

DATE AND TIME OF REPORT: 3/18/76 12:00 noon

NO. MUR 059 (75)

REC'D: 12/1/75

FEDERAL ELECTION COMMISSION  
Washington, D. C.

Complainant's Name: Clifford Allen for Congress Committee. Complainant  
sought opinion of counsel; matter was given compliance status internally.

Respondent's Name: Robert Olsen

Relevant Statute: 18 U.S.C. §§612, 617; 2 U.S.C. §432(e)

Internal Reports Checked: Citizens for Olsen Comm. 8/75 - 11/10/75 repts.

Federal Agencies Checked: \_\_\_\_\_

SUMMARY OF ALLEGATION

- (1) Posters distributed supporting Olsen failed to identify source;  
(2) Misrepresentations of position of Allen in brochures purportedly  
published by Olsen Committee; (3) Failure of Tennessee Republican Party  
to comply with §432(e) provisions on a brochure apparently paid for by  
Tennessee Republican Party.

PRELIMINARY LEGAL ANALYSIS

Allegations were thoroughly analyzed and responded to in a letter to  
the Allen Committee dated 1/8/76 (attached). (1) Section 612 - no  
jurisdiction; (2) §617 - no apparent violation; (3) §432(e) - proposed  
regulations exempt political parties from notice provisions.

RECOMMENDATION

Close file.

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Date of Next Commission Review: \_\_\_\_\_

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RECEIVED  
FEDERAL ELECTION  
COMMISSION

Clifford Allen for Congress Committee  
212 Twenty-fifth Avenue, North  
Nashville, Tennessee 37203

'75 DEC 1

November 26, 1975

Federal Election Commission  
1325 K Street, N. W.  
Washington, D. C. 20463

RE: Opinion of Counsel

Dear Sirs:

The purpose of this letter on behalf of the Clifford Allen for Congress Committee is to request an "opinion of counsel" from the Federal Election Commission Office of General Counsel pursuant to the guidelines set forth in "FEC Procedures, Public Comments, Questions and Complaints", (July 15, 1975). Our understanding is that by applying for this "opinion of counsel" that this request and your response thereto will not automatically be published in either the Federal Register or the Congressional Record. Since this is a relatively new Federal law that governs and limits campaigns for Federal offices, we believe that the more proper way to proceed with respect to certain circumstances that have arisen during the campaign for the 5th Congressional District seat in Tennessee is to request this "opinion of counsel" rather than requesting a formal advisory opinion or filing a formal complaint with the Federal Election Commission, or the United States Attorney, or the District Attorney General for Davidson County, Tennessee. We believe your interpretation through an "opinion of counsel" would give us valuable guidance in terms of any further steps to take, if any, with respect to these matters.

On November 25, 1975 in a special general election, the voters of the 5th Congressional District of Tennessee elected Mr. Clifford Allen to fill the unexpired term of Mayor Richard Fulton and the losing candidate in this election was Republican Bob Olsen. During the campaign, our staff workers observed several posters in the district supporting Bob Olsen for Congress. These were printed or seemingly commercially produced posters which generally bore either the picture of Bob Olsen with a descriptive statement urging support for Mr. Olsen or had no picture and

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simply bore a descriptive statement urging support for Mr. Olsen.

These posters did not bear any information as to who prepared, published, disseminated, distributed, issued or was responsible for these posters. There was no legend affixed or attached to the posters stating that these posters were prepared for or paid by or distributed by citizens for Olsen committee or any registered political committee, or any committee, person or other entity.

We understand that §612 of the Federal Campaign Act provides as follows:

Whoever willfully publishes or distributes or causes to be published or distributes or causes to be published or distributed...any card, pamphlet, circular, poster, dodger, advertisement, writing or other statement relating to or concerning any person who has publicly declared his intention to seek the office of...representative...which does not contain the names of the persons, associations, committees, or corporations responsible for the publication or distribution of the same and the names of the officers of each such association, committee or corporation, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Furthermore, we understand that Tennessee law provides as follows:

39 T.C.A. § 5201: The publication and distribution of any circular, poster, handbill, newspaper or magazine without the name of the publisher or person responsible for the contents being shown thereon is prohibited.

Any person who shall violate this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$500 nor more than \$1,000 or imprisoned in the county jail or workhouse for a period of not less than

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10 days nor more than 30 days, or both in the discretion of the judge.

2 T.C.A. §1920: All written or printed circulars, advertisements or other statements with reference to any person who is a candidate for any public office in this state shall be signed by the writer thereof, or, if the same purport to be issued by any committee, organization or other similar associations, the same shall be signed with the names of the principal officers of such association. Any person or persons violating this section shall be guilty of a misdemeanor.

Accordingly, we would request an "opinion of counsel" as to whether the foregoing circumstances and facts constitute a violation of section 612 of the Federal Campaign Act and/or a violation of 39 T.C.A. §5201 and 2 T.C.A. § 1920. We would further request an "opinion of counsel" as to whether the criminal provisions of 39 T.C.A. §5201 and 2 T.C.A. §1920 have been superseded by the provisions of the Federal Campaign Act.

The far more serious matter that arose during this Congressional campaign that we would request an "opinion of counsel" upon concerns a campaign brochure purportedly published and distributed by Citizen's for Olsen Committee and paid for by the Tennessee Republican Party Federal election account. A true and correct copy of the brochure in question is attached hereto and it is variously entitled "The Undecided Voters' Guide"-- "Issues of Importance to 5th District Electorate"--"What Do They Stand For?". This brochure was widely distributed in the 5th Congressional District during the campaign and purports to represent the position of Mr. Olsen and the position of Mr. Allen with respect to five issues. Those statements attributed to Mr. Allen in the brochure, with place of attribution thereunder, are out of context and non-existent. For example, the brochure states that Clifford Allen believes that it is impossible to balance the Federal Budget...and that it would be wrong even to try, and he supports deficit spending. Immediately under this statement appears the legend Nashville Banner, September 8, 1975. Yet the Nashville Banner

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for September 8, 1975 carries no such statement by Mr. Allen and does not attribute such a statement to Mr. Allen. The brochure further states that Clifford Allen refuses to take action against wild, irresponsible congressional spending which is the primary cause of inflation. Immediately under this statement appears the legend Nashville Banner, September 25, 1975. Again, Mr. Allen is not quoted in the Nashville Banner for September 25, 1975 to such effect and such a statement is not attributed to Mr. Allen in the Nashville Banner for September 25, 1975. Then the brochure states that Clifford Allen supports continued expansion of government spending, paid for by an increase in taxes which employed persons would pay. Immediately under this statement appears the legend Nashville Banner, September 25, 1975. This attribution to Mr. Allen in the Olsen brochure is flagrantly out of context if the Nashville Banner article for September 25, 1975 is examined. In fact, Mr. Allen's statement was to the effect that the greatest waste in the country was the waste of skills by persons who could be employed and blamed lack of education for many unemployment problems. Mr. Allen then stated that "I support a Federal program of remedial education and extensive vocational training" financed, he said, by the increase in taxes which employed persons would pay.

The Olsen campaign distributed this brochure widely and when called to task for it during the campaign refused to admit that information therein was false or misleading and attempted to defend the brochure. Thereafter, the brochure continued to be distributed in the campaign.

We understand that section 617 of Title 18, United States Code Annotated, "Crimes and Criminal Procedure", provides as follows:

Whoever, being a candidate for Federal office or an employee or agent of such a candidate--(1) fraudulently misrepresents himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or (2) willfully and knowingly participates in or conspires to participate in any plan, scheme,

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or design to violate paragraph (1); shall, for each such offense, be fined not more than \$25,000 or imprisoned not more than one year, or both.

We further understand that section 432(e) of the Federal Campaign Act provides:

Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such a candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.

We further understand that 2 T.C.A. §1950 provides as follows:

It is a misdemeanor for any person to publish or distribute or cause to be published or distributed any campaign literature in opposition to any candidate in any election if such person knows that any such statement, charge, allegation, or other matter contained therein with respect to such candidate is false.

Furthermore, we understand that 39 T.C.A. §1105 provides as follows:

If two (2) or more persons conspire...to violate any of the election laws of this state and one (1) or more of such parties do any act to affect the object of the conspiracy, all of the parties to such conspiracy shall be liable to a penalty of not more than \$1,000, or to imprisonment in the penitentiary for not more than 5 years, or to both fine and imprisonment in the discretion of the jury.

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Furthermore, we understand that 39 T.C.A. §2701 provides as a criminal charge that:

A libel is the malicious defamation of a person made public by any printing...intending...to deprive him of the benefits of public confidence....

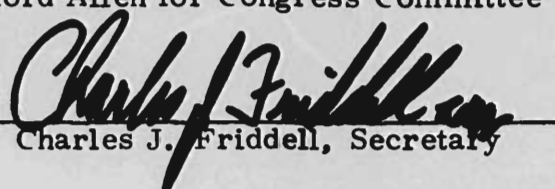
Accordingly, based upon the above circumstances and information in the Olsen brochure, we would request an "opinion of counsel" as to whether these circumstances constitute a violation of either 18 U.S.C. §617 and/or §432(e) of the Federal Campaign Act and/or a violation of 2 T.C.A. §1950; 39 T.C.A. §1105; or 39 T.C.A. §2701. Further, we would request an "opinion of counsel" as to whether the Tennessee law provisions cited above have been superseded by the provisions of the Federal laws.

We believe the principles of the Federal Campaign Act and campaign disclosure laws are exemplary and realizing them to be relatively new laws with few candidates having any experience under them, we believe this course of requesting an "opinion of counsel" is the proper procedure to follow in seeking guidance and advice on these matters. Accordingly, we do not desire to have this request or the resulting opinion published in the Federal Register or Congressional Record or any other source and in keeping with that spirit we are providing a copy of this letter only to your office and Mr. Olsen.

Sincerely yours,

Clifford Allen for Congress Committee

By:

  
Charles J. Friddell, Secretary

cc:  
Mr. Robert Olsen  
c/o Bob Olsen for Congress  
2500 Twenty-first Avenue, South  
Box 12277  
Nashville, Tennessee 37212

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☆☆ CANDIDATES ☆☆

U.S. HOUSE OF REPRESENTATIVES

SPECIAL ELECTION

NOVEMBER 25, 1975

ISSUES OF IMPORTANCE TO  
5TH DISTRICT ELECTORATE

Government Control Of Our Lives

Forced Busing

Higher Prices

Higher Taxes

Balanced Federal Budget

7 7 0 4 What do they stand for?

CANDIDATE-BOB OLSEN



BOB OLSEN SAYS . . .

"The less government control of our lives, the better. Congress has allowed the Federal Government to muscle into our daily lives, limiting our freedom of choice. This must stop!"

"I am opposed to forced busing. Congress is presently considering, and I will support, legislation to end forced busing. Congress must act immediately."

"Throwing money at inflation is like throwing gasoline on a fire. I pledge to work for responsible legislation which will halt ever-rising prices and restore buying power for your hard-earned dollars."

"The time has come to reduce government spending . . . a tax cut, made possible by reductions in wasteful government giveaway programs, will put money back in our pockets."

"We can and we must balance the budget. Last year alone, interest on the national debt cost approximately \$416.00 per tax paying household in the United States. The time has come for common sense to prevail in Congress."

CANDIDATE-CLIFFORD ALLEN



CLIFFORD ALLEN . . .

proposes that the Federal Government collect all taxes . . . that the Federal Government, being the collector, should also determine how all tax money is spent. Furthermore, Clifford Allen proposes that each person have a single number by which he is known for all purposes from cradle to grave.

Satellite Cities Commissioners Breakfast  
October 11, 1975  
Nashville Press Club Luncheon  
October 10, 1975

will not even try to stop busing. Says nothing can be done about busing and that we are stuck with it.

Nashville Junior League  
Candidates Forum  
September 24, 1975

refuses to take action against wild, irresponsible Congressional spending which is the primary cause of inflation.

Nashville Banner  
September 25, 1975

supports continued expansion of government spending, paid for by an increase in taxes which employed persons would pay.

Nashville Banner  
September 25, 1975

believes it is impossible to balance the Federal Budget . . . and that it would be wrong even to try, and he supports deficit spending.

Nashville Banner  
September 8, 1975

ELECT BOB OLSEN TO CONGRESS . . .

AND WATCH THE ACTION!!!

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# BOB OLSEN

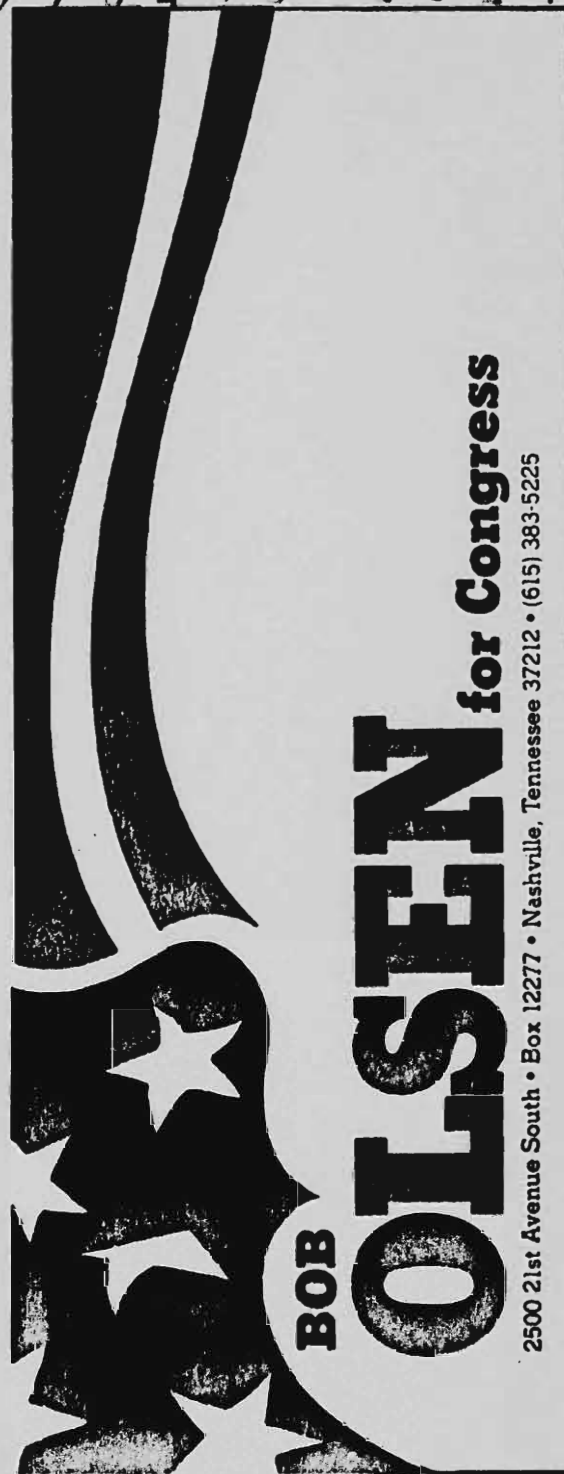
Feels  
the Way  
We Feel.

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## HE SAYS . . .

- Fifth District tax dollars should not go to bail out New York City.
- Gun control legislation is not the answer to the rising crime problem.
- Vigorous enforcement of present laws is the first step toward reduction of the rising crime rate.

7 7 0 4 0 0 1 2 5 2 1



**BOB OLSEN** for Congress  
2500 21st Avenue South • Box 12277 • Nashville, Tennessee 37212 • (615) 383-5225

the undecided  
**VOTER'S GUIDE**



**BOB OLSEN**  
for Congress

Citizen's for Olsen Committee, Clarence Edmonds, Treasurer  
This publication paid for by the Tennessee Republican Party Federal Election Account, Troy Waugh, Treasurer

R-5

7 7 1 4 1 0 1 1 5 2 5  
Clifford Allen for Congress Committee  
212 25th Avenue, North  
Nashville, Tennessee 37203

**CERTIFIED**

No. 151515

**MAIL**

Return Receipt Requested

Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

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