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The Court's Shotgun

THE ELECTION CAMPAIGN ACT of 1974 was the principal legislative monument to the Watergate affair. After the Supreme Court had finished with it last week, little was standing but an outer shell.

It was a dubious decision, but it may have been the best the Court could do with a most lamentable law. The framers of the 1974 act had the very best intentions: They wanted to purify our nation's electoral process.

Under the law, Congress sought to put ceilings on both campaign contributions and campaign expenditures. The act imposed sweeping requirements for the disclosure of contributions. The law provided for public financing of presidential campaigns, and it created a Federal Election Commission to supervise and to enforce the complex provisions.

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BY ITS DECISION, the Court sustained the ceiling on contributions. With some reservations, it sustained the disclosure and public financing provisions. But the Court found the ceilings on expenditures unconstitutional, and it left the commission in shreds.

The upshot is that a voter may not contribute more than $1000 directly to a candidate, but the voter may spend whatever he pleases for his own political expression. This part of the Court's decision shoots a hole in the act as big as a barn door. The commission is left powerless to close it.

Where are we now? The Federal Election Commission has spent months in a frenzy of rules, regulations, notices, warnings, and advisory opinions. The act, as drawn, vested the commission with bristling powers of enforcement. But the Court found that the commission had been constituted unconstitutionally.

Within 30 days Congress must provide for presidential appointment of commission members (rather than congressional appointment). Otherwise the commission may perform only investigatory and informative functions.

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WILL CONGRESS RESPOND promptly to the Court's invitation to reconstitute the commission? Don't bet on it. Over the past year the commission has trod on some sensitive toes. Such powerful figures as Ohio's Wayne Hays may want to let the commission twist slowly, slowly in the wind. The boilers of reform have cooled in the past 12 months; most of the steam has leaked out of the purity drive.

It would be as well, in my own view, to leave the situation in genteel confusion. If the normal forces of public opinion are permitted to work normally, the candidates of 1976 will run tolerably clean campaigns; they will not dare risk the appearance of scandal.

This was the essential purpose of the 1974 act. Let us cling to that, and let the rest go.