

LANDMARK RULING

30-Day Deadline Is Set for Restructuring of Federal Commission

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WASHINGTON, Jan. 30 — In a landmark ruling on how political campaigns are to be waged, the Supreme Court today upheld public financing for Presidential contests, limits on how much may be contributed by individuals to any Federal election race, and strict requirements for reporting both contributions and expenditures.

At the same time, the Court struck down as unconstitutional all limits on how much can be

The text of court's decision is printed on Pages 12, 13.

spent in a campaign for Congress by a candidate or in his behalf, and struck down nearly all limits on spending in a campaign for President.

The Court permitted one exception regarding unlimited spending for Presidential contenders: In upholding the public financing system, it also upheld the requirement that candidates who accept Federal financing must in return abide by limits on expenditures.

The spending limits had been a major part of the broad campaign financing reform legislation that was enacted last winter to prevent abuses and illegalities in campaigns of the kind disclosed by the Watergate scandal.

Order on Commission

The Court also ruled that the new Federal Election Commission, created to implement the reform legislation, must either be restructured or, 30 days from now, cease exercising all but a few of its powers.

The Court ruled that many of the powers and duties that the new law gave to the commission—such as the power to initiate civil lawsuits to enforce the law—were powers and duties that could be constitutionally exercised only by Federal officers appointed by the President.

The majority of commission members are named by officials of Congress. As a result, the Court said, the commission lacks authority to exercise those powers.

The Court stayed the effect of its ruling for 30 days to give Congress a chance to enact remedial legislation.

The current contenders in the Presidential primaries have already been operating under the new contribution, disclosure and public financing pro-

visions. Since each has accepted public financing, each is bound by spending limits as a condition of that financing. The restructuring of the Federal Election Commission is all

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that must be done, at this point, as a result of the ruling.

The long-range effect of the ruling, though, is vast—both in terms of the practical rules for campaigns, and in terms of the extent of the guarantees that the Constitution, especially the First Amendment, have now been interpreted to contain.

While the Court did strike down portions of the new law, it sustained more, and the new law drastically changed the rules for political contenders.

The law was enacted largely to prevent corruption and the appearance of corruption in the political process. It was challenged, in the lawsuit that led to today's ruling, by 12 persons and groups, including former Senator Eugene J. McCarthy, on the ground that it violated a series of constitutional provisions and particularly the First Amendment's guarantee of free speech.

What the Court did in today's ruling was balance the governmental interests underlying the law against constitutional guarantees—the need to prevent abuses such as Watergate, for example, against possible infringements by the law on free speech.

Possible Problems Seen

The Court found that various portions of the law, particularly the limits on spending and contributions, but also the requirements regarding reporting and disclosure posed possible First Amendment problems. But, except in the case of spending limits, it found that the interests underlying the legislation outweighed the need to prevent the First Amendment violation.

Speaking of the limits on contributions and spending, for instance, the Court majority—in an unsigned opinion, joined in some parts by five Justices and in other parts by six, seven, or eight—said:

"The present act's contribution and expenditure limitations impose direct quantity restrictions on political communication and association by persons, groups, candidates and political parties."

However, the Court went on to distinguish between contributions and elections.

Limiting expenditures, the Court said, is a "substantial" restraint on speech, adding that the limit of \$1,000 on what an individual may spend relative to a clearly identified candidate, for example, such as placing a newspaper advertisement advocating that person's election, "would appear to exclude all citizens and groups except candidates, political parties, and the institutional press from any significant use of the most effective modes of communication."

Limiting the amount an individual may contribute to a candidate or party, however, the

Court said, is only a "marginal" restriction, for the "quantity of communication by the contributor does not increase perceptibly with the size of his contribution."

After making that distinction, the court then weighed each of the limits against the governmental needs underlying the law.

In the case of contributions, it held that "it is unnecessary to look beyond the act's primary purpose—to limit the actuality and appearance of corruption resulting from large individual financial contributions"—in order to find sufficient justification.

"To the extent that large contributions are given to secure political quid pro quos from current and potential office holders, the integrity of our system of representative Government is undermined," the Court said. "Although the scope of such pernicious practices can never be reliably ascertained, the deeply disturbing examples surfacing after the 1972 election demonstrate that the problem is not an illusory one."

Speaking of limitations on expenditures, however, the Court said:

"The First Amendment denies Government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution it is not the Government but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign."

Criticism in Dissents

The distinctions drawn by the majority drew some criticism from dissenting Justices—criticism that sometimes seemed ironic in that it at least some of it expressed what might be considered a "civil libertarian view," urging more stringent First Amendment protections than did the majority, and it came from Justices who have been categorized as conservative.

Chief Justice Warren E. Burger, for example, said, "For me contributions and expenditures are two sides of the same First Amendment coin." Neither, he added, should be limited.

The majority opinion was a "per curiam," or by-the-Court, ruling that was not signed by any one Justice as the author.

A summary attached to the ruling indicated which Justices joined which parts; separate statements by five Justices also indicated points of agreement and disagreement. Eight Justices participated — Chief Justice Burger, and Justices William J. Brennan Jr., Potter Stewart, Thurgood Marshall, Lewis Powell Jr., Harry A. Blackmun, William H. Rehn-



Associated Press

Eugene J. McCarthy, former Democratic Senator from Minnesota, left, and Senator James L. Buckley, Republican-Conservative of New York, hold news conference in Washington to express their satisfaction with the court ruling.

quist and Byron R. White. John Paul Stevens, who was sworn in after the arguments in the case, did not participate.

The voting breakdown was as follows:

¶Sustaining limits on contributions: The vote was 6-2, with Justices Burger and Blackmun dissenting.

¶Striking down limitations on expenditures: The vote was 6-2 on limiting expenditures by a candidate or his family, with Justices White and Marshall dissenting; for other spending limits, the vote was 7-1, with only Justice White dissenting.

¶Sustaining disclosure and reporting requirements: All the Justices agreed, with the exception that the Chief Justice opposed the requirements for reporting names and addresses of contributors of more than \$10 and reporting names, addresses, and business occupations of those who contribute more than \$100.

¶Sustaining public financing: All but Chief Justice Burger agreed on the general principle; Justice Rehnquist dissented on the specifics of the financing plan under which, he said, minor party and independent candidates are discriminated against.

¶The structure of the commission: All agreed, except that Chief Justice Burger dissented from the Court's sustaining the validity of actions the F.E.C. has taken to date.

In addition, there was disagreement among several Justices on the rationale of various parts of the holding. The only Justices who were in complete agreement on the entire majority opinion were Justices Brennan, Stewart and Powell.

The Court's ruling regarding

the Federal Election Commission was generally based on the constitutional principle of separation of powers, and specifically on the so-called "appointments clause" of the Constitution, which provides for Presidential appointment of Federal officers.

The Court held that only some of the commission's powers could be considered legislative — such as information-gathering and investigating. Other powers, the Court said, such as rule-making, initiating civil lawsuits designed to enforce the statute, and deciding which matters to refer to the Justice Department for criminal prosecution, were powers reserved for other branches of Government.

To perform these latter non-legislative kinds of duties, the Court reasoned, the commission membership must be selected in

accord with the appointments clause. So, the Court said, because the majority of the commission members are not now selected in this manner but are instead selected by legislative officials, the commission must cease performing all but the legislative type of work.

The Court decided all of the other issues by balancing the visions against the possible purposes behind the various provisions against the possible constitutional problems that the provisions raised.

Brown U. Costs Rising

PROVIDENCE, Jan. 30 (AP) — Basic student costs at Brown University would go from \$5,750 to \$6,275 under recommendations announced yesterday. The recommendations must be approved by the university president and the Brown Corporation.