

# **AMERICAN CIVIL LIBERTIES UNION**

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June 7, 1974

Hon. W. Pat Jennings, Clerk  
United States House of Representatives  
Washington, D. C. 20515

Hon. Francis R. Valeo  
Secretary of the Senate  
U. S. Senate  
Washington, D. C. 20510

Hon. Elmer B. Staats  
Comptroller-General of the U. S.  
United States General Accounting Office  
441 G Street, N. W.  
Washington, D. C.

Gentlemen:

The undersigned are counsel to the Socialist Workers campaign organizations listed below in connection with the matters discussed in this letter. This letter is being submitted in conjunction with the June 10, 1974 reports to be filed with the House and/or Senate by the following organizations:

Socialist Workers 1974 National Campaign Committee  
(Senate No. S 1470      House No. 036099)

Socialist Workers 1974 California Campaign  
(Senate No. S 1418      House No. 033758)

Berkeley-Oakland Socialist Workers Campaign 1974

East Los Angeles Socialist Workers 1974 Campaign Committee

West Los Angeles Socialist Workers 1974 Campaign Committee

San Diego Socialist Workers 1974 Campaign Committee

San Francisco Socialist Workers 1974 Campaign Committee

Socialist Workers 1974 Colorado Campaign Committee

Socialist Workers Campaign 1974 (Georgia)

Illinois Socialist Workers Campaign Committee '74  
(Senate No. S 1449      House No. 035491)

Edward J. Ennis, Chairman, Board of Directors • Ramsey Clark, Chairman, National Advisory Council  
Aryeh Neier, Executive Director • Norman Dorsen, Osmond K. Fraenkel, Ruth Bader Ginsburg, Marvin M.  
Karparkin, General Counsel    Legal Department: Melvin L. Wulf, Legal Director; Burt Neuborne, Assistant  
Legal Director • Staff Counsel: Joel M. Gora • Marilyn G. Haft • John H. F. Shattuck • Brenda Feigen  
Fasteau • Rena K. Uviller • Leon Friedman.

Socialist Workers Campaign Committee (Massachusetts)  
Michigan 1974 Socialist Workers Campaign Committee  
(no Senatorial candidate, waiver from the House)  
Minnesota Socialist Workers 1974 Campaign Committee  
Missouri Socialist Workers Campaign Committee  
(just registered with Senate)  
New York State 1974 Socialist Workers Campaign Committee  
(just registered with Senate)  
Brooklyn 1974 Socialist Workers Campaign Committee  
(just registered with House)  
Lower Manhattan 1974 Socialist Workers Campaign Committee  
(just registered with House)  
Westside '74 Socialist Workers Campaign Committee  
(just registered with House)  
Socialist Workers '74 Campaign Committee (Ohio)  
(Senate No. S 1493      House No. 036889)  
Eastern Pennsylvania 1974 Socialist Workers Campaign Committee  
Western Pennsylvania 1974 Socialist Workers Campaign Committee  
(House No. 035785)  
Texas Socialist Workers '74 Campaign Committee  
(House No. 034142)  
Socialist Workers 1974 Washington State Campaign Committee  
Washington, D.C. Socialist Workers Campaign Committee

As you know, the filing of such reports is provided for by Section 304(a) of the Federal Election Campaign Act of 1971, 2 U.S.C. Section 434(a) (hereinafter referred to as "the Act"). The purpose of this letter is to explain why the above-mentioned organizations cannot comply with certain of the disclosure requirements imposed by the act.

These 1974 Socialist Workers committees have been organized to support a number of candidates, nominated by the Socialist Workers Party, for election to federal and state office throughout the United States. More particularly, the Socialist Workers 1974 National Campaign Committee will provide support for and assistance to approximately 100 candidates for elected office, about half of whom will be running for the United States Senate or the House of Representatives.

All of these candidates are running on the Socialist Workers Party platform, which seeks to replace capitalism in the United States with socialism. The Socialist Workers Party has participated in electoral politics since it was founded in 1938, and has nominated candidates for public office at all levels of election since 1948. In the most recent presidential election, its presidential

candidate, Linda Jenness, received more than 96,000 votes. In that year the Socialist Workers Party presidential candidate appeared on ballots in 23 states.

Nevertheless, it has been a persistent pattern that individuals associated and identified with Socialist Workers Party activities in any way -- as candidates, contributors, workers, members, or supporters -- have been the target of official and unofficial government harassment, surveillance, violence, interrogations, discrimination, deprivation of employment, and general denial of rights.

For example, prior to June 4, the Socialist Workers Party was designated as a "subversive" organization by the United States Attorney General, pursuant to Executive Orders 9835 and 10450. Although the Attorney General's "list" itself was abolished, there is no reason to doubt that the Socialist Workers Party is included in the new, secret list of 52 organizations under FBI "investigation." As a consequence of this listing, persons associated with the SWP have been threatened with or subjected to the loss of government employment, have been given adverse selective service classifications or military discharges, and have been the subject of continued FBI surveillance and harassment. This has taken the form of thousands of official visits to and interrogations of employers, co-workers, neighbors, landlords, roommates, and relatives and friends of persons associated or affiliated with Socialist Workers Party activities, including electoral activities.

Frequently during such visits, FBI agents have characterized the Socialist Workers Party as "dangerous" and "illegal" and have tried to intimidate, directly or indirectly, supporters of the Socialist Workers Party and their relatives, friends, co-workers and others. FBI agents have repeatedly attempted to persuade or coerce people into discontinuing or severing their business or personal relationship with those who have indicated support for the Socialist Workers Party or Socialist Workers candidates.

Based on official government documents that have recently come to light, and on extensive documentation compiled by the Socialist Workers Party, there can be no doubt that this harassment is part of a systematic and sweeping official government program to provide blanket surveillance of the Socialist Workers Party and its supporters and to intimidate members and supporters of the Socialist Workers Party from engaging in political activity.

Indeed, the Government has admitted the existence of an FBI "SWP Disruption Program" as part of its "Counter-Intelligence Program" (COINTELPRO). In a directive from J. Edgar Hoover initiating this program in 1961, the FBI states:

"The Socialist Workers Party (SWP) has, over the past several years, been openly espousing its line on a local and national basis through running candidates for public office and strongly directing and/or supporting such causes as Castro's Cuba and integration problems arising in the South...

"Offices receiving copies of this letter are participating in the Bureau's Communist Party, USA, Counterintelligence

Program. It is felt that a disruption program along similar lines could be initiated against the SWP on a very selective basis...

"It is pointed out, however, that this program is not intended to be a 'crash' program. Only carefully thought-out operations with the widest possible effect and benefit to the nation should be submitted. It may be desirable to expand the program after the effects have been evaluated...."

It is clear from this directive that the electoral activities of the Socialist Workers Party, which are protected under the Constitution, are viewed by the Government as the basis for stepped-up harassment, surveillance, and other "Counter-intelligence" operations against the Socialist Workers Party.

The far-reaching extent of the FBI's "Counter-intelligence" operations was graphically illustrated when it came to public attention recently that a high school student in New Jersey became the subject of an intensive FBI inquiry merely as a result of having written a letter to the Socialist Workers Party headquarters seeking information for a school assignment. Her letter was filtered through a "mail cover" maintained on the national headquarters of the Socialist Workers Party, and as a result, FBI agents visited her school, relatives, neighbors and others seeking information on her political activities and views.

The government has also admitted that the SWP has been the subject of electronic surveillance going back to 1945.

In addition to these admitted official acts of harassment, people associated with the Socialist Workers Party have been the victims of other forms of intimidation and deprivation of rights. Socialist Workers campaign headquarters in Detroit and New York have been burglarized and membership lists and other files stolen. In 1970, the Socialist Workers state campaign headquarters in Los Angeles was raided by twelve armed men, who terrorized the occupants and set fire to the premises. In 1971 the campaign headquarters in Houston was bombed.

The history of official and unofficial harassment and reprisals -- more fully described in documents submitted with this letter -- makes it clear that identified association with or support for the activities of the Socialist Workers Party, including electoral activity, is always a controversial matter, and is frequently an extremely hazardous one to a person's employment, relationships, and even personal safety.

As a consequence of this pattern, compliance with the Act's requirements of disclosure of contributions and receipts poses a real threat of deterring and intimidating persons from associating with, contributing to and supporting the various candidates and campaign organizations. Many potential contributors, aware that a contribution of more than \$10 (even less, under some state requirements) will result in their identification on government files and public records as a supporter of Socialist Workers candidates, will be extremely reluctant to make such contributions, thus depriving the candidates and organizations of such support and thereby intruding

upon their right of associational privacy. If these individuals do contribute anyway, disclosure of their identities to the government will subject them to all the varieties of harassment outlined above and impair their right to engage in and support political activities in an anonymous manner.

Nor are these concerns merely academic or speculative. An increasing number of contributors have expressed extreme concern over the Act's contentious disclosure requirements, particularly as the facts on the "SWP Disruption Program" and other government harassment has been forced to light through court action and other Watergate-related developments. Some contributors have refrained from making contributions when informed that their identities will have to be reported to a government agency and made available to the public.

The Act's expenditure reporting requirements pose similar difficulties and potential for harassment. For example, reporting of small per diem payments to volunteer campaign workers will have the effect of identifying such individuals and exposing them to sanctions by government officials, employers, landlords, and others. By the same token, identifying the recipients of payments for commercial services -- e.g. rent of office space, printing, etc.-- entails the possibility that official or unofficial pressure will be brought to bear on such persons or businesses to coerce them to discontinue such services. Such pressures have been systematically applied in the past, and the Act's provisions will facilitate the application of such pressures in the future, with resulting interference with and disruption of lawful electoral activities.

Given these various effects of compliance with the Act's disclosure requirements, it is submitted that the imposition of such requirements on the Socialist Workers campaign organizations and candidates is an impermissible and unjustified infringement of the right of associational privacy and political anonymity.

The Government cannot on the one hand assert the right to bug, wiretap, interrogate, fire from government employment and otherwise harass supporters of the Socialist Workers Party, and on the other hand require that the Socialist Workers campaign committees turn over to the Government the names, addresses and places of employment of additional targets for such treatment. It seems obvious that the Government cannot have it both ways. The Socialist Workers campaign committees would have no objection to complying with the law if the type of harassment outlined in this letter were to be stopped, and the Government to recognize the democratic rights of supporters of the Socialist Workers Party to engage in political activity without interference. However, until such time as the government changes its policy, the Socialist Workers campaign committees cannot be compelled to disclose information that can only facilitate the violation of the rights of the individuals involved.

The United States Supreme Court has long shielded controversial organizations from being required to disclose the identities of their members, contributors, and supporters, when such disclosure may have the effect of discouraging such activity and support. The Court has done so in recognition of the bitter historical struggle to shield controversial political association and organizations from compulsory

disclosure to the State. See generally, United States v. Rumely, 345 U.S. 41 (1953); NAACP v. Alabama, 357 U.S. 449 (1958); Bates v. Little Rock, 351 U.S. 516 (1960); Talley v. California, 362 U.S. 60 (1960). In these and other cases, the courts have ruled that the state may not obtain information about members, contributors or supporters of controversial organizations or associations, unless there is a showing of the most compelling governmental interest in the information sought to be disclosed. The rationale for these rulings has been that only such a showing of paramount public necessity can ever justify the damaging consequences and impairment of associational privacy which disclosure entails. See generally, United States Serviceman's Fund v. Eastland, 488 F2d. 1252 (D.C. Cir. 1973).

These principles are equally applicable to controversial associations or organizations whose advocacy takes the form of electoral activity. For example, in Pollard v. Roberts, 283 F. Supp. 248 (E.D. Ark. 1968), aff'd, per curiam, 393 U.S. 14 (1968), the Court held that there was no overriding interest in compelled disclosure of the identities of contributors to a controversial political organization, in that case the Republican Party of Arkansas. "Disclosure or threat of disclosure well may tend to discourage both membership and contributions thus producing financial and political injury to the party affected." 283 F. Supp. at 258. Moreover, it cannot be argued that systematic regulation of the Socialist Workers campaign committees serves the avowed purpose of the Act: to prevent "corruption" of the political process.

Until now, the various campaign organizations listed above have carefully complied with all the Act's requirements with regard to this year's elections. In addition, they have promptly responded to requests from your offices for further information. The Socialist Workers 1972 national campaign organization and its officials have assisted GAO examiners in conducting a careful audit of 1972 records.

The listed organizations will continue to comply with the Act to the extent of providing such information about expenditures and contributions which has no potential for exposing individuals to harassment, reprisals or pressures because of their association with Socialist Workers' campaign activities. Thus the committees continue to provide information describing the aggregate amounts of contributions and receipts. They will also continue to report the aggregate of expenditures, the functional breakdown of such expenditures, the candidates on whose behalf the expenditures have been made, and the identity of payees and recipients of such expenditures--where providing such information will not involve any risk of harassment. However, they cannot continue to provide the identities of contributors or of individual recipients of expenditures where such information will breach the right of associational privacy.

As we have indicated, it is our view that such disclosure requirements cannot constitutionally be imposed upon controversial political associations or organizations. Should you disagree with our analysis, we would welcome the opportunity to have these claims considered by you as supervisory officers under the Act.

Accordingly, we are hereby requesting a hearing, pursuant to Section 308(d)(1) of the Act, 2 U.S.C. Section 438(d)(1), and the implementing regulations, 11 C.F.R. Sections 11.1 to 20.11. At

such a hearing, we would seek a determination of the claims that the listed organizations are constitutionally exempt from compliance with those provisions of Para. 302 and 304 of the Act which require disclosure of information damaging to the rights of associational privacy. In addition, the listed organizations also seek a determination of whether a committee supporting numerous federal candidates, but planning to spend less than \$1,000 per candidate, is subject to the reporting and disclosure requirements of the Act. This question was raised with your respective offices in letters dated March 22, 1974, setting forth the contention that the Socialist Workers 1974 National Campaign Committee should be exempt from filing s 304 reports because it would not expend more than \$1,000 per candidate it is supporting. No definitive response to the letter has been received.

We look forward to an early response so that, should you disagree with our position, the hearings required by statute can be arranged expeditiously.

Very truly yours,

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