STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

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January 11, 1993

Comment On
AOR 1992-43

BRAD LITCHFIELD ATTORNEY
FEDERAL ELECTION COMMISSION
999 E STREET NW
WASHINGTON DC 20463

SUBJECT: Washington law restricting contribution solicitation/acceptance during legislative sessions.

It has come to my attention that a request has been made to the Federal Election Commission for an Advisory Opinion as to whether a new Washington law prohibiting state officials from soliciting political contributions during certain times of the year applies to efforts to retire the campaign debts of such officials who were unsuccessful in a quest for federal office.

This issue was raised with me soon after the ballot proposition was passed in November, 1992, adding this new prohibition to the Washington laws. I asked an assistant attorney general to research the issue and formulate for me what the correct legal interpretation of the new law should be.

Enclosed is a copy of the memorandum opinion I received. The conclusion reached in it is that, based on usual and customary methods of legal analysis, the moratorium does apply to efforts to retire any campaign debt, including those incurred in seeking federal office. I can find no fault with the reasoning or logic leading to that conclusion

We have not yet had an opportunity to involve the members of the Public Disclosure Commission in this issue and secure their concurrence with this interpretation. I hope to do that when they meet on January 26th. I have every reason to believe that the commissioners will concur.

Sincerely,

Graham E. Johnson
Executive Director

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Public Disclosure Commission

ATTORNEY GENERAL OF WASHINGTON

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M E M O R A N D U M

November 20, 1992

TO: Graham E. Johnson, Executive Director
Public Disclosure Commission

FROM: Roselyn Marcus
Assistant Attorney General

SUBJECT: Initiative 134, Sec. 11 - Pre-sessions fundraisers

On November 19, 1992, you gave me a copy of a letter from Timothy A. Martin. Mr. Martin requested a written response to the following question: After Initiative 134 becomes effective, would Initiative 134 preclude a state legislator or other state official from soliciting or accepting contributions to retire a federal elective office election campaign debt associated with the 1992 elections during the periods set forth in section 11 of Initiative 134? Because of the urgency of this question, you asked me to provide you an opinion immediately. This is, however, a very complex question. Based on the research I was able to do, which included a review of Chapter 42.17 RCW, a review of the federal election rules, 11 CFR and a review of applicable FEC Advisory Opinions, I have concluded that Initiative 134 ("I-134"), Section 11 applies to all state officials, even if the fundraiser is to retire a campaign debt from a previous federal election campaign.

I-134, which passed by an overwhelming majority of the people of this state, was meant to limit the influence of "big money" on our political elections and institutions. The findings set forth in section 1 of the initiative states that some organizations have greater influence on our elections and in the government because of their financial ability to contribute to elected officials. Therefore, the initiative's intent, as evidenced in section 2 is to ensure that all individuals and groups have equal influence, reduce the influence of large organizational contributors and to restore public trust in governmental institutions. The sections in the initiative must be interpreted consistent with these basic findings and intent. Interpreting a section to grant an exception to the initiative's requirements or prohibitions should only be done with the greatest caution.

Turning now to the specific section in question, I-134, Section 11 states:

> During the period beginning on the thirtieth day before the date a regular legislative session convenes and continuing thirty days past the date of final adjournment, and during the period beginning on the date a special legislative session convenes and continuing through the date that session adjourns, no state official or a person employed by or acting on behalf of a state official or state legislator may solicit or accept contributions to a public office fund, to a candidate or authorized committee, or to retire a campaign debt.

By the specific wording of this section, it applies to all state legislators. Further, the drafters did not limit the purpose of the fundraising to only candidates or future elections. The drafters specifically included the prohibition against fundraising to retire a campaign debt. The term "campaign debt" is not defined in the initiative. Therefore, it must be given its plain meaning. In doing so, a campaign debt would include a debt from a campaign for any office previously sought.

Section 11 is preventing the acceptance of money by a state legislator at the time the legislature is in session. This prevents any individual or group from being able to influence legislation by contributing money to the very people who are deciding the fate of pending legislation. This section is regulating the conduct of state legislators while they are in session. Therefore, it is consistent with the findings and intent of the drafters and the wording of the initiative to interpret section 11 to apply to all legislators regardless of whether the contribution is to retire a state or federal campaign debt.

The next issue would be whether section 11, as applied to the retiring of federal election campaign debts, is consistent with RCW 42.17.030?

RCW 42.17.030(2) states that Chapter 42.17 RCW does not apply to the financing of federal election campaigns. Specifically, RCW 42.17.030(2) provides"

> The provisions of this chapter relating to the financing of election campaigns shall apply in all election campaigns other than ...(2) for a federal elective office.

I do not believe that this provision means that I-134, Section 11 does not apply to state officials who are retiring a federal election campaign debt. Section 11 does not regulate the "financing of election campaigns". This phrase has been interpreted to include acts done during the campaign, limitations on the amount or source to finance a campaign, certain aspects of campaign advertisements and the disclosure requirements for election campaigns. Section 11 applies after a campaign is complete. Further, it regulates the conduct of state officials, rather than the financing of a campaign. Therefore, RCW 42.17.030 does not preclude applying section 11 to state officials retiring a federal election campaign debt.

Lastly, you must look at whether the state is preempted from applying Section 11 to state officials retiring federal election campaign debts by the federal election laws. This question is best answered by the Federal Elections Commission. However, I believe that the federal election laws do not preempt the application of I-134, Section 11 to state officials, state legislators or person employed by or acting on behalf of the state official or legislator.[1]

The Federal Election Campaign Act ("The Act") supersedes and preempts any provision of state law with respect to election of Federal office. 2 U.S.C. §453. To clarify and be able to implement this provision, 11 CFR §108.7 provides specifically when a state law is preempted and when a state law can be applied to a federal election. Copy of regulation attached. These statutes and rules have been the subject of many advisory opinions in order to interpret their application to specific state laws. The advisory opinions I have read seem to have a common theme. State law is preempted when it regulates the amount of contributions a federal candidate can receive, the source of contributions a federal candidate can receive, the disclosure and reporting of contributions and expenditures for a federal campaign and advertising requirements of a federal candidate during a federal campaign. Section 11 does not fit into any of these categories. To the contrary, it merely regulates the timing of the contribution when the person

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[1] There is an argument that can be made that The Act does preempt state law which regulates the solicitation or acceptance of contributions by persons acting for or on behalf of a state official or state legislators if that person is not a state employee. See AO 1989-27. However, this is the only opinion I can find which speaks to this subject. The statute in question in the opinion does differ from Section 11 in that the limitation was total and not specified as to any particular time limitation.

receiving the contribution is a state official. Section 11 does not prohibit the solicitation of contributions at other times.

In addition, I believe that The Act specifically does not prevent a state from regulating the behavior of state employees or officials. AO 1989-27 upheld a Massachusetts statute which prohibited the solicitation by a state employee. The opinion states that the state's ability to regulate its employee was not preempted by The Act. Copy of AO attached. Therefore, based on this research, I do not believe that the state has been preempted from applying section 11 to state officials retiring federal election campaign debts.

This is my opinion as an assistant attorney general assigned to represent your agency. It is not an official opinion of the Attorney General. As stated before, because this question deals with whether The Act preempts state law in this area, the question may be better addressed by the FEC. In any event, if the requester is not satisfied with this opinion, he can ask for a formal opinion from the Attorney General, an advisory opinion from the FEC or request a declaratory order from the courts. If you have any questions or about this opinion or wish to discuss it further, please do not hesitate to call.

Roselyn Marcus

ROSELYN MARCUS
Assistant Attorney General

cc: Chip Holcomb
Rich Heath

§ 108.6 Duties of State officers (2 U.S.C. 439(b))

The Secretary of State or the equivalent State officer shall carry out the duties set forth in 11 CFR 108.5(a) through (d)

(a) Receive and maintain in an orderly manner all reports and statements required to be filed.

(b) Preserve such reports and statements (either in original form or in facsimile copy by microfilm or otherwise) filed under the Act for a period of 2 years from the date of receipt.

(c) Make the reports and statements filed available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during office hours and permit copying of any such reports or statements by hand or by duplicating machine, at the request of any person except that such copying shall be at the expense of the person making the request and at a reasonable fee.

(d) Compile and maintain a current list of all reports and statements or parts of such reports and statements pertaining to each candidate

§ 108.7 Effect on State law (2 U.S.C. 453)

(a) The provisions of the Federal Election Campaign Act of 1971, as amended, and rules and regulations issued thereunder, supersede and preempt any provision of State law with respect to election to Federal office

(b) Federal law supersedes State law concerning the—

(1) Organization and registration of political committees supporting Federal candidates.

(2) Disclosure of receipts and expenditures by Federal candidates and political committees; and

(3) Limitation on contributions and expenditures regarding Federal candidates and political committees.

(c) The Act does not supersede State laws which provide for the—

(1) Manner of qualifying as a candidate or political party organization.

(2) Dates and places of elections.

(3) Voter registration;

(4) Prohibition of false registration, voting fraud, theft of ballots, and similar offenses; or

(5) Candidate's personal financial disclosure

§ 108.8 Exemption for the District of Columbia

Any copy of a report required to be filed with the equivalent officer in the District of Columbia shall be deemed to be filed if the original has been filed with the Clerk, Secretary or the Commission as appropriate

PART 109—INDEPENDENT EXPENDITURES (2 U.S.C. 431(17), 434(c))

Sec

AUTHORITY: 2 U.S.C. 431(17), 434(c), 438(a)(8), 441d.

SOURCE: 45 FR 15118, Mar. 7, 1980, unless otherwise noted.

§ 109.1 Definitions (2 U.S.C. 431(17))

(a) *Independent expenditure* means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate.

(b) For purposes of this definition—

(1) *Person* means an individual, partnership, committee, association, or any organization or group of persons, including a separate segregated fund established by a labor organization, corporation, or national bank (see part 114) but does not mean a labor organization, corporation, or national bank.

(2) *Expressly advocating* means any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as *vote for, elect, support, cast your ballot for,* and *Smith for Congress,* or *vote against, defeat,* or *reject.*

(3) *Clearly identified candidate* means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity

sory Opinion 1984-45 Similarly in the situation you present the Commission concludes that nothing in the Act or Commission regulations precludes the implementation of your proposed contribution deduction system provided that certain safeguards are followed

You have stated that the Committee will keep records of the cumulative totals of contributions The Act and regulations provide that for contributions in excess of $50 the Committee shall keep records of the name and address of the contributor and the date and amount of the contribution 2 U S C § 432(c)(2), 11 CFR 102 9(a)(1) For contributions from any person aggregating more than $200 during a calendar year the Committee's records shall include the above information and the occupation and employer of the contributor 2 U S C §§ 431(13) and 432(c)(3) 11 CFR 100 12 and 102 9(a)(2) In addition to the information provided your contributor authorization form should also include the information enabling you to comply with the above requirements

In order to report these contributions correctly, the Committee should take note of when it must itemize the contributions When a contribution from an individual when added to his or her previous contributions exceeds $200 for the calendar year the Committee should disclose the name address, occupation and employer of the contributor along with the date of receipt and the amount on the next report due Each additional contribution from that individual should also be so itemized 11 CFR 104 8(b) Although the Committee will be delivering its requests for debit entries to Union Colony no later than 15 days prior to the date the contributors accounts are debited, the date of receipt of the contributions will be the date on which the Committee's account is credited with the funds debited from contributors accounts In this situation that is the date on which the Committee's account will receive the funds

Your proposal contemplates the continuance of deductions through November, 1990, i e, up to the general election and perhaps beyond if made on a November date after the general election The authorization form, however does not provide for the designation of contributions for the primary or the general election If no such designation is made by the contributor in writing the deductions will be considered contributions for the next election for that office 11 CFR 110 1(b)(2)(ii) Therefore according to the Commission's Explanation and Justification for regulations pertaining to designation undesignated contributions are counted toward the primary election if made on or before that election toward the general election if made after the primary date and toward the next election if made after that. 52 Fed Reg 761 (January 9 1987) [1] If the Committee chooses to have contributors designate the election in writing, such designation may be made on the deduction authorization form or on an amendment to the form with respect to contributions made after the amendment is submitted since the form or an amendment to it constitutes the writing that authorizes the making of the contributions See 11 CFR 110 1(b)(4)

Because your contributor authorization form for debit entries states that such entries may continue through November 1990 the Commission points out the applicability of its regulations pertaining to contributions designated for a particular election restrictions on contributions after the primary if the candidate is not running in the general election, and the required redesignation and reattribution of contributions in some circumstances 11 CFR 110 1(b)(3) 110 1(b)(5), and 110 1(k), see Advisory Opinion 1988-41 You should note that, depending upon the factual situation, these rules may require the Committee to terminate the program after the primary if Mr Bond is not a candidate in the general election For example if Mr Bond is not a candidate in the general election all contributions made for the general election will have to be returned or refunded to the contributors, or reattributed or redesignated as appropriate to the extent that is permissible without exceeding the Committee's net primary debts and without exceeding the limit of 2 U S C § 441a

The expenses of Union Colony Bank an incorporated entity, in providing services facilitating this program would be a prohibited contribution by the bank if uncompensated 2 U S C § 441b(a) 11 CFR 114 2(b) The agreement between Union Colony and the Committee provides for payment by the Committee to the bank for the reestablishment of the program and for the costs of the continuing deductions The Commission conditions its opinion on the assumption that the charges listed in the agreement are not less than the usual and normal charges for the services provided 11 CFR 100 7(a)(1)(iii)(A) See Advisory Opinion 1978-68

In keeping with the underlying concept of your proposal — a contribution is made each month in the actual amount of the monthly withdrawal (and not in any cumulative amount or projected value, at the time of the authorization) — the ability of the contributor to revoke his or her deduction authorization must be clear Such ability is explicitly referred to on the sample deduction authorization form and is also recognized in the agreement between the Committee and Union Colony In addition to stating that the request will remain in effect until Union Colony and the Committee have received written notification of revocation in a manner affording 'a reasonable opportunity to act on it' the Committee should also state on the deduction authorization form what it considers to be a reasonable time to act on a revocation request perhaps with specific reference to terms of the agreement with Union Colony In order to further ensure the contributor's control over the funds and his or her ability to revoke the authorization, the Committee should provide refunds to those contributors who inform the Committee of the *desire to revoke before the next scheduled transfer of funds* from the contributor's account but after the deadline for a 'reasonable opportunity to act on the request *Cf* 11 CFR 110 1(b)(6) [3]

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[1] Compare the regulations applicable to presidential candidates who qualify for matching Federal funds These regulations require that matchable contributions be made on a written negotiable instrument 11 CFR 9034 2(a)(1), (b) and c)

[2] Under the Commission's regulations a contribution is considered made when the contributor relinquishes control 11 CFR 110 1(b)(6) In the situation you propose the Commission would view the date a contributor's account is debited as the date the contribution is made

[3] The Commission notes that any dispute with reference to the effective date of a contributor's notice of revocation to the Committee or the Committee's forwarding such notice to Union Colony is subject to State law and generally outside the purview of the Act except to the extent that such circumstances raise any issues with regard to the making of an unlawful contribution by the contributor's bank or Colony Bank See 2 U S C § 441b

AO 1989-27

Federal election law pre-empts state laws pertaining to federal candidates

December 11, 1989

This responds to your letter dated October 18 1989 requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1979, as amended ("the Act"), and Commission regulations to a Massachusetts statute prohibiting state employees from soliciting or receiving funds for a political campaign

You state that you are employed by the Commonwealth of Massachusetts as a professor at Bridgewater State College and you are a candidate for the U S House of Representatives from the 10th Congressional District of Massachusetts You state that as a member of the faculty union, you are considered to be a non management employee You describe Chapter 55, section 13 of the General

Laws of the Commonwealth of Massachusetts as prohibiting a state or local employee other than an elected official from soliciting or receiving money for political campaign purposes You ask whether the Act and Commission regulations preempt Chapter 55 section 13 and thus permit you to directly solicit funds other than from students of [your] college over whom [you] might hold influence'

The proscription cited by you is one part of section 13 The section sets out the basic prohibition on political activity by a state or local employee and then proceeds in the remainder of the paragraph to describe how the prohibition is to be invoked when that employee is a candidate who has organized a political committee In order to explain the Commission's preemption power with precision as to section 13 and its application to the situation presented by you the entire paragraph needs to be analyzed

Section 13 of Chapter 55 of the General Laws of the Commonwealth of Massachusetts provides that no state or local employee who is other than an elected officer may 'directly or indirectly solicit or receive' a contribution 'for the political campaign purposes of any candidate for public office or of any political committee or for any political purpose whatever The section explicitly does not prevent such persons from being members of political organizations or committees In addition the section provides that the soliciting or receiving of a contribution by a "non-elected political committee' organized to promote the candidacy for public office of such an employee shall not be deemed to be a solicitation or receipt of a contribution by the employee so long as no such contribution is solicited or received from a person whom the employee knows or has reason to know has an interest in a matter in which the employee participated during the course of his employment or which is the subject of [the employee's] official responsibility "[1] According to section 34 of Chapter 55 the provisions of Chapter 55 apply to "all public elections "[2]

Preemption of state laws pertaining to the conduct of Federal elections is addressed directly in the Act and Commission regulations and in the legislative history of the Act. The Act provides that its provisions and the rules prescribed thereunder 'supersede and preempt any provision of State law with respect to election to Federal office" 2 U S C § 453 Commission regulations specify that Federal law supersedes state law concerning the organization and registration of political committees, disclosure of receipts and expenditures by Federal candidates and committees, but the Act does not supersede state law with respect to the manner of qualification of candidates, dates and places of elections voter registration voting fraud, or candidates' personal financial disclosure 11 CFR 108 7(b) and (c)

The report of the House committee that drafted the statutory provision explains the committee's intent in sweeping terms Federal law is to be "construed to occupy the field with respect to elections to Federal office' and is to be "the sole authority under which such elections will be regulated." H R. Rep No 93-1239 93d Cong 2d Sess 10 (1974) The conference committee report on the 1974 amendments to the Act states that "Federal law occupies the field with respect to criminal sanctions relating to limitations on campaign expenditures, the sources of campaign funds used in Federal races the conduct of Federal campaigns, and similar offenses, but does not affect the States' rights" as to other areas H R Rep No 93-1438, 93d Cong, 2d Sess. 69 (1974) The other areas listed were later enumerated in the Commission regulations

In accordance with the intent of Congress, the Act is the sole source of regulation of campaign financing for Federal elections, including limitations and prohibitions on contributions The Act prescribes limitations on contributions by any person, including individuals and completely prohibits contributions by certain specified persons, i e national banks corporations and labor organizations using their treasury funds, foreign nationals and government contractors The intent of Congress, however was that the regulatory scheme should not extend into the area of state laws regulating the political activities of state and local employees, i e the "little Hatch Acts" The House committee report, in discussing amendments to the Act stated that the regulation of political activities of State and local employees would be left largely to the States H R Rep No 83-1239, 93d Cong, 2d Sess 102 (1974) During the Senate debate on the 1974 amendments subsequent to the issuance of the conference report, Senator Stevens and Senator Cannon clarified that point. Senator Stevens stated

> It is my understanding, and I should like to ask the manager of the bill my friend from Nevada (Mr Cannon) if he agrees that this means that State laws which prohibit a local employee from engaging in Federal campaign activities and Federal campaigns are still valid?

120 Cong Rec S18538 (daily ed October 8 1974)

Senator Cannon replied that Senator Stevens understanding was absolutely correct." *Id*

The Commission concludes that the first portion of section 13 insofar as it relates to a solicitation by the employee himself or herself or the personal receipt by the employee is not preempted by the Act This portion of the section, if restricted to such personal activity, fulfills the purpose of a little Hatch Act in regulating the political activity of a state employee

This prohibition however, should not extend beyond the particular state employee Although section 13 appears to be aimed at regulating the political activities of a state employee the language of the section also prohibits the political committee of the employee from accepting contributions from a certain group of persons i e any persons whom the employee knows or has reason to know has an interest in matters in which the employee has participated or which are the subjects of the employee's official duties By doing so it is regulating in an area that Congress clearly intended for the Act to cover i e the source of campaign funds The Act does not include persons in the above-described group among those who may not contribute to candidates for Federal office In several advisory opinions, the Commission has indicated that the Act permits any person who is not otherwise prohibited by Federal law from doing so to make a contribution within the Act's limits in a Federal election See e g, Advisory Opinions 1984-26 and 1979 28 Even when a part of a state statute may appear upon its surface to be aimed at behavior of a state official or employee outside the area of campaign financing, the commission has interpreted its broad preemptive powers to be applicable Advisory Opinion 1989-13 see also 1988-21 The commission concludes that the portion of section 13 relating to the solicitation and acceptance by a political committee of contributions to influence a Federal election is preempted

The Commission notes that the statute uses the phrase directly or indirectly solicit or receive," with reference to the activity of the state employee Insofar as the phrase "indirectly" relates to the solicitation or receipt of contributions by those involved in the campaign acting at the direction of a candidate who is a public employee, section 13 extends beyond regulation of the political activities of the state employee into the conduct of his or her campaign Once a person is permitted by state law to be a candidate for Federal office, such a restriction would directly impinge upon the ability of the campaign or political committee to conduct otherwise lawful campaign finance activity and would directly contravene the intent of the Act to occupy the field with respect to 'the conduct of Federal campaigns" H R. Rep No 93-1438 93d Cong 2d Sess 69 (1974)

Section 13, therefore, is preempted, in part as it relates to Federal elections The restrictions on the ability of your political committee to solicit or receive contributions otherwise permitted under the Act are preempted Similarly, the restrictions on indirect solicitation or receipt by you of contributions are preempted insofar as the contributions are solicited or received by those in the campaign acting at your direction The Act, does not however preempt the section's proscription on direct solicitation of contributions by you or your personal receipt of contributions

[1] The text of Chapter 55 Section 13 of the Massachusetts General Laws as amended is as follows

> No person employed for compensation other than an elected officer by the commonwealth or any county city or town shall directly or indirectly solicit or receive any gift payment contribution assessment subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee or for any political purpose whatever but this section shall not prevent such persons from being members of political organizations or committees The soliciting or receiving of any gift payment contribution assessment subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a person so employed for compensation by the commonwealth or any county city or town shall not be deemed to be a direct or indirect solicitation or receipt of such contribution by such person provided however that no such gift payment contribution assessment subscription or promise of money or other thing of value may be solicited or received on behalf of such a person from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is the subject of his official responsibility
>
> Any appointed officer or employee convicted of violating any provision of this section may be removed by the appointing authority without a hearing
>
> Violation of any provision of this section shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars

G L c 55 § 13

[2] Section 34 states in pertinent part

> Sections one to thirty three inclusive shall apply to all public elections and to elections by the general court and by city councils and by other branch thereof and so far as applicable to the nomination by primaries caucuses conventions and nomination papers of candidates to be voted for at such elections

G L c 55 § 34

AO 1989-28

A non-profit, tax exempt corporation may use its general treasury funds to finance a voter guide provided the guide is non-partisan and expresses no editorial opinions about issues support and/or opposition to any candidate

February 14, 1990

This responds to your two letters dated October 24 and May 15 1989 which request an advisory opinion on behalf of the Maine Right to Life Committee Inc ("MRLC") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act") to the financing of MRLC newsletters that contain candidate surveys

Your letters, and the documents submitted with them indicate that MRLC has previously published several newsletters for public distribution that present the views of Federal candidates including their responses to MRLC surveys on policy issues such as abortion MRLC proposes to issue similar newsletters in the future in particular in May 1990 before the June 12 primary election in Maine Your May 15 letter sets forth several "issues on which you request an advisory opinion from the Commission These questions in essence present the more basic issue as to whether MRLC may use its general corporate treasury funds to finance the pre election newsletters

The factual basis of the request is presented in your letters and in other materials submitted by you You explain that MRLC is a statewide nonprofit section 501(c)(4) membership organization incorporated in 1974 in the State of Maine It was formed to promote the sanctity of all human life including unborn children and to educate the public on issues relating to abortion infanticide and euthanasia MRLC itself is not associated with any political candidate campaign committee or political party but in 1981 it established a separate segregated fund the Maine State Right to Life Political Action Committee (MRLCPAC) This political committee makes contributions to candidates for Federal and State elective offices who "take a prolife stand on the issues of abortion infanticide, and euthanasia"

MRLC prepares and distributes a bimonthly newsletter *Life for ME* "containing educational articles and news of local chapter activities" Prior to elections the newsletter includes the results of a survey of candidates for Federal and State office The survey is taken by means of an MRLC questionnaire and candidate responses to the survey indicate their positions on "prolife issues Your May 15 letter states that funding for the newsletter comes from the general treasury of MRLC, and not from the treasury of MRLCPAC MRLC's treasury includes corporate contributions

Your request indicates that MRLC solicits donations from business entities and corporations and it allows them to become "members" Donations are also regularly received by MRLC from business and corporations [1] In addition during 1989 MRLC began soliciting business advertising from pro-life businesses to defray the costs of printing and mailing *Life for ME* [2] These solicitations have been mailed to businesses who have been supporter[s] of MRLC in the past MRLC has also invited inquiries from business entities that would be interested in larger ads

With respect to the newsletter issues which carry candidate survey responses and other candidate viewpoints on MRLC policy positions your request included copies of MRLC newsletters from May 1984 and November 1988 These issues include candidate responses to numerous MRLC questions concerning possible amendments to the U S Constitution such as the Human Life Amendment "overturning the Supreme Court decision in *Roe v Wade* and an "abortion-neutralization amendment to the Equal Rights Amendment In addition the surveys sought Federal candidates responses that would indicate their support or opposition to federal legislation such as human life bills" as well as pro-life amendments" to appropriation bills prohibiting federal funding for abortions and the funding of organizations which make referrals for abortions The 1988 candidate survey also presented other legislative proposals such as barring the denial of "beneficial medical treatment" for newborn infants and for handicapped chronically ill and elderly persons Each of these questions was posed in a manner whereby a "yes reply by the candidate would be readily recognized as the pro-life response" favored by MRLC

The 1984 survey questions and results were published in the May-June 1984 issue of the MRLC newsletter and included the names of seven Federal candidates Each of them was recorded as making no response to the survey The 1988 survey questions along with the results, were published in the November 1988 newsletter and identified six Federal candidates Four of them were recorded as making no response to the survey One gave yes answers to all ten questions, and the sixth candidate gave "no answers to two questions, but did not respond to the others An introduction to the published survey responses in both 1984 and 1988 briefly notes the forthcoming elections and states that the survey report does not represent an endorsement" of any candidate by MRLC The reader was advised to contact candidates who had not responded at all the 1988 issue emphasized that it "is vital that your local candidate hear from you on this issue"