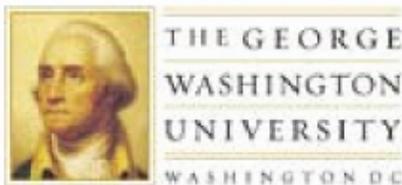


# The Burger Court Opinion Writing Database

*Federal Election Commission v. National  
Conservative Political Action Committee*  
470 U.S. 480 (1985)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University in St. Louis  
Forrest Maltzman, George Washington University



5

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

March 4, 1985

Re: No. 83-1032 - Federal Election Commission v.  
National Conservative Political Action  
Committee  
83-1122 - Democratic Party of the United  
States v. National Conservative Political  
Action Committee

Dear Bill,

I join.

Regards,  
WRB

Justice Rehnquist

Copies to the Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

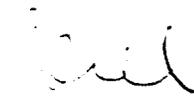
March 5, 1985

No. 83-1032) FEC v. National Conservative  
              ) Political Action Committee  
              )  
              ) Democratic Party of the  
              ) United States v. National  
              ) Conservative Political  
No. 83-1122) Action Committee

Dear Byron,

Please join me in Part I of your opinion.

Sincerely,



Justice White

Copies to the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

March 5, 1985

No. 83-1032) FEC v. National Conservative  
                  ) Political Action Committee  
                  )  
                  ) Democratic Party of the United States  
                  ) v. National Conservative Political  
No. 83-1122) Action Committee

Dear Bill:

Consistent with my vote at Conference, I agree with you on the merits of No. 83-1032 and therefore with virtually all of Part II of your opinion. However, one brief passage troubles me. On page 16, the opinion states:

Candidates and elected officials respond to the ideological objectives of PACs precisely because the PACs represent aggregations of voters and can use those voters' pooled resources to support or oppose the election or reelection of those candidates and officials. This political quid pro quo is perfectly legitimate because it fosters the type of compromise on which a democracy depends: adopt our political philosophy and goals and we will support you for election; otherwise we'll support your opponent.

I do not know whether I agree with the definition of corruption implied by this passage. It is certainly not corruption for a politician to adopt a political position in order to gain the support of members of an association (or individuals) if "support" is understood to mean "votes." But it may in some circumstances be a form of corruption for a politician to adopt a political position in return for the support of members of an association (or individuals) if "support" is understood to mean "money." In fact, I think that the distinction in Buckley between contributions and expenditures rests in part on the proposition that the trade of money for adoption of a political position is corruption. At least, I would not want to rule out the possibility that corruption could be found in such a case. In Buckley, it was the attenuation of

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the link between the independent expenditure and the candidate's campaign that made such independent expenditures unlikely to corrupt and therefore rendered limitations on such expenditures improper. See, e.g., 424 U.S. at 46-47.

Can you accommodate me in this respect so that I may join fully as I should like to do?

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill".

Justice Rehnquist

Copies to the Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

March 7, 1985

No. 83-1032) FEC v. National Conservative  
              ) Political Action Committee  
              )  
              ) Democratic Party of the  
              ) United States v. National  
              ) Conservative Political  
No. 83-1122) Action Committee

Dear Bill:

I agree.

Sincerely,

*Buc*

Justice Rehnquist

Copies to the Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

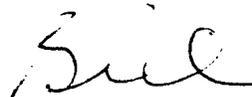
March 8, 1985

No. 83-1032) FEC v. National Conservative  
              ) Political Action Committee  
              )  
              ) Democratic Party of the  
              ) United States v. National  
              ) Conservative Political  
No. 83-1122) Action Committee

Dear Bill:

I'm sorry if my letter of yesterday was  
confusing. I join only in Part II.

Sincerely,



Justice Rehnquist

Copies to the Conference

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE BYRON R. WHITE

January 18, 1985

83-1032 - FEC v. National Conservative PAC  
83-1122 - Democratic Party of the United States and Democratic  
National Committee v. National Conservative PAC and  
Fund for a Conservative Majority

---

Dear Bill,

In due course, I shall circulate a dissent in this case.

Sincerely yours,



Justice Rehnquist

Copies to the Conference

To: The Chief Justice  
Justice Brennan  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Rehnquist  
Justice Stevens  
Justice O'Connor

From: **Justice White**

Circulated: FEB 26 1985

Recirculated: \_\_\_\_\_

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

Nos. 83-1032 AND 83-1122

FEDERAL ELECTION COMMISSION, APPELLANT  
83-1032  
*v.*  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE ET AL.

DEMOCRATIC PARTY OF THE UNITED STATES  
AND DEMOCRATIC NATIONAL COMMITTEE,  
APPELLANTS

83-1122  
*v.*  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE AND FUND FOR A  
CONSERVATIVE MAJORITY

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

[February —, 1985]

JUSTICE WHITE, dissenting.

I

Section 9011(b) of the Internal Revenue Code authorizes the Federal Election Commission (FEC), "the national committee of any political party, and individuals eligible to vote for President" to institute actions "to implement or construe" the Fund Act. Relying on this provision, both the FEC and the Democratic National Committee (DNC) brought suit to enjoin expenditures by appellees that violated §9012(f). Despite the identity of the issues raised and the relief sought by the plaintiffs, the majority holds that only the FEC properly invoked the jurisdiction of the District Court because only its action is "appropriate." I disagree.

To: The Chief Justice  
Justice Brennan  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Rehnquist  
Justice Stevens  
Justice O'Connor

STYLISTIC CHANGES THROUGHOUT.  
SEE PAGES: 2-5, 9, 14, 16, 17

From: **Justice White**

Circulated: \_\_\_\_\_

Recirculated:       MAR 5 1985      

2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

Nos. 83-1032 AND 83-1122

FEDERAL ELECTION COMMISSION, APPELLANT  
83-1032  
v.  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE ET AL.

DEMOCRATIC PARTY OF THE UNITED STATES  
AND DEMOCRATIC NATIONAL COMMITTEE,  
APPELLANTS  
83-1122  
v.  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE AND FUND FOR A  
CONSERVATIVE MAJORITY

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

[March —, 1985]

JUSTICE WHITE, dissenting.

I

Section 9011(b) of the Internal Revenue Code authorizes the Federal Election Commission (FEC), "the national committee of any political party, and individuals eligible to vote for President" to institute actions "to implement or construe" the Fund Act. Relying on this provision, both the FEC and the Democratic National Committee (DNC) brought suit to enjoin expenditures by appellees that violated §9012(f). Despite the identity of the issues raised and the relief sought by the plaintiffs, the majority holds that only the FEC properly invoked the jurisdiction of the District Court because only its action is "appropriate." I disagree.

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To: The Chief Justice  
Justice Brennan  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Rehnquist  
Justice Stevens  
Justice O'Connor

From: **Justice White**

- Stylistic changes and  
pp. 1, 2, 14, 16, 17 -

Circulated: \_\_\_\_\_

Recirculated: MAR 8 1985

3rd DRAFT

## SUPREME COURT OF THE UNITED STATES

Nos. 83-1032 AND 83-1122

FEDERAL ELECTION COMMISSION, APPELLANT  
83-1032  
*v.*  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE ET AL.

DEMOCRATIC PARTY OF THE UNITED STATES  
AND DEMOCRATIC NATIONAL COMMITTEE,  
APPELLANTS  
83-1122  
*v.*  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE AND FUND FOR A  
CONSERVATIVE MAJORITY

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

[March —, 1985]

JUSTICE WHITE, with whom JUSTICE BRENNAN joins as to  
Part I, dissenting.

I

Section 9011(b) of the Internal Revenue Code authorizes the Federal Election Commission (FEC), "the national committee of any political party, and individuals eligible to vote for President" to institute actions "to implement or construe" the Fund Act. Relying on this provision, both the FEC and the Democratic National Committee (DNC) brought suit to enjoin expenditures by appellees that violated §9012(f). Despite the identity of the issues raised and the relief sought by the plaintiffs, the majority holds that only the FEC properly invoked the jurisdiction of the District Court because only its action is "appropriate." I disagree.

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

January 18, 1985

Re: Nos. 83-1032 and 1122-Federal Election Commission v.  
National Conservative Political Action Committee and  
Democratic Party of the US v. National Conservative  
Political Action Committee

Dear Bill:

I await the dissent.

Sincerely,



T.M.

Justice Rehnquist

cc: The Conference

To: The Chief Justice  
Justice Brennan  
Justice White  
Justice Blackmun  
Justice Powell  
Justice Rehnquist  
Justice Stevens  
Justice O'Connor

From: **Justice Marshall**

Circulated: MAR 14 1985

Recirculated: \_\_\_\_\_

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

Nos. 83-1032 AND 83-1122

FEDERAL ELECTION COMMISSION, APPELLANT  
83-1032  
v.  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE ET AL.

DEMOCRATIC PARTY OF THE UNITED STATES AND  
DEMOCRATIC NATIONAL COMMITTEE,  
APPELLANTS  
83-1122  
v.  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE AND FUND FOR A  
CONSERVATIVE MAJORITY

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

[March —, 1985]

JUSTICE MARSHALL, dissenting.

In *Buckley v. Valeo*, 424 U. S. 1 (1976) (*per curiam*), this Court upheld congressional limitations on contributions to candidates for federal office but struck down limitations on independent expenditures made on behalf of such candidates. In upholding the former, the Court stated that "the weighty interests served by restricting the size of financial contributions to political candidates are sufficient to justify the limited effect upon First Amendment freedoms caused by the \$1,000 contribution ceiling." *Id.*, at 29. In striking down the latter, the Court noted that an expenditure limitation "fails to serve any substantial interest in stemming the reality or appearance of corruption in the electoral process," and that "it heavily burdens core First Amendment expression." *Id.*, at 47-48. Relying on *Buckley*, the Court today strikes

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

February 4, 1985

Re: No. 83-1032) Federal Election Commission v.  
National Conservative Political Action Committee  
No. 83-1122) Democratic Party of the United States v.  
National Conservative Political Action Committee

Dear Bill:

Please join me.

Sincerely,

*H.A.B.*  
—

Justice Rehnquist

cc: The Conference

RECEIVED  
S. CLERK, SUPREME COURT, U.S.  
JUSTICE REHNQUIST

'84 FEB -5 AM 1:26



CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

Supreme Court of the United States  
Washington, D. C. 20543

February 19, 1985

83-1032 Federal Election Commission v. National Conservative

Dear Bill:

Please join me.

Sincerely,

Justice Rehnquist

lfp/ss

cc: The Conference

To: The Chief Justice  
Justice Brennan  
Justice White  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Stevens  
Justice O'Connor

From: **Justice Rehnquist**

Circulated: 1/17/85

Recirculated: \_\_\_\_\_

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 83-1032 AND 83-1122

FEDERAL ELECTION COMMISSION, APPELLANT  
83-1032  
v.  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE ET AL.

DEMOCRATIC PARTY OF THE UNITED STATES AND  
DEMOCRATIC NATIONAL COMMITTEE,  
APPELLANTS  
83-1122  
v.  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE AND FUND FOR A  
CONSERVATIVE MAJORITY

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

[January —, 1985]

JUSTICE REHNQUIST delivered the opinion of the Court.

The Presidential Election Campaign Fund Act (Fund Act), 26 U. S. C. § 9001, *et seq.* offers the Presidential candidates of major political parties the option of receiving public financing for their general election campaigns. If a presidential candidate elects public financing, § 9012(f) makes it a criminal offense for independent "political committees," such as appellees National Conservative Political Action Committee (NCPAC) and Fund For A Conservative Majority (FCM), to expend more than \$1,000.00 to further that candidate's election. A three-judge district court for the Eastern District of Pennsylvania, in companion lawsuits brought respectively by the Federal Election Commission (FEC) and by the Democratic Party of the United States and the Democratic National Committee (DNC), held § 9012(f) unconstitutional

STYLISTIC CHANGES THROUGHOUT

Pp 11, 16 + 18

To: The Chief Justice  
Justice Brennan  
Justice White  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Stevens  
Justice O'Connor

From: Justice Rehnquist

Circulated: \_\_\_\_\_

Recirculated: 1/24/85

*2nd*  
1st DRAFT

# SUPREME COURT OF THE UNITED STATES

No. 83-1032 AND 83-1122

FEDERAL ELECTION COMMISSION, APPELLANT  
83-1032  
*v.*  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE ET AL.

DEMOCRATIC PARTY OF THE UNITED STATES AND  
DEMOCRATIC NATIONAL COMMITTEE,  
APPELLANTS

83-1122  
*v.*  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE AND FUND FOR A  
CONSERVATIVE MAJORITY

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

[January —, 1985]

JUSTICE REHNQUIST delivered the opinion of the Court.

The Presidential Election Campaign Fund Act (Fund Act), 26 U. S. C. § 9001 *et seq.* offers the Presidential candidates of major political parties the option of receiving public financing for their general election campaigns. If a presidential candidate elects public financing, § 9012(f) makes it a criminal offense for independent "political committees," such as appellees National Conservative Political Action Committee (NCPAC) and Fund For A Conservative Majority (FCM), to expend more than \$1,000.00 to further that candidate's election. A three-judge district court for the Eastern District of Pennsylvania, in companion lawsuits brought respectively by the Federal Election Commission (FEC) and by the Democratic Party of the United States and the Democratic National Committee (DNC), held § 9012(f) unconstitutional

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Pp 1, 7, 8, 10

To: The Chief Justice  
Justice Brennan  
Justice White  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Stevens  
Justice O'Connor

From: Justice Rehnquist

Circulated: \_\_\_\_\_

Recirculated: FEB 28 1985

3rd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 83-1032 AND 83-1122

FEDERAL ELECTION COMMISSION, APPELLANT  
83-1032  
*v.*  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE ET AL.

DEMOCRATIC PARTY OF THE UNITED STATES AND  
DEMOCRATIC NATIONAL COMMITTEE,  
APPELLANTS  
83-1122  
*v.*  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE AND FUND FOR A  
CONSERVATIVE MAJORITY

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

[March —, 1985]

JUSTICE REHNQUIST delivered the opinion of the Court.

The Presidential Election Campaign Fund Act (Fund Act), 26 U. S. C. § 9001 *et seq.* offers the Presidential candidates of major political parties the option of receiving public financing for their general election campaigns. If a presidential candidate elects public financing, § 9012(f) makes it a criminal offense for independent "political committees," such as appellees National Conservative Political Action Committee (NCPAC) and Fund For A Conservative Majority (FCM), to expend more than \$1,000 to further that candidate's election. A three-judge district court for the Eastern District of Pennsylvania, in companion lawsuits brought respectively by the Federal Election Commission (FEC) and by the Democratic Party of the United States and the Democratic National Committee (DNC), held § 9012(f) unconstitutional on its face

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

March 6, 1985

Re: No. 83-1032) FEC v. National Conservative  
                  ) Political Action Committee  
                  ) Democratic Party of the United States  
                  ) v. National Conservative Political  
                  ) Action Committee

Dear Bill,

In considering your suggestion, I have decided to revise the passage in question by substituting the attached text for the entire second paragraph on page 16 of the currently circulating draft of the opinion. I think this meets your concern and flows better. I hope the substitute language is acceptable to you.

Sincerely,

WHR/ACW

Justice Brennan

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

March 7, 1985

MEMORANDUM TO THE CONFERENCE

Re: No. 83-1032) FEC v. National Conservative Political  
                  ) Action Committee  
      83-1122) Democratic Party of the United States v.  
                  ) National Conservative Political Action  
                  ) Committee

The second paragraph beginning on page 16 has been largely rewritten, partly in response to a suggestion by Bill Brennan and partly to improve the flow of the opinion (at least in the view of the author).

Sincerely,



Pp 678 16-18

To: The Chief Justice  
Justice Brennan  
Justice White  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Stevens  
Justice O'Connor



From: Justice Rehnquist

Circulated: \_\_\_\_\_

Recirculated: MAR 7 1985

4th DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 83-1032 AND 83-1122

FEDERAL ELECTION COMMISSION, APPELLANT  
83-1032  
v.  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE ET AL.

DEMOCRATIC PARTY OF THE UNITED STATES AND  
DEMOCRATIC NATIONAL COMMITTEE,  
APPELLANTS  
83-1122  
v.  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE AND FUND FOR A  
CONSERVATIVE MAJORITY

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

[March —, 1985]

JUSTICE REHNQUIST delivered the opinion of the Court.

The Presidential Election Campaign Fund Act (Fund Act), 26 U. S. C. § 9001 *et seq.* offers the Presidential candidates of major political parties the option of receiving public financing for their general election campaigns. If a presidential candidate elects public financing, § 9012(f) makes it a criminal offense for independent "political committees," such as appellees National Conservative Political Action Committee (NCPAC) and Fund For A Conservative Majority (FCM), to expend more than \$1,000 to further that candidate's election. A three-judge district court for the Eastern District of Pennsylvania, in companion lawsuits brought respectively by the Federal Election Commission (FEC) and by the Democratic Party of the United States and the Democratic National Committee (DNC), held § 9012(f) unconstitutional on its face

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STYLISTIC CHANGES THROUGHOUT

*Hand*  
*p 17, 28*

To: The Chief Justice  
Justice Brennan  
Justice White  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Stevens  
Justice O'Connor

From: **Justice Rehnquist**

Circulated: \_\_\_\_\_

Recirculated: **MAR 12 1985**

5th DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 83-1032 AND 83-1122

FEDERAL ELECTION COMMISSION, APPELLANT  
83-1032  
*v.*  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE ET AL.

DEMOCRATIC PARTY OF THE UNITED STATES AND  
DEMOCRATIC NATIONAL COMMITTEE,  
APPELLANTS  
83-1122  
*v.*  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE AND FUND FOR A  
CONSERVATIVE MAJORITY

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

[March —, 1985]

JUSTICE REHNQUIST delivered the opinion of the Court.

The Presidential Election Campaign Fund Act (Fund Act), 26 U. S. C. § 9001 *et seq.*, offers the Presidential candidates of major political parties the option of receiving public financing for their general election campaigns. If a Presidential candidate elects public financing, § 9012(f) makes it a criminal offense for independent "political committees," such as appellees National Conservative Political Action Committee (NCPAC) and Fund For A Conservative Majority (FCM), to expend more than \$1,000 to further that candidate's election. A three-judge District Court for the Eastern District of Pennsylvania, in companion lawsuits brought respectively by the Federal Election Commission (FEC) and by the Democratic Party of the United States and the Democratic National Committee (DNC), held § 9012(f) unconstitutional on

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

January 24, 1985

Re: 83-1032 - FEC v. NCPAC  
83-1122 - DNC v. NCPAC

Dear Bill:

Please join me in Part II of your circulation. I would like to reflect a little further about Part I.

Respectfully,



Justice Rehnquist

Copies to the Conference

To: The Chief Justice  
Justice Brennan  
Justice White  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Rehnquist  
Justice O'Connor



From: **Justice Stevens**

Circulated: FEB 6 1985

Recirculated: \_\_\_\_\_

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

Nos. 83-1032 AND 83-1122

FEDERAL ELECTION COMMISSION, APPELLANT  
83-1032  
*v.*  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE ET AL.

DEMOCRATIC PARTY OF THE UNITED STATES AND  
DEMOCRATIC NATIONAL COMMITTEE,  
APPELLANTS  
83-1122  
*v.*  
NATIONAL CONSERVATIVE POLITICAL ACTION  
COMMITTEE AND FUND FOR A  
CONSERVATIVE MAJORITY

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF PENNSYLVANIA

[February —, 1985]

JUSTICE STEVENS, concurring in part and dissenting in part.

As I read it, the plain language of 26 U. S. C. § 9011(b)(1) confers standing on the Democratic National Committee. The fact that the Federal Election Commission also has standing is not, in my opinion, a sufficient reason for concluding that it was not appropriate for DNC to commence this action regardless of whether or not the FEC elected to participate. This, however, is just my tentative opinion because it really is not necessary to decide the issue discussed in Part I of the Court's opinion in view of the fact that the disposition of the appeal in No. 83-1122 is controlled by our decision in No. 83-1032. *McCulloch v. Sociedad Nacional de Marineros de Honduras*, 372 U. S. 10, 16 (1963).

Accordingly, I join only Part II of the Court's opinion.

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

January 25, 1985

No. 83-1032 FEC v. National Conservative Political  
Action Committee  
No. 83-1122 Democratic Party of the U. S. and  
Democratic National Committee v.  
National Conservative Political Action  
Committee and Fund for a Conservative  
Majority

---

Dear Bill,

Please join me.

Sincerely,



Justice Rehnquist

Copies to the Conference