

# Contributions Still Full of Loopholes

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By Bob Kuttner

Washington Post Staff Writer

The seafarers' union has distributed \$500 checks to several Democratic congressmen, earmarked for each member's office account. The union reported the money as a political contribution. The congressmen did not.

The Republican senatorial campaign committee reports spending tens of thousands of dollars picking up the tab for TV tapes produced for GOP senators by the Senate recording studios. One senator seeking re-election, Peter Dominick of Colorado, reported the payment as a campaign contribution. Another, Jacob Javits of New York, did not.

"Frankly," says Chuck Warren, Javits's chief legislative assistant, "I don't think it's something we've really thought about. But I'll mention it to the senator. Maybe he'll want to start reporting it."

According to Rep. Charles Rangel of New York, one of the House Democrats who got a check from the seafarers, that contribution went unreported because office-account money is nonpolitical. "It's for our newsletter," says George Dalley, Rangel's administrative assistant, pointing out that the newsletter is franked, and therefore couldn't be political.

Other House Democrats who received trade-union contributions for their office accounts include Mario

Biaggi (N.Y.), Frank Annunzio (Ill.) John Culver (Iowa), Charles Carney (Ohio), Lester Wolff (N.Y.), William Ford (Mich.), John Murphy (N.Y.), John Dingell (Mich.) and Charles Wilson (Calif.).

Campaign finance disclosure is still a myriad of gray areas. An examination of the quarterly campaign-finance reports on file with the clerk of the House and the secretary of the Senate reveals that despite Watergate, a variety of loopholes remain open to special-interest groups wishing to conceal contributions to legislators.

"You have some lack of precision, some sloppiness and occasional outright evasion," says Fred Wertheimer,

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director of campaign-finance monitoring for Common Cause.

Among the gray areas are so-called "in-kind" contributions to candidates, which may be a free ride in a corporate jet, a printing bill picked up by a special-interest campaign committee, phone-bank volunteers supplied by a union local or tapes purchased for a GOP senator by the Republican campaign committee.

The 1971 law is clear; all such forms of assistance are supposed to be reported, by both the campaign committee making the donation and the candidate receiving it.

In the 1972 campaign, many of these contributions went unreported. But this election year, in the wake of Watergate special-interest groups seem to be reporting expenditures somewhat more carefully. In some cases, the groups and the candidates are using different standards—to the embarrassment of both sides.

Office accounts—usually for a congressman's newsletters—provide another vehicle for laundering political money. A little-noticed provision of the 1973 Franking Act permitted members of Congress to use political contributions for the presumably nonpolitical purpose of sending official mailings under the frank "notwithstanding any other provision of law."

Congressmen save about \$30 million a year on franked mail to constituents, which most incumbents consider of some political benefit. John Swanner, counsel to the House Committee on Standards official conducts views the office-account loophole as "a paradox."

"Obviously, if one end of the transaction is political, the other end is political," say Swanner.

But a check of campaign finance reports could turn up no instance of a member's reporting contributions to his office account.

Like Rangel, most congressmen contend that using the office-account funds for franked mailings is proof that the money is nonpolitical, an argument Common Cause considers a Catch-22.

"Office accounts permits a member to build up unreported special-interest mon-

ey," says Common Cause's Wertheimer. "Here you had Congress trying to legitimize the political use of the frank, and right in the year of Watergate."

Rep. Morris K. Udall, a sponsor of the 1973 Franking Act and a legislator usually considered a reformer, disputes that assessment, calling the 1973 law evidence of Congress's desire to "police itself."

Policing Congress's use of the franking privilege used to be the duty of the old Post Office Department, which abandoned the task in 1968 as too politically sensitive.

For nearly five years, each congressman used his own judgment about what could be franked, leading to several lawsuits.

The 1973 law formally charged Congress with defining what could be franked, specifically prohibiting franked mass mailings during the last 28 days before an election, setting other guidelines and establishing a bipartisan commission to rule on borderline cases.

"The question is not whether we are going to have a new franking law," Udall told his skeptical colleagues when the bill came before the House last year. "The question is . . . whether federal judges are going to write the law for us."

Whether the 1973 franking law closed old loopholes or opened new ones is a matter of some dispute. To get the law enacted, sponsors consented to some sweeteners including the office-account loophole and a provision that explicitly permits congressmen to use the frank to send out form letters of congratulation to high school graduates, newlyweds and others marking a special occasion—overruling an earlier Post Office Department prohibition on such franked mailings.

On the other hand, the law does prohibit use of the frank for patently self-laudatory mailings and political attacks on opponents.

This year, the newly formed commission, which Udall heads, has issued advisory opinions objecting to several proposed franked mailings by congressmen and suggesting modifications in several others.

One legislator wanted to send constituents form cards headed "I enjoyed reading about you," enclosing local newspaper clippings mentioning the constituent's name. That was approved, but minus the congressman's picture.

Despite what Udall considers "quiet progress," Common Cause has filed a lawsuit challenging the 1973 franking law as giving incumbent congressmen an unfair advantage.

Last week, in settlement of another suit, the citizens' lobby won agreement from the clerk of the House and the secretary of the Senate to curb the practice of concealing the ultimate source of a contribution by passing the

donation through an intermediate campaign committee earmarked for a specific candidate.

In the settlement, House Clerk Pat Jennings and Senate Secretary Francis Valeo agreed to require reports to show the true donor of a campaign contribution.

According to Common Cause and the Center for Public Finance, another campaign-monitoring group, several other devices still are available to disguise contributions. These include:

- Honorariums. A special-interest group invites an incumbent to deliver a pro-forma "educational" speech. The honorarium is a nonpolitical pay-

ment, which must be reported on the congressman's income tax and filed with the Standards Committee, but the amount need not be publicly disclosed under House rules.

- Testimonial dinners. The candidate need not report tickets for these dinners as campaign contributions. Even political fund-raising dinners can disguise the source of contributions when tickets are bought in blocks of under \$100.

- Cash. "If somebody wants to evade the law badly enough," says Susan King of the Center for Public Finance, "you're never going to completely stop the envelope full of cash."