

Hard Congress Fight Seen on Saving Agency

By DAVID E. ROSENBAUM

Special to The New York Times

WASHINGTON, Jan. 30—Senators, Representatives and knowledgeable legislative aides predicted today that there would be a major battle in Congress over whether to reconstitute the Federal Election Commission.

They said that the struggle in Congress would probably involve some of its most powerful members. It would be intensified, they added, by the fact that all members are experienced campaigners, and most have fixed views on election laws.

Although there were conflicting predictions on what the outcome of the fight would be, there was a consensus that it would be difficult, if not impossible, for Congress to act conclusively in the next thirty days.

In its ruling today, the Supreme Court held that the commission, as presently constituted, was unconstitutional. The Court said that the commission would have to discontinue functioning as a regulatory agency after 30 days.

John G. Murphy Jr., general counsel of the commission, said that he would ask the Court for a time extension if Congress had not acted in 30 days.

Kennedy to Offer Bill

Congress is scheduled to be in recess from Feb. 6 through Feb. 16 because of Lincoln's and Washington's birthdays.

Senator Edward M. Kennedy, Democrat of Massachusetts, said he would introduce legislation Monday that would establish an election commission whose members would be nominated by the President and con-

firmed by the Senate, thus meeting the Court's test of constitutionality.

Similar bills have passed the Senate three times in the last five years, and such a measure appeared to be supported by a Senate majority. Some Senators said, however, that the Kennedy bill might not have enough strength to survive a potential filibuster.

The most ominous note for those supporting a bill like Senator Kennedy's came from Representative Wayne L. Hays, Democrat of Ohio, who said that he would offer a bill Monday that would abolish the election Commission and replace it with a "strict and constitutional system to monitor full disclosure of election campaign contributions and expenditures."

Foe of Election Group

Mr. Hays is chairman of the Committee on House Administration and is probably the single most influential member of Congress on legislation concerning election procedures. He is a staunch opponent of a strong, independent authority to oversee election laws, and he has been at odds with the Election Committee since it was created.

Some members of Mr. Hays's committee said today that they believed he could be out-voted on the issue this time. But others noted that he had tied up the 1974 legislation for months and said that they believed he would have his way this year.

Mr. Hays, in an interview, said that he did not know precisely what mechanism he would propose as a replacement for the Election Commission. He said that his staff lawyers

would work on the matter over the weekend.

Asked whether he believed Congress could act in 30 days, Mr. Hays responded: "It's not possible. Did you ever know Congress to act in 30 days on anything. I've got some other priorities. I'm a realist. I'm going to run as fast as I can, but I'm not going to run blindly into something."

One of Congress's foremost staff experts on election laws offered to "bet a year's salary" that no legislation on the issue would be enacted this year.

He predicted that in the Senate any measure that got to the floor would be complicated, and that the Senate would become tied down in debate on such matters as public financing of Congressional campaigns. Moreover, the expert said, conservative Senators would surely mount a filibuster against any change in the election law.

In the House, the staff member said, Mr. Hays would probably sit on any bill that was not precisely to his liking and would be able to fend off opposition as it developed.

However, a House member who has been through many battles on election legislation said he believed an accommodation could probably be reached, and that a law would emerge that would satisfy those who want an independent election commission. The Representative, who asked not to be quoted by name, gave the following explanation of his view:

"A majority of my peers in the House don't want an election law. They want to be free to wheel and deal and spend as they bloody well please. But if you turn the flood

lights on, they have no alternative in an election year to go along with something pretty good."

Representative Frank Thompson Jr. of New Jersey, the second-ranking Democrat on the House Administration Committee, said that "in an election year, Congress has to respond with a law."

Otherwise, Mr. Thompson said, "incumbents will look like crooks and be driven from office."

"Hard Feelings" Predicted

Mr. Thompson said that one thing he was sure of was that "there will be very intense lobbying and some very hard feelings."

He and several Senate staff members said that they were considering legislation that would instruct the President to nominate candidates to a revamped commission from a list of names submitted by Congress.

There is no precedent in Federal law for such a procedure, and staff lawyers said that they were still researching its constitutionality.

Experts in Congress said that they weren't sure what the consequences would be if no legislation were enacted.

Under the Court's ruling the commission could remain in existence and continue to collect and disseminate reports of campaign contributions and expenditures. The commission, however, would have no enforcement or regulatory authority, and it was not clear who, for example, would decide which Presidential candidates were entitled to Federal campaign contributions and how much their entitlements were.

1-31-76

NYT