PROCEEDINGS AND DEBATES OF THE 93d CONGRESS
FIRST SESSION

VOLUME 119—PART 20

JULY 20, 1973 TO JULY 27, 1973
(PAGES 25051 TO 26424)
employers, without attempting to determine the limits to which union power can accumulate and be exercised without substantially injuring the public interest and endangering the survival of the American economy. Enforcement of the antitrust laws as applied to unions will be concerned solely with the latter and not with the former. Thus a union can violate the National Labor Relations Act by engaging in unlawful strikes, and an employer can refuse to deal with a union because of its antitrust status, or it can violate the antitrust laws with an action that is not prohibited by the NLRA. In other words, it will be subject to two different types of regulatory action. In this respect it will be no different from business enterprises, which are subject to a variety of restraints.

Bringing unions under the antitrust laws requires a few very simple amendments to the Sherman and Clayton Acts and an equally simple modification of the application of the Norris-LaGuardia Act. These changes are long overdue and Congress should take action to put them into effect without further delay.

Mr. Chairman, I am submitting to the desk a bill to effectuate the changes outlined above and ask unanimous consent that the bill be printed in the Record following these remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2337
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Labor Amendments of 1973".

CLAyTON ACT AMENDMENTS
Sec. 2. (a) The second sentence of section 6 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 710; 15 U.S.C. 17), is amended by striking out "the antitrust laws" and inserting the following: "any provision of the antitrust laws except as hereinafter provided to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (26 Stat. 209, as amended; 15 U.S.C. 1 et seq.)

(b) Section 20 of such Act (29 U.S.C. 52) is amended by

(1) striking out the word "That" in the first paragraph thereof, and inserting in lieu thereof the words "Except for the purpose of preventing any violation of the Act entitled ‘An Act to protect trade and commerce against unlawful restraints and monopolies’.

(2) adding at the end of such new subsection the following new subsection:

(b) Every contract or agreement between any labor organization and any employer whereby such employer undertakes to cease, or to refrain from using, selling, handling, transporting, or otherwise dealing in any of the products of any producer, processor, or manufacturer which are distributed in trade or commerce among the several States, or with foreign nations, is hereby declared to be unlawful. Such a contract or agreement shall be unlawful not only if entered into, or attempted to be entered into, or entered into, or combinations or conspiracies with any other person to enter into, any such contract or agreement shall be punished by a fine not exceeding fifty thousand dollars, or by imprisonment not exceeding one year, or both.

(c) Section 15 of such Act (15 U.S.C. 3) is amended by

(1) inserting, immediately after the section designation "(a)", the subsection designation "(b)", and

(2) adding at the end thereof the following new subsection:

(b) Every contract or agreement between any labor organization and any employer whereby such employer undertakes to cease, or to refrain from using, selling, handling, transporting, or otherwise dealing in any of the products of any producer, processor, or manufacturer which are distributed in trade or commerce among the several States, or with foreign nations, is hereby declared to be unlawful. Such a contract or agreement shall be unlawful not only if entered into, or attempted to be entered into, or entered into, or combinations or conspiracies with any other person to enter into, any such contract or agreement shall be punished by a fine not exceeding fifty thousand dollars, or by imprisonment not exceeding one year, or both.

Mr. Speaker, I am introducing today, together with the Senators from Pennsylvania (Mr. EISENHOWER), the Presidential Campaign Financing Act of 1973.

This legislation, which provides for substantial public financing of Presidential primary and general elections while severely limiting the size of private contributions, is designed to remove those elections from the corrosive and corrupting influence of big money and return them to the American people.

In my judgment, the enactment of our bill—perhaps one like it—is the single most important election reform that can emerge from Watergate. It is absolutely essential if we are ever to get money off the backs of American politicians and restore integrity and confidence in our political system.

One of the great ironies of Watergate is that some of those who have been among the staunchest opponents of public financing have, through their blantly illegal activities, made the strongest possible case to its adoption.

The acceptance of corporate contributions, the widespread use of secret funds, the "fronting" of contributions in foreign countries, the solicitation of funds by mendacious cases pending before Government agencies, the insistence on dealing in cash, the ambassadors for sale—these are symptoms of a system that is fundamentally flawed.

Any incident dramatizes the extent of the flaw as strikingly as that involving American Airlines.

Herbert Kalmbach, one of President Nixon's principal fundraisers approached American board chairman, George Spater at a time when pending before the Civil Aeronautics Board a plan for merger with Western Airlines and indicated that a contribution of $100,000 was "expected.

I knew Mr. Kalmbach to be both the President's personal counsel and counsel for our major competitor (United Airlines).

Mr. Spater said later:

I concluded that a substantial response was called for.

That "substantial response" amounted to a total American Airlines contribution to the Nixon campaign of $75,000, or some $56,000 more than the CAA contribution. In short, American Airlines was so determined to advance and protect its corporate interests that it consciously decided to violate the law in order to submit to Mr. Kalmbach's influence.

Here's how Mr. Spater himself put it:

Under existing laws, a large part of the money raised from the business community for political purposes is given in fear of what could happen if it were not given.

I cannot imagine a more severe indictment of our political fund-raising process, unless it is the now familiar Vesco
affair. That incident dramatized how an individual in apparent trouble with the SEC was solicited for a huge contribution, and how he gained access to one of the highest officials in the Government to discuss his difficulties only 2 hours after delivering the contribution—all in $100 bills.

And there is the ITT incident in which a huge contribution to help underwrite the GOP National Convention mysteriously coincided with an antitrust settlement between ITT and the Justice Department—a settlement highly beneficial to ITT.

Then there is the Ashland Oil contribution and who knows how many more sordid episodes. When they are all revealed, they will portray a story of government virtually up for sale. They will make us truly ashamed of what we have allowed to happen to our political process, the most precious of all of our national possessions.

As a Democrat, I can take no comfort in these disclosures. My own party's record of political fund-raising—while never in the same league as the Nixon campaign of 1972—has not always been as open as forthright as I would like it to have been.

The chief fault lies in the system itself—a system which forces candidates to rely on excessively large contributions if they hope to compete effectively in a modern Presidential campaign.

This system, I am convinced, has a great deal to do with declining public confidence in government. People were asked in 1968 by the Harris Poll, "How often can you say government gets its acts together?" Two-thirds answered, "most of the time." Recently the question was asked again and less than half—only 45 percent—said they could trust their government most of the time.

The Harris poll indicated that only 27 percent of the people had "a great deal of confidence" in the executive branch of the Government—a drop from 41 percent in 1966.

If we are to eliminate the corrosive influence of money on the political process and restore public trust in our Government, we must fundamentally change the system by which we finance our campaigns—especially our Presidential campaigns. We do not have a system that is effective; in my judgment, is by severely limiting the amount any individual may contribute to a candidate while at the same time providing substantial public funds to help finance the campaigns. Neither of these steps by itself will be sufficient: any effective reform must embody them both.

The costs of running campaigns in this country are rising so rapidly and that this question cannot be put off any longer. It is no longer a distant threat. Estimates for all offices spent an estimated total of $400,000,000—an increase of one-third over 4 years before. In short, the cost of campaigning is rapidly outstripping the ability of most candidates to raise the necessary funds responsibly.

The United States is one of the few western democracies which provide absolutely no public assistance to candidates in its national elections. As Watergate so vividly illustrates, we cannot afford to postpone further this essential measure.

And if this kind of legislation is not enacted in the wake of Watergate, it may never be enacted. That is why Senator Hart asked me to check off this bill. The bipartisan Senate-House coalition of Senators—Intend to push this matter vigorously in the next few months.

John Gardner has called the way in which campaigns are financed a "national disgrace," and I agree with him.

In our common effort to remove that disgrace, I am grateful to Mr. Gardner and Common Cause for their considerable help in preparing the legislation which we are introducing today.

It is not a perfect bill, and we are not irrevocably wedded to every detail in its present form. After circulating it widely, we will make whatever revisions are necessary to make it the most effective possible.

We are committed, however, to the principles contained in this measure. And we believe its basic concepts are sound.

These, Mr. President, are the principal features of our bill.

No individual is allowed to contribute more than $3,000 to any one candidate during an entire Presidential campaign.

Groups which aggregate or "pool" funds are limited to collecting individual contributions of less than $100 and may in turn contribute to any one candidate no more than $25,000.

Cash contributions or transactions in excess of $100 are barred.

The existing tax credit is doubled to make it one-half of any contribution up to $50 for an individual return and up to $100 for a joint return; The present tax deduction for contributions is also doubled.

During the prenomination period, each individual contribution up to $100 will be matched by an equal amount from the Federal Treasury; A candidate must raise $100,000 in matchable contributions in order to qualify for Federal matching funds; The matching funds will be available beginning 14 months before the date of the general election; There is an overall spending limit of $15 million during the prenomination period, the text of the bill, being funds must be spent during the prenomination period and cannot be "carried over" to the general election period.

The existing $1 check-off system is retained and strengthened for the general election. Each dollar check-off is matched by another dollar from the Federal Treasury, and the check-off fund is made self-approving; For the general election period there is a spending limit of $30 million, a blend of two-thirds of which will come from the check-off fund and the balance from private contributions under $3,000; Unlike the present check-off law, there is no incentive not to take advantage of the public funds.

Stiff criminal penalties are provided for misuse of the public funds and other violations of the act.

I ask unanimous consent that an explanation giving more details, together with the text of the bill, be printed at the conclusion of my remarks.

If public financing legislation is to accomplish its intended purpose, it is essential that it apply to the Presidential primary period as well as the general election. If individuals and interests are permitted to contribute huge amounts early in the campaign, it makes nonsense that they are prohibited from doing so later: the obligation will have been incurred and the entire purpose of the reform will have been effectively undermined.

And yet, the primary period is the most difficult stage of the presidential election process for which to provide public financing. We have concluded that the only way to treat all candidates fairly is by placing a premium on their ability to recruit a broad based and effective system which may open the door to a system of public financing. That is the purpose of the $3,000 limitation on individual contributions and the availability of matching funds for contributions of $100 and under from forces candidates, in effect, to seek as wide a base as possible in raising their money. Only if we believe, is what candidates should have to do in seeking nomination to the highest office in the land. Whatever ability they demonstrate in raising small funds from as many individuals as possible is rewarded in direct proportion to their success.

Candidates, in short, will be going to the people instead of to the interests for their financial support. The impact this change will have not only on our political process but on the executive branch of government will be enormous.

For the general election period, we have retained and tried to strengthen the $1 check-off system, which we believe is a sound and effective system which has not yet been given a fair chance to prove itself. Every dollar which is designated by an individual for the presidential campaign fund is matched by another dollar from the Treasury, creating in effect a system which will insure sufficient funds for the general election. These funds would provide approximately two-thirds of what a candidate would be permitted to spend, the balance to be raised in individual contributions of the people.

Public financing of campaigns, I am convinced, is an idea whose time has finally arrived. But it is by no means a new idea. In a message to Congress in 1907—nearly 70 years ago—President Theodore Roosevelt proposed this reform, saying:

"The need for collecting large campaign funds would vanish if Congress provided an appropriation for the proper and legitimate expenses of each of the great national parties, which has not yet been given a fair chance to prove itself. Every dollar which is designated by an individual for the presidential campaign fund is matched by another dollar from the Treasury, creating in effect a system which will provide adequate funds for the general election. These funds would provide approximately two-thirds of what a candidate would be permitted to spend, the balance to be raised in individual contributions of the people."

Public financing of campaigns is the most fundamental and important reform we can adopt in this decade. At stake is nothing less than the integrity of our system and the kind and quality of government we are going to have in this country.
contribution or committee, pursuant to section 9034(b), in an aggregate amount of $100,000; and

(2) earlier than 14 months prior to the date of the general election in which the candidate received the contribution for the fund:

(c) QUALIFIED "AMENDMENT" EXPENSES.—A candidate shall be eligible for payments from the fund only if the defrayed qualified campaign expenses incurred by such candidate or his authorized committee, or

(1) were subsequent to the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses) to such candidate or committee used to defray such qualified campaign expenses.

(d) Determination.—Amounts received by a candidate from the fund may be retained for the liquidation of all obligations to pay qualified campaign expenses incurred during the matching payment period for a period not exceeding six months after the end of the matching payment period; and all obligations having been liquidated, that portion of any unexpended balance remaining in the candidate's accounts which bears the same ratio to the total unexpended balance as the total amount received from the Fund bears to the total of all deposits made into the candidate's accounts shall be promptly repaid to the Fund.

(1) If the Comptroller General determines that any amount of any payment made to a candidate from the fund was in excess of the aggregate payments to which such candidate was entitled under subsection (c) of section 9036, he shall notify such candidate, and such candidate shall pay to the Secretary an amount equal to such portion.

(2) If the Comptroller General determines that any amount of any payment made to a candidate from the fund was in excess of the aggregate payments to which such candidate was entitled under section 9036, he shall notify such candidate, and such candidate shall pay to the Secretary an amount equal to such portion.

(3) At the beginning of each calendar year (commencing in 1974), as there become available, make such data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Comptroller General and publish in the Federal Register the per cent difference between the price index for the twelve months preceding the beginning of such calendar year and the base period.

(4) The term 'base period' means the calendar year 1972.

(5) The term 'cost index' means the average of all payments which were made to any person to the extent that such payment was made for purposes of other.

A person who violates paragraph (1) shall be fined not more than $25,000, or imprisoned not more than five years, or both.

(c) UNLAWFUL USE—(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned, or both, or both.

(c) FALSE STATEMENTS, ETC.—(1) It shall be unlawful for any person knowingly and willfully to use, or authorize the use, of, or payment of, or any other payment from the fund to such candidate, pursuant to subsection (b), or to cause or knowingly and willfully to use, or authorize the use, of, or payment of, or any other payment from the fund to such candidate, pursuant to subsection (b).

(2) Any person who violates paragraph (1) shall be fined not more than $1,000, or imprisoned, or both, or both.

(c) FALSE STATEMENTS, ETC.—(2) Any person who violates paragraph (1) shall be fined not more than $1,000, or imprisoned, or both, or both.

(c) FALSE STATEMENTS, ETC.—(2) Any person who violates paragraph (1) shall be fined not more than $1,000, or imprisoned, or both, or both.
by paragraph (2), any person who accepts any kickback or illegal payment in connection with any questionnaire, endorsement, or any other political committee or authorized committees shall pay to the Secretary, for deposit in the general fund of the Treasury, an amount equal to 10 percent of the kickback or payment received.

"(e) The table of chapters for subtitles B and C is amended at the end thereof by the following new item:

"Chapter 97, Presidential Primary Matching Payment Fund.

**CENTRAL CAMPAIGN COMMITTEES, CAMPAIGN DEPOSITORY, AND LIMITATIONS ON CASH TRANSACTIONS**

Sec. 9. Title III of the Federal Election Campaign Act of 1971 is amended by redesignating sections 311 through 314, and by inserting after section 317 the following new sections:

"CENTRAL CAMPAIGN COMMITTEES" (a) Each candidate shall designate one political committee as his central campaign committee. A candidate for nomination for election, or for election, to the office of President, shall designate as his central campaign committee the political committee in each State in which he is a candidate as his State campaign committee for that State. The designation shall be made by a written instrument signed by such committee, together with such information as the Commission may require, shall be furnished to the Commission upon the designation of any central campaign committee.

"(b) No political committee may be designated as the central campaign committee of more than one candidate, or the State campaign committee, and each State campaign committee, designated by a candidate or his authorized committees, shall furnish each such designated committee with a copy of the filing dates in section 304 (other than reports required by the last clause of section 304 (a)) to that candidate's central campaign committee. The candidate or his authorized committees shall notify the central campaign committee and the State campaign committee of the candidate nominated by that party for election to the office of Vice President.

"(c) (1) Any political committee authorized by a candidate to accept contributions or make expenditures in connection with his campaign for nomination or for election, which is not a central campaign committee or a State campaign committee, shall furnish each such committee, under section 304, with a copy of the filing dates in section 304 (other than reports required by the last clause of section 304 (a)) to that candidate's central campaign committee. The candidate or his authorized committees shall notify each such committee of the filing dates in section 304 (other than reports required by the last clause of section 304 (a)) to that committee.

"(2) The supervisory officer may, by regulation, require any political committee receiving contributions or making expenditures in a State on behalf of a candidate who, under subsection (a), has designated a State central campaign committee for that State to furnish its statements and reports to that State central campaign committee.

"(3) The supervisory officer may require any political committee to furnish any statement or report directly to him.

"(4) Each political committee which is a central campaign committee shall receive all reports and statements filed with or furnished to the Committee, consolidate and compile the reports and statements to the supervisory officer, together with its own reports and statements, in accordance with the provisions of this title and regulation's prescribed by him.

**CAMPAIGN DEPOSITORIES**

"Sec. 309. (a) Each candidate shall designate one National or State bank as his campaign depository. The central campaign committee, and each State campaign committee, designated by a candidate nominated by a political party for election to the office of Vice President shall be the campaign depository of that candidate; and any other political committee authorized by him to receive contributions or to make expenditures on his behalf shall designate one National or State bank as the campaign depository, which bank shall be and shall maintain a checking account for the committee at such depository. All contributions received by that committee shall be credited to the accounts of the committee by check drawn on that account, other than petty cash disbursements which shall be kept in accordance with requirements established by the supervisory officer, and such statements and reports thereof shall be furnished to the supervisory officer, and to the central campaign committee designated by the candidate of that party for election to the office of President, which shall, together with such information as the Commission may require, shall be furnished to the Commission upon the designation of any central campaign committee.

"(b) Each political committee may maintain a petty cash fund out of which it may make petty cash disbursements not in excess of $100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the supervisory officer, and such statements and reports thereof shall be furnished to the supervisory officer, and to the central campaign committee designated by the candidate of that party for election to the office of President.

"(c) A candidate for nomination for election, or for election, to the office of President shall maintain a checking account for the campaign expenses of the candidate for President of the United States which is not limited to contributions or expenditures from one of his authorized political committees.

"(d) No person who is not authorized in writing by a candidate to make expenditures on his behalf in connection with his campaign for nomination for election, or for election, shall make any expenditure on behalf of that candidate (except by contribution made to that candidate or one of his authorized political committees) for any purpose during any calendar year exceeding $25 from any individual.

"(e) The limitations imposed by paragraph (1) shall not apply to contributions from a political party fund maintained in accordance with subparagraph (B) of paragraph (1) of this section or to contributions to a candidate from one of his authorized political committees.

**LIMITATIONS ON CASH TRANSACTIONS**

"Sec. 310. No political committee shall receive a contribution, or contributions, in any fiscal year exceeding $100,000, other than in the form of a contribution to a candidate for nomination for election or for election to the office of President or Vice-President or to contributions to a candidate for nomination for election or for election to the office of President, in the case of a candidate for nomination for election or for election to the office of President in excess of the aggregate of all contributions in the calendar year in which that election is held.

"(a) A contribution made in connection with a campaign in any year other than the calendar year in which that campaign relates is taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(b) Contributions made in connection with a campaign for nomination or for election to the office of President or Vice-President, which do not exceed $100,000 in any calendar year shall be counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(c) Contributions made in connection with a campaign in any year other than the calendar year in which that campaign relates is taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(d) Contributions made in connection with a campaign for nomination or for election to the office of President or Vice-President, which do not exceed $100,000 in any calendar year shall be counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(e) Contributions made in connection with a campaign in any year other than the calendar year in which that campaign relates is taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(f) Contributions made in connection with a campaign in any year other than the calendar year in which that campaign relates is taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(g) Contributions made in connection with a campaign in any year other than the calendar year in which that campaign relates is taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(h) Contributions made in connection with a campaign in any year other than the calendar year in which that campaign relates is taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(i) Contributions made in connection with a campaign in any year other than the calendar year in which that campaign relates is taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.

"(j) Contributions made in connection with a campaign in any year other than the calendar year in which that campaign relates is taken into consideration and counted toward the limitations imposed by this section for the calendar year in which that election is held.
Section 615. Embezzlement or conversion of political contributions.

Whoever, with the intent to convert to his own use, or to any other use, knowingly embezzles or converts, with the intent to defraud, any funds, moneys, or other things of value belonging to, or coming into the possession of, any candidate for public office, or any committee, trust, or fund, or any other person or organization, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Section 616. Campaign expenditure limits for Presidential candidates.

(a) The Federal Election Campaign Act of 1971 shall not apply to campaigns for any Federal, State, or party nomination, or to expenditure for, or in connection with, the election of a person to public office, or for the election of a person to a political party or affiliated committee, or for any other purpose, unless such person is a candidate for a Federal, State, or party office, or for a political party or affiliated committee, and is not a member of the House of Representatives.

(b) No individual, organization, or group may contribute more than $100 to any candidate for Federal office, or for a political party or affiliated committee, except as provided in this section and in section 617 of this title.

(c) The Federal Election Campaign Act of 1971 shall not apply to the costs of a campaign for a political party or affiliated committee, or for any other purpose, unless such person is a member of the House of Representatives.

(d) No individual, organization, or group may contribute more than $100 to any candidate for public office, or for a political party or affiliated committee, or for any other purpose, unless such person is a member of the House of Representatives.

Section 617. Campaign expenditure limits for Presidential candidates.

(a) The Federal Election Campaign Act of 1971 shall not apply to campaigns for any Federal, State, or party nomination, or to expenditure for, or in connection with, the election of a person to public office, or for the election of a person to a political party or affiliated committee, or for any other purpose, unless such person is a candidate for a Federal, State, or party office, or for a political party or affiliated committee, and is not a member of the House of Representatives.

(b) No individual, organization, or group may contribute more than $100 to any candidate for Federal office, or for a political party or affiliated committee, except as provided in this section and in section 616 of this title.

(c) The Federal Election Campaign Act of 1971 shall not apply to the costs of a campaign for a political party or affiliated committee, or for any other purpose, unless such person is a member of the House of Representatives.

(d) No individual, organization, or group may contribute more than $100 to any candidate for public office, or for a political party or affiliated committee, or for any other purpose, unless such person is a member of the House of Representatives.