

PUBLIC FINANCING OF FEDERAL ELECTIONS

HEARINGS BEFORE THE SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS OF THE COMMITTEE ON RULES AND ADMINISTRATION UNITED STATES SENATE NINETY-THIRD CONGRESS

FIRST SESSION

ON

S. 1103

TO PROVIDE FOR PUBLIC FINANCING OF CAMPAIGNS FOR
NOMINATION FOR ELECTION, OR ELECTION, TO THE CON-
GRESS OF THE UNITED STATES

S. 1954

TO PROVIDE FOR PUBLIC FINANCING OF CAMPAIGNS FOR
FEDERAL ELECTIONS, AND FOR OTHER PURPOSES

S. 2417

TO AMEND THE FEDERAL ELECTION CAMPAIGN ACT OF
1971 TO PROVIDE PUBLIC FINANCING OF CAMPAIGN COSTS
INCURRED IN CAMPAIGNS FOR ELECTION TO FEDERAL
OFFICE, TO REPEAL THE PRESIDENTIAL ELECTION CAM-
PAIGN FUND ACT, AND FOR OTHER PURPOSES

SEPTEMBER 18, 19, 20, AND 21, 1978

Printed for the use of the Committee on Rules and Administration



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1978

23-026

5681-6

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Senator PELL. Our next witness is Congresswoman Barbara Jordan, of Texas. Congresswoman Jordan, it is very good to have you with us.

**STATEMENT OF HON. BARBARA JORDAN, A U.S. REPRESENTATIVE
FROM THE STATE OF TEXAS**

Ms. JORDAN. Thank you, Senator. I do not have a peroration, so my statement will be restricted somewhat.

I am encouraged by what this committee is doing in the arena of Federal subsidies to election campaign costs, and I have been told by some that this is an idea whose time has come, that public subsidies for campaign costs are now with us and that this is the thing that the Members of the House and the Members of the Senate would be interested in doing.

There is some conflict as to whether this is in fact an idea whose time has come. I think it is, and I think we ought to take action, and I applaud the Senate for what it is doing and what it has done. Such a program is likely to strengthen free and open elections more than any other development that we could possibly bring about.

As a clear result of Watergate and other related matters the public wants to feel that campaigns are honestly financed and that their public officials have not sold out before they ever get into office.

The present system of campaign finance is a disaster; only wealthy candidates and monied special interests find it to their liking, and even they will become increasingly disenchanted as further restrictions are put on the raising and spending of private money in election campaigns.

It is increasingly clear that it is impossible to prevent abuses and loopholes in campaign financing legislation, no matter how tight the legislation or the regulations are drawn. Most experienced campaigners, as all of us are, realize that the danger of squeezing too hard on the private giver might squeeze him out of existence. It is already estimated that only one of nine voters contributes to election campaigns. If we increase the regulations, multiply the kinds of difficulties which private donors will have as they try to give to campaigns, I think that we are going to see the driving away of private funds from campaigns unless we somehow simplify the process by which that can be done.

Private contributors are still interested in giving to election campaigns, and quite likely will continue to find ways to subvert the intent of the law and violate the spirit of the law if not the letter of the law. Although the Senate has tightened up campaign finance restrictions again this year, the Senate-passed bill is already running into mixed reviews and charges of creating "paper regulations" rather than effective reform.

I recognize that the Senate did vote in its measure to create a Federal Elections Campaign Commission, and, of course, the members of that Commission would be appointed by the chief politician in the country—the chief—the President, and then there would be the advice and consent of the Senate, which is thrown in—again, more politicians having input into what is or should be an independent Commission.

I recognize that Members of the U.S. Senate do have the superior wisdom; but I would hasten to add that there are some of us who are in lesser known and recognized bodies, who would feel that that would be too much political input into a commission which is supposed to be independent.

So long as this loophole problem is insoluble, campaign financing will always be in need of reform. Large sums of private money will continue to flow into campaign coffers, creating the appearance, if not the reality, of bias and corruption. Wealthy individuals and private interests will continue to buy influence and access to Federal elected officials out of all proportion to their numbers. Large contributors will continue to expect special attention and support for their problems. The press and the public will continue to point out the possibilities of conflicts of interests, whether you are talking about defense contracts, ambassadorships, or a hundred other dealings with the Government on the one hand and the large campaign contributor on the other hand. The press will cry "foul," the public will cry "foul;" campaign financing will always raise the suspicions of the public so long as private interests can give money to elected officials who are involved in decisions which affect their private interests.

If loopholes and the corruption of private money are not enough to convince us of the need for a major change in the way we finance our campaigns, then perhaps we ought to consider the increasingly painful burden which regulation of privately donated funds places on every participant in election funding, reporting and recordkeeping.

The campaign law which was passed, applicable to the lessons of 1972 required such detailed reporting in many instances that if this process is further complicated, it is going to discourage me and others from running for public office, simply because we have to spend so much time signing our names and figuring out where which campaign report form ought to go at any given point in time.

Campaigns for candidates in 1974 would tend to be even more difficult. We would have to deal for the first time—if we accept in the House the bill which was passed by the Senate—we would have to deal for the first time with an independent and powerful enforcer of campaign laws. The Senate approved the establishment of this Commission, and I would assume that the Senate thought that we ought to take out of the realm of political influence those persons who would oversee the nature of the contributions received by federally elected officials, or those who were campaigning for Federal office, and somehow try to prevent the candidate from subverting the intent and the spirit of the law simply by chicanerous activities and by postrelationships with the Comptroller General accounts or whoever else is in charge of looking over—the Clerk of the House or the clerk of the Senate—those persons who have some allegiance and affinity to those who are in public office now. Officers of the Congress and the Justice Department will be replaced with an independent commission without conflicting loyalties and interests. Such an independent commission could bring impartial and effective enforcement of the law, and an independent commission would not wink at a violation by a person running for public office. They would not mind if a candidate had to face fines or jail.

The spiraling costs of an effective campaign should quicken the interest in alternatives to the present system of raising campaign

money: \$400 million was raised to spend in 1972 in Federal election campaigns; in 1974 there will be a higher figure. Any candidate facing the awesome task of raising hundreds of thousands of dollars for a single campaign every few years has got to consider whether there is a better way.

All of these problems, with the present system of exclusive reliance on private campaign contributions, point in the same direction—public subsidies for the cost of running for office. Public financing would remove the bias of big money in election campaigns. Candidates would no longer have to depend on personal wealth, wealthy friends, last minute contributions or deep debts. Candidates would no longer have to worry about those times when the interests of large campaign contributors diverge from the public interest.

If we had public financing of campaigns, candidates could spend more time developing issues rather than developing contributions.

What I want to emphasize here is what I feel to be one of the most significant effects of campaign costs. The prior speaker you had talked about two groups who are hurt and discriminated against because of the high cost of running for public office. He stated poor people and independent people who wanted to be independent of the system; well, I would point to two more groups, or two additional groups who are grossly and woefully discriminated against because of the lack of access to private donations—women and minorities.

Whereas the wealthy are able to buy disproportionate representation, women and minority groups have less access to large sums of money, and also less access to Federal elective offices. Money or access to it are the preconditions for access to office, and effectively exclude blacks and women. It perhaps seems a little odd that I would be talking about exclusions because a person is black and because she is a woman, since I comport with the oddity. I suppose it would be better to say that it is a bit of a rarity to find a black and a woman holding public office.

We have long ago abandoned the Horatio Alger model of the independent, individual effort as the American theme, as we have come to recognize the importance of institutional and systemwide barriers in preventing individual achievement, and an occasional breakthrough does not justify the entire system. The 17 black and 16 women Members of Congress come nowhere near a proportional representation of blacks and women in the Nation. Our inequality in economic power is translated into inequality in representation in the corridors of power. Unable to marshal the private resources for campaigning, few women, few blacks, are able to run for office. It is not likely that this pattern will ever be broken except in occasional cases like my own, unless we provide equal access to campaign funds through public subsidies. Until then, discrimination, which limits the advancement of women and minorities in the economics world will also afflict them in the political realm.

Now, this committee has before it a variety of legislative proposals which purport to subsidize campaigns with Federal funds. I am not going to lay out any specific proposal of my own on top of that accumulation; I am convinced you have a sufficient range of alternatives and provisions to choose from.

I do, however, feel that it is important to endorse specifically a public subsidy which will match private contributions. I am not in favor, and I repeat, for emphasis—I am not in favor of 100 percent subsidies for campaigns; I think that some responsibility must be called on by the person who is running for public office. I feel that it is important for that responsibility to be reasonable and not to be excluded to the exclusionary nature that we now have as we rely solely and totally on private contributions.

Candidates should be required to have a portion—a substantial personal responsibility for a portion of their campaign finances which could be raised from their own funds or from private contributions. The Federal subsidies would then match small contributions up to a certain level; this subsidy would serve many purposes, such as discouraging frivolous candidacies, maintaining one form of citizen involvement in the electoral process, and restraining the cost of a subsidy system.

I would finally like to caution the committee on the problem of extending public subsidies to primary elections. I am not convinced that the Federal Government should become involved at this point in the intraparty process of picking a political party's candidates for Federal offices. The expense of extending subsidies to this level would be far greater than in general elections because of the greater number of candidates, many of whom would be encouraged to enter primaries if subsidies were available. But, more importantly, the primary election or convention is less a public than a party matter and therefore less appropriate for Federal subsidies.

If primary candidacies are covered, the committee might consider funneling subsidies through State or local party organizations rather than directly to candidates. The party organizations could then use the subsidy to support those candidates who had shown some evidence of being legitimate candidates, whatever that word would start to mean. They could provide media space or time, office, whatever.

There is no doubt in my mind that the problems of primaries can be overcome in the course of this committee's deliberations. I commend you for beginning this important ground-breaking effort. The legislation you are considering can revitalize our democracy and take it out of the grip of the wealthy and put it in the hands of the people.

I would hope that the House of Representatives would follow the lead of the Senate in this instance and somehow move dramatically and now in the area, because this could have a tremendous impact on the long road to restoring confidence and faith of people in their Government officials.

Thank you very much. That concludes my statement.

Senator PELL. Thank you very much indeed, Representative Jordan.

One comment in connection with the primaries. If one gave money to the regular organization to make sure that all of the eligible candidates had access to some form of support, I think it could be unfair because as a general rule the regular organizations strongly dislike primaries, at least in my part of the country, and so none of that money would get to the challengers.

I think if we do help the primary candidates, the money should go directly to the candidates rather than the party structure, which will block it.

Ms. JORDAN. That would be desirable, but I don't know how you are going to avoid an absolute raid on whatever fund there is available to subsidize candidates. That is a very real danger.

Senator PELL. That is the problem, the question of expenses, but if you are going to resolve the very problem you mentioned, how do those who do not start out with certain advantages of position get into the mainstream of the political establishment? The way to do it is through the primary process.

We have to figure out some way to help them. Maybe we will not in the end come out with a recommendation in that regard, but if that is the case it would probably be because of costs as much as anything else.

You were concerned with the problem of the appointment of the people to the Federal Election Commission. You justly pointed out that the President is a politician and all of us are politicians.

But to my mind, one, being a politician is not a derogatory term. I list myself under Who's Who, under occupation, as politicians. There is nothing wrong with it. Who else could make the appointment if the President didn't?

Ms. JORDAN. I suppose what I referred to—I think politician is also a good term and a good profession. And I am pleased to be regarded as a member of that profession.

What I say is that when we talk about an independent commission, how can the incumbent elected politicians really exercise independent judgment in appointments to a commission which is going to have that kind of influence over the future of that politician.

I don't know how you get an independent commission appointed by people who have a vested interest in staying in office and getting re-elected to office.

Senator PELL. As you know, the bill we sent over to the House of Representatives in 1971 contained provision for an independent commission. And that was not approved by the House—not you personally, but by others there.

And, as of now, it is very difficult, because, as you know, the Clerk of the House, the Secretary of the Senate and the Comptroller General, are all sort of a troika administering the law.

The Comptroller General may not be a servant of the Congress, but he is part of the congressional establishment. And certainly the Secretary of the Senate and the Clerk of the House are, respectively, using the term in the good sense of the word, servants of those bodies. And it is very hard for them to crack the whip over their bosses.

And so we have to get it further away from us. I don't know who would appoint these people if it wasn't the President. Would you have the president of the Ford Foundation, the president of the Salvation Army—who else could make the appointment?

Ms. JORDAN. Senator, I am not prepared to say who ought to make that appointment. We might need an appointing committee to make it. If all else fails, you get a committee.

But I do feel that with all the proposals that are being advanced that we can come up with some completely or partially, majority-impartial, to make that appointment. It needs to be the kind of person who would command the respect of the public and the citizenry, and that no question, or at least little question, would be raised about the appointment.

I don't know who that is. I confess that I don't know who that is.

Senator PELL. Getting back to this question of definition, I guess it would have to be a statesman. And yet the best definition of a statesman is a successful and dead politician. [Laughter.]

Thank you very much indeed, Representative Jordan, for stimulating, excellent and articulate testimony.

Ms. JORDAN. Thank you, sir.

Senator PELL. We are now fortunate in having Senator Hart, the senior Senator from Michigan, as our next witness. Senator Hart?

STATEMENT OF HON. PHILIP A. HART, A U.S. SENATOR FROM THE STATE OF MICHIGAN

Senator HART. Mr. Chairman.

Senator PELL. Welcome to this subcommittee.

Senator HART. Thank you. Mr. Duffy. May I—not that I anticipate that you will be asking me questions, but in a sense to identify a person who in terms of technical understanding of the problems that go into trying to draft a bill that responds to some of these very tough questions that are raised when you try to go to public financing—at least to give him a moment where he can be seen, I would like Burton Wise to join us—he is my counsel and for several years he has been—

Senator PELL. More than welcome.

Mr. WISE. Thank you.

Senator HART [continuing]. Attempting to respond to these questions.

Mr. Chairman, a dozen Senators and several distinguished Congressmen, the chairman of a national political party and very distinguished outside experts on campaign finance reform have been before you, and that makes a very difficult act to follow.

I will try not to impose too long on your willingness to hear all of us who are enthusiastic advocates for public financing of Federal election campaigns.

First, let me add my amen to the appreciation expressed by other witnesses for your committee's leadership in campaign reform. The judgment that we should press that reform further to achieve public campaign financing in no way diminishes the importance of the far-reaching reforms of our present system which your committee shepherded through the Senate this summer.

Nor do I underestimate the knotty problems which face draftsmen of public finance legislation, having wrestled with them myself for almost a year.

Nonetheless, it is my strong hope that your committee will be able to work from several proposals now before the Senate and the testimony at these hearings, and give top priority to specific legislation for public financing of Federal elections.

Restoring public confidence in our political system will be no easy task, but public financing of Federal elections could help.

You will be told that public financing of elections is just another grab by greedy politicians.

To those who hold that view, let me suggest that the need to raise large campaign treasuries could have something to do with the caliber of persons who seek office.