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Oregon Courrupt Practices Act

City Club of Portland (Portland, Or.)

REPORT

on

OREGON CORRUPT PRACTICES ACT

TO THE BOARD OF GOVERNORS,
THE CITY CLUB OF PORTLAND:

Your Committee was appointed March 22, 1954. The authorization read, in part: "to investigate and consider whether or not the Oregon Corrupt Practices Act is adequate in the limitation and disclosure of political campaign contributions and establishment of political campaign practices and election procedures which are in the public interest. . . ."

INTRODUCTION

The purpose of Corrupt Practices Acts, which, according to their intention might well have been called "Correct Practices Acts," has been defined as follows: "to preserve the purity of elections, to require an aspirant for office to resort to honest means to obtain it, and to prevent the improper influencing of voters, as by limiting the amount of campaign expenditures, prohibiting corporate campaign contributions, requiring publicity as to all campaign contributions, and regulating various practices relative to the conduct of political campaigns, and not to prevent a candidate from defining his principles."*

Corrupt Practices Acts are designed to prevent the improper control of any office seeker by individuals or groups who may have financial advantage and special interests to serve. This control may range from bribery to a mere expectation that in gratitude the discretion of the office holder will be exercised to the advantage of the contributor. The objective is to maintain conditions which will allow merit other than that demonstrated by the ability to raise money to be decisive in the competition between political candidates and between groups.

The subject of the tremendous increase in campaign expenditures particularly since the advent of radio and television, is one that has been giving increasing concern to political scientists and others interested in the American electoral process. Estimates of the sums spent for election purposes in 1952, the last presidential campaign year, reached astronomical figures.

In Oregon, the subject has been much in the news during the last year. The source and amount of campaign funds became an issue on both sides in at least two major campaigns last year, and the public had no means of determining the truth or falsity of the various charges until two weeks after the election when reports were filed. Even then the information obtained was confusing, and, since there are no means of enforcement, the electorate had to rely solely on the reports of the interested parties. Charges and counter-charges regarding campaign expenses continued to appear as recently as January, 1955, and at least two bills relating to the problem have been introduced so far in this session of the legislature.

SCOPE OF THE INVESTIGATION

The Committee has been at work on this report for nearly a year. There were extended periods during which the Committee met regularly at least once a week.

It was soon discovered that the assignment was by no means as easy as it might have appeared at first glance. The Committee is convinced that there are no simple and no perfect solutions to the problem under study. Members of the Committee were led to what might truly be called "agonizing reappraisals" of their viewpoints on Corrupt Practices legislation as the work of the Committee disclosed the complexity of the issues involved.

*29 Corpus Juris Secundum on Elections, Sec. 216.

The Committee interviewed and corresponded with a number of persons with special knowledge in the field of the investigation. Members twice visited Salem in a body to confer with David O'Hara, Supervisor of the Division of Elections in the office of the Secretary of State, and to examine first-hand contribution and expenditure reports filed by candidates and political committees. The Committee wishes to express its grateful appreciation of Mr. O'Hara's cooperation and advice. Dr. Maure Goldschmidt, professor of political science at Reed College, contributed greatly from his vast store of specialized knowledge of the subject under study and his efforts are gratefully acknowledged by the Committee. For a part of the period of study, the Committee had the services of a Reed college graduate who spent his full time as research assistant.*

A wide range of experience and diversification in point of view were represented in the membership of the Committee. Three members had served in the Oregon Legislature and had thereby acquired an understanding of the legislative problems of regulating election practices as well as of the practical problems of the candidate. The membership of the Committee included five lawyers, a certified public accountant, a business executive with experience in politics, the editor of the editorial page of the Oregon Journal, an associate editor of The Oregonian, the assistant to the manager of television station KPTV and a college administrator, all of whom made valuable contributions in their particular areas.

Although laws relating to the Voters' Pamphlet are not included in the Corrupt Practices chapter of the Oregon election laws, your Committee has seen fit to include them within the scope of its study. The Voters' Pamphlet is relevant to the study of the Committee both by reason of the statements and representations contained within its pages, and because of its relationship to campaign expenditures. The question of how much a candidate should be permitted to spend, or a supporter contribute, is obviously affected by whether or not there existed a means by which the candidate could, for a nominal amount, reach every voter in his constituency.

BACKGROUND

Basic to the concept of democracy is the Biblical injunction, "Ye shall know the truth and the truth shall make you free." As members of a democratic society, we believe that, if the people have full and correct information on candidates and measures, they will act thereon to their best interest. Your Committee has found, however, that in the field of election campaign expenditures, the public has had too little, rather fragmentary and sometimes deceptive information.

Since the turn of the century there has been considerable improvement in this regard. Yet too often pertinent information is available only after an election, with officials already elected and proposed statutes either enacted or defeated. Usually little can be done to rectify any errors made by the electorate for lack of pre-election information. By the time of another election, the once-burning issues have cooled, and new candidates and new issues have displaced the old. Frequently the cycle repeats itself.

Recognizing this situation, your Committee approached its problem with the hope that by some combination of timing, auditing and publication of campaign reports, the public can gain earlier and more adequate access to the truth and thus be better able to act upon it. In addition, it was concluded that the public interest requires that there should be certain limitations on contributions to political campaigns.

PRESENT OREGON LAW

History: Oregon's Corrupt Practices Act was enacted as the product of the political soul-searching that was an American phenomenon of the turn of the century. It was one

*Robert Fernea, Reed College graduate in sociology, was obtained as a research assistant through special funds available to Reed College, matched by City Club research funds, for three months. Mr. Fernea read and summarized an extensive bibliography of books, law review and magazine articles pertaining to the subject under investigation, as well as the laws of other states and numerous bills under consideration in various states' legislatures. Mr. Fernea also made spot checks of expenditures in the 1954 primary campaign and prepared statistical charts. Charts, summaries and other documentary evidence supporting the Committee's findings on which it based its opinions are on file in the City Club's offices.

The Committee as a whole interviewed Dr. Maure Goldschmidt, department of political science, Reed College, C. C. Chapman, editor, the Oregon Voter, James W. Goodsell, editor Oregon Labor Press, David O'Hara, Supervisor of the Division of Elections, office of the Secretary of State, Adam LaFor, assistant supervisor, Division of Elections, office of the Secretary of State and Mr. E. G. Foxley of the Attorney General's office, Salem.

of the first and most sweeping acts of its kind, and was among the major pieces of reform legislation adopted in the early years of the Oregon system of direct legislation. The law apparently stemmed from moral promptings similar to, if not identical to, those that produced reform movements in many states and cities in the first years of the twentieth century.

The Corrupt Practices Act, substantially as it exists today, was formulated and promoted by the People's Power League, an offshoot of the Oregon Populist movement which was instrumental in the initiation of several reform measures. It was submitted as an initiative measure on the primary election ballot of June 1, 1908, and was approved by a vote of 54,042 to 31,301, becoming effective June 23, 1908.

The Oregonian summarized the arguments of proponents as follows: "The adoption of this act is advised upon the ground that it will purify elections, that it will enable a poor man to run for office upon an equality with a rich man and that it will prevent combinations which influence elections in such a way as to defeat the will of the majority." The opposition argued "that some of the regulations are unnecessarily strict and that honest men who obey the law will be at a disadvantage in running against dishonest men who will secretly violate it."

Changes in the act have been comparatively few and unimportant.

Provisions: The present Oregon law provides no contribution limits for individuals except on the candidate and his family and business associates.* Certain corporations, such as banks and utilities and their majority stockholders, are prohibited from making contributions. The question of loans to candidates is not covered. There are unsatisfactory provisions for the identification of contributors. No limits are placed on unions, union associations, corporations other than those previously mentioned or associations of corporations. No rules govern non-monetary contributions.

There is no ceiling on expenditures. There are no provisions for satisfactory detail in reporting either expenses or contributions. No provision is made for central reporting. Reports to the Division of Elections may be and are destroyed after the relatively brief period of six months.

The law requires that every candidate shall file a statement of all contributions, expenditures, (with receipts for all expenditures over $5.00) and promises, within 15 days after the election. ORS 260.060 provides for a fine of $25 per day of default unless the candidate is excused by the court, and it further provides that every political committee shall have a treasurer (a voter), and that he shall keep detailed accounts of all receipts, payments and liabilities. It requires the same of every political agent and candidate or any person who handles $50 or more for political purposes. Any person handling these funds must account for them to the treasurer. Any person contributing or expending $50 or more in an election, whether for candidates or measures, is required to file a detailed report as to sums in excess of $5. Every association, organization and aggregate body of individuals, incorporated or not, is required to report all of its activity. The final paragraph of the section provides that the books of account of each treasurer shall be available at all times for inspection by the treasurer and chairman of the opposition.

The present law provides for a Supervisor of Elections who has other duties in addition to elections, and who has neither the staff nor the responsibility to check on the accuracy of the reports filed in his office.

Enforcement: The penalty and enforcement provisions of the present Oregon law are poorly organized, frequently inconsistent, verbose, and little understood. Thus, for example, ORS 260.060 requires the Secretary of State immediately to notify the district attorneys of the counties involved who are required to prosecute within ten days those candidates who have not made timely filing. ORS 260.090 tells the Secretary of State to notify candidates delinquent in filing, and if they do not respond within ten days, then to inform the district attorney who may prosecute in his discretion within sixty days. ORS 260.110 authorizes but in no way directs the Attorney General also to prosecute improper filings. No Attorney General has ever — and district attorneys have seldom — exercised this responsibility.

*Candidate is limited to spending 15 per cent of one year's compensation or salary of the office for which he is a candidate in the primary, and 10 per cent in the general election, but not less than $100. Contributions from relatives, partners, employers, employe or fellow official or fellow employe of a corporation are deemed that of the candidate himself.

Because of the general scope of the problems of corrupt practices, the actual penalties for violations are necessarily flexible.

The Oregon law provides for criminal penalties for various specific offenses, and these range as high as $5,000 fine and a year's imprisonment. In addition, any voter may, within the constituency in which he voted, challenge the nomination or election of a candidate if there has been a "deliberate, serious *and* material violation" of any of the provisions of the laws regarding nominations, elections, and corrupt practices (ORS 251.310). The candidate is protected against disqualification by the provisions of ORS 260.430 which excuse these offenses if they are not committed by the candidate or with his consent, or if they are inadvertent, or in good faith and if the judge feels disqualification to be unjust.

COMPARISON WITH OTHER CORRUPT PRACTICES LAWS

States: The Oregon Corrupt Practices law is a reasonably good representative of the older type of election statute. In maintaining dignity and decorum at the voting place, the Oregon law ranks with the best. It also protects adequately the integrity of the voting process by shielding the individual voter from undue influence by such means as bribery, treating, promise of reward and coercion.

However, the Oregon statute does not contain certain checks and safeguards which some of the other states have found to be essential. Three of these are: (1) Report of campaign expenses: Seventeen states require that campaign expenditures and contributions be reported before the primary or general election, while Oregon requires reporting only after election. Furthermore, a recent Florida statute requires centralized reporting through a single agency for each candidate, while Oregon requires separate reports from practically all individuals and committees participating in the campaign. (2) Limitation on the amount of expenditures: The Oregon law limits the amount which a candidate or his near relatives or close associates may expend, but does not limit the expenditures of others. More recent statutes in other states place a limit on the total amount which can be spent on behalf of a candidate in any election. (3) Prohibition of contributions from designated sources: While as we have shown Oregon prohibits certain corporations from making campaign contributions and expenditures, some states have extended the prohibition to all corporations, and to associations and individuals who are engaged in certain occupations such as race track and saloon operations.

Federal Law: In comparing the Oregon statute with the federal law, several factors must be kept in mind. The first is that the federal statute does not affect the state statute, but is an additional rather than an alternative limitation. The second is that the federal statute covers only election to federal offices; senatorial, representative, and, to a limited extent, presidential elections, and for the most part applies only to general elections.

A great deal of the federal statute is aimed at national committees of political parties, and is irrelevant to our problem. The definition of "committee," contained in the act, for instance, includes only committees operating in two or more states, or branches of a national committee. Consequently, the federal act does not control single-state committees formed for the election of a particular candidate, even to federal office.

The federal act does include a number of limitations which do not exist in the state law. Corporations and labor unions are forbidden to contribute at all, and no individual can contribute more than $5000 to any candidate for federal office. The state law has no comparable limitations except that certain corporations, mostly of a public utility nature, are prohibited from contributing to candidates.

Both federal and Oregon laws limit personal expenditure by the candidate. Such limitation in Oregon is 10 per cent of the annual salary of the office sought in the general election, 15 per cent of the annual salary in the primary election. Under the federal law, the limitation is 3c multiplied by the number of votes cast for the office in the last election, or a fixed amount, whichever is lower. The federal limits, however, are considerably higher than those fixed by the state law, so that the state limits apply. Although the formulas differ the principle of varying the permissible amounts of expenditures with the office exists in each.

The federal requirements for reporting are considerably more stringent than the state. Committees must file twice before an election and four times during the year. Furthermore, the indvidual candidate must file a report of all his expenditures and of all contributions received by him or for him with his consent, both before and after the election. Individuals expending money on behalf of candidates in two or more states are not required to file if the expenditure was by contribution to a political committee; otherwise they must do so. The filed reports are public records for two years, and the committee treasurer must also keep his records for two years.

The committee can see nothing in particular to be gained by uniformity between state and federal laws except that for convenience to candidates and committees, the filing requirements should be correlated so that an excessive amount of bookkeeping will not be required.

English Law: In comparing the English corrupt practices legislation with that of Oregon, the major factor that must be kept in mind is the relative simplicity of the English electoral system. Where we elect both executive and legislative officers for both state and federal governments, as well as a multitude of city and county officers, the English, at their general elections vote for one and only one candidate, the member of Parliament. The elections for local and municipal offices are held at a different time. This makes considerably simpler the entire problem of regulation.

There are no overlapping jurisdictions and no associate problem of money from outside the district and beyond the reach of enforcement officials. There is also no problem of multi-candidate committees. And since the electoral districts are considerably smaller, both in area and in population, than most of those for major offices in the United States, the problem of policing and enforcing is correspondingly simpler.

The English law limits the nature of permissible expenditures by or on behalf of a candidate, although the limitations allow most of what is considered permissible campaign activity in this country. The total expenditures on behalf of the candidate are also limited, although the limits are broad.

The most important feature of the English system is the centralization of responsibility. All expenditures must be made through the candidate or his agent, and there is a penalty for expending money other than through the authorized persons. Contracts made by unauthorized persons for election expenditures are not enforceable.

Another important provision is that reports filed by the candidate or his agent must be publicized. The official with whom the reports are filed must publish a summary thereof in two newspapers having a circulation in the constituency.

All violations of the election law by the candidate or his agent render the election of the candidate void, although violations which are inadvertent and in good faith can be excused by the court.

METHODS AVAILABLE FOR REGULATING ELECTION PRACTICES

Contributions: Limitations may be imposed according to classes of contributors, according to amount, according to amounts within classes of contributors, according to amounts within classes of candidates, in accordance with the character of the contribution itself, and depending upon whether the contribution is to a candidate, a political party, or in support of a measure.

As already noted, Oregon law now limits contributions in only two respects: (a) by the candidate, members of his family and certain business associates; (b) majority stockholders of and corporations engaged in certain special businesses, such as banks, insurance companies, utilities, cemetery companies and companies having the power of eminent domain.

The federal act in addition prohibits contributions by corporations and labor unions. The prohibition against corporate contributions is the same as that of a number of states, although the state limitations are probably not so much a phase of corrupt practices law as corporate regulation.

Similarly, limitation of union contributions are often primarily a part of state regulation of union affairs. Such a prohibition could also logically be extended to include all associations, clubs and non-political organizations except by unanimous consent of

the entire membership. As well, many non-profit organizations are in effect inhibited by the fear of losing state and federal tax exemption from participation in political campaigns in behalf of candidates. It should be noted, however, that such measures may be circumvented with ease by the formation of political clubs and committees.

The question of limitations of amount of contributions is largely a matter of philosophy. Competing considerations are freedom of political action on the one hand and the fear that unlimited contributions to a candidate may unduly influence his official action. Freedom of both contributor and candidates is probably preserved by some reasonable middle-ground limitation.

Contributions can be classified as coming from individuals, candidates and organizations, and different limitations can be imposed on each class.

Limitation within classes of candidates is a commonly suggested method that permits greater contributions to candidates for major offices and smaller contributions for lesser local offices. This may be accomplished on the basis of percentage of salary, ratio of voters involved, a flat amount or any combination. The imposition of an excise tax on all contributions has been advocated as a means of limiting contributions and providing revenue for administration and enforcement.

It is obvious that contributions may take various forms involving not only money, but also time and services. In such cases travel expenses are often a corollary. Although accounting for such items might be required, no instances of such requirement are known. The nuisance and valuation aspects of such accounting are undoubtedly the reasons.

Contributions also may take the form of loans which are never repaid and, therefore, result in violation of limits on amounts of contributions. It has been suggested that a public suit to collect a "debt" would meet this problem. Also, limiting the amount of a loan to the amount of the allowable limit on contributions would be a safeguard against this practice.

Expenditures: This phase of the problem can be handled in different ways. Expenditures may be unlimited, or limited in accordance with some formula or flat amount, or made to depend on whether a political party or candidate is involved. The nature of expenditures may be limited to such items as holding and organizing public meetings, issuance of publications and circulars, advertising, and so on. Centralization of responsibility for expenditures, as in the English system, is an important device in those cases where expenditures are limited. This can take the form of either centralized reporting or just a prohibition against expenditures by more than one committee. As well, it relates significantly to the reporting problem. Coupled with this device is that of a centralized depository for funds. Certain abuses may be avoided by requiring campaign expenditures to be based on cash rather than on credit.

Reports and Filing: A wide variety of requirements has been devised and is used in several combinations in this country. These include: reports from candidates, committees and political parties; reports from individuals (usually based on some minimum amount, and often dependent on whether the contribution is to a candidate, his committee or a political party, or merely an independent expenditure); reports before and after elections; audits of reports and books; public records.

Again the uses of these devices depend upon the philosophy of control of election practices. A philosophy based upon the belief that the corrupting influence and power of large amounts of money are diluted by knowledge will require extensive employment of all the above. In addition, there have been suggestions that compulsory publication of at last a portion of the reports in local newspapers would be highly desirable. Such reporting is already widespread but often sporadic in timing and subject matter. Cost of such publication, particularly of reports of candidates, could be met by collection of a filing fee for the report. It has also been suggested that making contributions deductible for tax purposes might deter the use of false names, false filings and clandestine contributions. The information required on reports is another important and much overlooked aspect, particularly addresses of contributors.

Administration: The administration of corrupt practices acts throughout the country has in general been haphazard at best and characterized by an almost complete lack of central authority or responsibility. Thus we find enforcement and administration often distributed among or dependent upon: officials with whom reports are filed (numerous

in Oregon), district attorneys, the attorney general, grand juries, courts, voters' complaints, candidates complaints, and legislative bodies which sit as regulators of their own memberships.

Either singly or in combination, these methods are unsatisfactory. An alternative would be centralization with a full-time official with the duty and staff adequate to investigate violations and to ensure enforcement of the law.

Penalties: Provisions for punishment of infractions are a key factor in any Corrupt Practices Act. They may be applied to the donor or the recipient of a campaign contribution or to any one else who takes a direct part in the activities governed by the statute.

In general, penalties take the form of criminal sanctions for violation of the act or for perjury, disqualification for or forfeiture of the office to which nominated or elected, or disqualification for office for a longer period covering several elections.

DISCUSSION OF RECOMMENDATIONS

Expenditures: Your Committee believes that a more carefully drawn Oregon Corrupt Practices statute should provide, among other things, for: a centralized reporting system; accurate, legible, complete and uniform reports on who (names and complete street addresses) spent how much and for what, and pre-election filing of reports of spending. All of the foregoing may help considerably in showing the electorate who spent money to support a candidate and how it was spent.

The question of *how* to file campaign expenditures is relatively easy to answer. The question of *when* is perhaps more crucial. Your Committee discussed the technique of filing reports and finds the following system would be an improvement over present requirements. The candidate, upon filing, should be required to appoint a campaign agent (who may be the candidate himself). Reports should be filed with the candidate's campaign agent by the candidate and other individuals and by various political or quasi-political committees; reports should be accurate, complete and concise; the candidate's agent should be held accountable for reporting all expenditures by and on behalf of the candidate; the candidate's agent should have one campaign depository.

Your Committtee is opposed to the idea of a single campaign committee with only subsidiary committees attached thereto. We believe that any group of citizens favoring a candidate or measure should have the right to organize and spend money for such objectives whether or not they are authorized by the candidate. Limitation of this right might deprive citizens of the privileges of free speech as broadly affirmed by the First Amendment to the U. S. Constitution and by Article I, Section 8 of the Oregon Constitution.

Your Committee found unanimous agreement among persons interviewed, literature studied, and within the Committee, that pre-election filing is vital so that the public may be informed before it casts its ballots. As we have shown, the federal statute and several states so require. The voter has a right to know what diverse or special interests are campaigning for or against a given candidate before he votes. The pre-election report should be filed by the candidate's campaign agent, whose function is set out below.

This report should include everything contracted for and an estimate of future receipts and expenses. Auxiliary committees such as county, veterans', women's and conservationists committees supporting a particular candidate report to the candidate's agent. If independent committees are known to the candidate and they do not report their expenditures, then the campaign agent so lists them in his report.

To impose a limit on how much money may be spent in an election is certainly a worthy idea. No one wants to see the sheer weight of dollars play havoc with the public scales of democratic political campaigns. Perhaps your Committee spent more time on this subject with informed and experienced legislators, state officials, civic-minded citizens, representatives of special interest groups, and wading through pertinent literature than on other parts of this research project.

One unanimous conclusion, however, was that a limit on expenditures would not do the job of holding back what appear to some as excessive campaign expenditures. One exception to this finding was your Committee's agreement to continue to limit expenditures of candidates and their families.

Among the reasons your Committee found for not having an overall limit was the consideration that it may be unconstitutional. For such a limit may preclude an individual or organization from contributing to support or oppose a candidate after the limit had been met, and thereby infringe on his rights of freedom of speech.

Some candidates have natural advantages — e.g., incumbency, easy access to media of publicity — that can only be overcome by a reasonably high expenditure of funds.

Your Committee also considered that the changes in our burgeoning economy — plus the inventiveness of the proprietors of media of communication — would make an overall limit highly impractical. For it might be subject to incessant amendment to keep up with the swiftly changing costs of a campaign. Also, an overall limit would be exceedingly difficult to enforce and police.

We believe that the full light of pre-election publicity would be more valuable than an overall limit on spending, which would encourage evasion.

To limit the power of the purse without the undesirable results mentioned above, your committee strongly supports limits on individual and group *contributions* (see below).

Your Committee is fully cognizant of the complicated problems which arise because of the existence of federal, state and local committees of political parties. We recognize that it is impossible fully to prevent their interference with the concept of clear lines of responsibility in making and reporting political expenditures. To the end of publicizing how much is spent on behalf of candidates, we suggest that any committee, whether of a political party or otherwise, which supports more than one candidate be required to allocate its report of expenditures among those supported in accordance with amounts devoted to each candidate as nearly as the committee can reasonably determine. We further recommend that such committees report to the candidate's official agent the amounts allocated to his campaign.

Moreover, we are conscious of the existence of individuals, and committees other than those of political parties, that are beyond the jurisdiction of the state of Oregon but are capable of exerting efforts and spending money on behalf of candidates in Oregon. Tight restrictions on local spending would encourage evasions through these outside agencies, would give non-residents more power than they now have over Oregon elections, and thus would tend to render the locally filed reports on expenditures and receipts less meaningful. Insofar as candidates' agents should be required to report contributions from all sources and be forbidden to accept contributions in amounts larger than are set forth below, we believe that out-of-state participation can be reasonably controlled. We nonetheless recognize that direct expenditures on behalf of candidates by persons or groups outside of Oregon are not subject to any laws we might enact. Examples of such expenditures are broadcasts or literature originating from out of state and speakers sent to the state by out-of-state sponsors.

Contributions: Citizens who spend their time and effort helping to elect a candidate show their countrymen what free participation in political affairs of state means in our representative, constitutional democracy. Your Committee agrees that there should, of course, be no limit on contributions of time and effort in a campaign.

The Committee felt that in order to limit the total spent in a political campaign to a reasonable amount, and at the same time, to equalize the opportunity of all to participate, limitations on how much money an individual or group may contribute to a candidate's campaign were justified and feasible. On the other hand, it was felt that it would be unfair to subject contributors to major candidates to the same limitations imposed on contributors to candidates for minor offices. To overcome this difficulty, we suggest a system of classification of offices, with different limitations for each class.

The fairest type of classification appeared to be in accordance with the population of the constituency. Your Committee therefore suggests the following classifications and limits for each election on contributions to candidates and all committees supporting them.

Class I (Election districts up to 50,000 population)	$ 100
Class II (Election districts 50,000-250,000 population)	250
Class III (Election districts over 250,000 population)	500
Class IV (Congressional and statewide elections)	1000

Your Committee felt that such limitations would provide ample funds for candidates to get their story across, while at the same time preventing individual contributors from being too influential. We hope this will also serve to broaden the base of financial support for candidates.

In addition, in order to prevent evasion of the limitations by the formation of committees or use of existing political organizations or committees, we felt that there should be an additional limitation on contributions to committees supporting more than one candidate. We recommend an overall limit of $1500, with not more than $500 to be given to any one committee. This would permit reasonable financial support of political parties and independent committees, while minimizing the danger of contributions to a state or national committee which are in reality earmarked for the support of a particular candidate. The legislature would have to keep a careful watch on these amounts to make sure they are realistic, in light of economic conditions.

Loans: There is no provision in the current law regarding loans to candidates. This omission can be remedied, in the view of the Committee, by an amendment recognizing a loan as a contribution. Loans would, thus, be subject to the limitations and reporting requirements placed on contributions; and, of necessity, each obligation would be identified specifically with a contributor.

Corporations and Unions: Two points of view were presented to the Committee regarding contributions to political campaigns by corporations and labor unions from their regular funds, as opposed to funds collected specifically for political purposes, such as those of the CIO Political Action Committee and Labor's League for Political Education.

One viewpoint was that the general funds of a corporation or labor union were in the nature of a trust fund for all the members or stockholders, and that consequently it was improper for the officers or directors of the organization to use those funds for political purposes, since they might thereby be using the money of a member for political interests to which he was opposed.

The other viewpoint was that political activity was a proper activity for a labor union, and that such a prohibition would weigh unequally on unions and the interests they represent. It was argued that the difference in the economic strength of the average union member as compared with that of the average corporate investor justified the use of the unions as a source of funds not otherwise available to candidates favored by those interests. Finally, it was contended that democratic processes within the unions insured by internal rules or, if necessary, statutes, would prevent any abuses such as money being used by union officers contrary to the wishes of their members.

The Committee found very little evidence of contributions to candidates by either corporations or unions as such. In view of this situation, and the force of arguments presented on both sides of the question, the Committee believes that no change should be made in the law in this respect, at least for the time being. Insofar as federal elections are concerned, unions and corporations are now prohibited from contributing, and there is no indication of abuse at the state level. If the problem arises, it can be met at that time.

Penalties: In connection with the recommendation that filings of receipts and expenditures be submitted prior to elections, your Committee believes this requirement to be so important that the candidate should be disqualified if he files late without valid reason. Disqualification should also apply if his filing contains false or misleading information, provided the violation is with the knowledge of the candidate or his official agent, and is deliberate and material.

Failure of auxiliary and independent committees to furnish the candidate or the official agent with timely and accurate data should subject the responsible individuals to criminal penalties. In view of the recommended focus of attention on the pre-election rather than the post-election filing of information, it is suggested that only criminal penalties and not disqualification henceforth attach to violations of post-election filing requirements.

We have suggested dollar limits for contributions by individuals; any violation of these limits should carry criminal penalties both for contributor and recipient. If the candidate or his official agent knowingly accepts excessive financial help, the candidate should be disqualified.

Administration: As has been noted, enforcement of the current provisions of the Oregon Corrupt Practices Act has been virtually nil. In the view of the Committee, this is the consequence of lack of means rather than lack of will. Your Committee, in two one-day trips of inspection to the Elections Division offices in Salem discovered a number of violations. For example, the Committee had evidence of expenditures in some cases that did not appear in the Salem records, but in fairness to the present administration of the Elections Division, one should note it has neither the staff nor the authority to perform a satisfactory job of auditing reports or enforcing the law. The Committee believes therefore that proper administration and enforcement of Corrupt Practices legislation depends on the creation of an independent agency, with prestige, auditing power and adequate staff protected by civil service. The Commissioner of Elections heading this agency should serve for a fixed term and should not be removable during that time except for cause. This Commissioner of Elections will only serve with respect to election duties now under the jurisdiction of the Secretary of State's office, and will not supplant the functions of county and city officials for local elections.

Measures: Most of the suggested requirements as to campaign contributions and expenditures, including pre-election reporting and the better identification of contributors, apply to campaigns involving measures as well as to those involving candidates. Other suggested limitations, however, are not appropriate where measures are involved.

The requirement of centralized reporting is one of these. Ordinarily, no individual or committee has control over a campaign for or against a measure as a candidate has over his own campaign. Once a measure is placed on the ballot, it is likely to be supported or opposed by many individuals and groups acting independently and often from diverse motives. Such individuals and committees should be required to report separately and directly to the proper official who, for purposes of furnishing the public a true picture of a measure's support and opposition, should group all such independent reports together, although maintaining their individual identity.

Nor in our opinion should limitations be placed on the amount of contributions or expenditures in campaigns for or against measures. The reason for limiting contributions to candidates, that large gifts might unduly influence official action, is obviously inapplicable to measures. Moreover, a measure may affect only a small segment of the population, i.e,, a single industry, or one type of organization such as a labor union or a corporation, and a specific limitation of expenditures might unduly restrict the right of such industry or organization to present its point of view.

The penalties for violations of the act where measures are involved may be the same as those applied to candidates, with one important exception. It would be impractical and undesirable to declare void an election as to a measure on the ground that some individual or group supporting or opposing it had violated some provision of the Corrupt Practices Act.

Voters' Pamphlet: The Voters' Pamphlet is a medium for informing the greatest possible number of registered voters about ballot measures and the candidates' opinions of themselves, at the least possible cost to the candidates.

All states that have procedures for direct legislation by the people provide for some means of publishing details of proposed legislation. In some instances, this publication is through newspapers. In many cases it is effected by distribution of pamphlets similar to the Oregon Voters' Pamphlet.

There is one important difference. Oregon is the only state, according to our best information, that distributes a pamphlet including candidates' statements. Other states have in the past distributed such a pamphlet — among them Florida, North Dakota, South Dakota, Wyoming and Montana. But all have discontinued such distribution.

Opinions vary as to the effectiveness of the pamphlet, although it is the consensus of the Committee that it serves a useful purpose.

The candidate pages would be more useful, however, in the Committee's view, if certain factual, biographical data — such as age, education and past record — were uniformly included for each candidate.

The presentation of measures in the Voters' Pamphlet with the requirement that the title of a measure illustrate the purposes of the bill with an explanatory statement is excellent. The present provision for an impartial explanation by a committee of three,

two selected by the Governor (one pro and one con) and a third member selected by the two appointees is working well in practice.

We suggest, also, that county clerks be urged to keep their registration address books up to date so that the pamphlets will reach their destination through the mail.

RECOMMENDATIONS

In summation, the Committee's recommendations and conclusions are listed in simplified form as follows:

1. The Governor or State Board of Control should appoint a Commissioner of Elections with adequate budget, staff, and power to audit campaign reports and enforce the provisions of the Corrupt Practices Act. Such Commissioner should not be removable from office except for cause.

2. Each candidate on filing his candidacy should be required to appoint a single agent to administer and account for campaign contributions and expenditures. He should have a single campaign depository. This agent may appoint subagents or subcommittees who would report through the central agent as would other supporters and committees. The candidate's agent must report to the best of his knowledge on all expenditures whether or not authorized by the candidate or his agent, and would be required to report known supporters who failed to supply him with data.

3. Any committee expending money to support or oppose a measure should be required to appoint a single agent to administer and account for its campaign contributions and expenditures. This agent may appoint subagents or subcommittees who would report through the central agent. The agent, or any individual who spends money other than through committees, must report to the Commissioner of Elections who should group together, although maintaining their individual identity, the reports of all individuals or separate campaign committees supporting any one measure, and group separately those opposing a measure, for presentation to the public.

4. Individual contributions to any candidate or committee supporting him only should be limited by law as follows:

Class I (Election districts up to 50,000 population)	$ 100
Class II (Election districts 50,000-250,000 population)	250
Class III (Election districts over 250,000 population)	500
Class IV (Congressional and statewide elections)	1000

5. An individual's aggregate contributions to committees supporting more than one candidate should not exceed $1500. Contributions to any one such committee should be limited to $500, and such committees should be required to make a reasonable allocation of funds among candidates supported, when reporting.

6. Any funds loaned to a candidate or his agent should be considered a contribution, and neither the candidate nor any lender should be permitted to commit himself in excess of the amount he may legally contribute to any campaign.

7. All campaign obligations should either be paid prior to election or attributed to a definite individual or individuals as contributions.

8. There should be no limit on total expenditure in any campaign.

9. In addition to a post-election report as now required, each candidate or his agent should be required to file a *pre-election* report on all contributions and expenditures including unpaid pledges and expenditures contracted for. This should also apply to groups organized to support or oppose a ballot measure. The pre-election report should be filed not more than 15 days and not less than 10 days prior to the primary or general election.

10. Any independent committees or individuals spending money on behalf of a candidate should be required to report to the candidate's agent in time for the agent to file required reports; then the contributors need not report to the Commissioner of Elections.

11. Each contributor should be identified in both pre-election and post-election reports by full name and complete street address, except that it should not be necessary to identify individually contributors of amounts smaller than ten per cent of the maximum allowable contribution.

12. Campaign reports should conform to a uniform pattern, and copies should be retained in the files of the Commissioner of Elections for the term of office, or, in the case of measures, for a minimum of two years after the election to which they pertain. Copies of both pre-election and post-election campaign reports should be furnished to county clerks in the election districts concerned.

13. Failure to file a pre-election report on time without good reason should disqualify the candidate from holding office. Filing of false or misleading information should be punished by disqualification if found by the court to be intentional and material, except where such violation occurs without the knowledge of the candidate or his agent. All other violations of the provisions for pre-election filing should subject the person responsible for the violation to fine or imprisonment or both. There should be a statutory definition of what constitutes a "material" violation of the Corrupt Practices Act.

14. Contributing or knowingly accepting an excessive contribution should subject the individual responsible to fine or imprisonment or both, and if an excessive contribution is knowingly accepted by a candidate or his direct agent, such acceptance should disqualify the candidate from holding office.

15. Candidates listing their qualifications in the Voters' Pamphlet should be required to submit certain minimum, uniform data, including age, occupation and past record in office, if any. Falsification of any statement of fact in the Voters' Pamphlet should be subject to penalty for perjury.

Respectfully submitted,
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