

April 1987



Low Crimes in High Places

When politicians are put on trial, it's political

SACRAMENTO—With campaign reform eclipsing insurance as the cause celebre in the Capitol, politicians are scurrying to introduce measures to curb the escalating fund-raising race—and the questionable ethics that often accompany it.

The Legislature has created a select ethics committee ("a typical legislative reaction—appoint a study group and hire more people," grouched one political columnist) to confront the crisis in campaign ethics and fund-raising methods. Various legislative proposals have been introduced to limit special-interest campaign contributions, honorariums and outside income for legislators, and several bills would create a procedure for naming an independent counsel in cases of political corruption.

Attorney General John Van de Kamp is preparing his own package of reform measures, including an unusual suggestion to create a special prosecutor's division within the attorney general's office. The special unit would investigate and prosecute complex political corruption cases that local prosecutors are not equipped to handle.

"We have to look at more thoughtful ways of handling these cases," Van de Kamp says. "From what I've seen thus far, a lot better job can be done."

Using existing statutes, Van de Kamp has already started to act on his proposal. His office is prosecuting Orange County Republican Assemblyman John R. Lewis, who in February became the first sitting legislator in 24 years to be indicted for political misconduct. The attorney general's office took over the case from Sacramento County District Attorney John Dougherty more than a year ago after Dougherty, citing the "political nature" of the case and the lack of resources to investigate it, declined to prosecute.

While the state is accusing Lewis of political corruption, Lewis accuses Van de Kamp of playing politics with the prosecution.

Lewis is barely known outside his safe, conservative Orange County district, but the baby-faced, 34-year-old heir to a dog food fortune was a member of the state Republican Central Committee at age 20 and a legislator at 25. He has introduced few bills, working mainly behind the scenes as a key Republican campaign lieutenant. The two-page biography distributed by his office says Lewis is known for his

Capitol Insider



John R. Lewis: An assemblyman is indicted.

"political acumen" and his "pivotal role" in the elections of conservative Republicans.

Among those Lewis has helped with their campaigns is his former college classmate, Patrick Nolan, the deposed Assembly minority leader who is a key figure in the FBI's investigation of political corruption in the Capitol.

Lewis is charged with a single felony count of forgery involving the unauthorized use of former President Ronald Reagan's

signature on campaign mailers. The indictment follows the January conviction in San Bernardino County of a Democratic campaign consultant accused of forging the name of U.S. Senator Edward M. Kennedy on mailers. It also comes on the heels of the ongoing FBI sting investigation, which broke into public view last August.

The series of scandals shows that the pursuit of campaign funds has become so obsessive that legislators are too often "the horse that the cart is pulling," says Steve Barrow, legislative director for the consumer organization Common Cause. According to the group's estimates, spending for legislative elections climbed to \$61.6 million in 1988—up 8 percent over 1986 and three times what it was a decade ago.

"The Lewis indictment stands as an example of the sorry state to which the system has come," says one source familiar with the investigation, who complains that Lewis spends more time conducting political campaigns than concentrating on the policymaking responsibilities of legislative office. "Here is an assemblyman who ought to be on a private [campaign] payroll and not on the state payroll."

Lewis hotly contests the forgery indictment and accuses gubernatorial candidate Van de Kamp of "abusing his office for political gain." Insisting he will be exonerated, Lewis says the attorney general's action is "nothing more than a carefully calculated Democrat campaign stunt subsidized by taxpayer money."

"Van de Kamp has a long history of winking at Democrat indiscretions," Lewis said in a prepared statement released after his indictment, "but for 27 months has doggedly pursued this opportunity to go after Republicans."

Other Republican leaders agree and point especially to the attorney general's response to the alleged misuse of state employees and telephones by state Controller Gray Davis, who is also a contender for the 1990 Democratic gubernatorial nomination. Davis was investigated but not prosecuted by the attorney general's office. Instead, Van de Kamp accepted reimbursement from Davis for the inappropriate use of state equipment for campaign purposes.

Chief Assistant Attorney General Steve White, who is handling the Lewis case, scoffs at the notion that the Lewis case is being pursued for political reasons. A former Sacramento prosecutor who was executive director of the California District

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Attorneys Association before joining the attorney general's office as head of the criminal division, White says the charges against Lewis are serious enough to merit prosecution because fraudulent campaign materials "significantly undermine free elections."

The charges and countercharges flying around the Capitol demonstrate how difficult it is to remove politics from investigations of political misconduct. Common Cause, long a leader in campaign reform efforts, supports some form of independent counsel in such cases, but would like the process removed from the political arena.

"We believe there has to be some mechanism," says Barrow, "that is free of political considerations."

White does not think that is possible. "There is no system one can conceive of—and the federal special prosecutor approach is no exception—that doesn't raise political implications," White says. "If you create a special prosecutor, somebody has to appoint and determine staff. Wherever you put it, there is a question of political pressures."

—SIGRID BATHEN

Judicial Discipline Up

Bigger staff casts bigger net

The state Commission on Judicial Performance investigated and disciplined more judges last year than ever before.

The commission received 693 complaints of judicial misconduct and investigated 199 of them. In 1987 the agency investigated only 134 complaints.

The growth in judicial discipline may have less to do with an increase in judicial misconduct than with the 80 percent boost in the commission's annual budget. Additional staff enabled the agency to discipline 61 judges last year, although only four of them were recommended to the Supreme Court for public discipline.

Of the 57 judges disciplined privately—more than twice as many as one year earlier—eight were issued notices of admonishment, which can be used against them in later hearings, and the rest were sent advisory letters.

One such advisory letter, or "stinger," let the judge know that it was misconduct to refer to a defendant as "the killer" during a pretrial hearing. □