voting charts," (at least so long as they are non-partisan, rating particular votes, on a uniform basis), is (or is not) an expenditure within the meaning of the Act.

The conclusion that Cong. Moffett has standing is predicated on the possibility of his having accepted a contribution because Public Citizen incurred an expenditure on his behalf. By finding standing, the Commission would conclude that the principle question relevant to the determination of whether, in fact, a candidate such as Moffett accepts a contribution is whether a corporation publishes such material. Standing is thus predicated on the absence of any activity by him-- or over which he has any influence-- only on activity by a third person-- Public Citizen.

In effect, the conclusion that Cong. Moffett has standing would establish the precedent that the Commission advisory opinion function, includes the duty to tell candidates whether particular documents which name them are, or are not, contributions to their campaigns. The Commission indicates that candidates having standing to ask if particular activities would be attributable to them.

(2) Issuance of a Narrow Advisory Opinion

If the Commission concludes that Cong. Moffett has standing to obtain an advisory opinion with regard to the voting charts, it is submitted that that decision can well be resolved on narrower grounds than those heretofore advanced. The underlying basis for that approach would be to conclude that voting charts represent a particular class of material which, for purposes of the Act, should not be considered expenditures. Thus, rather than conclude that they are expenditures, but not express advocacy, the Commission could conclude that, with regard to the underlying statutory scheme and constitutional considerations, the production of voting charts like those submitted, which present overall ratings of Members of Congress, should be exempted from the definition of 'expenditure.' Thus, like voter guides and other types of brochures (see 114.4(c)(3)), and get out the vote activities, the Commission could conclude that voter charts do not favor one candidate over another except by reference to issues voted upon; where the materials are obtained from the public record, even though their distribution may, in fact, affect a candidate, and even though the organization distributing them is effectively "politicking"-- trying to convince voters that some representatives have done well by them and other have not-- those considerations do not outweigh the public benefit to encouraging the distribution of such material. But see, AO 1978-18; O/R 790.

C. Regulations

The term "expressly advocate" has been placed in the statute at some of the most critical and hotly debated balance points in the Act. As such, clarification of its definition should seemingly be of great public interest. Yet in 1976, during the regulatory hearings, only one comment was received directly addressing it-- that of Washington attorney John R. Bolton who argued that the Commission should adopt the words, used as illustrations in footnote 52 of Buckley, as an all inclusive definition. The Commission then rejected that view, adopting them instead as illustrations of express advocacy, for purposes of the rules pertaining to independent expenditures (Part 109). And when the Commission expressly sought comment for possible regulations on independent expenditures, it again elicited only one comment-- a reiteration of his earlier suggestion by Mr. Bolton.

When ostensible concern for an issue raises only public apathy rather than comment the focus of the inquiry has presumably been wrong. Indeed, the very difficulty the Commission has had in arriving at a commonly understood framework for analyzing the questions suggests a similar conclusion. The following suggestions are meant to suggest a different framework in which the Commission could address these problems.

The essential nature of the suggestion is that the Commission should address the regulation process not to the abstract definition of terms but rather at the organizations, or representatives of groups which may have reporting responsibilities. While the Act does not rigorously classify organizations, certain groupings, automatically appear: e.g. corporations and labor organizations, and the separate segregated funds under 441b; political parties; principal campaign committees. Moreover, as noted parties commonly complain that they are not properly subject to the Act because they are a particular type of organization: e.g., municipal corporations, not for profit corporations. And courts have frequently articulated the view that it is the "primary purpose" of the organization which determines the balance of whether there is a public interest in requiring public disclosure.

Directing regulations at particular groups should also have practical effects. Representatives of the special interests involved can be identified and contacted for direct comment on how the regulatory process can permit them to comply with the statute in the easiest manner. Illustrations of the requirements can be more sharply directed to those involved and the interests involved more clearly articulated. In the context of the problems raised by the present cases, the framework would suggest that the Commission direct its regulations, not to the meaning of express advocacy, but to different organizations to inquire where that definition has caused them problems in understanding the requirements of the Act.

For organizations covered by 441b, such inquiries should be part of an overall reevaluation of the regulations in Part 114. While experience would suggest that few organizations have had the difficulty that Public Citizen has had in determining what external expenditures were prohibited (except through a separate segregated fund) it may well be that the reach of the statute for both internal and external communications can be clarified.

Eliciting comment on some of the specific problems raised should help the Commission in an overall reexamination of the 114 Regulation. I.e., the specific question of whether 441b organizations conceivably only have to report a particular communication which "expressly advocates" would certainly touch on the question of how the specific history of § 441b alters the overall definition of 431. Moreover, other specific questions whether separate, segregated funds can solicit members to give directly to a candidate--have already raised the question of the reach of the internal communications exception in other cases.

D. Effect of the Alternatives on the Court Suits

1. Refusal to issue an advisory opinion

That response should presumably have little affect on the cases. The Commission's success would then depend upon the courts' views on the clarity of the contents of the statute and the regulations. While those suits may well be successful, recent experiences-- e.g. FEC v. CCP; FEC v. CFR-- suggest that the courts may well consider that more definitive regulations are necessary to permit enforcement of the Act e.g. that Packwood regulations didn't make clear the extent of the responsibility to report as part of a communication campaign to members on behalf of a candidate lampooning, material about his opponent sent to the same audience. Or, with regard to TRIM, that regulations more precisely indicating what words or activities other than the magic words of n.52 would trigger reporting have never been debated.

2. Narrow Advisory Opinion

The narrow advisory opinion would limit the effect on the court cases. With regard to AFSCME, it would seem to have only a slight effect: that if a corporation in its external communications can report on voting records, an internal communication commenting on a public act by the executive-- the pardon of President Nixon-- would involve identical considerations. Cf. repealed 437a. Again, given the greater constitutional protection for internal communication, the court might well conclude that the balance should here lie in favor of AFSCME, at least until more detailed regulations have been devised. The effect on TRIM would be similar, but more direct: particularly in light of the constitutional case history of 434(e) and 441d, the courts would probably be prone to accept the argument that the TRIM ratings do not materially differ from those advanced by Public Citizen.

3. Regulations

Again, the effect of regulatory proposals, when they were to seek commentary on the meaning of the term "expressly advocate" would not be direct. Nontheless, the courts' tendency to focus on lack of regulation as a reason for nonenforcement, suggests that announcement of regulatory hearings might well be used as an admission by the Commission that the law was not clear at the time suit was filed. That effect is not necessarily greater than the implicit admission to that effect that arguably arises from the very reconsideration which is involved in this memorandum.

RECOMMENDATION

1. The Commission should seek permission from the courts to withdraw the AFSCME and TRIM suits. Neither presents a strong vehicle for resolution of the issues involved; the courts are likely to conclude that the Commission's regulatory scheme should be made more precise before individual enforcement actions are undertaken. Withdrawing the suits in favor of regulation hearings on discrete issues involved will enable the Commission at least to solicit comments from the organizations on what factors they consider relevant to the Commission's determinations as to whether or not they have fulfilled the reporting requirements, both for political committees and other organizations.

2. If the Commission agrees that the presently drafted AO speaks too broadly, it may conclude either that

(a) no advisory opinion should issue

(b) a restricted advisory opinion, limiting the analysis to the question of whether "voting charts" are, or are not expenditures, without ruling on "express advocacy", should issue

(c) both alternate opinions should be drafted, and discussed in conjunction with the earlier response.

3. The Commission should conclude that a priority in its redrafting of the regulation is to examine Part 114 together with Part 109.5.

APPENDIX I

A. Pending Enforcement Actions

(1) FEC v. AFSCME (C.A. No. 78-2114, D.D.C.)

The Commission's enforcement proceeding (MUR 449) and subsequent suit against the American Federation of State, County and Municipal Employees ("AFSCME") arose out of MUR 352 which involved the Citizens Against Corrupt Government ("CACG") of Mauston, Wisconsin. CACG had purchased space in a local newspaper to run a political advertisement consisting of a cartoon which depicted Gerald R. Ford embracing Richard M. Nixon. The cartoon contained the following text: "'I can say from the bottom of my heart - the President of the U.S. is innocent and he is right.' July 25, 1974, Muncie, Indiana (Ford speaking of then President Richard M. Nixon)." Additionally, the caricature representing Mr. Ford wore a lapel button bearing the words: "Pardon Me."

Although the advertisement contained a statement indicating that it had been "authorized and paid for" by CACG, it did not reflect information as to whether it had been authorized, or had not been authorized, by any candidate, his authorized political committees or their agents. On January 27, 1977, the Commission found reason to believe that CACG may have violated 2 U.S.C. § 441d.

During the investigation of MUR 352, representatives of CACG indicated that the Nixon-Ford advertisement had been copied from a poster printed and distributed by AFSCME. In response to Commission inquiries, the Assistant Director of AFSCME's business office provided an affidavit in which he stated that AFSCME spent $383.73 in preparing the Nixon-Ford poster. The union then distributed the poster to AFSCME officials (i.e., to all AFSCME International Vice-Presidents, to the chief executive officer of each AFSCME council, to the president of each AFSCME local and to each AFSCME International Union Area Director)[1], and to staff members at AFSCME headquarters in Washington. He stated that there was no intentional distribution to members of other unions or to members of the general public. The affiant estimated AFSCME's costs in distributing the poster as $600. He stated that the costs of preparing and distributing the poster had not been included in AFSCME's reports of communications costs. (Pursuant to 2 U.S.C. § 431(f)(4)(C), AFSCME had reported more than $40,000 in communications costs ("Packwood" costs in connection with the 1976 General Election).

(2) The TRIM Cases

Several of the pending enforcement matters related to the problems addressed in this memo deal with complaints about local TRIM organizations. The local groups were apparently aided and

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[1] The President of the AFSCME local in Mauston was a member of CACG.

established by the National TRIM[2] so review of these cases involves an overview of the National TRIM and its relationship to the local group.

National TRIM is an ad hoc committee of The John Birch Society established in 1974 as a "network of local and regional committees with national headquarters in Belmont, Massachusetts.[3] TRIM's purpose is "to inform the American people as to the need for lowering taxes through less government." The National headquarters establishes policies and procedures which it expects the local TRIM committees to follow and which it seeks to enforce. The National TRIM Chairman has been quoted as saying that in 1976 190 committees distributed the Fall 1976 issue of the Bulletin, which contained characterizations of individual voting records.[4]

2/ The John Birch Society published a pamphlet entitled "WHY TRIM," which was described on the top of its first page to be "A Preliminary Statement for a Major New National Program." The pamphlet explained that the organization, form, management, and direction of these committees would be started by the field staff and voluntary leadership in the field of The John Birch Society.

3/ The Administrative Assistant of National TRIM wrote the Commission on September 2, 1977, that TRIM "is nationwide and was launched several years ago as an Ad Hoc Committee of The John Birch Society" and that "its organizational base is spread throughout the country in a network of local committees," September 2, 1977 Letter from Charles O. Mann to Charles N. Steele.

4/ The National Director of TRIM, in an affidavit filed in one of the pending lawsuits, revised that figure to approximately 156 local committees. He further estimated that as of December 13, 1978, there were approximately 271 local committees affiliated with TRIM.

National TRIM had advised the Commission that local and regional TRIM committees engage in various activities, other than distributing TRIM Bulletins, including sponsoring speakers, distributing literature, writing letters, and showing films.[5] Additionally, articles report that TRIM committees sponsor award dinners. We have no information on how much time the committees devote to any particular activity in general, or whether they all engage in the same activities. We also have no knowledge of the source of National TRIM's same activities. We also have no knowledge of the source of National TRIM's funds, and little information on the source of the local committees' funds.[6]

The printed matter in all of the pending TRIM cases is the TRIM Bulletin and, in two cases, local newspaper advertisements. In all examples known to us, a four page pamphlet, apparently prepared quarterly. Generally three pages[7] contain

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5/ September 2, 1977 Letter from Charles O. Mann to Charles N. Steele.

6/ James J. Hogan, former Chairman of The Northwest Jersey TRIM Committee, has testified that the Committee derived money from membership dues and from other individuals. Similarly, Edward Cozzette, former chairman of CLITRIM, has filed an affidavit in the pending litigation, stating that his committee raised approximately $300, including $20 from each of five members.

7/ Two of the four pages of the Fall '76 TRIM Bulletin were devoted to the voting record.

a discussion of issues related to government spending and advocate "LOWER TAXES AND LESS GOVERNMENT." A fourth, and often last page, contains the name, address and picture of a member of Congress for the area in which the specific Bulletin is to be distributed, with a chart consisting of "colored descriptions" and editorial comments regarding specific legislation and a statement of whether TRIM believes the representative in question voted for "HIGHER TAXES AND MORE GOVERNMENT" or for "LOWER TAXES AND LESS GOVERNMENT." Voting records have been printed for representatives who both support and oppose TRIM's position on the issues, and, in at least one instance, a voting record was published where the votes were evenly divided.

The National TRIM provides the local and regional organizations with "photo-ready" copy; generally, the first pages of the Bulletin are identical throughout the country, except for the insertion of information relating to the local committee, such as address, sponsors and/or executive committees. The National TRIM prepares the fourth page by selecting the legislation reviewed, writing the commentary on the bills, preparing a list on how all members of Congress voted and inserting an "X" in each of the boxes comprising the voting chart. The local TRIM organization completes the voting chart by removing "Xs" from certain boses so that the record will state the characterization of how the local congressperson voted.[8] The local committee reproduces and distributes the Bulletin.[9] The voting chart alone has also been reproduced as an advertisement in local newspapers; we have no information on whether National TRIM or the local affiliates paid for these announcements. Additionally, in at least one instance, a candidate reproduced the TRIM voting record of his opponent as part of a newspaper advertisement.

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[8] In one instance known to the Commission, however, two representatives were rated in the same issue but not on all of the same votes. The Winter '78 issue of the TRIM Bulletin distributed by the Greater Tulsa TRIM Committee rated Rep. James R. Jones on ten votes while the Oklahoma City TRIM Committee rated Rep. Edwards on only seven of the ten votes, and included an explanation justifying a vote by Rep. Edwards which was in the "HIGHER TAXES AND BIG GOVERNMENT" column. According to a newspaper column, favored votes received red marks, disfavored black. Rep. Edwards' vote for which a justification was provided, received a favorable red mark. Rep. Jones voted the same way on that bill; however, no such favorable explanation was included in his record. Rep. Jones had seven votes for "HIGHER TAXES AND BIG GOVERNMENT" and three votes for "LOWER TAXES AND LESS GOVERNMENT." According to the columnist, the representatives voted differently on only one of the ten bills and if Rep. Edwards had been graded the same way as Rep. Jones, he would have received four correct and six incorrect marks, instead of the five he effectively received. Whether the decision to rate the two differently was made nationally is not known. This is the only incident of this type presently known to the Commission.

[9] That TRIM distributes these bulletins in the hope that they will influence elections is suggested by the following statement in the December 1976 issue of The John Birch Society Bulletin:

> The members of the Southeast Iowa TRIM Committee also deserve our congratulations for their

(a) Court Cases

(i) FEC v. CLITRIM et al., 78 Civ. 1658 (E.D.N.Y.)

The Commission filed suit on August 1, 1978, against the Central Long Island TRIM Committee (CLITRIM), and its former Chairman, Mr. Cozzette, naming National TRIM as a defendant necessary for relief. The complaint alleged violations of sections 434(e) and 441d in failing to report expenditures for printing and distributing copies of the Bulletin in 1976 which contained the voting record of Congressman Ambro. The case arose from a complaint by Daniel C. Mooney. The Bulletin did not mention Mr. Ambro's party affiliation nor that he was then running for reelection, nor say that he should be elected or defeated.

9/ cont'd

efforts in educating the taxpayers in the first district of Iowa. They distributed 20,000 Fall '76 Bulletins, mostly in counties where the ultra liberal incumbent was heavily favored. Any analysis of the race in these counties showed the Con-ressman just barely running ahead. Everywhere the Congressman went publicly, especially at speaking engagements, the TRIM Committee members were there handing out TRIM Bulletins. As a result the Congressman ended up by being soundly defeated in his bid for reelection. (Emphasis added.)

An article in the April, 1977 edition of American Opinion discussed TRIM extensively, and included some specifics concerning the Iowa effort to defeat Congressman Mezvinsky:

> "early in 1976 - long before Democrat and Republican Party workers went to work; long before Leach was nominated to oppose Mezvinsky - TRIM distributed ten thousand copies of the Bulletin in the District. At midyear, the TRIMmers unleashed another fifteen thousand copies. And, during the campaign, they dropped another twenty thousand, specifically aimed at areas where Mezvinsky was heavily favored." American Opinion at 53-54.

In affidavits filed in the court case Mr. Cozzette has stated that CLITRIM was formed in the Summer of 1976 and that the members of CLITRIM envisioned that the Committee would function on a year round basis. In addition, he stated that the members thought that about 25% of their time would be spent on matters relating to the Bulletin, with the bulk of their activity being devoted to other forms of public education, membership solicitation and fundraising. According to the former chairman, CLITRIM, in fact, only met approximately five times, and in September 1976 the committee only raised a total of $300, of which $135 went to print the Bulletin. Whether additional money was raised before or after is not known. According to Mr. Cozzette's affidavit, the Bulletin itself was only handed out by the individual committee members on three of four occasions and the organization disbanded in the Spring of 1977 due to a lack of public interest. Defendants CLITRIM and Cozzette have filed a motion to dismiss and/or for summary judgment claiming, that the statutory provisions sought to be invoked do not apply to them and, if they do, would violate the defendants' first amendment rights; to dismiss for failure to state a claim on which relief may be granted all claims against CLITRIM for injunctive relief; and to dismiss all claims against CLITRIM on grounds of insufficiency of service of process, lack of personal jurisdiction.

On January 25, 1979, Judge Pratt, pursuant to § 437h, certified questions on the constitutionality of the statute to the United States Court of Appeals for the Second Circuit. The questions are quoted in their entirety in the body of the memorandum at . At the same time, Judge Pratt stayed further proceedings in the district court; as of that time, National TRIM had filed a counterclaim, an official of National TRIM had moved to intervene to bring the same counterclaim and defendants Cozzette and CLITRIM had filed a motion to dismiss and/or for summary judgment. Counsel for defendants CLITRIM and Cozzette filed a motion for remand with the Second Circuit on March 27, 1979.

(ii) FEC v. Northwest Jersey TRIM, et al. (D.N.J.)

The Commission filed suit against the Northwest Jersey TRIM Committee ("NJTRIM") based on a TRIM Bulletin printed and distributed in 1976, characterizing the voting record of Helen Meyner. The complaint to the Commission was made by Robert C. Grant.

In an affidavit, James J. Hogan, former Chairman of NJTRIM, states that The John Birch Society-TRIM coordinator for northern New Jersey and part of New York asked Mr. Hogan to establish a TRIM committee in the area, and Mr. Hogan agreed to set up and run the organization under National TRIM's guidance. Mr. Hogan sets the time when he established NJTRIM six months to a year before the 1976 elections. According to Mr. Hogan, the "only function of the TRIM Committee" was "to print a TRIM Bulletin and distribute it." Any other activities were "a little bonus or extra we tried to get in." NJTRIM was an unincorporated organization; Hogan states that NJTRIM is no longer in existence, though we do not know when it ceased to exist.

Hogan indicates that during his tenure as Chairman, NJTRIM distributed two issues of the Bulletin; one in the Fall of 1976 and the second after the election. He approximates the first distribution as fifty to seventy-five thousand copies and the second as about ten thousand copies.[10/] Mr. Hogan indicates that, while National TRIM's area coordinator had hoped the Bulletin would be distributed year round by NJTRIM, members lost interest after the election.

Mr. Hogan also described generally NJTRIM's other activities. The Committee held monthly meetings and distributed other leaflets on taxes not containing any individual's voting records. NJTRIM invited Congresswoman Meyner's opponents to the regular monthly meeting, open to the public, held in the weeks before the

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[10/] However, based on the totality of his testimony and the Bulletin initiating the Complaint, we estimate that three, perhaps four, issues were distributed. The issue which prompted Mr. Grant's complaint reviewed six votes, all cast in the first quarter of 1976; Mr. Hogan made reference to an issue which reviewed 25 votes, which would be the Fall, 1976 issue; finally, Mr. Hogan stated that there was a post-election issue, although the issue he described was the Fall 1976 issue.

1976 election but not Mrs. Meyner. Of Congresswoman's Meyner's two opponents, one attended and the other sent a representative.

Hogan also stated that he remembered a discussion within the Committee "about approaching the candidates opposing Mrs. Meyner for a donation to help print the Bulletin." Mr. Hogan believes that The John Birch Society-TRIM coordinator may have "started" such a contact. A newspaper article from 1976 reported that a Mr. Tom Gregory, a spokesman for NJTRIM, stated both that the group was "out to defeat" Mrs. Meyner and three other candidates by printing voting records and thus "exposing" the candidates and that the group was not supporting any candidate but its likely to assume the Republicans will pick up the negative vote. Later news articles report that Mr. Hogan suspended Mr. Gregory as the Committee's spokesman for this statement and stated that NJTRIM did not support or oppose any candidate, but was merely "passing along" information. Mr. Gregory is not the "Public Relations" person on Thirteenth District TRIM Committee's Executive Committee.

The National TRIM has filed a counterclaim to declare sections 441d and 434(e) of the Act unconstitutional, and the Commission has moved to dismiss the counterclaim.

(b) Pending Enforcement Matters

(1) MUR 584 - Oregon TRIM

On May 8, 1978, the Campaign Director and the Chairman of the Re-elect Les AuCoin Committee filed a complaint with the

Commission at the request of Rep. AuCoin against the Oregon TRIM Committee, 1st Congressional District. The complaint was based upon the distribution by Oregon TRIM of Bulletins in Mr. AuCoin's district which contained voting charts characterizing Mr. AuCoin's record. Complainant also indicates that a "supplemental page" was distributed with one TRIM Bulletin containing, *inter alia*, the following statement:

> TRIM is a nationwide organization designed to keep voters in every U.S. Congressional District informed on how their Representatives vote on major tax issues ... Many politicans win or lose elections by suprisingly small margins wherein every vote becomes crucially important.
>
> TRIM's strategy has been proven effective. Voters, after becoming better informed about their Representatives [sic] record, have retired spendthrifts from office and replaced them with responsible [sic] Representatives. You *can* fight 'City Hall'; in fact, you own City Hall so *let* them know it. (Emphasis in original)

Subsequent to filing the complaint, but prior to the Commission's finding reason to believe, one of the complainants forwarded to the Commission an advertisement that appeared in the May 18, 1978 edition of a local newspaper. The advertisement contained an introductory statement, a chart of the National debt and a reprint of the TRIM voting chart of Mr. AuCoin. Oregon TRIM distributed the Bulletins (and the newspaper advertisement appeared) prior to the May 23, 1978 primary in which Mr. AuCoin ran unopposed. While the Commission does not have any evidence on the matter, the costs of printing the Bulletins and running the newspaper advertisement presumably exceeds $100.[11] One of the complainants sent a third Bulletin to the Commission by letter dated July 25, 1978. Subsequently a fourth Bulletin was sent to the Commission.

On June 21, 1978, the Commission found reason to believe that sections 434(e) and 441d were violated and authorized the transmittal of interrogatories. The respondent failed to respond. On September 22, 1978, the Commission found reasonable cause to believe and authorized the transmittal of a proposed conciliation agreement. To date, there has been no response.

If the Commission decides to continue to pursue this matter while the Northwest Jersey TRIM and the CLITRIM lawsuits are pending, then we recommend that the Commission find probable cause to believe that the Oregon TRIM Committee, 1st Congressional District, violated 2 U.S.C. §§ 434(e) and 441d, and that the Commission authorize the filing of a lawsuit.

(ii) MUR 689 - 13th District TRIM Committee

In August, 1978, Robert C. Grant filed a notarized complaint against the 13th District TRIM Committee in New Jersey, alleging violations of sections 434(e) and 441d based on the Committee's printing and distributing in 1978 of TRIM Bulletins critiquing Congresswoman Meyner's voting record.

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[11] Indeed, one of the complainants advised the Commission that the newspaper's advertising department had been asked about the cost of an ad of similar size and that such an ad would cost $163.20.

After the Commission found reason to believe, it received additional information about the operation of this Committee. An article from the October 2, 1978 edition of a local New Jersey newspaper reported that the TRIM Committee had concluded, based upon a poll it had conducted, that Mrs. Meyner was in danger of losing the election. Furthermore, newspaper advertisements placed by TRIM consisting of TRIM Bulletin voting charts were run in close proximity to the election. The advertisements contained a small print disclaimer that the Committee does "not advocate the election or defeat of any candidate."

The Commission has also received a copy of the September 19, 1978, TRIM Annual Award Dinner Program which was silent on Mrs. Meyner, but contained a one page advertisement for Jeffrey Bell, consisting of the words "Jeffrey Bell U.S. Senate Candidate for New Jersey" and a half page photograph, presumably of Mr. Bell. It did not include a § 441d statement, however.

The Commission found reason to believe that the Committee had violated sections 434(e) and 441d, and the Commission authorized transmittal of interrogatories. To date there has been no response.

If the Commission decides to continue to pursue this matter while the Northwest Jersey TRIM and CLITRIM lawsuits are pending, we recommend that the Commission find reasonable cause to believe that the Thirteenth District TRIM Committee violated §§ 434(e) and 441d, and authorize the initiation of conciliation with the transmittal of a proposed agreement (see Appendix).

(v) MUR 690 - 16th Congressional District TRIM Committee (CATRIM)

On August 22, 1978, a complaint was filed on behalf of Representative Leon Panetta against the activities of the 16th Congressional District TRIM Committee in California, alleging violations of sections 433, 434(e) and 441d based on the distribution of the TRIM Bulletin and the running of advertisements consisting of reprints of TRIM voting charts. One of the ads was allegedly run on May 25, 1978 at an estimated cost of $500. The California primary was June 6, 1978; both Mr. Panetta and his opponent were unopposed in the primaries. The complainant claims that the costs incurred by the committee were expenditures which should have been reported as in-kind contributions to the opponent of Mr. Panetta. The Commission found reason to believe that there were violations of the Act, and the Commission subsequently ordered the respondent to answer the Commission's interrogatories. The United States Marshal has been unable to serve the Commission's order and interrogatories. We recommend that the Commission continue to investigate this matter, and therefore that it again attempt to have the order served.

(vi) MUR 696 - Nassau County TRIM Committee

On August 8, 1978, Daniel C. Mooney filed a complaint with the Commission against the Nassau County TRIM Committee alleging that the Spring 1978 issue of the TRIM Bulletin violated sections 434(e) and 441d, containing a voting chart on

Representative Ambro. On September 29, 1978, the Commission found reason to believe that the Act had been violated. Although the Commission's interrogatories were sent on September 28, 1978, they were not received until December 20, 1978. This office has granted respondents until after February 2, 1979, to respond. Mr. Cozzette stated in his affidavit that the monies in the possession of CLITRIM in the Spring of 1977 were turned over to the Nassau County TRIM Committee and to National TRIM, in accordance with the National TRIM rules governing local committees.

If the Commission decides to pursue these matters at this time, we believe that a letter should be transmitted to this respondent advising that the interrogatories are to be answered within fifteen days.

Agenda Document #78-342

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: The Commission

THROUGH: Orlando B. Potter D.L for O.B.P

FROM: William C. Oldaker Bill
N. Bradley Litchfield BL

SUBJECT: Revised Draft AO 1978-62

The attached has been prepared in light of the Commission's discussion on October 12 and Mr. Moffett's letter of November 3, with enclosures.

The preparation and distribution of the Congressional voting charts is the only issue reached in the draft since Mr. Moffett has not established his (i) involvement (and potential liability for a violation) in the 12 profiles of Members of Congress and (ii) participation with Public Citizen's candidate questionnaire.

We request that the subject draft be considered by the Commission on the agenda for November 30, 1978.

RECEIVED
COMMISSION SECRETARY
78 NOV 27 P1: 22

SUBMITTED LATE

AGENDA ITEM
For Meeting of: 11/30/78
Agenda Item No.
Exhibit No.

79040192199

AO 1978-62

Honorable Toby Moffett
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Moffett:

This is in response to your letter of August 15, 1978, as supplemented by your letter and enclosures of November 3, 1978, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to certain activities of Public Citizen, Inc.

Your letter states that Public Citizen, Inc. is a non-profit, tax exempt corporation established to promote and publicize issues of importance and interest to consumers. It engages in litigation, lobbying and education projects all of which are "limited to the advocacy of its views on specific consumer issues." You explain that the purpose behind Public Citizen is to promote and publicize issues of importance and interest to consumers. According to your letter, Public Citizen, Inc. does not have a PAC, does not endorse any particular candidate, and does not advocate the election or defeat of any candidate.

You further state that Public Citizen proposes to undertake certain activities in order to draw public and media attention to consumer issues and stimulate discussion on those issues, as well as inform the public of various positions regarding consumer issues. Specifically, Congress Watch, a division of Public Citizen, proposes to compile and distribute to the public a voting chart covering votes of all Members of Congress on specific issues of interest to Public Citizen and compare their vote with Public Citizen's position; to prepare and distribute profiles of twelve Members of Congress involved in issues of interest to Public Citizen, and to distribute and publicize results of a questionnaire sent to Congressional and Senatorial candidates regarding consumer issues. According to your letter none of these, nor the press releases issued in conjunction with them, when distributed will contain any statement expressly advocating the election or defeat of any candidate. The focus of each activity is consumer issues which Public Citizen was established to promote. In your letter you ask whether or not the Act requires Public Citizen "to report any of these activities as independent political 'expenditures' under 2 U.S.C. §434(e)" or if the Act prohibits these activities as corporate "expenditures" under 2 U S.C. §441b.

As the Commission determined that your original request did not establish your specific involvement in the activities of Public Citizen which were in question, you were asked to supplement your original request by letter explaining your involvement, that is, activity which might subject you to certain sanctions set forth in the Act. Your supplemental letter states that Public Citizens' voting charts will be distributed in your Congressional District in Connecticut. This establishes your connection with this particular activity, since it raises the possibility that you may be subject to the sanctions of the Act if the expenses are considered as incurred on your behalf as a candidate for Federal office. Your letter, however, does not establish your involvement in either of Public Citizen's other activities described in your initial letter. You say you are not the subject of a current profile; thus the Commission determinesthat since you are not specifically involved with the profiles it cannot render an opinion concerning that activity. See Commission regulation §112.1(a). Although you do not establish any connection with the candidate issue survey, the Commission informs you that the questionnaire itself which you supplied poses no reporting obligation. This does not, however, extend to the final product which is the result of the questionnaire. The Commission does not have the information necessary to address that issue, nor does it determine that upon the facts as presented you have a connection with the activity which would enable you to receive a Commission determination on that activity. The Commission may,however, render an opinion on the voting chart.

You first ask whether the disclosure requirements of the Act require Public Citizen to report expenses for the voting chart as an independent expenditure under 2 U.S.C. §434(e). Section 434(e) requires, in part, that every person (other than a political committee or candidate) who makes independent expenditures expressly advocating the election or defeat of a clearly identified candidate (other than by contribution to a political committee or candidate) in an aggregate amount in excess of $100 during a calendar year shall file a statement with the Commission containing the information required of a person making a contribution in excess of $100 to a candidate or political committee. Under 2 U.S.C. §431(p) an "independent expenditure" is defined to mean an expenditure by a person:

> expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate or any authorized committee or agent of such candidate and which is not made in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

To have an independent expenditure reportable under §434(e) two elements are necessary, express advocacy of a clearly identified candidate and the absence of any cooperation or consultation with a candidate. From the facts as presented in the request there is nothing which indicates cooperation or consultation with any candidate or his/her agent by Public Citizen when preparing and distributing the voting charts.

Assuming the absence of cooperation or consultation it must be determined whether the communication expressly advocates the election or defeat of a clearly identified candidate. Included with your supplemental letter was a Public Citizen voting chart and samples of press releases to accompany distribution of the chart. The 24 page "Voting Index" is comprised of an introduction with an overview of the 95th Congress, descriptions of 40 Senate and 40 House Bills and a Senate and House vote chart.

A review of these documents indicates that they relate to legislative issues and votes cast on those issues by all Members of the United States House of Representatives and the United States Senate. The Supreme Court addressing independent expenditures in Buckley v. Valeo 424 U.S. 1, 42 (1976) stated that "the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application." The Court proceeded to consider the reporting of independent expenditures under §434(e). In light of the Court's concern that §434(e) could be construed in an impermissibly broad manner rather than limited to spending that is unambiguously related to the campaign of a particular candidate, the Commission concludes that the described documents do not constitute a communication which expressly advocates the election or defeat of any clearly identified candidate. Similarly, the press releases forwarded with your letter of November 3, 1978, contain no words or message of express advocacy of the election or defeat of a clearly identified candidate.

Hence on the facts as presented, the Commission concludes that in the absence of any express advocacy of the election or defeat of a clearly identified candidate, Public Citizen need not report the expenses incurred for preparation and distribution of its voting chart under 2 U.S.C. §434(e) since such expenses are not independent expenditures as defined in 2 U.S.C. §431(p).

Your second question is whether the activities, for purposes of thisopinion the voting chart, are prohibited under 2 U.S.C. §441b which makes it "unlawful... for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any [Federal] election." The Commission concludes that absent elements of active electioneering on behalf of a specific candidate or political party, the compiling and distributing of the voting charts are not expenditures "in connection with" an election and so are not prohibited under §441b.

This result is reached in light of legislative history and judicial opinion which reflects Congressional intent to limit corporate and union influence on Federal elections.

However, Congress was not attempting to ban free discussion of political questions, but rather to prohibit "active electioneering", that is, partisan political activity on behalf of candidates.

In United States v. U.A.W., 352 U.S. 567 (1957), where the Court held that a union sponsored commercial television broadcast designed to influence the electorate to select certain congressional candidates was prohibited, it stated:

> "The evil at which Congress struck in [18 U.S.C. §610 now 2 U.S.C. §441b] is the use of corporate or union funds to influence the public at large to vote for a particular candidate or particular party. (Emphasis added) Id. at 589.

Remanding the case to trial the Court implied that a violation of §610 (now §441b) required some form of active electioneering which connotes an intent to affect the results of an election. Id. at 592.

Following the rationale in U.A.W., in United States v. Lewis Food Company 366 F.2d 710, 712 (9th Cir., 1966) the Court assumed without deciding and the Government did not protest, that §610 prohibited "active electioneering" by a corporation, that is activity "designed to influence the public at large to vote for or against particular candidates."

The Senate debates regarding extension of the prohibition on corporate expenditures to unions as well reflect a similar view. 93 Cong. Rec. 6439 - 6447 (1947). Senator Taft stated, "It is a question of fact: was the corporation using its money to influence a political election?" He concluded that "the prohibition would not apply to merely a bare statement of actual fact and simply direct quotations...

not colored in any way...[It] would depend in each case, on the character of publication." During those same debates it was made clear that at least certain Senators believed the prohibition was not meant to extend to the printing of a public official's voting record. See 93 Cong. Rec. 6447 (1947).

From the Congressional and judicial discussion of expenditures "in connection with" and "for the purpose of influencing," it appears that some degree of purposeful active electioneering by a corporation is necessary before disbursements are considered prohibited contributions or expenditures under the Act. From the facts presented in this request the Commission finds that the voting charts which Public Citizen proposes to compile and publicize do not in and of themselves constitute active electioneering.

The Commission therefore determines that upon the facts as presented in your request the activity in question, the voting chart project, is neither a prohibited expenditure "in connection with" a Federal election for purposes of 2 U.S.C. §441b, nor an independent expenditure required to be reported under 2 U.S.C. §434(e). In so holding the Commission reiterates that this opinion does not address the questions raised by other activities of Public Citizen involving profiles of Members of Congress and issue questionnaires sent to candidates for Federal office. The Commission further notes that this opinion supercedes the staff informational response to the Chamber of Commerce (O/R #790) and the dicta pertaining to distribution of vote ratings to the general public in Advisory Opinion 1978-18.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. §437f.

Sincerely yours,

Joan A. Aikens
Chairman for the
Federal Election Commission

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO CHARLES STEELE

FROM: MARJORIE W. EMMONS mwE

DATE: APRIL 2, 1979

SUBJECT: TRIM MURs (584, 689, 690, 696)
Memorandum from OGC dated 3-30-89;
Received in OCS 3-30-79, 12:31

The above-named document was circulated on a 24 hour no-objection basis at 4:30, March 30, 1079

The Commission Secretary's Office has received no objections to the memorandum as of 4:30 this date.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

79 MAR 30 P12: 31

March 30, 1979

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
Associate General Counsel

SUBJECT: TRIM MURs (584, 689, 690, 696)

This Office is presently completing, pursuant to Commission request, a memorandum considering the issues underlying the TRIM and AFSCME enforcement proceedings and the Public Citizen Advisory Opinion Request (AOR 1978-62) and recommending the action to be taken in these proceedings. During the pendency of this review, no action has been taken on MUR 584 (Oregon TRIM), MUR 689 (Thirteenth District TRIM Committee), MUR 690 (California TRIM) and MUR 696 (Nassau County TRIM Committee).

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO CHARLES STEELE

FROM: MARJORIE W. EMMONS MWE

DATE: DECEMBER 18, 1978

SUBJECT: MURs 594, 689, 690, and 696 - Memo from OGC dated 12-15-78

The above-named document was circulated on a 24 hour no-objection basis at 3:00, December 15, 1978.

The Commission Secretary's Office has received no objections to the Memorandum as of 4:00 this date.

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

'78 DEC 15 A10: 25

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

December 15, 1978

December 13, 1978

MEMORANDUM TO: The Commission

FROM: William C. Oldaker
General Counsel

Bill

SUBJECT: TRIM MURs
(MURs 584, 689, 690, and 696)

In light of the Commission's discussion of December 6, 1978, regarding the need for further review and consideration of the issues underlying the TRIM MURs and the Public Citizen Advisory Opinion Request (AO 1978-62), the Office of the General Counsel will hold further action on MUR 584 (Oregon TRIM), MUR 689 (Thirteenth District TRIM Committee), MUR 690 (California TRIM) and MUR 696 (Nassau County TRIM Committee) for the next month. During this time we will submit to the Commission an overall review of the issues and a recommendation regarding what action should be taken in these matters.

DO YOU KNOW HOW YOUR REPRESENTATIVE VOTED?

TRIM
BULLETIN
Published by
TRIM (Tax Reform IMmed ly),
a nationwide moveme
Lower Taxes Through Less Government

13th DISTRICT
TRIM COMMITTEE
P.O. Box 5241, C nton N.J.
P.O. Box 424, Rockaway, N.J.

GOC# 5/8.1

Congresswoman HELEN MEYNER
13th Congressional District
NEW JERSEY

HOW DID YOUR REPRESENTATIVE VOTE?

	TOTAL COST AVERAGE COST PER HOUSEHOLD	VOTED FOR LOWER TAXES AND LESS GOVERNMENT	VOTED FOR HIGH TAXES AND BIG GOVERNMENT
FOREIGN AID Congress, realizing that the current budget deficit is only $50 thousand million, decided to put you a little further into debt by authorizing the Treasury to give away **$3.7 billion** to foreign acquaintances and enemies. Since World War II, we have spent **$200 billion** on foreign aid. H.R. 12222 passed, 225-148. (*Congressional Record* 5/15/78, pp. H3897-H3901.)	$3.7 billion $48		X
THE TAX COLLECTORS This bill gave **$8.6 billion** of your money to the President, the I.R.S., the Postal Service, and the General Services Administration. H.R. 12930 passed, 297-98. (*Congressional Record* 6/7/78, pp. H5068-H5097.)	$8.6 billion $113		X
MOVING TAXES **8.8 billion dollars** taken from the taxpayers is now going to support the bureaucrats at the Transportation Department. H.R. 12933 passed, 347-25. (*Congressional Record* 6/12/78, pp. H5308-H5324.)	$8.8 billion $115	DID NOT VOTE	
SOCIALISM, AMERICAN STYLE Congress gave the bureaucrats at the Departments of Labor, Health, Education and Welfare, and OSHA, the astounding sum of **$56.6 billion** to spend in 1979. Congress will give them **$150 billion more** later. H.R. 12929 passed 338-61. (*Congressional Record* 6/13/78, pp. H5355-H5384.)	$56.6 billion $744		X
DISARMING TAXES Your Representatives voted to give **4.6** billion of your dollars to the State, Justice, and Commerce Departments, and the Disarmament Agency. H.R. 12934 passed 359-34. (*Congressional Record* 6/14/78, pp. H5519-H5552.)	$4.6 billion $60		X
SAVE OUR BUGS TAXES Feeling generous with your money, Congress gave the Environmental Protection Agency, NASA, and the Department of Housing and Urban Development a whopping **$68.2 billion**, none of which was theirs to give. H.R. 12936 passed, 332-47. (*Congressional Record* 6/19/78, pp. H5777-H5816.)	$68.2 billion $897		X
ENERGY TAXES This bill gave **$12.7 billion** of your money to the people in the Interior and Energy Departments. H.R. 12932 passed, 356-50. (*Congressional Record* 6/21/78, pp. H5834-H5878.)	$12.7 billion $167		X
THE FEDERAL PLANTATION Congress decided it would take at least **$18 billion** to run the plantation in 1979. It takes a lot of cash to keep food prices up and food production down a lot of your cash. H.R. 13125 passed, 326-59. (*Congressional Record* 6/22/78, pp. H5917-H5961.)	$18 billion $236		X
PAY RAISE FOR BUREAUCRATS The federal bureaucrats are doing such a good job wrecking the economy and the Constitution that Congress wanted to give them a raise, and so they did — with your money. H.R. 13467 passed, 311-60. (*Congressional Record* 7/20/78, pp. H7050-H7089.)	$6.3 billion $82		X
THE FEDERAL BULLDOZER Congress doesn't like some houses in many cities and towns and decided to authorize spending **$29.3 billion** to bulldoze them under. Congress calls the program housing and community development. Were it accurately named it would be eliminating private property. H.R. 12433 passed 270-26. (*Congressional Record* 7-21-78, pp. H7120-H7143.)	$29.3 billion $385	DID NOT VOTE	

FOR MORE INFO PLEASE WRITE: P.O. Box 5241, Clinton, N.J.; P.O. Box 424, Rockaway, N.J.

This ad paid for by TRIM [illegible]
Presented as a public [illegible]

his eff
deserves the fu
rize really," he added.
said he asked Sadat for a resumption
peace talks in Washington, which have

DO YOU KNOW HOW YOUR REPRESENTATIVE VOTED?

TRIM BULLETIN

TRIM (Tax [illegible] [illegible]ted by [illegible] IMmediately) a nationa[l] movement to

Lower Taxes Through Less Government

13th DISTRICT TRIM COMMITTEE

P.O. Box 5241, Clinton N.J.
P.O. Box 424, Rockaway, N.J.

Congresswoman HELEN MEYNER

13th Congressional District
NEW JERSEY

HOW DID YOUR REPRESENTATIVE VOTE?

	TOTAL COST AVERAGE COST PER HOUSEHOLD	VOTED FOR LOWER TAXES AND LESS GOVERNMENT	VOTED FOR HIGH TAXES AND BIG GOVERNMENT
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THE TAX COLLECTORS This bill gave **$8.6 billion** of your money to the President, the I.R.S., the Postal Service and the General Services Administration. H.R. 12930 passed 29[illegible] (*Congressional Record* 6-7-78, pp. H5068-H5097.)	$8.6 billion $113		X
MOVING TAXES **8.8 billion dollars** taken from the taxpayers is now going to support the bureaucrats at the Transportation Department. (H.R. 1243[illegible]) passed [illegible] (*Congressional Record* [illegible] H5[illegible]-H5[illegible].)	$8.8 billion $115	DID NOT VOTE	
SOCIALISM, AMERICAN STYLE Congress gave the bureaucrats at the Department of [illegible] Health, Education and Welfare and OSHA the [illegible] **$56.6 billion** to spend in 1979. Congress will give them **$150 billion more** [illegible] H.R. 12929 passed 328-61 (*Congressional Record* [illegible].)	$56.6 billion $744		X
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ENERGY TAXES This bill gave **$12.7 billion** of your money to the people in the Interior and Energy Departments. H.R. [illegible] passed 356-50 (*Congressional Record* 6-2[illegible]-78, pp. H58[illegible].)	$12.7 billion $167		X
THE FEDERAL PLANTATION Congress decided it would take at least **$18 billion** to [illegible] it takes a lot of cash to keep food prices up and [illegible] a lot of your cash. H.R. 13125 passed 326-59 (*Congressional Record* 6-22-78, pp. H5917-H5961.)	$18 billion $236		X
PAY RAISE FOR BUREAUCRATS The federal bureaucrats are doing such a good job of [illegible] the economy and the Constitution that Congress wanted to give them a raise and so they did — with your money. H.R. 13467 passed [illegible] (*Congressional Record* 7-20-78, pp. H7050-H7089.)	$6.3 billion $82		X
THE FEDERAL BULLDOZER Congress doesn't like some houses in many cities and [illegible] authorize spending **$29.3 billion** to bulldoze them under [illegible] program housing and community development. [illegible] would be eliminating private property. H.R. 12[illegible] passed [illegible] (*Congressional Record* 7-21-78, pp. H7120-H7143.)	$29.3 billion $385	DID NOT VOTE	

FOR MORE INFO PLEASE WRITE: P.O. Box 5241, Clinton, N.J.; P.O. Box 424, Rockaway, N.J.

[illegible] organization. We do not advocate the election or defeat of any candidate.

WINTERMARK ASSOCIATES
[illegible]

15¢
OLIVER
WENDELL
HOLMES

15¢
OLIVER
WENDELL
HOLMES

Mr. Jay Myerson
Federal Election Commission
1325 K. St., N.W.
Washington, D.C. 20463

MUR
689

GCC# 5445

RECEIVED
FEDERAL ELECTION
COMMISSION

'78 NOV 2 PM 12:42

Helen Meyner 1978

Campaign Manager
Robert C. McClure

Finance Chairman
Guy T. Bock

Oct 31, 1978

Dear Mr Myerson,

Enclosed is a copy of the "TRIM" ad as it ran in the "Daily Record", Oct 29, 1978.

Sincerely,

Jennifer Brunkhorst
Office Manager
H.S.M. Campaign
393 S. Main St
Phillipsburg, NJ
08865

807570

DO YOU KNOW HOW YOUR REPRESENTATIVE VOTED?

TRIM BULLETIN

Published by
TRIM (Tax Reform IMmediately)
a nationwide movement to
Lower Taxes Through
Less Government

13th DISTRICT TRIM COMMITTEE

P.O. Box 5241, Clinton N.J.
P.O. Box 424, Rockaway, N.J.

Congresswoman HELEN MEYNER

13th Congressional District
NEW JERSEY

HOW DID YOUR REPRESENTATIVE VOTE?

	TOTAL COST AVERAGE COST PER HOUSEHOLD	VOTED FOR LOWER TAXES AND LESS GOVERNMENT	VOTED FOR HIGH TAXES AND BIG GOVERNMENT
FOREIGN AID Congress, realizing that the current budget deficit is only $50 thousand million, decided to put you a little further into debt by authorizing the Treasury to give away **$3.7 billion** to foreign acquaintances and enemies. Since World War II we have spent **$200 billion** on foreign aid. H.R. 12222 passed 225-145 (*Congressional Record* 5/15/78 pp. H3897-H3901.)	$3.7 billion $48		X
THE TAX COLLECTORS This bill gave **$8.6 billion** of your money to the President, the I.R.S., the Postal Service, and the General Services Administration. H.R. 12930 passed 297-98 (*Congressional Record* 6/7/78 pp. H5068-H5097.)	$8.6 billion $113		X
MOVING TAXES **8.8 billion dollars** taken from the taxpayers is now going to support the bureaucrats at the Transportation Department. H.R. 12933 passed 347-25 (*Congressional Record* 6/12/78 pp. H5308-H5324.)	$8.8 billion $115	DID NOT VOTE	
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DISARMING TAXES Your Representatives voted to give **4.6 billion** of your dollars to the State, Justice and Commerce Departments and the Disarmament Agency. H.R. 12934 passed 275-14 (*Congressional Record* 6/14/78 pp. H5519-H5552.)	$4.6 billion $60		X
SAVE OUR BUGS TAXES Feeling generous with your money, Congress gave the Environmental Protection Agency, NASA, and the Department of Housing and Urban Development a whopping **$68.2 billion**, none of which was theirs to give. H.R. 12936 passed 332-47 (*Congressional Record* 6/19/78 pp. H5777-H5816.)	$68.2 billion $897		X
ENERGY TAXES This bill gave **$12.7 billion** of your money to the people in the Interior and Energy Departments. H.R. 12932 passed 356-50 (*Congressional Record* 6/21/78, pp. H5834-H5878.)	$12.7 billion $167		X
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PAY RAISE FOR BUREAUCRATS The federal bureaucrats are doing such a good job wrecking the economy and the Constitution that Congress wanted to give them a raise and so they did — with your money. H.R. 13467 passed 311-80 (*Congressional Record* 7/20/78 pp. H7050-H7089.)	$6.3 billion $82		X
THE FEDERAL BULLDOZER Congress doesn't like some houses in many cities and towns and decided to authorize spending **$29.3 billion** to bulldoze them under. Congress calls the program housing and community development. Were it accurately named it would be eliminating private property. H.R. 12433 passed 270-26 (*Congressional Record* 7/21/78 pp. H7120-H7143.)	$29.3 billion $385	DID NOT VOTE	

FOR MORE INFO PLEASE WRITE: P.O. Box 5241, Clinton, N.J.; P.O. Box 424, Rockaway, N.J.

[illegible]

Helen Meyner 1978
393 South Main Street
Phillipsburg, New Jersey 08865

USA 15¢ USA 15¢

P.M.
12 1978
08865

Mr Jay Myerson
1325 K Street, N.W.
Washington, D.C.
20463

INTER-MARK ASSOCIATES
114 E. RIDGEWOOD PARKWAY
DENVILLE, NEW JERSEY 07834
(201) 625-3983

BOB GRANT
PRESIDENT

Dear Jay:

Enclosed are the materials I mentioned I would send to you concerning TRIM.

I will shortly be filing an additional complaint against something called the Freedom First Foundation.

Best regards,

Bob

INTERMARK ASSOCIATES

get people who
have head the ~~[illegible]~~
Trim people

Mail to Jay Meyerson
Federal Election Commission

4 E. Ridgewood Pkwy.
Denville NJ 07834

To Mr. Jay Myerson
Federal Election Com
1325 K. Street
Washington
DC
20463

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO CHARLES STEELE

FROM: MARJORIE W. EMMONS MWE

DATE: OCTOBER 30, 1978

SUBJECT: MUR 689 - Interim Report dated 10-20-78
Signed: 10-26-78
Received in OCS: 10-26-78, 4:01

The above-named document was circulated on a 24 hour no-objection basis at 11:30, October 27, 1978.

The Commission Secretary's Office has received no objections to the Interim Report as of 1:30 this date.

October 26, 1978

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 689

Please have the attached Interim Report on MUR 689 distributed to the Commission.

Thank you.

RECEIVED
OFFICE OF THE
[illegible] Y

78 OCT 26 P4: 01

BEFORE THE FEDERAL ELECTION COMMISSION

October 20, 1978

In the Matter of	)	
	)	
13th Congressional District	)	MUR 689(78)
TRIM Committee	)	

INTERIM REPORT

On September 22, 1978, the Commission found reason to believe that the 13th Congressional District TRIM Committee violated 2 U.S.C. §§434(e) and 441d. The letter of notification was sent to the Committee on September 27, 1978, and was received on October 12, 1978. The Committee has until October 22, 1978 to respond.

10/26/78
DATE

William C. Oldaker
General Counsel

FEDERAL ELECTION COMMISSION

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

September 27, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. F. William Ford
Thirteenth District Trim Committee
P.O. Box 5241
Clinton, New Jersey 08809

Re: MUR 689

Dear Mr. Ford:

The Federal Election Commission has received a complaint from Mr. Robert C. Grant, Inter-Mark Associates, 114 E. Ridgewood Parkway, Denville, New Jersey 07834, which alleges your committee committed certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). We have numbered this matter MUR 689.

The complaint alleges that the Thirteenth District TRIM Committee published bulletins which expressly advocated the defeat of Congresswoman Helen Meyner and failed to comply with the requirements of 2 U.S.C. §§434(e) and 441d of the Act.

The Commission has found reason to believe that the matters alleged therein state a violation of 2 U.S.C. 434(e) and 2 U.S.C. 441d. Specifically, it appears that the Thirteenth District TRIM Committee's Bulletins are communications which expressly advocate the defeat of a clearly identified Federal candidate, Congresswoman Helen Meyner. Since the Bulletins do not contain the statements of authorization/non-authorization required by Section 441d of the Act, and since the Thirteenth District TRIM Committee has not reported its expenditures expressly advocating the defeat of a clearly identified candidate pursuant to Section 434(e) of the Act, the Commission, on September , 1978, found reason to believe that Thirteenth District TRIM Committee violated those cited provisions.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Additionally, please submit answers to the enclosed questions. Where appropriate, statements should be submitted under oath.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification.

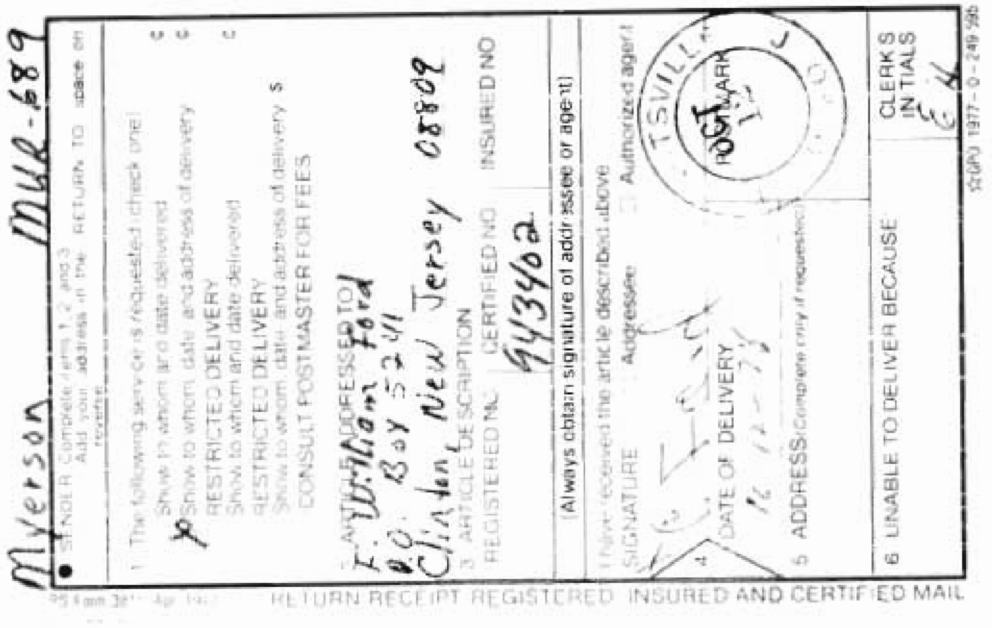
If you have any questions, please contact Jay Myerson, the attorney assigned to this matter, at (202)523-4178.

This matter will remain confidential in accordance with 2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel



Myerson MUR-689

● SENDER: Complete items 1, 2 and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one)
Show to whom and date delivered ¢
[✓ Show to whom, date, and address of delivery] ¢
RESTRICTED DELIVERY
Show to whom and date delivered ¢
RESTRICTED DELIVERY
Show to whom, date, and address of delivery $
CONSULT POSTMASTER FOR FEES

2. ARTICLE ADDRESSED TO:
F. William Ford
P.O. Box 5241
Clinton, New Jersey 08809

3. ARTICLE DESCRIPTION
REGISTERED NO. CERTIFIED NO. 943402 INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY 10-12-78

POSTMARK
OCT 12

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE

CLERK'S INITIALS E.H.

☆GPO 1977-0-249 595

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

9/27/78

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JBM 9/22/78

Mr. F. William Ford
Thirteenth District Trim Committee
P.O. Box #241
Clinton, New Jersey 08809

Re: MUR 689

Dear Mr. Ford:

The Federal Election Commission has received a complaint from Mr. Robert C. Grant, Inter-Mark Associates, 114 E. Ridgewood Parkway, Denville, New Jersey 07834, which alleges your committee committed certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). We have numbered this matter MUR 689.

The complaint alleges that the Thirteenth District TRIM Committee published bulletins which expressly advocated the defeat of Congresswoman Helen Meyner and failed to comply with the requirements of 2 U.S.C. §§434(e) and 441d of the Act.

The Commission has found reason to believe that the matters alleged therein state a violation of 2 U.S.C. 434(e) and 2 U.S.C. 441d. Specifically, it appears that the Thirteenth District TRIM Committee's Bulletins are communications which expressly advocate the defeat of a clearly identified Federal candidate, Congresswoman Helen Meyner. Since the Bulletins do not contain the statements of authorization/non-authorization required by Section 441d of the Act, and since the Thirteenth District TRIM Committee has not reported its expenditures expressly advocating the defeat of a clearly identified candidate pursuant to Section 434(e) of the Act, the Commission, on September , 1978, found reason to believe that Thirteenth District TRIM Committee violated those cited provisions.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Additionally please submit answers to the enclosed questions. Where appropriate, statements should be submitted under oath.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification.

If you have any questions, please contact Jay Myerson, the attorney assigned to this matter, at 202-523-4073.

This matter will remain confidential in accordance with 2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

/s/

William C. Oldaker
General Counsel

FEDERAL ELECTION COMMISSION QUESTIONS

TO: Mr. F. William Ford MUR 689 (78)

ATTACHMENT TO LETTER TO THIRTEENTH DISTRICT TRIM COMMITTEE

1. How is the Thirteenth District TRIM Committee (hereinafter referred to as "13th D.T.") organized (i.e., is it an incorporated organization, unincorporated organization, etc.)? When was the 13th D.T. formed?

2. The bulletins of the 13th D.T., 3 editions of which are attached, state that it is set up by National TRIM. Is this true? Please submit any copies of letters, memorandums etc. from National TRIM.

3. What is the purpose of 13th D.T. and who are the individuals responsible for establishing and implementing its general policy?

4. (a) Is 13th D.T. affiliated with any political party, political committee, candidate, corporation or labor organization. If so please state the name(s) of the affiliate(s). (See Section 100.14 (c) on page 18 of the Commission's Regulations for our definition of "affiliated," and see Section 431(b)(d) and (m) of Title 2, United States Code, located on pages 1 thru 7 of the Federal Election Campaign Laws, for our definitions of "political party," "political committee," and "candidate." For your convenience, copies of the Regulations and of the Federal Election Campaign Laws have been enclosed.)

   (b) Is the 13th D.T. affiliated with, associated with, or a part of another TRIM Committee? If so, please state the name and address of that TRIM Committee.

5. (a) Please identify by name and address the individual(s) with the responsibility for preparing the 13th D.T. bulletins.

   (b) Please identify the individual(s) with responsibility for preparing the analyses of Representative Helen Meyner's voting record.

6. What was the 13th D.T.'s purpose in publishing the 13th D.T.'s bulletins?

7. (a) What were the dates of publication of the 13th D.T. Bulletins?

(b) How many copies of each edition were published?

(c) Was its distribution limited to persons within the Thirteenth Congressional District?

(d) Did the 13th D.T. or National TRIM target any people or areas for receipt of these bulletins? If so, please specify.

8. What was the cost of researching, writing, printing, and distributing the 13th D.T. Bulletins.

9. Other than the 13th D.T. Bulletins did the 13th D.T. publish any other literature in 1977 or 1978? If so, please describe each such publication, give dates of publication, dates and places of distribution and provide copies, if available. In this regard, include information about any advertisements placed by 13th D.T. in any newspapers or magazines.

10. Other than the publication and distribution of literature, what other events or activities were sponsored or paid for by the 13th D.T. in 1977 and in 1978 to date (i.e., did the 13th D.T. sponsor seminars, provide speakers, present films, etc.) which involved non-members of the Committee.

11. (a) In 1977 what amount of money did the 13th D.T. expend in undertaking the activities referred to in questions 9 and 10?

(b) To date in 1978, what amount of money has been expended by the 13th D.T. in undertaking the activities referred to in questions 9 and 10?

12. (a) What amount of money was contributed to the 13th D.T. in 1977?

(b) What amount of money has been contributed to the 13th D.T. in 1978 to date?

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Thirteenth District)
Trim Committee)

MUR 689 (78)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on September 22, 1978, the Commission determined by a vote of 5-1 to adopt recommendations of the General Counsel regarding the above-captioned matter as set forth in the First General Counsel's Report dated September 15, 1978 incorporating the revised Page 3:

1. Find reason to Believe that the Thirteenth District TRIM Committee violated Sections 434(e) and 441d of the Federal Election Campaign Act.
2. Send the letter with questions attached to the above-named Report.

Voting for this determination were Commissioners Springer, Tiernan, Staebler, Thomson, and Harris. Commissioner Aikens dissented.

Attest:

9/22/78
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

First General Counsel's Report received in OCS: 9-15-78, 5:08
Revised Page 3 received in Office of Commission Secretary: 9-21-78, 10:35
Report Circulated on 48 hour vote basis: 9-20-78, 10:00
Revised Page 3 circulated on 48 hour vote basis: 9-21-78, 11:45

September 21, 1978

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 689

Please have the attached Memo distributed to the Commission on a 48 hour tally basis.

Thank you.

FEDERAL ELECTION COMMISSION

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

September 21, 1978

MEMORANDUM TO: The Commission

FROM: William C. Oldaker

SUBJECT: MUR 689(78) First General Counsel's Report

Please replace page 3 of the First General Counsel's Report on MUR #689(78), dated September 15, 1978, with the attached.

Thank you.

Furthermore, assuming that the 13th D.T. made expenditures in excess of $100 in the calendar year of 1978 in expressly advocating the defeat of a clearly identified candidate, they have not filed with the Commission the reports required by 2 U.S.C. 434(e).

RECOMMENDATION

We recommend that the Commission:

1) Find reason to believe that the Thirteenth District TRIM Committee violated sections 434(e) and 441d of the Federal Election Campaign Act, and

2) Authorize that the attached letter, with questions, be sent.

ATTACHMENTS

1. Mr. Grant's letter of August 16, 1978
2. Mr. Grant's letter of June 1, 1978
3. Mr. Grant's letter of July 25, 1978
4. 13th D.T. Bulletins
5. Letter to Respondent with questions
6. Certification

September 15, 1978

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 689

Please have the attached First General Counsel's Report on MUR 689 distributed to the Commission on a 48 hour tally basis.

Thank you.

EDERAL ELECTION COMMISSIO
1325 K Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION SEP 15 1978

MUR NO. 689 (78)
DATE COMPLAINT RECEIVED BY OGC ______________
STAFF MEMBER Cummings/Myerson

COMPLAINANT'S NAME: Robert C. Grant

RESPONDENT'S NAME: Thirteenth District TRIM Committee

RELEVANT STATUTE: 2 U.S.C. 434(e); 2 U.S.C. 441d

INTERNAL REPORTS CHECKED: MUR 310

FEDERAL AGENCIES CHECKED: None

BACKGROUND

On August 16, 1978, Mr. Robert C. Grant sent a notarized complaint to the Commission to which he attached a recent bulletin published by the Thirteenth District TRIM Committee ("13th D.T.") Mr. Grant complained that the bulletin did not comply with the requirements of 2 U.S.C. 434(e) and 2 U.S.C. 441d. The bulletin appeared to have been published after May, 1978. (Attachment I)

This correspondence had its genesis in a complaint submitted by Mr. Grant on October 21, 1976 against the Northwest Jersey TRIM Committee, ("N.J.T.C.") That complaint charged essentially, that a TRIM bulletin published by NJTC in the fall of 1976 failed to comply with the requirements of §434(e) and §441d. The 1976 bulletin expressly advocated the defeat of Congresswoman Helen Meyner. The Commission investigated the 1976 complaint (see MUR 310 (76)) and found reasonable cause to believe these violations occurred. When conciliation failed, the Commission, on June 15, 1978, filed suit against NJTC and its Chairman James J. Hogan (FEC v. NJTC, et al., Civil Action No. 78-311, D.N.J.)

In a June 1, 1978 1/ letter Mr. Grant called the Commission's attention to the "Winter 78" edition of a TRIM bulletin which he attached. (It appears that two editions were attached and the second one was undated.) The masthead of these two editions, as well as the post-May, 1978 edition, indicate that they were published by the 13th D.T., chaired by Mr. F. William Ford. Each of the three bulletins dealt with the voting record of Congresswoman Helen Meyner.2/ (Attachment II) It was in a July 28, 1978 letter that Mr. Grant first complained about the post-May, 1978 13th D.C. edition. He did not attach a copy of that edition at that time. The Office of the General Counsel replied with a letter advising Mr. Grant of the procedures regarding notarized complaints. This led to Mr. Grant's notarized complaint of August 16, 1978 with which he included the post-May, 1978 edition of the bulletin. (Attachment III)

The first pages of the 13th D.T. bulletins criticize various programs of the Federal government. The last page of the bulletins reflect in boxscore fashion, a representation of Congresswoman Helen Meyner's voting record in 1977-78 on twenty-six selected issues. Ms. Meyner is categorized as having voted "For High Taxes and Big Government" on twenty-five issues in the three bulletins. On one issue she was listed as not having voted. (Attachment IV)

PRELIMINARY LEGAL ANALYSIS

Rather than simply presenting Ms. Meyner's votes on the selected issues, the 13th D.T. bulletins interpret the record through the selection of the votes reported, partisan comments in the description of the reported votes, categorization of reported votes as voted "For High Taxes and Big Government" and "Lower Taxes and Less Government" and by other methods. Ms. Meyner's photograph, name and address appear with this critique of her record. Such presentations constitute communications expressly advocating the defeat of a clearly identified candidate.

In addition the 13th D.T. Bulletins do not contain the statement of authorization/non-authorization required by 2 U.S.C. 441d of all communications which expressly advocate the defeat of a clearly identified Federal candidate.

1/ Mr. Grant also sent a copy of this letter to Senator Harrison A. Williams, Jr. and the Senator sent a copy of Mr. Grant's letter to the Commission on June 13, 1978, with the request that the Commission provide any information which would enable him to respond to Mr. Grant's inquiry. The Commission responded to Senator Williams on July 25, 1978.

2/ Although we believe the 13th D.T. is either the same as, or the successor committee to, NJTC, we are recommending that the 1978 complaint be treated as a separate MUR. Defendant's attorney in FEC v. NJTC has advised that the two committees are different, and complainant Grant, in his June 1, 1978 letter, states that "the material in (the 1978) TRIM bulletin is slightly different from the material about which I filed my original complaint in October, 1976 ..."

Furthermore, assuming that the 13th D.T. made expenditures in excess of $100 in the calendar year of 1978 in expressly advocating the defeat of a clearly identified candidate, they have not filed with the Commission the reports required by 2 U.S.C. 434(e).

RECOMMENDATION

We recommend that the Commission:

1) Determine the Thirteenth District TRIM Committee Bulletins are communications which expressly advocate the defeat of a clearly identified Federal candidate,

2) Find reason to believe that the Thirteenth District TRIM Committee violated sections 434(e) and 441d of the Federal Election Campaign Act, and

3) Authorize that the attached letter, with questions, be sent.

Attachments

1. Mr. Grant's letter of August 16, 1978
2. Mr. Grant's letter of June 1, 1978
3. Mr. Grant's letter of July 25, 1978
4. 13th D.T. Bulletins
5. Letter to Respondent with questions
6. Certification

MUR 689

4647

000690

INTER-MARK ASSOCIATES
114 E. RIDGEWOOD PARKWAY
DENVILLE, NEW JERSEY 07834
(201) 625-3983

RECEIVED
FEDERAL ELECTION
COMMISSION

'78 AUG 25 AM 11:56

August 16, 1978

ATTACHMENT I

William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Dear Mr. Oldaker:

In response to your letter of August 7 which listed four elements which you said I must fulfill in order to file a complaint against the John Birch group, Northwest Jersey TRIM et al, I submit the following:

I Robert C. Grant do hereby proclaim that I am, indeed, once again complaining, still, and yet again, about the publications of Northwest Jersey TRIM. I will sign and swear and my friend Doug will notarize this complaint and then I will be in compliance with 2 U.S.C. 437 g (a) (1) despite the fact that TRIM has been running around in compliance with nothing and nobody.

Also in your letter you ask for a "clear and concise statement of the acts which are alleged to constitute a violation..." Despite the fact that they are finally up on charges of violating the Federal Election Campaign Act of 1971, they are still turning out more BS than a Hereford breeding farm. There's your concise statement. Documentation of the allegation is enclosed in the form of their latest bulletin which is almost identical to the one I first complained about, lo these many months ago. I still say they are not complying with the requirements of 2 USC 434 (e) and 441 (d).

Now that I've sworn, complained, declared, stated, disclosed, sighed, revealed and notarized, you expect me to assert that I am not the candidate, nor do I hold any position with the candidate, nor do I represent same--okay, I hereby assert that, too.

Your paragraph on not enjoining TRIM from further distribution of their literature shows a great amount of uncool about your function. These people will still be distributing their literature on election day!

What you call "litigation strategy" and your mention that a District Judge would have to issue a preliminary injunction and your decision not to seek the injunction sounds more like evasion of your responsibilities to enforce the law than it does of intelligent reasoning on the problem.

What else does a District Judge have to do all day than order a preliminary injunction--I say throw the book at 'em all! Whatcha got--a surprise witness? tapes? Syndicate?

I would like to remind you that it has been almost 23 months since I filed my original complaint and the TRIM people are still spreading their literature far and wide.

Implicit in the legislation which created the FEC is that someone on your staff would understand the nature of politics and the necessity of speedy action to correct failures to comply with the law. I find no such understanding on your part. I find a typical, slow-moving, self-justifying bureaucracy which is not performing.

I find that my fight to have you take action and follow through on it is becoming as frustrating as the material TRIM is printing. To file my third complaint in two years and to get back a fit of legal jargon from you strikes me that you are hardly fulfilling your legislative mandate to protect the Federal Election Process.

Very truly yours,

Robert C. Grant

Robert C. Grant

RCG:jbt

encl.

Duly Sworn on the 17th day of August 1978

State of New Jersey County of Morris

Notary Public

DOUGLAS R. ROMAINE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Feb. 23, 1983

Seal

June 1, 1978

ATTACHMENT II

SENATOR
WILLIAMS, N.J.
1[illegible] JUN -9 PM 10:33

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

Re: MUR310 (76)

Dear Mr. Myerson:

At the request of Charles Steel of your office, I am forwarding to you a copy of the latest TRIM Brochure. The material is slightly different from the material about which I filed my original complaint in October 1976, but its thrust and purpose are the same.

I feel that this "Winter '78 Issue" of the TRIM bulletin violates the same Federal Election laws that I pointed out in my letter to your office in October 1976.

I am most distressed and frustrated that this matter has gone unattended to over the last 18 months and would hope that you would take action shortly.

Very truly yours,

Robert C. Grant
RCG:jbt encls.
cc: Senator Harrison Williams ✓
Congressman Frank Thompson
Daniel Horgan, Executive Director,
Democratic National Committee

WILLIAMS, N.J.
19.. JUL 28 AM 10:46

ATTACHMENT III

July 25, 1978

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

Dear Mr. Myerson:

Enclosed is the latest issue of the John Birch Society's TRIM organization newsletter. An earlier edition was the subject of a complaint I filed with the FEC in October of 1976 which I understand is now in New Jersey U.S. District Court, case # 78-1311.

This letter is another formal complaint against the TRIM group. I feel strongly that they continue to violate Title 2, U.S. Code 434-E which requires any group which advocates the election or defeat of a candidate to file with your organization the appropriate financial information and to include on the literature itself a disclaimer. TRIM has again failed to meet these requirements and is currently in the process of distributing more literature, a copy of which is enclosed, which advocates the defeat of U. S. Representative Helen Meyner.

In addition to this formal complaint I ask that TRIM be enjoined from further distribution of this literature and all similar literature which does not meet the Federal Election Law until adjudication of the pending suit which your organization has filed.

Thank you for your interest.

Very truly yours,

Robert C. Grant

RCG:jlt
cc: Harrison Williams ✓
Frank Thompson - Att. Bill Dietz
Democratic National Committee - Sandy Libby
Democratic Congressional Committee

WINTER '78 ISSUE ATTACHMENT II 4-95

TRIM BULLETIN

TRIM (Tax Reform IMmediately)
a nationwide movement for:
Lower Taxes Through Less Government

THIRTEENTH DISTRICT TRIM COMMITTEE

P.O. BOX 5241
CLINTON, N.J. 08809

P.O. BOX 424
ROCKAWAY, N.J. 07866

EXECUTIVE COMMITTEE
F. WILLIAM FORD * CHAIRMAN
EDWARD BAUER * TREASURER
CAMILLA HAMMOND * SECRETARY
TOM GREGORY * PUBLIC RELATIONS

Social Security Taxes Triple

The Federal Chain Letter

For forty years millions of Americans have been paying taxes to the federal government in the belief that the government was putting their money into numbered accounts in trust funds. They were led to believe that their money would accumulate in their accounts until they retired, when they could begin receiving the money in the form of monthly retirement checks. But the truth about Social Security and the beliefs that many Americans have about it are two entirely different things.

No Trust Funds

The first truth about Social Security is that *there is not and never has been any trust fund.* All the taxes collected from American workers (their "contributions") have been used to buy bonds of the United States government. There is no cash in the trust funds. There isn't even any paper money. All that is there are IOUs to the U.S. Treasury totaling [illegible]. Your *Social Security taxes have already been spent by the federal government.* Your taxes were spent as fast as they were paid. Worse yet, in order to pay off the IOU's the Treasury has given the Social Security Administration, *the federal government would have to raise your taxes.* In short, we find that the average worker paid an exorbitant price for Social Security "protection" already, but in order to collect, *he will have to pay again. He* will be taxed twice for "benefits" he may never live to collect.

No Numbered Accounts

If there are no trust funds, then there can be no accounts containing the taxes you have paid plus the interest they have earned. In 1940 the U.S. Supreme Court declared: "The proceeds of both the employee and employer taxes are to be paid into the Treasury like other internal revenue generally, and are not earmarked in any way."

What is your Social Security number for? *Identification.* The Social Security Administration assigns a number to each American worker for the purpose of identifying the worker's earnings and tax records. The tax records so identified pertain not only to Social Security taxes, but to regular federal income taxes. Each employer in the United States is assigned an "Employer Identification Number" for tax purposes. Each worker's "Employee Identification Number" is his Social Security number. By using these numbers the Social Security Administration and the Internal Revenue Service can quickly locate a worker's tax history on

(*Continued on page two*)

IF GOVERNMENTS WERE HONEST —

Social Insecurity Administration
Office of Chain Letters
Baltimore, Maryland

February 1978

Dear Young Worker:

Welcome to the Social Insecurity System! Enclosed is a list of 150,000,000 numbers. Please add your number to the bottom of the list and send 15% of your wages each month to the number at the top of the list. In 2025 (should you live so long and if we don't change the rules) your number will appear at the top of the list and you will begin receiving in the mail a monthly retirement check that may keep body and soul together, if you're lucky.

Remember, do not break the chain! If you do, we will compel you to make your contribution each month. Cooperate with us and we will protect you in your golden years.

Sincerely,

Charles Ponzi

Charles Ponzi
Social Insecurity
Administrator

ATTACHMENT IV

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. F. William Ford
Thirteenth District Trim Committee
P.O. Box 5241
Clinton, New Jersey 08809

Re: MUR 689

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The Commission has found reason to believe that the matters alleged therein state a violation of 2 U.S.C. 434(e) and 2 U.S.C. 441d. Specifically, it appears that the Thirteenth District TRIM Committee's Bulletins are communications which expressly advocate the defeat of a clearly identified Federal candidate, Congresswoman Helen Meyner. Since the Bulletins do not contain the statements of authorization/non-authorization required by Section 441d of the Act, and since the Thirteenth District TRIM Committee has not reported its expenditures expressly advocating the defeat of a clearly identified candidate pursuant to Section 434(e) of the Act, the Commission, on September , 1978, found reason to believe that Thirteenth District TRIM Committee violated those cited provisions.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Additionally please submit answers to the enclosed questions. Where appropriate, statements should be submitted under oath.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within ten days after your receipt of this notification.

If you have any questions, please contact Jay Myerson, the attorney assigned to this matter, at 202-523-4073.

This matter will remain confidential in accordance with 2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

FEDERAL ELECTION COMMISSION QUESTIONS

TO: Mr. F. William Ford MUR 689 (78)

ATTACHMENT TO LETTER TO THIRTEENTH DISTRICT TRIM COMMITTEE

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(b) To date in 1978, what amount of money has been expended by the 13th D.T. in undertaking the activities referred to in questions 9 and 10?

12. (a) What amount of money was contributed to the 13th D.T. in 1977?

(b) What amount of money has been contributed to the 13th D.T. in 1978 to date?

6-95

TRIM BULLETIN
Published by TRIM (Tax Reform IMmediately) a nationwide movement for
Lower Taxes Through Less Government

THIRTEENTH DISTRICT TRIM COMMITTEE

P.O. BOX 5241
CLINTON, N.J. 08809

P.O. BOX 424
ROCKAWAY, N.J. 07866

EXECUTIVE COMMITTEE
F. WILLIAM FORD - CHAIRMAN
MRS E. BROZANG - SECRETARY
HOWARD VOSE - TREASURER
TOM GREGORY - PUBLIC RELATIONS

How Politicians Rob You

Inflation Is Theft!

Every statement issued from Washington on the subject of inflation regards inflation as one of two things. Inflation is either (1) an "act of God," a disease, or a national disaster that no one — and certainly not the federal government — can be blamed for; or (2) inflation is caused by labor unions, or big business, or greedy doctors, or the Arabs, depending upon the mood of the government bureaucrat talking. *Never does the federal government even hint that its actions are the cause of inflation and that inflation is a deliberate, premeditated policy of the federal government.*

It cannot admit this, for politicians love to pose as fighters against inflation — fighters against big business and its "obscene" profits; fighters against the "price-gouging" Arabs; fighters against the "racketeering" labor unions. Always they locate the cause of inflation outside of government and direct the public's attention away from themselves. In his April 11 speech on inflation, President Carter said that "It is a myth that the government itself can stop inflation. Success or failure of this overall effort will largely be determined by the actions of the private sector of the economy." According to the President it is the "private sector" — not the government — that is causing inflation. The facts, however, belie his claims.

Inflation is Political

Inflation is not an economic problem at all — that is what the politicians would like us to believe. **Inflation is a political problem. It is not caused by big business raising prices or big labor demanding more benefits. It is not caused by the Arabs demanding more Federal Reserve Notes for their oil. All these things — generally rising prices, rapidly rising wages, and exorbitant oil costs — can occur only because the federal government has been printing more cur-**

(Continued on page two.)

Are You Burned Up About Taxes?

Do rising taxes and galloping inflation bother you? If so, then join the thousands of Americans who have organized **Tax Reform IMmediately** (TRIM) Committees from coast to coast for the purpose of lowering taxes *immediately*.

These concerned Americans have come to the conclusion that the politicians in Washington are largely responsible for rising prices and skyrocketing taxes at the federal, state, and local levels. TRIM believes that if most Americans begin to understand that government is the cause of many of our problems, the Members of Congress will support policies that will end tax increases and inflation. We think you will agree, too. Why not write today to the address above to ask how you can join a local TRIM Committee? Use the handy coupon on page 3.

(Continued from page one.)

rency and creating more credit. By increasing the supply of money and credit, the federal government is causing prices to rise continually.

It is the elementary law of supply and demand applied to money — as there are more and more Federal Reserve Notes in circulation, they become worth less and less. The producers of real goods like steel, automobiles, and food demand more and more of these increasingly worthless Federal Reserve Notes for their products. The rising [illegible]t of living is caused by the [illegible]ng number of Federal Reserve Notes the federal government has created in order to reward its favorites.

Inflation: Made in Washington — If you wish to know who is responsible for inflation, look at the Federal Reserve Note in your pocket. The names of the guilty parties are printed on each Note: The Department of the Treasury and the Federal Reserve. General Motors does not print U.S. currency, nor do the Arabs. It is the politicians who control the supply of currency and credit. **Inflation** — the creation of more currency and credit — is the **most** cunning way governments have yet developed for stealing surreptitiously — embezzling — from their subjects. Because the federal government has a monopoly on the creation of currency, it can print the money it needs to cover its budget deficit each year, thus spending **more** than it receives in taxes.

This legalized counterfeiting reduces the value of the Federal Reserve Notes in everyone's pocket. Through inflation, the government steals your wealth in a manner so clever that most people have not understood who was stealing from them.

It is not the businessman, or the workers, or the Arabs who cause inflation: It is the politicians. They can stop it at any time they want — not through price controls or guidelines or wage ceilings — but by shutting off the printing presses and closing down the Federal Reserve. Until they do, we will continue to suffer from ever higher prices, and an ever higher cost of living.

THE FEDERAL RATHOLES

In 1977 the Department of Health, Education and Welfare spent nearly $150 *billion*. Now the Department has released a study that admits that HEW "lost" between $6.3 and $7.4 *billion* in one year due to fraud, waste, and rule-breaking. That is what the Department itself admits. One wonders how large the figures would be were an independent audit of the Department conducted. Any organization that can "lose" $7 billion ought to be audited — first to catch the criminals responsible for this malfeasance, and then to cut the Department down to Constitutional size. It is your tax money that has gone down this federal rathole. Don't you think it's about time we eliminated the federal ratholes by lowering taxes? After all, if the bureaucrats have less money to spend, they will have less money to waste and criminally misappropriate. Less Government (and less fraud) Through Lower Taxes.

DO YOU FAVOR CENSORSHIP?

Your Representative might. Last March several Members of Congress began participating in a campaign to prevent their constituents from publishing the voting records of their Representatives in Congress. This campaign is now underway, despite the fact that the Constitution clearly says that "Congress shall make no law . . . abridging the freedom of speech, or of the press . . . ." Apparently the Members of Congress involved in this campaign — Members who have sworn to uphold the Constitution — believe that publishing a Member's voting record is a crime that ought to be punished under federal law.

What is so important to these Members that they must violate their oaths of office and the Constitution in order to hide their voting records? Don't they want the people to know what they are doing in Washington?

Why don't you write to your Representative and ask him if he favors punishing people who publish his voting record? The answer you get may surprise you.

Planned Oil Shortage

In a speech delivered on April 11, President Carter announced his intention to create an oil shortage in this country. This is what he said: ". . . we must have meaningful energy legislation without further delay . . . . *If Congress does not act, then oil imports will have to be limited by administrative action under present law . . . . One way or the other, oil imports must be reduced.*"

What the President is saying is quite simply this: If Congress doesn't create an oil shortage, he will. "Administrative action" is a nice phrase for Presidential order.

Imported oil now supplies half of our oil needs. Cutting off or limiting this supply while refusing to allow oil development in this country *must* result in an energy crisis. Apparently President Carter thinks that sitting in gasoline lines — as we did in 1973 — is good for us.

Rationing

Perhaps he has other plans, however. After he has created his own oil shortage, he may want to circulate the 4.8 billion ration coupons that the Nixon Administration printed in 1974. Then your ability to buy gasoline will not depend upon your ability to earn the necessary money, but upon your willingness to kowtow to the bureaucrats issuing the ration coupons.

Apparently the federal government believes that forcing oil prices out of sight by printing counterfeit money has not caused us enough trouble. The Department of Energy has developed a gasoline rationing program that could be put into effect whenever the President and the Congress agree that such a program is necessary. *When they do agree, you may be sure that this oil shortage and rationing program (the better to control the people) was Made in Washington.*

Greedy . . .

Federal Government

The federal tax collectors are not content with raising your income taxes and tripling the maximum Social Security tax over the next ten years. Now the ravenous I.R.S. is going after your fringe benefits. Does your employer give you free parking space at your job? Do you work at a store that gives employees discounts on items purchased from the store? Do you use a company car or get free or discounted transportation from the airline, bus company, or railroad you work for? If so, then the I.R.S. is after you.

Taxing Fringe Benefits

The tax collectors are writing new rules and regulations that would increase the tax burden of just about every employee in this country. At least 40 fringe benefits are their target, and their goal is to increase the tax take by billions of dollars each year. I.R.S. attorneys are drafting the new regulations on their own, without seeking legislation from Congress. These new regulations will probably be made public after July 1. Unless you want your taxes to go up again, you should contact your Congressmen quickly and protest this unlegislated tax increase.

It's time for lower taxes.

Because many "hidden taxes" are never seen by consumers, some people find it hard to believe that governments at all levels are now consuming over 45% of an average person's earnings. TRIM, a nationwide network of committees launched by The John Birch Society, is working to bring about "lower taxes through less government." If you want more information, clip the coupon and mail to the TRIM Committee listed at the top of page one.

— FREE —
Just send a stamped, self-addressed envelope

☐ I'm fed up with higher taxes and bigger government. Please tell me how I can join the local TRIM Committee.

☐ I would like to help your Committee by distributing TRIM Bulletins in my neighborhood. Please contact me.

☐ I've enclosed a donation to help pay for the cost of printing and distributing more TRIM Bulletins.

☐ Send a free copy of the TRIM Catalog. I've enclosed a stamped, self-addressed envelope.

Name

Address Phone

City State Zip

their computers. These computer files do not state what benefits are due a worker, but how long the worker has paid Social Security taxes and how much tax he has paid.

No Security

Since there are no trust funds and no numbered accounts, there is no security in Social Security. What a worker receives when he retires — even the age at which he may retire — is at the whim of Congress. Recently there has been discussion in Congress about raising the retirement age from 65 to 68 or 70. Congress may do that. If a private insurance company tried it, its officers would be slapped in prison.

Congress has in fact denied *benefits to thousands of workers.* When Social Security began in 1935, Congress decided that any worker who had paid Social Security taxes and who had reached 65 but did not qualify for any benefits would simply have his taxes (or the half that he paid) returned to him. If a qualified worker died before he reached 65, his estate would receive his taxes. But in 1939 the Congress changed its mind and reneged on the promised refunds. *The Congress has the power under the law to pay whatever benefits it wishes or none at all.* It also has the power to print paper money and "pay off" all the promises it has made. *Of course,* paying in paper money will destroy the value of whatever "benefits" may have been promised. No one has a contract with the Social Security Administration guaranteeing his *benefits.* All he can do is trust the government. There is no security in Social Security.

No Benefits

Just as the government likes to call your Social Security taxes "contributions," it likes to call the money it spends "benefits." Yet no one benefits from Social Security except the bureaucrats. A young or middle-aged worker could purchase an insurance policy from a reputable, private company that would pay benefits far surpassing those paid by Social Security for less than half of the amount he pays in Social Security taxes. It does not benefit the worker to pay Social Security taxes.

Because Social Security has no trust funds, today's taxes pay today's Social Security recipients. Premiums paid to a private insurance company would be invested and used to create new jobs and new wealth. *Social Security, however, is a program for the redistribution — not the creation — of wealth.* Social Security taxes create no new jobs or new wealth. In fact, *they destroy both wealth and jobs, creating business failures, unemployment, and economic stagnation.*

The Social Security System destroys both savings and the incentive to save. Without savings and the incentive to save, a free enterprise economy will, in time, fail. The Social Security System is a major cause of our past, present, and future economic problems.

No End To Taxes

Not only can Congress *decrease* or eliminate Social Security "benefits" any time it wishes, it can also increase the costs any time it wishes. Last December 15, Congress voted to triple the maximum Social Security taxes over the next ten years. The maximum tax paid by an employee in 1977 was $1930 (half is paid through payroll deductions; half through lower wages). By 1987 the maximum tax will be $6092 per year, more than triple the tax paid in 1977. Unless Social Security is seen for the hoax it is, the American worker will continue to pay ever-increasing and crushing taxes to keep an immoral and impractical wealth redistribution scheme going. But until the fraud of Social Security is exposed, millions of workers will pour billions of dollars into a program that guarantees social, political and economic insecurity," not security.

THE TAX SHELL GAME

In 1976 the Congress lowered your federal income taxes and raised your Social Security taxes.

In 1977 the Congress raised your Social Security taxes and lowered your federal income tax.

Now the Congress is thinking about lowering your federal income taxes again, but it has already raised your Social Security taxes and the prices you pay for fuel.

This is known as tax reform — Washington style. If you keep your eye on the pea, you will discover that no matter what the Congress does or says it does to lower your taxes, your taxes increase. Deception, not reform, is the name of the game. And you, dear taxpayer, are being taken.

Let *US* Choose!

Members of Congress, employees of the federal government, and employees of tax-exempt organizations do not pay Social Security taxes. State and local governments may exempt their employees from paying the taxes. If Social Security is so beneficial, why do these people not participate? If it is not so beneficial, why are you *forced* to participate? Why not give everyone the choice to *participate* in *Social Security or not?*

NOW YOU KNOW

The benefits under Title II (Social Security Act) are like pensions, *to be given or withheld at the* discretion of Congress.

— *U.S. Supreme Court*

Covert Operations

During the Watergate scandal the phrase "covert operations" became very popular to describe the secret criminal activities of some government employees. The phrase can equally well describe the tax system which the Congress has devised which increases income taxes automatically and secretly. These tax increases have occurred annually for decades, yet there has been no outcry from the taxpayers, simply because they do not realize — and certainly have not been told by the government — that their taxes are going up each year. During the 1970's these covert tax increases will garner more than $80 billion for the U.S. government. In 1977 alone the secret tax increase will take about $6 billion from the American taxpayers and add from $350 to $450 to the average family's federal income tax.

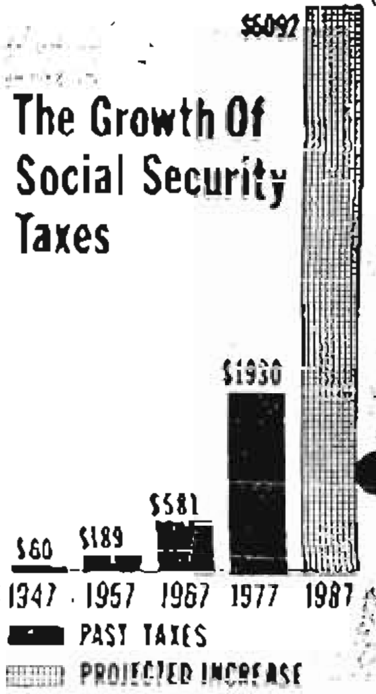
The keys to this covert operation are the graduated income tax and inflation. Because the government is continually expanding the money supply, prices — including the prices paid for labor — are continually increasing. But a worker who makes $20,000 per year does not pay the same percentage of his salary to the government as a worker who earns $10,000. Because the income tax is graduated, the worker earning more pays a higher percentage of his income in taxes. Through inflation, the federal government is moving workers into higher and higher tax brackets, collecting a larger and larger percentage of income in taxes, and never enacting a tax increase!

Let's assume a worker earned $15,000 and paid $1,510 in federal income taxes in 1955. Furthermore, let's assume that the worker's income merely kept even with inflation — his real income stayed the same until 1976, when he earned $32,000, or 15,000 1955 dollars. In 1976, however, his federal income taxes were not slightly more than double his 1955 taxes, as one might expect, *they were more than four times as high: $6,880!* Only the tax collector, the I.R.S., has gained from this secret tax grab, a covert operation if there ever was one.

A Spoonful of Sugar . . .

As one can see by studying the bills listed on page four, the leaders of Congress lump appropriations for programs that may be justified with appropriations for programs that cannot be justified under the Constitution. By doing this, they hope to pressure a Member of Congress into voting for several wasteful programs while voting for a few proper programs. Nevertheless, the ancient question "shall we do evil that good may come?" must be answered *no.* Catch-all bills appear to be a device to spend tax money that might not otherwise be spent. Congress should be honest enough to vote on appropriations for each program separately, and that is why we have scored the votes on page four as we did.

The Growth Of Social Security Taxes



The graph above illustrates the growth in maximum Social Security taxes for the forty year period, 1947-1987. The maximum taxes have tripled in each decade from 1947-1977, and will at least triple in the next decade under present law. Each employee pays the full amount of these taxes in two different ways. The first and more obvious is through deductions from his paycheck, the second and less obvious is through lower wages: The money his employer pays to the government would otherwise be paid in wages.

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HOW DID YOUR REPRESENTATIVE VOTE?

	TOTAL COST AVERAGE COST PER HOUSEHOLD	VOTED FOR LOWER TAXES AND LESS GOVERNMENT	VOTING [illegible] GOVERNMENT
MORE NATIONAL DEBT *H.R. 11 [illegible], passage of the bill.* This bill would have increased the public debt limit (which covers only a small part of the total federal liabilities) from $752 billion to $824 billion. Failed, 165-248. (*Congressional Record* 3/7/78, pp. H1721-H1737.)	$72 billion $947		X
BLOATED GOVERNMENT *H.R. 50, passage of the bill.* Enacted to commemorate the death of Senator Hubert Humphrey, the Humphrey-Hawkins bill made it the goal of the federal government to provide more subsidies for farmers and businessmen, more government "make-work" jobs, and included an unlimited authorization for spending your tax money. Passed, 257-152. (*Congressional Record* 3/16/78, pp. H2110-H2161.)	incalculable incalculable		X
POSTAL MONOPOLY SUBSIDY *H.R. 7700, passage of the bill.* In addition to making several organizational changes in the Postal Service, this bill provided for an unlimited authorization for subsidies to the Postal Service, a provision that will cost billions of your tax dollars. Passed, 384-11. (*Congressional Record* 4/6/78, pp. H2533-H2550.)	$5.5 billion* $72		X
WELFARE FOR BUSINESSMEN *H.R. 11445, suspension of the rules and passage of the bill.* This bill authorized spending at least $4.4 billion to help businessmen during 1980-1982 and authorized the spending of an unlimited amount of tax money for loans at subsidized interest rates. Passed, 310-72. (*Congressional Record* 4/13/78, pp. H2631-H2641, H2644-H2645.)	$4.4 billion* $57		X
WELFARE FOR SCIENTISTS *H.R. 11400, passage of the bill.* This bill authorized $934 million for fiscal year 1979 for the National Science Foundation which has funded such projects as research on homosexual sea gulls, the sex lives of snails, the social activities in a Peruvian brothel, and the social behavior of prairie dogs. Passed, 364-37. (*Congressional Record* 4/18/78, pp. H2561-H2580.)	$934 million $12		X
WELFARE FOR FARMERS H.R. 11504, passage of the bill. This bill created a two-year, $4 billion loan program for farmers, who will be privileged to borrow up to $400,000 apiece at interest rates as low as 3%. Passed, 147-23. (*Congressional Record* 4/24/78, pp. H3110-H3142.)	$4.3 billion $56		X
MORE WELFARE FOR SCIENTISTS H.R. 11401, passage of the bill. This bill authorized spending $4.4 billion in fiscal year 1979 for the civilian National Aeronautics and Space Administration on such projects as the space shuttle, space research, satellites that spy on Americans, the search for space beings, and the construction of space factories, all of which are unconstitutional. Passed, 341-54. (*Congressional Record* 4/25/78, pp. H3164-H3191.)	$4.4 billion $57		X
MORE INFLATION *H.J. Res. 8[illegible] Federal Reserve Draw Authority, suspension of the rules and passage of the Resolution.* This resolution extended the authority of the Federal Reserve banks to purchase up to $5 billion in U.S. debt directly from the Treasury. Dealing in the federal government's debt is one of the ways the Federal Reserve increases the supply of money and credit, causing higher prices and unemployment. Passed, 2[illegible]-77. (*Congressional Record* 5/1/78, pp. H3336-H3339, H334[illegible].)	$5 billion $65		X
MORE WELFARE FOR FARMERS *H.R. 6782, adoption of the conference report.* Having rejected this conference report on April 12, Congress made some changes and passed this new version. The bill authorized the Secretary of Agriculture to raise grain and cotton prices, to establish federal quotas for raisin sellers, and to increase the borrowing authority of the Commodity Credit Corporation by $10.5 billion. Passed, 212-182. (*Congressional Record* 5/4/78, pp. H3575-H3594.)	$10.5 billion* $138		X
UNSURPASSED WASTE *H. Con. Res. 559, approval of U.S. Budget for fiscal year 1979.* By passing this Resolution the House of Representatives approved the largest budget in American history, over half a trillion dollars — $175 for every man, woman, and child on earth or $2,300 for every living American. This budget contained a deficit of $57.8 billion, guaranteeing further unemployment and higher prices. The Resolution also recommended that the public debt limit be increased to $856 billion, an increase of $104 billion. Passed, 201-197. (*Congressional Record* 5/10/78, pp. H37[illegible]-3747.)	$500.9 billion $6550		X

*Minimum; subsidies could add billions.

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[illegible]
[illegible]

HOW DID YOUR REPRESENTATIVE VOTE?

	TOTAL COST AVERAGE COST PER HOUSEHOLD	VOTED FOR LOWER TAXES AND LESS GOVERNMENT	[illegible]
THE FEDERAL MOVERS [illegible]	$14.3 billion $190		X
THE FEDERAL BUSYBODY [illegible]	$7.9 billion $105		X
THE FEDERAL LANDLORD [illegible]	$69.3 billion $924		X
THE FEDERAL SCIENTIST [illegible]	$4 billion $53		X
THE FEDERAL PLUMBER [illegible]	$10.3 billion $137		X
THE FEDERAL PLANTATION [illegible]	$13.9 billion $184		X
THE FEDERAL SOCIAL WORKER [illegible]	$68.2 billion $902		X
THE FEDERAL SPENDTHRIFT [illegible]	$459.5 billion $6126		X
THE FEDERAL BULLDOZER [illegible]	$12.5 billion $165		X
THE FEDERAL CHAIN LETTER [illegible]	unknown unknown		X

5 6 . 0 1 1 1 6 (

TRIM

[illegible]

FEDERAL AGENCIES IN ACTION

Bureaucratic regulations cost big money

[illegible] Federal Maritime Commission with only [illegible] the [illegible] Protection Agency [illegible] in the Federal Register [illegible] pages of rules in [illegible]. They exercise execu[illegible] power by [illegible]

[illegible]

Learning The Hard Way

[illegible]

Funny thing happened on the way to total government.

(Continued from page one)

are not merely a dead weight that only industry must carry. They are also a big drain on the taxpayer's own pocketbook.

Until a few years ago the auto industry in the U.S. operated with little or no interference from the government. The type of cars built was determined by what the industry thought the public wanted and would buy in a free market.

Today, however, the auto industry is rapidly becoming one of the most heavily regulated businesses in America. In the name of clean air, energy conservation, and safety, the *government* is giving auto makers strict guidelines for building cars, regardless of buyers' preferences. This government interference is skyrocketing costs far beyond the value of the benefits to the buyers.

Foolish and Costly Regulations

One example of a foolish government regulation was the interlock system designed to force people to wear seat belts. The car could not be started until the belts were fastened. Drivers were frustrated into bypassing the system completely by buckling the belts under the seat. There was such a clamor of protest that Congress finally ruled the system out.

And who can forget the catalytic converter, a device intended to remove certain components of engine exhaust before they could enter the atmosphere? What it did in actual use was to emit an even more dangerous substance, as was discovered after the device had already been installed on millions of automobiles. The cost to the purchasers of these cars was millions of dollars ***for an expensive device they would never have chosen to purchase had government regulations left them*** any freedom of choice.

Simultaneous government demands for cleaner air and better mileage have auto makers working in opposite directions at the same time. Every time Congress tightens emission control requirements it makes the job of meeting mileage requirements tougher. "We lost an average of one mile per gallon in '77 due to *tighter emission controls,*" said Thomas Murphy, Chairman of General Motors Corporation. Overall, this highly questionable anti-pollution equipment has reduced automobile efficiency by 14 percent since 1967, while the average price of a new car has jumped 70 percent.

But Remember —

Under Article I, Section 7, of the Constitution, all bills for raising revenue must originate in the House of Representatives. The elected Representatives of the people, therefore, have control of the purse strings and can put an end to any agency — and its programs — by denying it funds. If your Representative says that there's little he can *do about regulatory agencies,* remind him of Article I, Section 7.

Spending goes UP UP

Government expenditures in 1977 will average $9,607 for each household in the U.S., according to estimates made by the Tax Foundation of New York. It is estimated that the cost of government for 1977 will be $715.7 billion, up from $633.9 billion in 1976.

Government expenditures have shown a dramatic rise since 1950, when the *total* was $1,615 for each U.S. household.

It is time for all taxpayers to become aware of what government costs them. Many state and local expenditures are the direct result of federal programs voted into existence by our Representatives in Congress. An increasing number of **federal giveaways require** that *matching funds be raised locally.*

Once again, remember that *all* federal expenditure bills originate in the House of Representatives. Why not write *your* Representative and tell him to stop government spending right where it begins by voting for *Lower Taxes Through Less Government!*

He doesn't pay taxes

The owner of the biggest chunk of land in this country pays no property taxes. He owns millions of acres, from timber-rich mountains to grazing lands. He puts up high-rise office buildings on high-priced lots in our biggest cities. And soaring tax rates never make him flinch — for this land owner's name is Uncle Sam.

The federal government owns 752 million of the nation's 2.3 billion acres, or about one-third of the gross area of the entire nation. None of the federal caretakers, such as the Bureau of Land Management, the National Park Service, and the Forest Service, are willing to guess what the land is worth. They also refuse to estimate how much local governments lose each year in property taxes because the federal government owns the land and pays no taxes.

The U.S. owns 96.4 percent of Alaska; 86.6 percent of Nevada; 66.1 percent of Utah; 63.7 percent of Idaho; 52.6 percent of Oregon; 47.8 percent of Wyoming; and an amazing 45.2 percent of populous California. Yet there is no justification in the U.S. Constitution for federal ownership of *any* land other than the District of Columbia and sites purchased from the states "for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."

Can your Representative justify ***the tax-free government ownership*** of one-third of the land of this country? This year, when taxpayers are being forced to pay 43 billion dollars in interest on the federal debt, why not ask your Representative to put this federally owned land up for sale to taxpaying private ownership?

WHO WANTS TO SPEND YOUR MONEY?

Here is a table showing the cost of legislation either sponsored or cosponsored by the twelve biggest spenders of the 94th Congress. Only bills which have *not* become law are included.

Sponsoring Representative	*Billions of Dollars**
Augustus F. Hawkins (California)	510.2
Stephen J. Solarz (New York)	506.1
Michael J. Harrington (Massachusetts)	504.1
Don Edwards (California)	495 7
Frederick W. Richmond (New York)	491.1
Herman Badillo (New York)	490.0
Robert F. Drinan (Massachusetts)	487.7
John M. Murphy (New York)	486.9
Robert A. Roe (New Jersey)	483.0
Elizabeth Holtzman (New York)	480.7
James C. Corman (California)	476.5
Thomas L. Ashley (Ohio)	470.7

**Spending that would have been required between 1975-1980 if bills had been enacted into law. (Source: Congressional Record, May 4, 1977; page H-4015)*

In addition to the already huge federal operating budget, can you imagine what enactment of these proposals would have done to your taxes? Why not write and ask your Representative how many bills *he* either sponsored or cosponsored, and what they would be costing you as a taxpayer had they been enacted into law?

What made the "gas shortage"?

Since 1940 the price of gasoline has risen from twenty cents to sixty cents a gallon. That's an increase of 200 percent. Yet even as the price of gasoline has soared, the nation's consumption of gasoline has continued to rise, not fall.

President Carter's plan to raise the price of gasoline by slapping on another federal tax isn't likely to result in any gasoline conservation either. If a price hike of twenty-two cents a gallon over the past three years hasn't changed the American public's driving habits, the proposed annual five cent increases probably won't.

Government Controls the Price

As long as the government regulates the price of gasoline *below* the actual cost of finding and producing it, it is perfectly obvious Americans aren't going to conserve and petroleum producers aren't going to go after new sources.

Over one-third of the price the consumer pays for gasoline now goes for either direct or indirect taxes. Twelve cents of the price of every gallon goes directly to state and local government. Another twelve to fifteen cents reimburses the industry for taxes it has already paid to U.S., state, and foreign governments during the production process. The balance of the price you pay at the pump goes for labor, materials, profit, etc.

Effect of Higher Taxes

In 1975, the Federal Energy Administration did an analysis of the cost of a gallon of gasoline at that year's average price.

Oil-field crude oil (including taxes and duties)	24.0 cents
Transportation and refining	8 5 cents
Oil company marketing costs	2.0 cents
Oil company profit	2 0 cents
Service station profit	11 0 cents
Federal & state excise taxes	12 0 cents
Total cost at pump	59.5 cents

When you look at the above figures and realize that the average marketing price is about thirty-five cents a gallon (twenty-four cents of it for "hidden" and direct taxes), you realize that a major reason you pay so much for gasoline is *too much taxation.* One fact cannot be stressed too often: Taxation contributes nothing to developing new supplies.

It's time for lower taxes.

Because many "hidden taxes" are never seen by consumers, some people find it hard to believe that governments at all levels are now consuming over 40% of an average person's earnings. TRIM, a nationwide network of committees launched by The John Birch Society, is working to bring about "lower taxes through less government." If you want more information, clip the coupon and mail to the TRIM committee listed at the top of page one.

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Just send a stamped, self-addressed envelope

☐ Send a free copy of the *TRIM Catalog.* I've enclosed a stamped, self-addressed envelope.
☐ I'm fed up with higher taxes and bigger government. Please tell me how I can help obtain "Lower Taxes Through Less Government."
☐ I've enclosed a donation to help pay for the cost of printing and distributing more TRIM Bulletins.
☐ I would like to help your Committee by distributing TRIM Bulletins in my neighborhood. Please contact me!

Name ______________________
Address ______________ Phone ______________
City ______________ State __________ Zip __________

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REPRESENTATIVE [illegible]

	Date, Bill Number, and Measure	Average Cost per Household	VOTED FOR LOWER TAXES AND LESS GOVERNMENT	[illegible]
Federal Spending Skyrockets [illegible]	5/5/77 H. Con. Res. 214. Cost, $465 billion	$6250		X
Taxpayers Lose Again [illegible]	4/27/77 Latta Amend to H. Con. Res. 195. Cost, $47 billion.	$632	DID NOT VOTE	
State Department Expenses [illegible]	5/4/77 H.R. 6689. Cost, $1.7 billion.	$23		X
More Foreign Aid [illegible]	5/12/77 H.R. 6714. Cost, $1.7 billion.	$23		X
More Revenue Sharing [illegible]	5/13/77 H.R. 6810. Cost, $2.5 billion.	$34		X
Still More Foreign Aid [illegible]	5/24/77 H.R. 6884. Cost, $3.2 billion.	$43		X

INTER-MARK ASSOCIATES

[illegible]

Lester N. Scall
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4812

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FEDERAL ELECTION

'78 SEP 8 PM 12:22

September 1, 1978

Lester N. Scall
Assistant General Counsel
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Dear Mr. Scall:

This is to acknowledge receipt of your letter Aug. 28 acknowledging receipt of my complaint of Aug. 16, alleging violations of the Federal Election Commission laws as they relate to the John Birch affiliate of Northwest Jersey TRIM.

You have no idea the gratification it gives me to know that you have assigned a staff member to analyze my allegations and recommend to the Commission how this matter should be handled. I'm also delighted that I will be notified as soon as the Commission determines what action should be taken.

If your past track record is any indication you will be deep in the depths of analysis when I am approaching retirement--somewhere around the year 2000.

Of more importance to me at this point is not my complaint of Aug. 16, but the failure of the F E C to initiate an injunction and action based on my complaint of October 1976 leading to the FEC filing suit against Northwest Jersey TRIM (Civil Action # 78-1311 for the District of New Jersey). Before your staff member

(more)

becomes too deeply immersed in handling this 1978 complaint, your people should review that of 1976 and ask the district judge to enjoin TRIM from distributing further material identical to that which you filed suit against.

You also have no idea of the ecstasy which your inclusion of a "Description of Preliminary Procedures for Handling of Verified Complaints Received by the Federal Election Commission" brought to my life.

I was intrigued that the mailroom refers complaints to the enforcement division, enraptured that they assign an MUR number and positively giddy with anticipation that the Office of the General Counsel will write a preliminary report.

Thank you for your attention to this matter. I wait by my mailbox for any additional material you may send for my perusal.

Best Regards,

Robert C. Grant

RCG:jbt

cc: Harrison Williams
Frank Thompson - Att: Bill Dietz
Democratic National Committee - Sandy Libby
Democratic Congressional Committee
Enda Slack - Morris County Daily Record

INTER MARK ASSOCIATES

15¢ OLIVER WENDELL HOLMES 15¢ OLIVER WENDELL HOLMES

William C. Oldaker
General Counsel

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

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON,D.C. 20463

August 28, 1978

Robert C. Grant
Inter-Mark Associates
114 E. Ridgewood Parkway
Denville, New Jersey 07834

Dear Mr. Grant:

This is to acknowledge receipt of your complaint of August 16, 1978, alleging violations of the Federal Election Campaign Laws. A staff member has been assigned to analyze your allegations and a recommendation to the Federal Election Commission as to how this matter should be handled will be made shortly. You will be notified as soon as the Commission determines what action should be taken. For your information, we have attached a brief description of the Commission's preliminary procedures for the handling of complaints.

Sincerely,

Lester N. Scall
Assistant General Counsel

Enclosure

MUR 689 OGC # 4647

005689

INTER-MARK ASSOCIATES
114 E. RIDGEWOOD PARKWAY
DENVILLE, NEW JERSEY 07834
(201) 625-3983

RECEIVED
FEDERAL ELECTION
COMMISSION

'78 AUG 25 AM 11:56

August 16, 1978

William C. Oldaker
General Counsel
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Dear Mr. Oldaker:

In response to your letter of August 7 which listed four elements which you said I must fulfill in order to file a complaint against the John Birch group, Northwest Jersey TRIM et al, I submit the following:

I Robert C. Grant do hereby proclaim that I am, indeed, once again complaining, still, and yet again, about the publications of Northwest Jersey TRIM. I will sign and swear and my friend Doug will notarize this complaint and then I will be in compliance with 2 U.S.C. 437 g (a) (1) despite the fact that TRIM has been running around in compliance with nothing and nobody.

Also in your letter you ask for a "clear and concise statement of the acts which are alleged to constitute a violation..." Despite the fact that they are finally up on charges of violating the Federal Election Campaign Act of 1971, they are still turning out more BS than a Hereford breeding farm. There's your concise statement. Documentation of the allegation is enclosed in the form

78040192263

of their latest bulletin which is almost identical to the one I first complained about, lo these many months ago. I still say they are not complying with the requirements of 2 USC 434 (e) and 441 (d).

Now that I've sworn, complained, declared, stated, disclosed, sighed, revealed and notarized, you expect me to assert that I am not the candidate, nor do I hold any position with the candidate, nor do I represent same--okay, I hereby assert that, too.

Your paragraph on not enjoining TRIM from further distribution of their literature shows a great amount of uncool about your function. These people will still be distributing their literature on election day!

What you call "litigation strategy" and your mention that a District Judge would have to issue a preliminary injunction and your decision not to seek the injunction sounds more like evasion of your responsibilities to enforce the law than it does of intelligent reasoning on the problem.

What else does a District Judge have to do all day than order a preliminary injunction--I say throw the book at 'em all! Whatcha got--a surprise witness? tapes? Syndicate?

I would like to remind you that it has been almost 23 months since I filed my original complaint and the TRIM people are still spreading their literature far and wide.

Implicit in the legislation which created the FEC is that someone on your staff would understand the nature of politics and the necessity of speedy action to correct failures to comply with the law. I find no such understanding on your part. I find a typical, slow-moving, self-justifying bureaucracy which is not performing.

I find that my fight to have you take action and follow through on it is becoming as frustrating as the material TRIM is printing. To file my third complaint in two years and to get back a fit of legal jargon from you strikes me that you are hardly fulfilling your legislative mandate to protect the Federal Election Process.

Very truly yours,

Robert C. Grant

Robert C. Grant

RCG:jbt

encl.

Duly Sworn on the 17th day of August 1978
State of New Jersey County of Morris

Doug Romaine
Notary Public

DOUGLAS H. ROMAINE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Feb. 23, 1983

Seal

6-95

TRIM
BULLETIN

Published by
TRIM (Tax Reform IMmediately),
a nationwide movement to

Lower Taxes Through
Less Government

THIRTEENTH DISTRICT TRIM COMMITTEE

P.O. BOX 5241
CLINTON, N.J. 08809

P.O. BOX 424
ROCKAWAY, N.J. 07866

EXECUTIVE COMMITTEE
F. WILLIAM FORD -CHAIRMAN
[illegible] -SECRETARY
HOWARD VOSE -TREASURER
TOM GREGORY -PUBLIC RELATIONS

How Politicians Rob You

Inflation Is Theft!

Every statement issued from Washington on the subject of inflation regards inflation as one of two things. Inflation is either (1) an "act of God," a disease, or a national disaster that no one — and certainly not the federal government — can be blamed for, or (2) inflation is caused by labor unions, or big business, or greedy doctors, or the Arabs, depending upon the mood of the government bureaucrat talking. *Never does the federal government even hint that its actions are the cause of inflation and that inflation is a deliberate, premeditated policy of the federal government.*

It cannot admit this, for politicians love to pose as fighters against inflation — fighters against big business and its "obscene" profits; fighters against the "price-gouging" Arabs; fighters against the "racketeering" labor unions. Always they locate the cause of inflation outside of government and direct the public's attention away from themselves. In his April 11 speech on inflation, President Carter said that "It is a myth that the government itself can stop inflation. Success or failure of this overall effort will largely be determined by the actions of the private sector of the economy." According to the President it is the "private sector" — not the government — that is causing inflation. The facts, however, belie his claims.

Inflation is Political

Inflation is not an economic problem at all — that is what the politicians would like us to believe. **Inflation is a political problem. It is not caused by big business raising prices or big labor demanding more benefits. It is not caused by the Arabs demanding more Federal Reserve Notes for their oil. All these things — generally rising prices, rapidly rising wages, and exorbitant oil costs — can occur only because the federal government has been printing more cur-**

(Continued on page two)

Are You Burned Up About Taxes?

Do rising taxes and galloping inflation bother you? If so, then join the thousands of Americans who have organized **Tax Reform IMmediately** (TRIM) Committees from coast to coast for the purpose of lowering taxes *immediately*.

These concerned Americans have come to the conclusion that the politicians in Washington are largely responsible for rising prices and skyrocketing taxes at the federal, state, and local levels. TRIM believes that if most Americans begin to understand that government is the cause of many of our problems, the Members of Congress will support policies that will end tax increases and inflation. We think you will agree, too. Why not write today to the address above to ask how you can join a local TRIM Committee? Use the handy coupon on page 3.

CONGRESSWOMAN
HELEN MEYNER
13th CONGRESSIONAL DISTRICT
NEW JERSEY

WASHINGTON, D.C. OFFICE 202-225-[illegible]
[illegible] CANNON OFFICE BLDG./20515

LAMBERTVILLE DISTRICT OFFICE 609-397-1830
[illegible] STREET/08530

HOW DID YOUR REPRESENTATIVE VOTE?

	TOTAL COST AVERAGE COST PER HOUSEHOLD	VOTED FOR LOWER TAXES AND LESS GOVERNMENT	VOTED FOR HIGH TAXES.... AND BIG GOVERNMENT
MORE NATIONAL DEBT *H.R. 11180, passage of the bill.* This bill would have increased the public debt limit (which covers only a small part of the total federal liabilities) from $752 billion to $824 billion. Failed, 165-248 (*Congressional Record* 3/2/78, pp. H1721-H1737.)	$72 billion $947		X
BLOATED GOVERNMENT *H.R. 50, passage of the bill.* Enacted to commemorate the death of Senator Hubert Humphrey, the Humphrey-Hawkins bill made it the goal of the federal government to provide more subsidies for farmers and businessmen, more government "make-work" jobs, and included an *unlimited authorization for spending your tax money.* Passed, 257-152 (*Congressional Record* 3/16/78, pp. H2110-H2161.)	incalculable incalculable		X
POSTAL MONOPOLY SUBSIDY *H.R. 7700, passage of the bill.* In addition to making several organizational changes in the Postal Service, this bill provided for *an unlimited authorization for subsidies* to the Postal Service, a provision that will cost billions of your tax dollars. Passed 384-11 (*Congressional Record* 4/6/78, pp. H2533-H2550.)	$5.5 billion* $72		X
WELFARE FOR BUSINESSMEN *H.R. 11445, suspension of the rules and passage of the bill.* This bill authorized spending at least $4.4 billion to help businessmen during 1980-1982 and authorized *the spending of an unlimited amount of tax money* for loans at subsidized interest rates. Passed 310-72 (*Congressional Record* 4/10/78, pp. H2631-H2641, H2644-H2645.)	$4.4 billion* $57		X
WELFARE FOR SCIENTISTS *H.R. 11400, passage of the bill.* This bill authorized $934 million for fiscal year 1979 for the National Science Foundation which has funded such projects as research on homosexual sea gulls, the sex lives of snails, the social activities in a Peruvian brothel, and the social behavior of prairie dogs. Passed 364-37 (*Congressional Record* 4/18/78, pp. H2961-H2980.)	$934 million $12		X
WELFARE FOR FARMERS *H.R. 11504, passage of the bill.* This bill created a two-year, $4 billion loan program for farmers, who will be privileged to borrow up to $400,000 apiece at interest rates as low as 3%. Passed, 347-23 (*Congressional Record* 4/24/78, pp. H3110-H3143.)	$4.3 billion $56		X
MORE WELFARE FOR SCIENTISTS *H.R. 11401, passage of the bill.* This bill authorized spending $4.4 billion in fiscal year 1979 for the civilian National Aeronautics and Space Administration on such projects as the space shuttle, space research, satellites that spy on Americans, the search for space beings, and the construction of space facilities, all of which are unconstitutional. Passed 345-54 (*Congressional Record* 4/25/78, pp. H3164-H3191.)	$4.4 billion $57		X
MORE INFLATION *H.J. Res. 816, Federal Reserve Draw Authority, suspension of the rules and passage of the Resolution.* This resolution extended the authority of the Federal Reserve banks to purchase up to $5 billion in U.S. debt directly from the Treasury. Dealing in the federal government's debt is one of the ways the Federal Reserve increases the supply of money and credit, causing higher prices and unemployment. Passed 278-[illegible] (*Congressional Record* 5/1/78, pp. H3336-H3339, H334[illegible].)	$5 billion $65		X
MORE WELFARE FOR FARMERS *H.R. 6782, adoption of the conference report.* Having rejected this conference report on April 12, Congress made some changes and passed this new version. The bill authorized the Secretary of Agriculture to raise grain and cotton prices, to establish federal quotas for raisin sellers, and to increase the borrowing authority of the Commodity Credit Corporation by $10.5 billion. Passed 212-182 (*Congressional Record* 5/4/78, pp. H3575-H3594.)	$10.5 billion* $138		X
UNSURPASSED WASTE *H. Con. Res. 559, approval of U.S. Budget for fiscal year 1979.* By passing this Resolution the House of Representatives approved the largest budget in American history, over half a trillion dollars — $125 for every man, woman, and child on earth or $2,300 for every living American. This budget contained a deficit of $57.8 billion, guaranteeing further unemployment and higher prices. The Resolution also recommended that the public debt limit be increased to $856 billion, an increase of $104 billion. Passed 201-197 (*Congressional Record* 5/10/78, pp. H3714-H3747.)	$500.9 billion $6590		X

*Minimum; subsidies could add billions.

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

August 7, 1978

Robert C. Grant
Inter-Mark Associates
114 E. Ridgewood Parkway
Denville, New Jersey 07834

Dear Mr. Grant:

We have received your letter of July 25, 1978, which you intended to be another formal complaint against TRIM for expressly advocating the defeat of Representative Meyner without complying with the requirements of 2 U.S.C. §§ 434(e) and 441d.

This new complaint, like its predecessor which resulted in the pending case of Federal Election Commission v. Northwest Jersey TRIM, et al., must comply with 2 U.S.C. § 437g (a)(1). As set forth in that section, the Commission is not empowered to take action unless complaints are signed, sworn and notarized by the complainant. Under Section 111.2 of the Commission's regulations, it is also required that a complaint contain: (1) The full name, address and telephone number of the complainant; (2) a clear and concise statement of the acts which are alleged to constitute a violation of the Federal Election Campaign Act of 1971; (3) any documentation of allegations of the complaint available to the complainant; and (4) an assertion that the person complaining, if not a candidate, is not filing the complaint on behalf of or at the request of a candidate, unless such is the fact, in which case it shall be set forth.

You also requested that "TRIM be enjoined from further distribution of this literature and all similar literature which does not meet the Federal Election Law until adjudication of the pending suit..." We appreciate and share your concern. However, the United States District Judge would have to order such a preliminary injunction and, as a matter of litigation strategy, we have determined not to move for such an injunction.

Please feel free to contact Jay B. Myerson, the staff attorney handling the TRIM-related litigation, if you have any further questions. Mr. Myerson's telephone number is (202) 523-4178.

Sincerely,

William C. Oldaker
General Counsel

5-95

TRIM BULLETIN

Published by
TRIM (Tax Reform IMmediately),
a nationwide movement to
Lower Taxes Through Less Government

THIRTEENTH DISTRICT TRIM COMMITTEE

P.O. BOX 5241
CLINTON, N.J. 08809

P.O. BOX 425
ROCKAWAY, N.J. 07866

[illegible] COMMITTEE

[illegible] COMMUNI[illegible] SECRETARY
[illegible] RELATIONS

[illegible] *your head in debt*

The Federal Debts: $8.5 Trillion!

[illegible] which you will probably *never receive*, *but which you are already* [illegible] withholding taxes and inflation, the federal government has a [illegible] upon your income and savings, siphoning off funds for its own [illegible] before you receive them. Only if you, the taxpayer, let the Congress [illegible] think of them piling up this incredible debt in your name is there [illegible] that we, as a nation, can avoid bankruptcy and economic chaos. For [illegible] examples of how such debts are incurred, see page four of this

[illegible] American
[illegible]
U.S.

PAYABLE ON DEMAND

[illegible] household

[illegible]	[illegible]
$8,523,142,000,000	$113,639

[illegible] figures as of September 30, 197[illegible]

CONGRESSWOMAN
HELEN MEYNER
13th CONGRESSIONAL DISTRICT
NEW JERSEY

WASHINGTON, D.C. OFFICE [illegible]
[illegible] CANNON OFFICE BLDG. [illegible]

[illegible] DISTRICT OFFICE [illegible]
[illegible] BRIDGE STREET [illegible]

HOW DID YOUR REPRESENTATIVE VOTE?

	TOTAL COST AVERAGE COST PER HOUSEHOLD	VOTED FOR LOWER TAXES AND LESS GOVERNMENT	VOTED FOR HIGH TAXES AND BIG GOVERNMENT
THE FEDERAL BUREAUCRACY [illegible] Department of Energy [illegible] Department of Energy by consolidating the powers of the Federal Power Commission, Federal Energy Administration, and the Energy Research and Development Administration, and creating new powers for the DOE. The bill requires the President to design [illegible]	$10.6 billion* $14		X
THE FEDERAL PLANTATION [illegible] Food and Agriculture Act of [illegible] conference report [illegible] and made several other changes in the federal plantation. [illegible] H9530-H9554	$32 billion $426		X
THE FEDERAL SCIENTIST H.R. 6796 Energy Research and Development Administration Authorization, fiscal [illegible] and development programs. Such programs are not authorized by the [illegible]	$6.6 billion $88		X
THE FEDERAL DEBT [illegible]	$73 billion $973		X
THE FEDERAL FOLLIES [illegible]	$6.8 billion $90		X
			X
			X
			X
			X
	incalculable incalculable		X
HEIKDOWN	$1.8 billion $24		X

[illegible] ties could be much greater

INTER-MARK ASSOCIATES
114 E. RIDGEWOOD PARKWAY
DENVILLE, NEW JERSEY 07834
(201) 625 3983

FEDERAL ELECTION COMMISSION
78 JUL 28 AM 9:08

July 25, 1978

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

Dear Mr. Myerson:

Enclosed is the latest issue of the John Birch Society's TRIM organization newsletter. An earlier edition was the subject of a complaint I filed with the FEC in October of 1976 which I understand is now in New Jersey U.S. District Court, case # 78-1311.

This letter is another formal complaint against the TRIM group. I feel strongly that they continue to violate Title 2, U.S. Code 434-E which requires any group which advocates the election or defeat of a candidate to file with your organization the appropriate financial information and to include on the literature itself a disclaimer. TRIM has again failed to meet these requirements and is currently in the process of distributing more literature, a copy of which is enclosed, which advocates the defeat of U. S. Representative Helen Meyner.

in addition to this formal complaint I ask that TRIM be enjoined from further distribution of this literature and all similar literature which does not meet the Federal Election Law until adjudication of the pending suit which your organization has filed.

Thank you for your interest.

Very truly yours,

Robert C. Grant

Robert C. Grant

RCG:jbt
cc: Harrison Williams
Frank Thompson - Att: Bill Dietz
Democratic National Committee - Sandy Libby
Democratic Congressional Committee

INTERMARK ASSOCIATES
[illegible]

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

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 684

Date Filmed 6/16/80 Camera No. --- 2

Cameraman BPC