Yale University

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1968

'Reform of Campaign Finance', speech for Representative Frank Thompson

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Reform of Campaign Finance

Mr. Speaker, it now looks as if reform of our campaign finance laws has been postponed for another year. Nearly a year ago the Senate passed S.1880, a far-reaching reporting and disclosure bill. Just a few weeks ago the House reform bill--H.R.11233--finally wended its way out of committee, but it apparently will not survive the crush of adjournment.

And so we've lost another year. We'll have to stagger through another full Presidential campaign still using the old, inadequate laws. In my view the postponement is most unfortunate. On this matter of campaign finance we've had the full measure of public complaints, learned studies and Congressional deliberation. Scholars have been diagnosing ills and prescribing remedies for over a decade. President Kennedy's Commission on Campaign Costs submitted its impressive report way back in 1962. Various Congressional committees have been holding hearings since the middle 1950's. It's high time for us to stop churning out studies and begin turning out statutes.

Even if we are to have no action this year, it may be useful, at this pre-adjournment date, to summarize what we have learned and to outline what we should try to accomplish in the next Congress. The first thing to
be said about campaign finance—and everyone who has looked into it will agree with the point—is that the subject is exceedingly complex. I have read many of the published documents on the question, and, after trying to disentangle the various strands of thought, I have concluded that there is not just one problem that requires legislative remedy. There are, rather, three separate problems, the remedies for which must be commensurately different. I'd like to discuss here the nature of these problems and their possible solutions. As a member of the House Committee on Administration, I shall, of course, give special attention to those aspects of campaign finance that lie within the jurisdiction of that Committee.

The first problem confronting us is that campaigns for public office have become almost prohibitively expensive. To be sure, campaigns have always cost money. But, in the last decade and a half, there has been an escalation in costs far exceeding the proportionate rise in population. And the escalation continues. In 1952, campaigns at all electoral levels—from President down to county sheriff—cost a total of $140 million. By 1964 the total was $200 million, and it would not be wildly unreasonable to predict for this current Presidential
year a total of $240 or $250 million. The major reason for this increase is, of course, television. In 1956, the cost of television time at all electoral levels was $9.8 million. The figure for 1960 was $14.2 million, and for 1964 $24.6 million--a 73% increase over 1960. It now costs at least $2500 for a candidate to run one 20-second television message in the New York area. But television is not the only source of rising costs. A candidate with a large constituency must now charter airplanes, some candidates must hire campaign-management firms, and almost all candidates for high office must now commission outside firms to conduct public opinion studies. In 1964, commissioned opinion polls alone cost an estimated $5 million. Even the mailing of campaign materials--an old custom--has become more expensive.

In an average Congressional district, it now costs about $20,000 to reach every voter through the mails; a candidate for statewide office in California must spend up to $700,000 to accomplish the same end.

With these rising costs, we are no longer surprised at the horror stories we hear about the expenses of individual campaigns. The best estimate is that the New York City mayoralty campaign of 1965 cost all its participants a total of $5 million. The Pennsylvania governorship
campaign of 1966 cost a total of over $9 million. One candidate recently spent $14,000 in a county sheriff's race in Virginia. Costs of Congressional campaigns vary widely, but one leading expert has recently argued that $50,000 is the absolute minimum that a newcomer must spend in a reasonably close House race. In a special House election in California in 1967, the total cost for all candidates in the primary and general elections was an astounding $600,000! In an incisive New York Times Magazine article six years ago, Senator Church drew what was even then a simple and obvious conclusion: "Campaign costs have simply grown too big for the average candidate to cope with." Many years earlier, Will Rogers put it this way: "It takes a lot of money to even get beat with." Today it takes a good deal more money to even get beat with.

The second problem is that federal statutes governing campaign finance are so full of loopholes that they engender disrespect for the law both among candidates and among voters. It is not easy to decide which of the federal statutes on the subject is most porous and least adequate. There is, to begin with, the Hatch Act provision which limits any interstate political committee to an expenditure of $3 million in any calendar year. Everyone knows that Presidential candidates have gotten
around this requirement by proliferating the number of national committees and by spending money at the state and local levels. Then there is the law which forbids any individual to contribute more than $5,000 to any one federal candidate or committee in one calendar year. The law is regularly evaded through the giving of contributions to multiple national committees or to state or local committees, through the use of "dummy contributors," and through the evocation of gifts from wives, parents, children, aunts, uncles and cousins. Then there is the Corrupt Practices Act of 1925, which forbids any candidate for Congress to spend more than $5,000 in his campaign, and any candidate for the Senate to spend more than $25,000. No one pays much attention to these restrictions, for they do not cover nomination expenses and they do not cover the expenses of committees working in a candidate's behalf. The same law requires Congressional candidates to report their expenditures, but no eyebrows were raised when, in 1964, 38 candidates simply failed to file any reports at all.

Each federal statute has spawned its familiar and necessary routines for evasion. The evasions are necessary because the laws are unrealistic. How realistic is a $5,000 ceiling on Congressional expenditures when a
campaign may, in fact, cost ten times that amount? But the problem is that a consistent pattern of evasion, regardless of how much it may represent an accommodation with reality, has as its effects an undermining of respect for the law and an encouragement of public cynicism. It is essential that any new federal statutes covering campaign contributions and expenditures be realistic enough to be effective.

The third problem is that the entire structure of campaign finance is insufficiently democratic. I use the word "democratic" here in its broadest sense. We ought to have a system in which public office is open to citizens regardless of their personal wealth, in which participation in financial support of campaigns is widespread, and, finally, in which special interests cannot call the tune by paying the piper. In none of these respects is our present system adequate. The cost of campaigns is obviously making it difficult for anyone but a rich man to contemplate entering public life.

When we look at contributions, we find that only a small minority of Americans give money in political campaigns, and that candidates are altogether too dependent upon an even smaller minority who give in large packages. In 1966, seven of the nation's wealthiest families contributed a total of $149,499 to candidates for federal
office. The unusually stringent reporting requirements of the Commonwealth of Pennsylvania allow a glimpse of what giving patterns can be like at lower levels. In 1966, members of the Pew family contributed $50,499.99 to the Republican candidate for governor of that state. The Pews were surpassed only the Mellons, who turned over $81,250.

The pattern is a familiar one, and it has as one of its effects a perpetuation of the disparity between the national parties in their financial resources. It is not generally realized that, in 1964, if one counts nomination as well as election expenditures, the Republicans spent twice as much money nationally as the Democrats. And those breast-beating financial reports that have recently emanated from the Republican National Committee are fully backed by Congressional Quarterly's careful data: Republican federal committees spent, in 1967, a total of $5,779,652; Democratic committees spent $2,068,492. (The 1967 expenditures of labor committees were far outweighed by the expenditures of allegedly nonpartisan conservative groups.) Democrats are outspent in Congressional as well as Presidential elections. In 1966, reported contributions to Democratic House candidates by national party, labor and other political action groups
totaled $1,147,812. The figure for Republican House candidates was $2,107,730--about twice as much. Democratic non-incumbent House candidates received a total of $157,422, Republican non-incumbents received $1,485,430--about ten times as much. In 48 of the 52 House districts captured by the Republicans in 1966, Democratic candidates were out-bankrolled by their opponents.

But, it should be said, the problem of large contributions is one that transcends any questions of partisan advantage. The Supreme Court has ordained that a "one-man one-vote" standard shall prevail in American elections; we ought to come as close as we can to a "one-man one-dollar" standard in our structure of campaign contributions.

These, then, are the problems with which we have to deal: campaigns have become prohibitively expensive, the federal laws on the subject are filled with loopholes, and the entire financial structure does not meet democratic criteria of adequacy. I wish to make one other point before I discuss remedies. The point is that, if we much act very soon, we must also act very carefully. The fact that almost all the laws on the books have failed
ought to evoke some humility in us as we try to write new ones. In reviewing the history of campaign laws, I have been impressed by the fact that previous laws have often brought about consequences no one intended. The Civil Service Reform Act of 1883 was successful in destroying the financial dependence of the parties upon the contributions of federal employees, but its other effect was to force the parties to seek money from the corporations. In 1907 Congress passed a law banning direct corporate contributions; one of the law's effects was to weaken the national parties by re-channeling corporate money to state and local organizations. Again, the Hatch Acts of 1939 and 1940 produced the pattern of evasion and multiple committees with which we are all familiar. We must be careful not to pass more laws which make evasion necessary.

What shape should our reforms take? The problem of rising campaign costs is one which it will be task of House Committees other than my own to consider. Hence I have no ready-made solutions on this point. Some students of the question--starting long ago with President Theodore Roosevelt--have advocated direct governmental subsidies to parties or candidates. Others have favored tax deduc-
tions or tax credits. Something should be done to supply subsidized television time to candidates. Perhaps the most hopeful thing to be said here is that the present Congressional consensus that action must be taken is likely to produce, in the next Congress, agreement on specific reforms.

The problem of reforming the present statutes governing contributions and expenditures is within the jurisdiction of the House Committee on Administration, and the Committee has been carefully studying the matter for several months. The Committee's comprehensive reform bill, H.R.11233, is in most respects identical to a bill, S.1880, passed by the Senate in September of last year. These two bills will fortunately provide a legislative base on which the new 91st Congress can build; it therefore makes some sense here to discuss reforms in reporting and disclosure by examining and comparing the two bills.

There is a bipartisan consensus on most important points. Both bills embrace the proposal of President Johnson and former President Eisenhower that Congress abolish the unrealistic ceilings on campaign expenditures—both the $3 million committee ceilings and the $5,000 and $25,000 individual Congressional ceilings. Although there are differences in language, both bills would extend reporting requirements to state and local committees that substantially support candidates for federal office. Both bills would
unequivocally extend reporting requirements to the nominating as well as election campaigns of both Presidential and Congressional candidates. Both bills would impart reality to the $5,000 ceiling on individual contributions by making it clear that no individual may exceed the limit to one candidate by sprinkling money around the candidate’s different campaign committees. Both bills would establish procedures for receiving, organizing and publishing the reports of candidates and committees. H.R.11233 has a provision that would explicitly outlaw the use of campaign contributions for personal purposes.

I am pleased to express my wholehearted approval of all these proposed revisions. Their enactment would go a long way toward bridging the gap between law and custom in the area of campaign finance. Disclosure is in itself a worthwhile goal of public policy, and with these provisions on the books we could be confident for the first time that actual spending patterns were being disclosed. When the next legislative round begins, there are at least two respects in which H.R.11233 could be further improved. The Senate bill (in Section 104 b.2) is more stringent in its requirement that individual purchases from candidates or committees—as, for instance, tickets to political dinners—shall be counted as "contributions" for the purpose of defining the $5,000 ceiling on contributions. I have
an amendment that would bring H.R.11233 into line with the stricter Senate provision. I also have an amendment that would, in the relevant places, require committees and candidates to list the business addresses, titles, and employers of their large contributors. The rationale for this amendment is clear; individual names often mean very little without information on institutional affiliation.

The problem of rendering the whole structure of campaign finance more democratic is a difficult one; not much can be done without going into the question of government subsidies and tax credits. There is a provision of S.1880, however, that deals usefully with the problem of proliferated family giving. In defining the $5,000 ceiling on contributions, S.1880 would include the gifts of spouses and their minor children as one single contribution. H.R.11233 has no such provision. I have an amendment that would reach farther than the Senate provision; it would strike at the use of family trust funds created to circumvent the statutory ceiling.

I have prepared one other amendment that seems necessary in any sweeping reform of statutes in this area. Political activity is an expression of Constitutional rights, and we should be sure that our language changes do not inadvertently impinge upon those rights protected
by the First Amendment. My amendment would make it clear beyond doubt that these statutory changes will not interfere with the rights of unions to disseminate political information to their members or of corporations to disseminate political information to their shareholders. In addition, the amendment would uphold the traditional right of citizens and organizations to engage in nonpartisan educational and voter-registration activities. We do not wish to legislate with good intentions and end up by outlawing the League of Women Voters.

My final comment has to do with the administration of the proposed reporting and disclosure provisions. Clearly the present system needs beefing up. Candidate and committee reports are sent to the Secretary of the Senate and to the Clerk of the House, but Congress has never instructed these estimable gentlemen to do anything with the reports except to collect them in meaningless and haphazard fashion. Both S.1880 and H.R.11233 would require the establishment of an elaborate new system for standardizing, collecting, processing, and publishing the reports. The difference between the bills is that S.1880 lodges these administrative duties in the officials of Congress itself, and H.R.11233 lodges them in a Presidentially-appointed Federal Elections Commission. In my view,
the Senate bill is clearly superior on this count. We
farm out altogether too many problems to Presidential
commissions. And for reasons as old as those given in the
Magna Carta, and as new as those given in the U.S. Consti-
tution, Congress ought to reserve to itself control over
its own elections. If Congress has the will to adopt
meaningful campaign reforms—and there are some encouraging
signs that it does—then it has the will to preside over
their implementation.

S.1880 and H.R.11233 are in fact very much alike.
On most points where they differ, however, it seems to me
that the Senate bill is clearly superior. I have a number
of improving amendments, and other Members surely have
theirs. But if the next Congress should have to choose
between the two bills as they now stand, the wise course
would be to embrace S.1880 as the better bill.

Mr. Speaker, at this point I'd like to hazard a
prediction: namely, that it will be impossible to stop
the next Congress from reforming the campaign finance laws.
By January of next year our public officials will have
survived an election campaign vastly more expensive than any
other in American history. The gap between new customs and
old laws will be unmistakably clear to everyone. With luck,
we'll have Congressional action not only on reporting and
disclosure but also on government subsidizing of campaigns. The problem here, as in other legislative areas, is that it will require a searing experience—this year's expensive election—to provoke reforms that almost everyone has recognized the necessity for anyway.