

In the

Supreme Court of the United States

ORIGINAL

UNITED STEELWORKERS OF AMERICA,)
)
AFL-CIO-CLC)
)
v.)
)
EDWARD SADLOWSKI, JR., ET AL)

NO. 81-395

Washington, D. C.

March 31, 1982

Pages 1 thru 49

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1 IN THE SUPREME COURT OF THE UNITED STATES

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3 UNITED STEELWORKERS OF AMERICA, :

4 AFL-CIO-CLC, :

5 Petitioner, :

6 v. : No. 81-395

7 EDWARD SADLOWSKI, JR., ET AL. :

8 - - - - -x

9 Washington, D. C.

10 Wednesday, March 31, 1982

11 The above-entitled matter came on for oral

12 argument before the Supreme Court of the United States

13 at 10:05 o'clock a.m.

14 APPEARANCES:

15 MICHAEL H. GOTTESMAN, ESQ., Washington, D.C.;

 on behalf of the Petitioner.

16 JOSEPH L. RAUH, JR., ESQ., Washington, D.C.;

17 on behalf of the Respondents.

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* * *

1 The analogue in the federal statutes and with
2 respect to federal elections to the rule that the
3 steelworkers adopted is that provision which makes it
4 unlawful for any candidate for federal office to
5 solicit, accept or receive any contribution from a
6 foreign national.

7 The court below has held that the steelworkers
8 rule violates Section 101(a)(2) of the Landrum-Griffin
9 Act, a part of Title I of that statute. We sought
10 review, and this Court granted a writ of certiorari to
11 review two questions: first, whether that construction
12 of the Landrum-Griffin Act is correct; and second, if it
13 is, whether the Landrum-Griffin Act as thus construed to
14 deprive the union and its members of the right to
15 insulate their elections from outsider involvement,
16 abridges the First Amendment freedom of association of
17 the union's members, by taking from them the power to
18 determine the appropriate standard of participation by
19 others in its elections.

20 I will talk first about the statutory
21 construction issue. Whenever, as here, the question is
22 the legitimacy of a union's election rule, statutory
23 analysis properly begins -- though, of course, it
24 doesn't end -- with Title IV of the statute. That is
25 the title, entitled elections, which lays down election

1 rules with respect to union elections.

2 In that title, Congress prescribed a number of
3 rules to govern union elections, frequency of elections,
4 notice of elections and the like. And one of the
5 subjects that Congress specifically focused on in Title
6 IV was the subject of campaign financing. In Title IV,
7 Congress expressly provided that union monies and
8 employer monies could not be donated to any candidate in
9 a union election. And in Title IV, Congress expressly
10 provided that every member of the union would have the
11 right to provide campaign support to a candidate in a
12 union election.

13 Now, of course, there is a middle ground
14 between that which Congress expressly forbade and that
15 which Congress expressly protected. There are
16 non-members of the union whose capacity to contribute is
17 not addressed on the face of Title IV. But that does
18 not mean that Title IV has no relevance to that
19 question, because Congress in Title IV, having laid down
20 and mandated for unions certain rules that they had to
21 comply with in their elections, closed the circle; it
22 didn't stop with it.

23 It said, beyond the rules that we prescribe in
24 this title, unions will be free to choose their own
25 election rules. We have laid down certain minimum

1 requirements, and beyond this we expressly provide that
2 the choice as to any other othe election rules, not
3 inconsistent with those that we, the Congress, have laid
4 down, rests with the members of the union through their
5 democratic processes.

6 That decision is reflected in two difference
7 places in Title IV. First, in Section 403 which
8 provides that no labor organization shall be required by
9 law to conduct election of officers in any different
10 former manner than is required by its own constitution
11 and bylaws, except as otherwise provided by this title.
12 And it is provided again in Section 401(e) which is one
13 of the provisions that lays down the rules unions must
14 obey. And one of those rules is that the election shall
15 be conducted in accordance with the constitution and
16 bylaws of such organization, insofar as they are not
17 inconsistent with the provisions of this title.

18 QUESTION: What would be the situation, Mr.
19 Gottesman, if, let us say, the wives of ten of the
20 employees of the operation, either with or without
21 signs, but including signs, vote for one of the
22 candidates and they paraded up and down outside the
23 plant or the operation, or merely stood there with their
24 signs. Would that be a violation?

25 MR. GOTTESMAN: No, it would not be a

1 violation of the union's rule. It would not, Your
2 Honor. The rule has an express exception for
3 volunteered personal services, so that a non-member of
4 the union is free to donate his or her personal time to
5 supporting a candidate in a union election.

6 QUESTION: Now, what if they held out --
7 something like the Salvation Army -- some plates and
8 said please contribute, help elect -- help keep the
9 union clean or whatever it is they were trying to do.

10 MR. GOTTESMAN: Well, we have the same
11 distinction here, Your Honor, that you have in the
12 federal sector between expenditures and contributions.
13 If they took these contributions from others, who
14 presumably are not members of the union, and didn't give
15 them to a candidate, or didn't spend them in cooperation
16 with a candidate, the steelworkers rule would not
17 implicated because they --

18 QUESTION: I am assuming good faith on the
19 part of these people, that they want to get support,
20 voting support, they want to get money to generate
21 further support, and they want to get it from members of
22 the union, members of the public, anywhere they can get
23 it. Do the union rules inhibit them?

24 MR. GOTTESMAN: If they get the money from
25 non-members and then give it to a candidate, or spend it

1 with his cooperation, they would violate the rule. If
2 they got money from non-members in order to finance
3 activities of their own, independent of the candidate
4 although expressing their support for him, that would
5 not be a violation of the union's rule.

6 In that sense, the distinction between
7 expenditure and contribution in the union's rule is
8 parallel to that in the federal statutes. And indeed,
9 it is I think fairly obvious when you look at the union
10 rule and the way it is structured that those who drafted
11 it were not oblivious to the fact that some of these
12 same questions had been considered and addressed in the
13 federal statute, and many of the lines are the same,
14 including the exception for volunteered personal time.

15 QUESTION: Mr. Gottesman, has Section 27 of
16 the union constitution been amended at all since this
17 action was initiated?

18 MR. GOTTESMAN: I was amended once and that
19 amendment is referred to in the court of appeals'
20 opinion. The amendment does not relate to the issues
21 that are before the Court.

22 QUESTION: And there have been no further
23 amendments.

24 MR. GOTTESMAN: That is correct. There has
25 not been another union constitution since the rulings --

1 union convention -- since the rulings below. And the
2 next one is scheduled for this September.

3 QUESTION: And does this Court have to address
4 the right to sue theory, in your view?

5 MR. GOTTESMAN: Well, if the Court agrees with
6 us that the union rule does not violate 101(a)(2), it
7 has to address that only because respondents have
8 offered it as an alternative basis for invalidating the
9 entire rule. We did not seek review of the court of
10 appeals' holding that the rule violates that, because
11 implicit in that, in our view, would simply be an
12 injunction saying don't apply your rule to litigation,
13 which is no problem for the union because we didn't
14 think it applied to litigation in the first place.

15 But if the Court agrees with us that the rule
16 does not violate 101(a)(2), that other provision comes
17 into play only in the sense that respondents are here
18 saying you should use that other provision to invalidate
19 the whole rule. And therefore, in that sense, the Court
20 would possibly reach that issue and have to decide it
21 one way or the other.

22 QUESTION: Mr. Gottesman, how common a
23 situation is this? Are you aware of any campaigns
24 involving unions other than the steelworkers which --
25 where outside funds played a prominent part?

1 MR. GOTTESMAN: The briefs for respondents
2 recite -- the record doesn't -- that such outside funds
3 were contributed substantially to the election in the
4 mineworkers union several years ago, in which Tony Boyle
5 was defeated. Beyond that, I personally am not, and the
6 record does not show -- it certainly had been the
7 experience in the steelworkers in 1977. It was George
8 Meany's statement at that time that it was unprecedented
9 in the history of the AFL-CIO that any of its affiliates
10 had suffered an experience of an organized, concerted
11 outsider involvement such as had occurred in the 1977
12 steelworker election.

13 QUESTION: Apart from this one, has there been
14 any serious challenge to the incumbency in the
15 steelworkers?

16 MR. GOTTESMAN: There have been, yes, three
17 prior ones.

18 QUESTION: With any substantial vote?

19 MR. GOTTESMAN: Yes. No one has ever gotten
20 less than 40% of the vote in any presidential election
21 in the steelworkers. That is a strange statistics, but
22 unquestionably a correct one.

23 One challenger won and defeated the incumbent,
24 so -- and he got 51% of the vote. The other three all
25 got in a range of 40% to 43%. Sadlowski got 43%, the

1 prior ones had gotten 41% and 40%. The statement that
2 appears in their briefs that he was the first serious
3 challenger to an incumbent is, therefore, one that comes
4 with some surprise.

5 QUESTION: I would assume, Mr. Gottesman, that
6 in evolving this rule, some consideration was given to
7 what has been the usual pattern through the public area,
8 the public sector, of requiring sworn statements
9 identifying all the contributors. If every candidate
10 within the union was required to file a sworn statement,
11 with every contribution identifying the contributor and
12 forbidding a the process that would preclude any
13 anonymous contributions, would that not satisfy this
14 problem?

15 MR. GOTTESMAN: The judgment of the union was
16 that it would not, Your Honor, and the reasons are
17 explained in our reply brief. The problem with simply
18 having disclosure and no ban is that you can counter
19 exactly what happened in the 1977 election. There was a
20 candidate for office in the union who was, indeed, a
21 very popular candidate. And who had taken a lot of
22 outside money, and who wound up getting substantially
23 less of a vote than people I think generally had thought
24 he would get.

25 And what happened was, the voters in that

1 union had to make a choice; they had to become one-issue
2 voters. They had a candidate that they would have
3 preferred to leave the union, but the price for having
4 him was going to be that they were going to have a
5 candidate beholden to outsiders.

6 Now, it seems to me -- and certainly it seemed
7 to the union -- that it is entitled to make the judgment
8 that it is not enough, either in the way of protection
9 or in the way of satisfying the members' interests, for
10 people to know that one factor about a candidate is that
11 he is potentially beholden to outsiders. Because they
12 can't adequately vindicate their concern about that
13 without automatically voting against him on that ground.

14 And beyond that, once you have some candidates
15 doing this, it is inevitable they are all going to do
16 it, just to equalize things, and then you are going to
17 have a situation where the voter has no choice at all to
18 avoid candidates beholden to outsiders, because they
19 will be competing to see who can get more. And the
20 notion that incumbents are going to be less successful
21 at getting outsider money is, I think, contrary to at
22 least intuitive good sense. It was not the case in this
23 election, but it could well be the case in other union
24 elections.

25 Now, the congressional scheme --

1 QUESTION: Mr. Gottesman, does the prohibition
2 in the Landrum-Griffin Act against contributions by
3 employers or unions apply only to the union which is
4 holding the election and only to an employer whose
5 employees are represented by the union?

6 MR. GOTTESMAN: No, Your Honor, it applies to
7 any union and any officer of another union. And the
8 definition of employer, as construed by the Labor
9 Department and enforced by the Sixth Circuit, is so
10 broad that would encompass about 80% of the people to
11 whom the union's rule is addressed anyway. The Labor
12 Department's interpretation is that because the word
13 "employer" is not qualified by "interested" employer, as
14 it is in a different provision of the statute, it was
15 Congress' intent that anybody who is an employer within
16 the meaning -- in interstate commerce, within the
17 meaning of the statute, even though he has no
18 involvement with this union, this union does not
19 represent his employees, he doesn't do business with
20 this union in any commercial sense -- anybody who meets
21 the statutory definition of an employer cannot
22 contribute. And that includes any managing person
23 cannot make personal contributions.

24 So that a partner in a law firm, a dentist who
25 employs two assistants, the person who owns the

1 neighborhood bar, all of those people under the Labor
2 Department's regulation and the Sixth Circuit decision
3 are, in any event, precluded from contributing.

4 QUESTION: The term employer then is defined
5 independently of the National Labor Relations Act, as to
6 whether they would be subject to the National Labor
7 Relations Act and their --

8 MR. GOTTESMAN: Yes. The term employer, as I
9 recall it, is defined in the statute as anyone who is an
10 employer under any other federal labor relations
11 statute. So that it picks up Railway Labor, National
12 Labor Relations Act, and indeed, many people who aren't
13 covered either because they are too small but are
14 covered by the Fair Labor Standards Act. So it is
15 anybody, in essence, who employs one or more employees
16 can't make either an institutional or a personal
17 contribution.

18 And that much is imposed by law. And the
19 Sixth Circuit, the decision that I referred to, is
20 Marshall versus Local 20. It is 611 Fed 2d, 645. The
21 Sixth Circuit explained, this is what Congress
22 intended. It wanted these unions to be for their
23 members and it wanted all of these people. That case
24 involved a personal friend of the candidate who employed
25 two people; he was a dentist. And the court said that

1 his contribution was a violation of the statute.

2 So that what the union is doing is filling a
3 space that Congress in Title IV left open, but not such
4 a broad space as perhaps is suggested by the briefs of
5 the respondent.

6 Now, in that Title IV scheme there is clear
7 evidence as to why it is that Congress not only laid
8 down certain rules but also laid down the additional
9 provision that beyond these rules, the union shall be
10 free to adopt their own and make their own choices with
11 respect to election rules. And what the legislation
12 shows is that Congress was struggling with two
13 objectives.

14 On the one hand, the McClellan hearings had
15 shown without doubt that there were some undemocratic
16 unions, and that there were, in fact, certain statutory
17 necessities that were going to be required if those
18 unions were going to be made democratic and put back in
19 the hands of their union officers. And so, Congress
20 said we are going to lay down and mandate by federal law
21 those rules that we have determined are essential to the
22 achievement of union democracy, and those we have done
23 in Title IV.

24 But the other congressional concern is that we
25 do not intrude too far on union autonomy. This was,

1 after all, the first time that Congress had ever
2 legislated with respect to internal union affairs, and
3 the legislative reports are replete with statements --
4 we are dealing here with private associations. We, by
5 enacting this statute, are tinkering with the mechanisms
6 by which the leadership of private associations are
7 selected, and in doing so, we want to act as limitedly
8 as we can. We have defined certain evils; we will
9 mandate the correction of those evils. Beyond that we
10 will not go. And more, beyond that, we will make clear
11 that the choice will be for the union members of what
12 their rules will be beyond this.

13 More than that, the whole point of this
14 statute was to return the governance of unions to their
15 members, so the legislative history is replete with
16 statements -- we shouldn't go too far in legislating
17 rules of the unions, not only because we violate their
18 autonomy, but because we are unfaithful to the very
19 purpose of this statute. The purpose of this statute is
20 we will create minimum standards that will be sufficient
21 to give the union back to its members.

22 And certainly the record in this case shows
23 that the steelworkers union is in the hands of its
24 members. Candidates for office are defeated all the
25 time, incumbents are removed at a rate equal if not

1 exceeding that in federal elections. And we will let
2 the members make choices on all the matters except those
3 that we have specifically dictated here.

4 And thus, we have in Title IV the closing of
5 the circle. Certain rules laid down and a specific
6 mandate that beyond that, the choice is for the union
7 members and it cannot be dictated by any provision
8 outside of Title IV.

9 QUESTION: Do you think the free speech
10 provision is constitutional, in the sense that -- what
11 if there were a union rule that would purport to limit
12 free speech beyond that which is guaranteed with a
13 statute? Do you think that --

14 MR. GOTTESMAN: Oh, it would clearly --

15 QUESTION: Why would that be constitutional
16 and this -- I know your bottom line, at least one of
17 your bottom lines is that if construed this way, this
18 provision at issue here would be unconstitutional.

19 MR. GOTTESMAN: Right. Well, what we have got
20 -- I mean, the constitutional issue in any case is --
21 this is a private association, it has private
22 decision-making mechanisms, --

23 QUESTION: Well why couldn't the union then
24 just limit free speech beyond that which the statute
25 purports to guarantee?

1 MR. GOTTESMAN: At every stage the question is
2 whether there is a sufficient government justification
3 for the intrusion that it is making on the union
4 autonomy. And I think there is a distinction in
5 measuring that between a rule whose function it is, and
6 which is directly aimed at providing the decisionmaking
7 in the hands of the union's members; a rule that says
8 there must be elections, a rule that says there will be
9 notice of elections, a rule that says you will not
10 prevent candidates from voicing their views or other
11 members from voicing their views.

12 QUESTION: Do you think the union has to hold
13 elections rather than, say, appoint its officer by some
14 other method?

15 MR. GOTTESMAN: Well, certainly
16 Landrum-Griffin says so, and certainly the First
17 Amendment argument that that would be an intrusion on
18 freedom of association I think would be a much harder
19 one than the one we have got here, because there the
20 governmental interest would be stated and there is a
21 closer nexus between the governmental interest than
22 there is here.

23 QUESTION: Mr. Gottesman, you referred to a
24 distinction between contributions and expenditures.
25 Will you elaborate on that and suggest some examples of

1 the distinction, the way it would operate?

2 MR. GOTTESMAN: Yes. If a non-member of the
3 union wanted to support a candidate in the steelworkers
4 election, and wanted to take his money and go out and
5 buy newspaper space, wanted to go out and spend money to
6 do various kinds of things to advertise his views on
7 that subject, there is nothing -- the union is powerless
8 to do anything about it, but beyond that, the rule does
9 not purport to forbid, as it cannot, a non-member from
10 expending money directly, just as under the federal law
11 he cannot.

12 QUESTION: In that type of advertising or mail
13 campaign, is it your view that the identity of the
14 candidate could be specifically mentioned, rather than
15 --

16 MR. GOTTESMAN: Absolutely. As long as the
17 limitations in the union's rules are the same as those
18 in the federal rule. As long as he is acting
19 independently of the candidate.

20 QUESTION: That substantially weakens the
21 basic purpose of the rule as you have annunciated it,
22 doesn't it?

23 MR. GOTTESMAN: Well, it weakens it in the
24 same way and to the same extent that that same
25 distinction was said to be weakened in Buckley by some

1 who thought, in dissent, that the court's -- that the
2 line the court drew between contributions and
3 expenditures --

4 QUESTION: But there is no way the union could
5 stop it.

6 MR. GOTTESMAN: That is right, there is no way
7 the union could stop outside expenditures. The union
8 only has jurisdiction over its members. All it can do
9 is say to its members you will not take money from
10 outsiders. It cannot stop an outsider who wants to
11 spend money and not give it to a union member; it just
12 has not control, no jurisdiction over it.

13 Now turning to 101(a)(2), it has to be looked
14 at in the context, it seems to us, of what Title IV has
15 done. And the question has to be -- because this really
16 is the question -- did Congress, when it wrote this
17 other title of the same statute, intend to overturn the
18 very decision that it made in Title IV, to leave all
19 other choices to the union members.

20 When you look at it, the first thing, the
21 first right it confers is the right to meet and assemble
22 freely with other members. Now, that is the only place
23 in 101(a)(2) where the associational right is addressed,
24 and it is expressly and in terms confined to meeting
25 with other members.

1 Needless to say, that is the not the provision
2 the court below relied on. The court below relied on
3 the provision to express any views, arguments or
4 opinions. Senator McClellan and the others who proposed
5 that explained the purpose of that provision. It was to
6 remedy what they found to be the case -- that within
7 unions generally, people who spoke out in criticism of
8 officers got -- suffered reprisals. They might be
9 beaten up, they might be disciplined, expelled, fined.
10 He said we can't have -- we need sanctuary for the union
11 member. We can't have all these -- we have all these
12 wonderful structural titles in this bill like Title IV,
13 but if members are afraid to get up and speak because
14 they are going to be expelled if they do so, those
15 titles aren't going to work, nor will any of other
16 objectives work.

17 So we need here something that tells the union
18 member if you speak, if you become a candidate, if you
19 do these things, you are not going to be punished for
20 doing so. That was the objective of this provision.

21 Now, there is, to be sure, an overlap between
22 Title IV and Title I, but it is not a redundancy. If a
23 member makes a campaign speech, to discipline him would
24 violate both titles. But in the statutory scheme, what
25 Title IV says is that violation, the remedy will be

1 setting aside the election. What Title I says, and what
2 was added by 101(a)(2) is that it is not going to be
3 sufficient to protect the member's freedom to say that
4 if he gets thrown out of the union, the election will be
5 set aside. We have got to give him personal
6 protection. And that is what 101(a)(2) does. He gets a
7 personal remedy, and that was designed to give him the
8 sanctuary that would allow him to be free to enforce his
9 rights and to voice his views.

10 Now, that is the only purpose stated, or the
11 "express any views" provision in 101(a)(2). And the
12 emphasis I think is on the word "any". This was a
13 protection to members who express any views, even those
14 that are disapproved by the leadership of the union.
15 And it is not, I think, legitimate, given what Title IV
16 expressly says about election rules, to say that what
17 Congress was doing over here with those words was
18 creating a new campaign finance provision. There is
19 nothing in the language and nothing in the legislative
20 history that suggests that that was Congress' intention.

21 The sole argument on the other side is an
22 analogy to the Constitution. I do want to reserve some
23 of my time. We have dealt extensively with that
24 supposed analogy in our briefs and shown why we think it
25 to be flawed. If -- not the least of which is that it

1 fails to note that the constitutional analogy that is
2 being relied upon is one that was first articulated by
3 this Court 17 years after this statute was enacted, and
4 that it is not likely that Congress could have
5 conceived, even if it was intending to legislate the
6 First Amendment, that to do so would have carried with
7 it those implications.

8 CHIEF JUSTICE BURGER: Very well. Mr. Rauh?

9 ORAL ARGUMENT OF JOSEPH L. RAUH, JR., ESQ.

10 ON BEHALF OF THE RESPONDENTS

11 MR. RAUH: Mr. Chief Justice, and may it
12 please the Court:

13 District Judge Hart found this absolute ban on
14 contributions outrageous. That is not my word; that is
15 the district court's word. And Circuit Judge McKinnon
16 for a unanimous court said we cannot conceive of
17 anything that would do more to inhibit union democracy
18 than this rule.

19 And the American Civil Liberties Union, a
20 long-time supporter of unionism, has told this Court in
21 its amicus brief that elections will be a charade if
22 this continues. All these of these conclusions are
23 buttressed by a statute and a legislative history that
24 fairly bristles with Congress' overriding purpose of
25 union democracy.

1 There has only been one president ever in the
2 history of this union that beat an incumbent, and you
3 know what he was? He was the Secretary Treasurer. It
4 was a palace revolt and every other time there has been
5 a re-election, and usually like the last time, you don't
6 even get a contest.

7 Now, we have heard a lot this morning about
8 Title IV. We haven't heard anything about Title I.
9 Title I and Title -- Title I contains two provisions,
10 both of which apply here. One is the right to sue
11 provision, that is 101(a)(4); the other is the right to
12 speak provision, that is 101(a)(2). The district court
13 outlawed the rule under 101(a)(4) the right to sue; the
14 court of appeals under 101(a)(2), the right to speak.
15 It preferred to invalidate it on that ground.

16 Now, Section 101(b) says you have to
17 invalidate. The courts have to invalidate any provision
18 of a constitution that violates part of the Bill of
19 Rights. That is exactly what both courts, all four
20 judges below, did.

21 Now looking first at 101(a)(2), the right to
22 express any views, arguments or opinions without
23 limitation. Now, both Senator McClellan -- they say
24 something I have got a paucity of citations. That is
25 almost -- that is pretty funny if you think that we have

1 the man who put in the Bill of Rights, Senator
2 McClellan, and the man for whom the bill is named in the
3 House of Representatives, Representative Landrum -- it
4 is called the Landrum-Griffin bill -- both says, both
5 analogize this 101(a)(2) to the Constitution. And of
6 course, indeed, it is funny what they say. They admit
7 in their brief that 101(a)(2) recites the core of value
8 of the Constitution.

9 Well, what is the core of the constitutional
10 free speech? It is the right of effective speech, not
11 the right just to talk, without the right to solicit
12 funds. There can be no effective speech -- I am not
13 relying on anything I have ever said in my life; I rely
14 on what this Court has said over and over and over
15 again. Buckley, Bellotti, Berkeley -- and what did
16 Shaumberg, Justice White and Bates, Justice Blackmun --
17 they recited recently that these rules, they are not
18 just something that came down in Bellotti and Berkeley;
19 these rules have been here. The solicitation of funds
20 is part of the right to speak a speech. Without funds
21 -- that isn't new. That's old, and this idea that
22 suddenly --

23 QUESTION: Mr. Rauh, if it is old, what would
24 you think was your strongest case before the Act was
25 passed? It surprises me --

1 MR. RAUH: Well, I go all the way back to
2 Patterson, NAACP in 58, go back to Cantwell in 40 I
3 think, Your Honor. But I will say that I take the
4 review that either Justice White or Justice Blackmun
5 made in their two recent cases, suit me fine.

6 QUESTION: Well, those were court opinions.

7 MR. RAUH: Yes, sir. But I am saying that you
8 made the reviews for us. I just wanted to thank you for
9 your courtesy of saving me a lot of time on research.

10 (Laughter.)

11 Now look, this Court has said it so often that
12 it is SOP, that the First Amendment has its fullest and
13 most urgent applications in the context of political
14 campaigns.

15 QUESTION: Mr. Rauh, your argument is based on
16 an assumption that the section incorporates the First
17 Amendment.

18 MR. RAUH: Not -- it incorporates the basic
19 core value of the First Amendment.

20 QUESTION: Let me just ask you why the
21 Congress wouldn't have used the language of the First
22 Amendment if that is what they intended. They used
23 something different.

24 MR. RAUH: That is correct, but both McClellan
25 and Landrum said it, Your Honor. And I guess I don't

1 believe Congress always uses historical language. They
2 brought in a different provision, I believe, when the
3 Senator said it and the man who ran the bill in the
4 House said it. I think that is the best evidence of the
5 intent. The words are very clear, if Your Honor
6 please. Opinion views the words are in some ways, can
7 be as broad or broader than the First Amendment. And
8 there is a case in the court of appeals where they said
9 it is broader than the First Amendment. But there is
10 certainly nothing that indicates it is not the First
11 Amendment.

12 But going back, if Your Honor please, to your
13 decisions of this Court, on the fullest and most urgent
14 application is at election time, and that goes double,
15 double for unions. In many instances, maybe in most,
16 the only time you ever get any discussion in a union of
17 an issue is during an election campaign. And let me
18 tell you, because this is personal, following your
19 decision in Travolidge they had an election in the
20 mineworkers, and with concerned outside money they
21 debated violence and corruption and ended the
22 dictatorial rule, and that would never have been ended
23 without concerned citizens outside.

24 Equally relevant is Hall against Cole. There
25 you said that Title I was specifically designed to

1 protect the union member's right to seek higher office.
2 This interrelates, pulls it together. Union democracy
3 and speech. And that was the purpose. And then you
4 said, oh, counsel has to be available to make speech
5 effective.

6 QUESTION: Mr. Rauh, how do you get democracy
7 if you get all of your money outside, ten times what
8 everybody else has? Would that be democracy?

9 MR. RAUH: No, sir.

10 QUESTION: So you are not for that, are you?

11 MR. RAUH: No, sir. And it would be a simple
12 rule to have -- all you would have to do, Your Honor, is
13 say nobody give more than \$50 or \$100, and that includes
14 the staff, and you would have --

15 QUESTION: Doesn't that affect free speech?

16 MR. RAUH: What?

17 QUESTION: Doesn't that affect free speech?

18 MR. RAUH: I -- would be a reasonable rule.
19 What would be reasonable? You said \$1000 was reasonable
20 for a federal election. I am willing to go for anything
21 that would be reasonable. I think a lower figure for a
22 union election than you have, but you would have to
23 decide what -- they have the initial --

24 QUESTION: You think the union couldn't decide
25 it for itself?

1 MR. RAUH: Yes, it would decide it, and you
2 would have a right of review. But let me tell you, that
3 is not their point. They, in the yellow brief at page
4 12, they let the cat out of the bag. They are not going
5 after big contributions; they are going after lots of
6 little contributions. Their complaint, under item 2 on
7 page 12, is that we, in the Sadlowski group, solicited
8 progressive lists, and they say very -- we don't -- they
9 were not saying they refused the individual non-member
10 contribution --

11 QUESTION: Mr. Rauh, excuse me, I don't see a
12 page 12. Are we really talking about the reply brief of
13 petitioners?

14 MR. RAUH: Yes, Justice O'Connor.

15 QUESTION: It goes to page 10.

16 MR. RAUH: There is a 10 and then there is a
17 12. I am sorry. We can hand up another copy --

18 QUESTION: Well, there are two yellow briefs.
19 It is a little confusing -- each of them is labeled
20 reply brief.

21 MR. RAUH: Are you looking at the one on cert,
22 Justice O'Connor? Because there is also one on the
23 merits, and that would explain it. At page 12, what
24 they say is, it is not huge individual ones. What they
25 are complaining about is small, and Justice Marshall, at

1 the bottom of that page, what they are complaining about
2 is small and moderate-size contributions from
3 like-minded, non-members. They are not complaining
4 about big ones.

5 Coming back to Hall and Cole --

6 QUESTION: I am trying to find that language
7 on 12 that you spoke of.

8 MR. RAUH: At the bottom, sir.

9 QUESTION: I have got the right brief now.

10 MR. RAUH: Look at the bottom. Do you see
11 item 2, Your Honor?

12 QUESTION: Yes.

13 MR. RAUH: Under that you will see, the
14 experience -- not one of huge individual non-member
15 contributions, but of nationwide solicitations of lists
16 of progressives. And then at the bottom, the aggregates
17 of small and moderate-sized contributions. They have
18 let the cat out of the bag. Here is a progressive who
19 took lists of progressives and asked them to help him
20 let them get money so they can get the progressive
21 message to the membership and let the membership
22 decide. It couldn't be clearer what they want. They
23 don't want him to have enough money to put his message
24 across.

25 Nobody who gives a few dollars on these lists

1 are going to think anybody is beholden to them. This
2 was an effort to get the money to put the message
3 across, which Your Honors have been the most forceful on
4 saying one has a right to do.

5 QUESTION: What about disclosure?

6 MR. RAUH: Well, that is fine. You could do
7 disclosure, you can do a reasonable top. The reason
8 they don't want a reasonable top is that they are not
9 complaining about big contributions.

10 QUESTION: Well, what if the union rule had
11 provided that no candidate shall take more than 50% of
12 his money from outsiders, if it put no ceiling?

13 MR. RAUH: I find that a difficult question,
14 Your Honor. But -- I don't know. If you didn't put
15 another thing on the staff, it won't work, because that
16 can just stop what they get from the staff. What you
17 would have to do is combine that 50% with some staff.
18 You can't -- I could buy this. Put 50% on what you can
19 get from the outsiders and 50% on what you get from the
20 staff and maybe you have got a rule that will recreate
21 some union democracy.

22 QUESTION: Your answer to my question, then,
23 is the union couldn't do that?

24 MR. RAUH: If they didn't do something about
25 the staff, because they would then have a way of

1 offsetting and making it difficult. I would doubt it
2 would reasonable. I have never thought about that
3 before, but I would think that you would have to put
4 something together to make it really work.

5 QUESTION: What about limitations on not all
6 outside sources, but selected sources like corporations.

7 MR. RAUH: Well, that is already barred, Your
8 Honor, under the employer provision, so that is barred.

9 QUESTION: But partnerships, or -- ?

10 MR. RAUH: Well, yes, a partnership would be
11 an employer.

12 QUESTION: Or political organizations that
13 have been formed for -- to influence the election?
14 Suppose there is a committee to influence the
15 steelworkers' next election, and they independently
16 raise their money and then give large sums to the
17 candidate?

18 MR. RAUH: Well, that would be the same thing
19 as if Mr. Sadlowski sent out the letter. If somebody
20 sent out the letter for him, that would be all. But
21 they are saying --

22 QUESTION: So you would say they couldn't do
23 that, either.

24 MR. RAUH: No, I say they couldn't bar you
25 from going to vast numbers of people to get small

1 contributions. There is not going to be any beholden or
2 any corruption in anything like that, Your Honor. They
3 use lists of people and ask for money. So Mr. Sadlowski
4 who is a progressive, they used a progressive list,
5 could get his message to the membership so the
6 membership could decide. The membership doesn't have to
7 vote that way.

8 QUESTION: Does the present law bar, --
9 without this provision, does the law bar raising any
10 money from corporations?

11 MR. RAUH: Yes, because the corporation would
12 be an employer, Your Honor.

13 QUESTION: You mean any employer in whatever
14 industry?

15 MR. RAUH: In whatever industry, but I think
16 it has to mean a real employer. I don't go nearly as
17 far as they do that if you -- a dentist has an
18 assistant, that that makes him an employer for this
19 purpose, but that is not before the Court, Your Honor.

20 Now, what they say --

21 QUESTION: Can I ask one other question while
22 you are paused, Mr. Rauh. Do you agree with your
23 opponent that if a non-member, say a relative or a
24 friend, decided he wanted to support your client's
25 candidacy, he could spend all the money he wanted to and

1 there is nothing they could do about it?

2 MR. RAUH: No, sir. And I was surprised to
3 hear what was said here. On page 74 of the record, in
4 the regulation appears the following: Should a
5 non-member attempt to support a candidate without the
6 candidate's solicitation or cooperation, it is the
7 candidate's obligation to immediately contact the
8 non-member, reject that support and request that it be
9 discontinued and take whatever action is necessary to
10 avoid such support having an effect upon the election.
11 As noted above, failure to do so, will be evidence that
12 the support was accepted.

13 They have done everything in their power to
14 prevent the expenditures that they informed the Court
15 they could permit.

16 The steelworkers answer -- what they are
17 really saying is you, challenger of the income, but you
18 go get it from the rank and file. That is what they are
19 saying. That comes with poor grace.

20 QUESTION: And the staff? And the staff of
21 the union?

22 MR. RAUH: Well, but for the -- as an
23 incumbent you are ahead of the challenger, Your Honor.

24 QUESTION: They are free to get it from the
25 staff.

1 MR. RAUH: Yes, and we got 3%. They got all
2 of theirs. We are free. Can sleep under the bridge, if
3 I may put it that way, Your Honor.

4 (Laughter.)

5 I would say it comes with poor grace for them
6 to tell us to go the rank and file, and this is
7 admitted. They got 90% of their funds from the staff.
8 And I call your attention to the Joint Appendix
9 references, 173 where we have an affidavit saying this,
10 and 347 and 48 where they do not challenge it in their
11 response.

12 Now, if we can't -- if they can't get money
13 from the rank and file and get 90% from their staff, how
14 in heaven's name are we to do what they can't do? Now,
15 as I said, the steelworkers reply brief at page 12 does
16 let the cat out of the bag for what they -- they once
17 used to say they were out to stop corruption, big
18 contributions. Now they say flatly no, we are out to
19 stop your solicitation of likeminded, concerned citizens.
20 I don't see how that could ever be squared with Title I,
21 Section 101(a)(2.

22 This is a perfect example of where moderate
23 and small contributions from likeminded citizens -- it
24 is a perfect example of what we did when we upset the
25 Boyle thing after the Travolidge decision gave us a

1 chance. It is a perfect example of democracy in trying
2 to get funds to get your message across.

3 They can still say -- this is not a question
4 like 441(e) that was referred to. That was a wholly
5 different thing. That is the provision of law that
6 prevents a non-resident alien from giving to a federal
7 campaign. But that works in our favor. Resident aliens
8 who can't vote can give. The only reason a non-resident
9 alien is in there is for security reasons, people that
10 are abroad and also they haven't -- a non-resident alien
11 doesn't have the rights that a resident alien does. But
12 a resident alien can give, even though he can't vote.

13 QUESTION: But wouldn't a resident alien be
14 like a member of the staff? That is, interested in
15 union affairs, but I understand staff members can't vote
16 unless they are members of the union.

17 MR. RAUH: Yes, if they -- they all are.

18 QUESTION: Are they all members of the union?

19 MR. RAUH: Yes. And so is counsel members of
20 the union. That is how this comes up, you know.

21 QUESTION: Well, how can you qualify as a
22 steelworker?

23 MR. RAUH: Well, you will have to ask --

24 QUESTION: You don't have to work as a
25 steelworker --

1 MR. RAUH: I know they are members of the
2 union. You will have to ask the other side how they
3 work that our, sir.

4 I just don't see a clear case of your statute
5 -- here you have got the language, right to express any
6 views, arguments or opinions. The legislative history
7 of the parallelism to the Constitution from the two men
8 who would be the most important, and the pre-eminent
9 purpose of Congress is for union democracy. You know,
10 sometimes I think why did they need to do this? They
11 have got so many advantages on the incumbent anyway, it
12 is hard to see why they had to go ahead and put this
13 final nail in a challenger's coffin.

14 But the purpose of this statute -- this Court
15 has over and over again, in dealing with Landrum-Griffin
16 said, a lot of it was written on the floor. The Bill of
17 Rights was written on the floor. Has said well, we will
18 look at the objectives of this statute. Well, the
19 objective of union democracy is perfectly clear, and of
20 course, doing this does avoid any reference to any
21 constitutional problem.

22 The steelworkers rule, based on all of this,
23 and I quote from the man who has done the most writing
24 and work, the professor who has done the most on the
25 whole subject of union democracy, Professor Clyde

1 Somers. His affidavit is in the record. He says, this
2 rule virtually guarantees that incumbents will be
3 insulated from electoral challenge. With every
4 principle of statutory construction the other way, to
5 knock it out, to leave it there is so clearly contrary
6 to Congress' intent.

7 QUESTION: Of course, you assume that the
8 election of the union is controlled by money.

9 MR. RAUH: A certain minimum amount is
10 necessary to get your message across, Your Honor,
11 because you have got 1,300,000 voters, you have got a
12 staff on one side and you have just got to have
13 something. I don't say -- no, I do not assume it is
14 controlled by money, Your Honor. I am saying a minimum
15 amount of money is necessary.

16 QUESTION: All I am trying to do is try to
17 warn you that you sound like it --

18 MR. RAUH: Well, thank you.

19 QUESTION: And I know you didn't mean it.

20 QUESTION: A senator, for example, who has a
21 constituency that large, anything in this record that
22 would indicate what the parallel problems would be?

23 MR. RAUH: Well, it would be so -- many times
24 more, but there is nothing in the record. We did not
25 feel that was necessary. I don't know of anything in

1 the record on what an ordinary senator --

2 QUESTION: A million, three, did you say?

3 MR. RAUH: A million, three members. I don't
4 know how much that would mean in money, but nothing was
5 spent by us -- and we got as much as we could out of the
6 staff. We got as much as we could out of the staff,
7 that was nothing. We got as much as we could out of the
8 rank and file; that was substantial, but we did get a
9 lot from lists of concerned citizens, and that was the
10 only place we could go.

11 It seems to me that it is clear --

12 QUESTION: Mr. Rauh, you go so far as to
13 suggest that there is no legitimate basis for a rule of
14 this kind?

15 MR. RAUH: Oh, there is not in this.

16 QUESTION: I mean, is there no union interest
17 in not having the union leadership beholden to someone
18 who collects large sums of money, contributed by many
19 small contributors -- but a fund raiser?

20 MR. RAUH: Yes, I don't see any possibility.
21 All that it does is to get likeminded citizens to
22 contribute to this man so he can put his message, like
23 minded message, over and win or lose fairly --

24 QUESTION: Well, what would the difference --

25 MR. RAUH: Furthermore --

1 QUESTION: Let me just -- what is the
2 difference between one fund raiser who might have great
3 influence, and one very wealthy supporter of the union?

4 MR. RAUH: Well because, Mr. Sadlowski could
5 have written this letter to the -- they talk about
6 letters that were written by -- Sadlowski, they were
7 letters that Sadlowski could have written to those lists
8 --

9 QUESTION: Well, I am not really directing my
10 question at the facts of this particular election, but
11 just as a general proposition, can you conceive of any
12 situation in which there would be a legitimate
13 justification for a rule of this kind?

14 MR. RAUH: I think if it wasn't so overbroad,
15 I think you could say -- certainly you can say you can't
16 give more than \$1000, and I think you can go below that.

17 QUESTION: Would you say you can't have one
18 solicitor collect more than \$1000?

19 MR. RAUH: If that were real -- if that were a
20 real danger, yes. If that were a real danger and a real
21 way to settle the over-breadth, yes. But I don't think
22 there is a real danger because the money is really being
23 asked for in Sadlowski's name. But if you want to say
24 you couldn't ask for more, so Sadlowski would have to
25 ask for it all himself, that wouldn't trouble me. But

1 if you could say there can't be a middleman in the
2 fund-raising, probably that is not so terrible.

3 But that is not their reason. They say flatly
4 on page 12 of their yellow reply brief that they don't
5 want small contributions --

6 QUESTION: No, but they finished the paragraph
7 on page 13 with the thought that I was just expressing.

8 MR. RAUH: Well, your thoughts, yes. That
9 would be all right. This is just so broad as to -- .

10 Well, 101(a)(2) settles it, and it settle it
11 for the court below. But you could make an alternative
12 decision under 101(a)(4). Remember that this was aimed
13 at Sadlowski and his lawyers.

14 They say -- I could hardly believe my ears
15 here that there was some suggestion that they hadn't
16 intended litigation, to block litigation. They said,
17 oh, you can have personal service, but you can't use
18 your secretary, you can't use your office, you can't use
19 your supplies. How could any lawyer represent anybody
20 pro bono who is an insurgent and they need lawyers --
21 God knows they have admitted you have got to have a
22 lawyer in this fight. How could anybody represent them,
23 using your personal services, and not be able to use
24 your secretary, your office and your staff? And they
25 bar using them, in flat terms they barred using your

1 secretary, your staff and your office. Of course this
2 was aimed at stopping litigation.

3 Indeed, at the same time that they did this,
4 they started a lawsuit to stop litigation. They sued
5 the Association for Union Democracy to stop litigation.
6 The case came to this Court two years ago, McBride
7 against Rockefeller. This case was here, and this Court
8 denied cert. But the case was here, you saw it. They
9 tried to prevent any litigation because the people, you
10 couldn't -- funds have to be raised for the expenses.
11 Lawyers may feel deeply enough for union democracy that
12 they will work for nothing, but there are expenses. And
13 those were paid by these organizations and they brought
14 a lawsuit to prevent that. There is no question what
15 the purpose of this was; it was to stop that kind of --

16 QUESTION: But do you think that purpose
17 survived the opinion that former Secretary Wirtz wrote
18 that is at 454 of the Joint Appendix?

19 MR. RAUH: I sure do.

20 QUESTION: You do?

21 MR. RAUH: Because he even went further. If
22 you look at that, Your Honor, they say well, if the suit
23 wasn't bona fide, why, that is then not permitted. Of
24 course, the Wirtz opinion clearly conflicts with the
25 clear language of the rule, with its purpose and

1 everything.

2 QUESTION: Well, that is like our saying one
3 of our decisions construing a statute conflicts with the
4 plain language of the statute.

5 MR. RAUH: No, you are not hand-picked and
6 paid by one of the litigants, Your Honor. You are an
7 independent body. When you make an opinion that is
8 determinative, but when you are a hand-picked committee
9 paid by one of the parties, you are a lot different.
10 Indeed, you said this, or the Court said this in the
11 steel case, where you wouldn't even let the Railroad
12 Adjustment Board, which is only a third union people,
13 make decisions because of the fact that they were a
14 third union controlled, and this was a union grievance
15 by blacks against the union.

16 Now, there is only one -- as I said, 101(a)(2)
17 applies, 101(a)(4) applies. The question is what would
18 you do under 101(a)(4). Why is it you can't rewrite the
19 rule? Judge Hart was right. The court of appeals
20 preferred to put it on another ground, but Judge Hart
21 was right when he said that the unlawful effects of this
22 rule have a chilling effect. He doesn't want to rewrite
23 it, it can't be rewritten, and I suggest it can't be
24 rewritten, if Your Honor please. It can't be rewritten
25 because you have got all sorts of things that have to be

1 dealt with.

2 If the statute -- if you rewrite, do you say
3 oh, it has got to be a bona fide suit, as they
4 complained, or, it can't be intended to extract
5 political gain, as Judge McKinnon laughed at in his
6 opinion. Or, what do you say about this? They argue
7 that you can't use the money to get the word out about
8 the lawsuit. Well, suppose there is a lawsuit, and
9 suppose that lawsuit is won and suppose they had done
10 some things that were bad. You mean, that can't be told
11 to the public? You can't rewrite this rule for them.

12 Of course, it really doesn't matter. If I am
13 right on 101(a)(2), I just think it would be better for
14 union democracy, which I am here pleading for, be better
15 for union democracy if you knocked it out on both,
16 because then people will realize that there is something
17 serious.

18 In conclusion, Your Honors, unions are not
19 private associations, as were made here. Congress has
20 given tremendous assistance to the building of American
21 unions since the Wagner Act 47 years ago, and it has
22 fortified unions with exclusive authority to represent
23 and require dues from even those who do not want that
24 representation. In 59, Congress realized they had to do
25 something to protect the rights of the public and to

1 make those rights count. So what did they do? They set
2 up a statute where union democracy would flourish.

3 All four judges below have held that both the
4 purpose in two express provisions of this bill repel the
5 steelworkers attack on union democracy. I believe in
6 exclusivity of union representatives. I believe in the
7 union shop. I have worked for them. But those things
8 bring something else. They bring a responsibility with
9 them, and this provision, this stopping of the slightest
10 help for those who would challenge an incumbent, those
11 are not carrying out the responsibility and the favors
12 and the help that the Congress of this country gave
13 unions.

14 CHIEF JUSTICE BURGER: Mr. Gottesman, you have
15 about four minutes remaining.

16 ORAL ARGUMENT OF MICHAEL H GOTTESMAN, ESQ.

17 ON BEHALF OF THE PETITIONER - Rebuttal

18 MR. GOTTESMAN: Thank you, Your Honor. There
19 is a certain iron in this case. We are told that what
20 the union did here is a terrible blow to democracy. But
21 what the union did here is an expression of democracy.
22 There is no debate about the fairness of the union's
23 convention. Delegates elected by the members from all
24 over the country came, and overwhelmingly, by a ten to
25 one margin, said we want this rule. Now, that is

1 democracy.

2 The question is whether Congress intended to
3 stifle that democratic choice, and whether it
4 constitutionally can do so.

5 Mr. Rauh has recited in the last half hour
6 facts about union elections that so diverge from the
7 facts in this record and the facts about --

8 QUESTION: Well, Mr. Gottesman, on that point,
9 we asked you about independent expenditures, and you
10 gave me quite a different impression than I get from
11 reading Joint Appendix, 74.

12 MR. GOTTESMAN: Yes, I am sorry, Your Honor, I
13 should have made that clearer, and I had forgotten that
14 provision. The union cannot stop outside expenditure.
15 The union does want the candidate to make such efforts
16 as he can take to discourage them, and I apologize to
17 Your Honor, because I --

18 QUESTION: It is rather strongly worded, his
19 duty to stop that sort of thing.

20 MR. GOTTESMAN: Yes, but of course he can't --
21 those who do want to do it can do it. The union can't
22 stop them. And I apologize for having forgotten that.

23 It is important I think to remember the
24 posture of the case, and the posture of this case is
25 that summary judgment was granted to the respondents.

1 So that while Mr. Rauh recites as fact that people can't
2 get money from the members of the union, and the staff
3 always supports the incumbents, the evidence in this
4 record is quite the contrary. Indeed, there is
5 virtually nothing supporting what he is saying, but more
6 importantly, there is a great deal supporting the other
7 side.

8 QUESTION: Well, if you are talking about
9 summary judgment, is there really any evidence in the
10 record -- I mean, in the sense that you would have after
11 a case was tried.

12 MR. GOTTESMAN: Well, there are -- it is not
13 the same. There are substantial affidavits that there
14 are numerous people who have unseated incumbents in
15 steelworker elections relying solely or almost solely on
16 member contributions.

17 QUESTION: Then are you saying if you win, it
18 should go back for a trial to the district court?

19 MR. GOTTESMAN: No. If we are right that
20 101(a)(2) doesn't create this right, we also moved to
21 dismiss the complaint. And of course, the complaint
22 didn't allege 101(a)(2), but I think we are entitled to
23 have it treated as amended, since that is what the court
24 of appeals relied on.

25 Our position was they don't state a claim

1 under the law. That is our first proposition. And if
2 we are right about that, dismissal is the proper
3 disposition. But if we are wrong about that and we are
4 down to fighting about whether the facts are what Mr.
5 Rauh says they are, there is not a fact he recited that
6 can be accepted in the present posture of this case.
7 Most of what he said has no record support; all of what
8 he said is flatly contradicted by affidavits that show,
9 as I say, that outsiders have defeated incumbents
10 relying on contributions within the union; that show
11 that Sadlowsky did not make a serious effort to raise
12 money from the union because he did not have to, he had
13 all the money he wanted from outsiders; that show that
14 the staff frequently supports the opponents, sometimes
15 unanimously supports the opponents of incumbents; that
16 shows that the staff are really just rank and filers,
17 almost all of the staff are people who worked in the
18 plant, worked their way up to local union positions,
19 went on the staff. They are members just like everybody
20 else. And they have the same rights to participate and
21 they have contractual protection against any harm being
22 done to them because they support whoever they choose or
23 choose not to support.

24 This record shows that 64% of the staff did
25 not support either candidate, at least financially in

1 the 1977 election. It also shows that the union has
2 1,300,000 members, all of whom are eligible
3 contributors; that other candidates have had no trouble
4 with in-plant solicitation. The people who run for top
5 office in the union -- and the record shows this --
6 aren't some person who doesn't know anybody. They are
7 people who achieved some status, as this Court said in
8 Buckley, they are incumbents of other offices. In that
9 capacity, whether local union, whether staff, in those
10 capacities they have gotten to know throughout this
11 union, they have the mechanism by which they can get
12 fund raising within the union going.

13 The record also contains evidence of elections
14 under this rule that successfully raised substantial
15 money to oppose an incumbent.

16 CHIEF JUSTICE BURGER: Your time has expired,
17 Mr. Gottesman. Thank you, gentlemen, the case is
18 submitted.

19 (Whereupon, at 11:05 a.m. the oral argument in
20 the above-entitled matter was completed.)

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CERTIFICATION

Alderson Reporting Company, Inc. hereby certifies that the attached pages represent an accurate transcription of electronic sound recording of the oral argument before the Supreme Court of the United States in the matter of:

UNITED STEELWORKERS OF AMERICA, AFLIO-CLC vs. EDWARD SADLOWSKI, JR.,
ET AL. # 81-395

and that these pages constitute the original transcript of the proceedings for the records of the Court.

BY Sharon Lynn Cunniff

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