Linking Political Entrepreneurs to

Responsible Party Systems:

Membership Political

Action Committees

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Membership Political
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by

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Dissertation

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Linking Political Entrepreneurs

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The central purpose of this dissertation is to argue that one of the most extreme examples of congressional entrepreneurship -- the membership political action committee (MPAC) -- and the campaign finance regime that has allowed the MPAC to flourish -- the Federal Election Campaign Act (FECA) -- cannot be easily added to the list of prominent factors explaining the long term decline of political parties in the United States, and might even be implicated in the imminent return of a strong party system.

By accounting for the causes and manifestations of controversial and ugly campaign finance practices that flourished long before FECA was adopted in 1971, and reminding readers that during the period in question

two responsible party systems were able to follow one another almost seamlessly (1896-1932; 1932-1968), this dissertation shows that strong, responsible party systems do not stand or fall exclusively on the condition of how political campaigns are financed. Campaign finance laws may not be among the leading causes of long term party decline.

By proposing a link among congressional parties, individual congressional ambitions, and the feelings voters have for parties, this dissertation shows that the same self-interest that drained the party system of content and responsibility a generation ago may also lead to the restoration of strong parties in the present generation. It is suspected that MPACs are powerful evidence that a more responsible party system is about to replace what some political scientists call "the permanent campaign system."

This study is dubious of predictions that parties will continue to decline, and advances a theory to explain why. MPACs are the focus of this explanation because they cast into sharp relief how far political entrepreneurs can stray from responsible parties before they are forced to choose between becoming irrelevant to politics or restoring the "responsibility" to the parties.

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Chapter One

The Good, the Bad, and the (Tolerably) Ugly: Responsible Party Systems and Aesthetically Unpleasing Campaign Finance Practices

The very fact that ... members of Congress have PACs (political action committees) and contribute to colleagues proves that PAC money matters. (Membership) PACs prove that there is a real problem with the financing of campaigns.

-- *Joshua Goldstein*, the Center for Responsive Politics[1]

* * * *

I. The Problem

A. The 1971 Federal Election Campaign Act: *Plus ca Change, Plus c'est La Meme Chose*?

Following the adoption of the 1971 Federal Election Campaign Act (FECA), a loose coalition of political reformers, prominent daily newspapers, academic researchers, and public interest advocacy groups optimistically anticipated that this comprehensive measure to reform federal elections would reduce the importance of big money in the financing of congressional campaigns,[2] increase the modest financial

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[1]Joshua Goldstein, interview by author, 12 August 1994.

[2]The degree to which big contributors underwrote federal campaigns before FECA's implementation is impossible to specify because public disclosure of contributions and expenditures, a hallmark of the current system, was largely absent. Still, the anecdotal evidence suggests it was enormous. For example, the 1972 Nixon presidential campaign was forced to disclose that just before FECA went into effect, it had raised 28 percent of all its money from 124 contributors giving at least $50,000. David Adamany and George Agree,

participation of previously inactive individuals and groups in political campaigns and so "democratize" their financing,[3] and make congressional races more competitive than they had become by the late 1960s.[4] In short, proponents hailed FECA as a promising way to make the federal electoral system more democratic and competitive, more responsive to the public interest, and less vulnerable to capture by corporate and financial elites.[5]

By the early 1980s, many of the act's strongest advocates -- prominent among them the interest groups Common Cause and Congressional Watch, and newspapers of record like the *New York Times* and *Washington Post* -- routinely blamed the 1971 Federal Election Campaign Act and its 1974, 1976, and 1979 amendments for a wide range of problems in congressional elections and campaigns. They exhorted Congress to enact a stricter measure.[6] Among the act's most commonly

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Political Money: A Strategy for Campaign Financing in America (Baltimore: The Johns Hopkins University Press, 1975), p. 32. It raised an additional $5.4 million from officials of the 100 largest defense contractors. In Office of Representative Les Aspin, "Study Shows Defense Contractors Gave $5.4 Million to Nixon Campaign (Washington, D.C., 1972). The campaign collected another $5 million from officials of 178 oil companies. "Oil Companies: $5 Million in Donations to Nixon," *Congressional Quarterly Weekly Report*, 32, no. 3 (19 January 1974), pp. 2-3.

[3]For example, only 12 percent of Americans contributed to politics in 1960 and 1964. David Adamany and George Agree, "Election Campaign Financing: The 1974 Reforms," *Political Science Quarterly* 9 (summer 1975): 204.

[4]For example, the cumulative reelection percentage of House incumbents from 1950 through 1970 was 91.8 percent. According to Ornstein, Mann, and Malbin, 4064 of 4428 House incumbents seeking reelection in this period were successful. Data from Norman J. Ornstein, Thomas E. Mann, and Michael J. Malbin, *Vital Statistics on Congress, 1989-1990* (Washington: Congressional Quarterly Press, 1990), p. 56.

[5]Characteristic of this optimism surrounding FECA was the *New York Times'* editorial page, which observed in the winter of 1971: "(FECA's) provisions are a decided improvement on the feeble Corrupt Practices Act of 1925 (the previous campaign finance law)... The fact remains that (FECA) as it now stands is the first genuine attempt to come to grips with the (campaign finance) problem. It is a major advance in American politics." In "Toward Campaign Reform," 21 December 1971, p. A18.

[6]Characteristic of this disappointment with FECA was the *New York Times* ' editorial page, which observed in the fall of 1994: The (proposed) measure (to replace FECA)...

cited shortcomings were its tolerance of political action committees (PACs) disproportionately representing the interests of big business and wealthy citizens,[7] its failure to ameliorate campaign contribution patterns that continued to favor incumbent candidates over challengers,[8] and its inability to lessen appreciably the importance of big contributors in the financing of congressional campaigns with its limits on individual campaign contributions and its encouragement of modest campaign gifts.[9]

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would refresh the American political process ... (by) weakening the hold of special-interest money on lawmakers and giving challengers a realistic chance to compete... (it) represents a historic chance to address the anger of ordinary Americans at big money politics." In "High Noon for Campaign Reform," 30 September 1994, A14. When the proposed measure died in the Senate by filibuster the same day this editorial was carried, the *New York Times* lamented two weeks later that "the loss of the campaign finance measure will be felt most keenly, since it sentences fed-up Americans to more tainted politics (tolerated by FECA). In "The No-Reform Congress," 12 October 1994, p. A18.

[7]From December 31, 1974 to December 31, 1990, the number of PACs registered with the Federal Election Commission rose from 608 to 4,172. Of the 4,172 PACs that were registered at the end of 1990, 1,795 were corporate, 346 were labor, 774 were trade/membership/health, 59 were cooperative, 136 were corporation without stock, and 1,062 were nonconnected. Source: Federal Election Commission, "FEC Releases 1990 Year-end PAC Count," press release, January 11, 1991. Of the $358 million PACs contributed in the 1989-1990 election cycle, $100.8 million came from corporate PACs, $84.6 million from labor PACs, $87.7 million from trade/membership/health PACs, $72.4 million from non-connected PACs, and $12.5 million from other connected PACs. Source: Federal Election Commission, "PAC Activity Falls in the 1990 Elections," press release, March 31, 1991, p. 10. In terms of capital resources and number, corporate-related PACs have enjoyed a distinct edge over other PAC categories.

[8]PAC contribution patterns to all congressional races from 1979-1980 to 1989-1990 were as follows:

	Incumbents	Challengers	Open Races
1979-80:	50%	38%	12%
1981-82:	66%	19%	15%
1983-84:	71%	17%	12%
1985-86:	68%	15%	18%
1987-88:	75%	12%	13%
1989-90:	78%	11%	11%

[9]According to Adamany and Agree, only 12% of Americans contributed to politics in 1972, the same percentage that gave in 1960 and 1964. Big contributors were able to circumvent federal contribution limits and retain their importance by giving to state and local party

Interestingly, many of the deficiencies alleged of FECA bore a striking resemblance to the ones FECA was designed to correct, yet nobody seemed to notice.

B. Relating FECA to Party Decomposition after 1968

These and other alleged shortcomings of the current campaign finance system are frequently included among a larger set of factors advanced to explain the decline of a responsible, programmatic two party system in the United States and the rise of "entrepreneurial politics" and "candidate-centered elections" in the U.S. Congress.[10] Critics charge that FECA has sanctioned and spawned a campaign finance system that makes victorious congressional candidates more beholden to "the special interests" that contribute to their campaigns than to their congressional parties.[11] This dependence in turn has inclined victorious candidates to champion narrow and unrepresentative causes in Congress, to the

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organizations (contributions that are variously known as "soft money" and "sewer money" contributions) and engaging in "independent expenditures" on behalf candidates.

[10]There is an enormous literature linking the current campaign finance system to party decline and the proliferation of entrepreneurial politics. See Martin P. Wattenberg, *The Decline of American Political Parties: 1952-1988* (Cambridge: Harvard University Press, 1990); Martin P. Wattenberg, *The Rise of Candidate-Centered Politics: Presidential Elections of the 1980s* (Cambridge: Harvard University Press, 1991); Sidney Blumenthal, *The Permanent Campaign* (New York: Simon and Schuster, 1982); James A. Reichley, *The Life of the Parties: A History of American Political Parties* (New York: The Free Press, 1992); Walter D. Burnham, *Critical Elections in American Politics* (New York: Norton, 1970).

[11]According to the Center for Responsive Politics, in the 1987-1988 election cycle, incumbent House members seeking reelection collected 45.9% of their campaign revenues from PACs and only 2.1% from party organizations. Incumbent Senate members seeking reelection collected 26.3% of their campaign revenues from PACs and only 4.9% from party organizations.

detriment of broad party agendas on which the electorate has traditionally relied to simplify complex issues and efficiently make responsible choices in the voting booth.[12]

As the most telling evidence that FECA has failed to realize its central objectives, critics routinely point to the political action committees affiliated with members of Congress that began to appear only a few years after FECA's enactment. Like the better-known and far more numerous ideological, corporate, and labor PACs, these "membership PACs"[13] are regulated by federal election laws, raise capital from a wide range of private sources, and dispense money and other valuable resources to candidates running in local, state, and federal elections. Unlike ideological, corporate, and labor PACs, however, membership PACs provide a way for members of Congress to supply campaign support to other candidates for elective office.

Plainly membership PACs represent a decided twist on the conventional understanding of campaign finance in which political candidates are recipients of campaign money from private interests

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[12]Some critics have judged the campaign finance system more harshly. Philosopher Amitai Etzioni in his study of American political problems likens campaign contributions as "legalized corruption." *In Capital Corruption: The New Attack on American Democracy* (New York: Hartcourt, Brace, Jovanovitch, 1984), p. 56. Legal scholar Daniel H. Lowenstein contends that all campaign finance contributions are bribes: "It is a significant and politically relevant fact that under our present system of campaign finance, politicians and interest groups engage routinely not in 'legalized' bribery, as is commonly supposed, but in felonious bribery that goes unprosecuted primarily because the crime is so pervasive." In "Political Bribery and the Intermediate Theory of Politics," *UCLA Law Review* 32 (April 1985), pp. 784-851.

[13]PACs affiliated with members of Congress are commonly referred to as "leadership PACs" because most of them have been associated with members who have run for party leadership positions in the legislature. The more general designation "membership PAC" is used here because many members have formed PACs for other reasons.

seeking to influence public policy, *not* from fellow politicians. Critics charge that membership PACs have reduced the autonomy of members who must capitalize them with "special interest money" and, furthermore, have helped weaken the party loyalties of legislators who accept campaign contributions from MPACs.[14]

As this chapter's opening quotation suggests, membership PACs (MPACs) have also served as a shorthand device for indicting the entire campaign finance system. When a campaign finance regime intended to advance the public weal permits members of Congress, of all people, to use personal PACs unconnected to their parties to transfer campaign money from private sources to other politicians, the argument runs, the regime has not only failed to curb opportunities for private money representing narrow interests to influence the legislative process. Worse, the regime has also contributed to the enervation of the two party system by forcing it to compete against "the personal political parties"[15] that MPACs seem to constitute. If, as E.E. Schattschneider declares in his classic work on American politics, "modern democracy is unthinkable save in terms of the parties,"[16] then MPACs pose one more threat to American democracy.

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[14]"The proliferation of (PACs) controlled by lawmakers is ... a twist on the old idea of marshaling money in one committee to maximize political clout ... These member-led PACs have opened a whole new avenue for special interests to funnel money to key lawmakers of both parties, over and above the huge sums they pour directly into Congressional campaigns." In "PAC Pollution," *New York Times*, 21 March 1994, p. A10.

[15]Joshua Goldstein, interview by author, 12 August 1994. In interviews with the author, several campaign finance observers described MPACs as "personal political parties" or "personal political machines" to underscore the point that MPACs have contributed to the decline of the two party system by creating a highly balkanized party substrata. One anonymous source went so far as to liken them to the fragmented party system that existed in Weimar Germany.

[16]E.E. Schattschneider, *Party Government* (New York: Farrar and Rinehart, 1942), p. 1. The importance of robust parties to modern democracy is a theme that dominates

Where "parties are superior because they must consider the problems of government broadly,"[17] MPACs are inferior because they only consider the narrow interests of their sponsoring legislators and the private contributors who give money to them.

II. What Is a Membership PAC?
The Case of Representative Henry Waxman

Following the 1978 congressional election, Representative Henry A. Waxman (D-CA) was elected chairman of the Energy and Commerce Committee's Health and Environment Subcommittee, one of the most influential non-appropriations subcommittees in the House of Representatives. Had he served several terms in the House and compiled years of seniority as a member, had he performed a long apprenticeship on the subcommittee and developed an expertise on health and environmental issues, Waxman's ascendancy to the subcommittee's chairmanship would have been unremarkable. Indeed, it would have conformed to one of Congress's most honored traditions, the "seniority rule," which from the early 1900s until the early 1970s was the most important criterion for choosing the heads of all the House's committees and subcommittees.

Schattschneider's writings. See also *The Struggle for Party Government* (College Park: University of Maryland, 1948); *Two Hundred Million Americans in Search of a Government* (New York: Holt, Rinehart and Winston, Inc., 1969); and, most famously, *The Semisovereign People: A Realist's View of Democracy in America* (Hinsdale, Ill: The Dryden Press, 1975).
[17]Schattschneider, *Party Government*, p. 2.

In fact, nothing about Waxman's elevation complied with the traditions and norms of the House of Representatives and thus became the focus of much discussion at the time, for three reasons.[18]

First, Waxman was a very junior member of the House, one of seventy five Democratic members who had been elected to that body in 1974 and collectively earned the sobriquet "the Watergate babies" because their elections were in considerable part a repudiation of Republican incumbents who had unwisely linked their fortunes with those of the accursed Nixon Administration. Second, Waxman's election was one of the first cases since the taming of the House Speaker's vast institutional powers and the adoption of the seniority rule in 1910 that House Democrats dispensed with seniority in allocating subcommittee chairs: Waxman's rival for the position, Representative Richardson Preyer (D-NC), was an able, widely respected Democrat who had served on the Health Subcommittee six years longer than Waxman.[19] Third and most interesting, Waxman actively solicited the leadership position by stressing his strong liberal credentials and forming a political action committee (PAC) early in the 1977-1978 election cycle that made a total of $24,000[20] in campaign contributions to every Democrat on the full committee.[21] In a close race, Waxman defeated Preyer by 3 votes (15-12).

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[18]Barbara Sinclair, *Majority Leadership in the U.S. House* (Baltimore: The Johns Hopkins University Press, 1983), p. 9.
[19]Michael Barone and Grant Ujifusa, *The Almanac of American Politics, 1994* (Washington, D.C.: National Journal, 1993), p. 159.
[20]Waxman's PAC made an additional $18,950 in contributions to Democrats who did not sit on the committee, most of whom were challengers, not incumbents.
[21]In the 1977-1978 election cycle, this PAC was registered under the name "Friends of Henry Waxman" with the Federal Election Commission. Since then, it has been named after Waxman's congressional district: "24th District California PAC" and, following

Representative Waxman's meteoric rise to the subcommittee's chairmanship is anecdotal. Nevertheless, it suggests that the Congress to which Henry Waxman and Richardson Preyer belonged in 1978 did not operate by the same norms, rules, and customs it had during the 1912-1974 period. In the House's earlier incarnation, seniority was effectively the sole criterion for allocating leadership positions; conservative southern Democrats representing "safer districts" than their northern, more liberal peers routinely amassed the seniority necessary to chair a disproportionately high number of powerful committees compared to their numbers on the floor and the more liberal dispositions of most House Democrats; junior members were expected "to be fairly unobtrusive, to do their homework, and not to take too noticeable a part in floor debate;"[22] and political action committees were obscure and legally dubious campaign contribution devices whose use had been restricted to organized labor.

It is inconceivable that a liberal Democrat fitting Representative Waxman's description could have attained, under the 1912-1974 House regime, the heights he did with such brief service and against a widely respected, more senior southern rival. That several other junior members of the House and Senate soon imitated Waxman's example, with varying degrees of success, suggests that Waxman's swift rise was not an isolated

redistricting in 1991, "29th District California PAC." Waxman abolished the PAC in 1993 because of the negative publicity it perennially attracted to him. In 1994, Senator Edward Kennedy (D-MA) closed his PAC, the Fund for a Democratic Majority, when he decided to support unsuccessful legislation last year to ban MPACs.

[22]Barbara Hinckley, *Stability and Change in Congress* (New York: Harper and Row, 1988), p. 107.

case but rather an unambiguous signal that altered rules on a variety of levels -- electoral, institutional, and party -- had combined to generate unexpected and perhaps undesirable outcomes inside the Congress.

The central questions raised by Waxman's case and the many imitators it has since spawned arise from the third element that precipitated Waxman's climb to the subcommittee chairmanship: What conditions and expectations prompted Representative Waxman (and since 1978 approximately 84 other congressional members, see appendices 1 and 2) to undertake the unprecedented and controversial step of forming a political action committee?

More generally, what do Waxman's PAC and the motivations for its formation tell students of the American Congress about the norms and rules guiding Congress today compared to those that guided the 1912-1974 legislative regime?[23] Campaign contributions by a congressional member to his committee colleagues in exchange for their anticipated support would have been undignified and plainly gratuitous as long as the strict seniority rule prevailed. What does Waxman's PAC tell students of American political parties and elections? Waxman's own reelection campaign presumably would have been aided by money he raised largely from health care, insurance, and pharmaceutical interests and directed to his colleagues' campaigns in 1977-1978. Finally, what does Waxman's PAC tell students of public policy about the consequences of reform-oriented government initiatives? Waxman's PAC would have been legally suspect

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[23]In his study of the history of congressional oversight, Joel Aberbach refers to the 1912-1974 as the "classical period," in *Keeping a Watchful Eye* (Washington, D.C.: Brookings Institution, 1990). The author will frequently use this designation.

in the period before Congress enacted comprehensive campaign finance reforms to curtail big money contributions to federal campaigns and to encourage the modest financial participation by individuals and interest groups. Yet the PAC's formation, legal though it was, was arguably a betrayal of the good intentions that accompanied these reforms.

III. The Institutional Background: The Broad Context Matters

Most literature on the history of FECA gives short shrift to the larger political context in which the act was adopted and has since evolved (see Chapter Two). It has preferred to judge FECA chiefly on the basis of the act's impact on the financing of campaigns. Concluding that this impact has been far less than was intended, and sometimes even at variance with the act's intentions, this literature has variously castigated FECA "for (having) more loophole than law,"[24] rebuked the Federal Election Commission for its "toothlessness"[25] in investigating and prosecuting violations of the act, excoriated Congress for passing legislation its members have artfully disobeyed,[26] and called for stricter regulations of campaigns.

Many of the literature's empirical observations have merit. FECA has presided over a campaign environment that in 1995 seems

[24]E. Joseph Dean, "Statutory Comments: Undisclosed Earmarking: Violation of the Federal Election Campaign Act of 1971," *Harvard Journal on Legislation*, 10 (1973): 175-97,
[25]Rick Wartzman, "Election Panel's Budget May Be Cut Following Crackdown on Lawmakers," *Wall Street Journal*, 18 August 1994, A14.
[26]Richard L. Berke, "The Agency Congress Loves to Hate," *New York Times*, 17 July 1994, sec B, p. 3.

qualitatively no better than it was 25 years ago, only different in appearance. *Why* so little has changed for the better remains the central question that the literature has not convincingly answered?

This dissertation contends that two omissions in the literature account for its failure to explain why FECA's achievements have been fewer than its proponents anticipated. First, the literature has unwisely separated the campaign environment from the broader political one of which campaigns are only one part. In doing so, it has underestimated the possibility that non-campaign factors may be as responsible for the shortcomings associated with FECA as the act itself is. Second, the recent literature has not attended to the campaign system that existed before FECA's 1971 passage with the same care and thoroughness it has the current campaign system. In failing to do so, the literature has failed to notice that the most serious problems for which FECA has been held responsible existed in a strikingly similar form long before the act's adoption.

The literature's narrow focus has engendered considerable misinformation about FECA's operation and purported failures that this project intends to dispel.

By placing FECA's evolution in the larger, non-campaign environment that has shaped it, this dissertation intends to show that one of the act's most criticized features -- its tolerance of membership PACs -- derives from factors over which FECA has had limited jurisdiction. FECA appears responsible for MPACs only when MPACs are considered exclusively in terms of the federal campaign finance regime under which they have flourished. When the campaign finance system is narrowly framed, criticisms of it assume a rough causal form that is at once simple and deceiving: (a) the current campaign finance system legalized the widespread use of political action committees in the financing of campaigns, a provision that (b) spurred junior members of Congress like Henry Waxman to form personal PACs as a means to advance their political careers and causes, the proliferation of which (c) is a vivid and unsettling reflection of the extent to which entrepreneurial politics has replaced the robust party systems that structured American elections and politics from 1801 to approximately 1968.[27]

Is this facile statement of the problem correct? To answer this question, this dissertation will address four propositions:

First, if it can be demonstrated that one of the act's most criticized consequences -- the emergence of MPACs -- was caused largely by factors beyond FECA's jurisdiction, then campaign finance theorists might be wise to broaden their conception of campaign finance before calling for a new regulatory system. Otherwise a new system may prove just as disappointing to them as FECA has.

Second, if it can be established that many of the problems for which FECA has been blamed flourished in a strikingly similar form for several

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[27]The standard history of strong party systems organizes these systems into five periods: (1) 1801-1814; (2) 1815-1852; (3)1853-1892; (3) 1896-1931; (4) 1932-1980. In Paul Kleppner, Walter Dean Burnham, Ronald P. Formisano, Samuel P. Hays, Richard Jensen, and William G. Shade, *The Evolution of American Electoral Systems* (Westport, Conn.: Greenwood Press, 1981. Sidney Blumenthal suggests, however, that a distinct sixth party system emerged after 1968, in which the "permanent campaign" replaced the alternating dominance of the two major parties. In *The Permanent Campaign* (New York: Simon and Schuster, 1982).

decades before the act's implementation in April 1972, then strong party advocates might want to reappraise the widely held opinion that since current campaign finance laws have substantially contributed to party decline and the demise of the party system, they must be reformed to help reverse this decline.[28] This dissertation will argue that the main problems associated with FECA can be traced all the way back to the 1896 election and have dogged federal elections ever since. Ugly and unsightly though they were to "good government advocates" during the early and middle twentieth century, these problems were insufficient to prevent the strong party systems of 1896-1931 and 1932-1968.

Third, if it can be demonstrated that many of the factors responsible for or associated with unseemly campaign finance practices are themselves cherished American values, or are in some sense reflections of them, then campaign finance observers might want to ask themselves the hard question of how much a new regulatory system can accomplish on behalf of better campaigns before it begins to threaten the very values it is designed to serve. A central axiom of this dissertation is that democratic elections, perhaps America's most treasured political good, are mediated by campaigns. Campaigns in turn require enormous, even unnerving and aesthetically unpleasing amounts of money to be waged effectively.

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[28]David E. Price, *Bringing Back the Parties* (Washington, D.C.: Congressional Quarterly Press, 1984), pp. 239-262; Steven Stockmeyer, "Commentary," in *Parties, Interest Groups, and Campaign Finance Laws*, ed. Michael J. Malbin (Washington, D.C: American Enterprise Institute for Public Policy Research, 1980), 309-313; Austin Ranney, "The Political Parties: Reform and Decline," in *The New American Political System*, ed. Anthony King (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1978), 241-245.

Fourth and most important, if it can be plausibly argued that "free-riding" and effective collective action are not only NOT mutually exclusive -- a highly counterintuitive position, to be sure -- but can, under the right circumstances, *actually promote* the interests of both the "free rider" and the group of which he is a member, then the future for responsible party systems may not be so grim as many strong party proponents believe. The following two sections expound on this proposition.

IV. Party Decline and Party Resurgence: Proposing a Twist on Olson's Free Rider - Effective Collective Action Problem to Explain the First and Predict the Second

A. Olson's Theory of Collective Action

Mancur Olson's *The Logic of Collective Action: Public Goods and the Theory of Groups* states that

> organizations ... are all supposed to work primarily for the common interests of their members. Purely personal or individual interests can be advanced, and usually advanced most efficiently, by individual, unorganized action. There is obviously no purpose in having an organization when individual, unorganized action can serve the interests of the individual as well as or better than an organization ... But when a number of individuals have a common or collective interest -- when they share a single purpose or collective interest -- individual, unorganized action will either not be able to advance that common interest at all, or will not be able to advance that interest adequately. Organizations can therefore perform a function when there are common or group interests, and though organizations often also serve purely personal, individual

interests, their primary function is to advance the common interests of groups and individuals.[29]

From this general description of why organizations form, Olson propounds his famous "logic of collective action" to explain why some organizations are more effective in satisfying their interests than other organizations are as they all vie for a share of limited public resources. Effective organizations, according to the author, invariably possess the authority to coerce and encourage their members to support actively and energetically the organizations' goals. In the absence of these "selective incentives," however, some or most of a group's members will find it in their interest to "free ride," to shirk their responsibilities to the group, hopefully trusting that their peers will perform the "dirty work" from which they will benefit anyway. If enough members share this attitude, the group's effectiveness will suffer considerably. In the worst case, nobody will benefit at all.

Olson's contribution to political science -- and in particular pluralism, democratic theory, and group theory -- has rightly been enormous. When a group is organized in such a manner that free riding becomes an attractive alternative to its members, the group is not likely to be very successful in attaining its goals, notwithstanding the merit of its cause, the size of its membership, or the degree to which it perfectly mirrors the interests of society as a whole. It will likely lose out to a competing, perhaps smaller and less deserving group that has the

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[29]Mancur Olson, *The Logic of Collective Action* (Cambridge: Harvard University Press, 1965), p. 7.

authority to punish potential free-riders and to maintain discipline over the rank-and-file.

B. More on Olson's Free Rider Problem

Under Olson's deceptively simple formulation of the problem, free riding is a passive, essentially "do-nothing" stance by a rational group member who assumes, usually incorrectly, that his group includes enough active, "do-something" members to promote and satisfy the collective interests he supports as much as anyone. The effective group adopts disciplinary measures that punish free riders and compel everyone to participate actively in the life of the group. The same self interest that encourages the member to do *nothing* for the first group, because he can get away with it and still partake of the group's successes, induces him to do *something* for the effective group, because he will suffer retribution of some kind if he refuses.

This grotesque simplification conveys the essential character of Olson's work. The point of departure for this dissertation is that neither Olson's strongest disciples nor his most vociferous critics have seriously challenged the dichotomous character of the free-rider v. effective collective action problem. They all agree, on the one hand, that free riders contribute *nothing* to their group and so thwart the group from achieving its maximum potential impact on how fixed resources are to be distributed among competing groups and, on the other, that effective collective action occurs when free riding is minimized and group members rally around and *actively support* the group's goals. Rampant free riding and effective collective action cannot coexist. The prevalence of the former frustrates the emergence of the latter. In short, free riding and effective collective action are mutually exclusive.

Rather than focus on this stark dichotomy, which seems so self-evident as to be a truism, critics and supporters have preferred to explore the larger economic and political environment that Olson's parsimonious theory purports to explain. Olson's critics, like the Marxist theorist Claus Offe, have concentrated on how "economic structure" and the mode of production sharply curb free-riding among capitalist groups and generously sow it among labor organizations, making the former considerably more effective than the latter.[30] Countless other scholars have summoned Olson's logic to help explain such things as the existence of "iron triangles" in Washington, the advantages that producer groups have over consumer groups, and so on.

Critics and proponents alike have embraced the premise that where selective incentives are present, free riding is mostly absent, and where selective incentives are absent or scarce, free riding is pronounced. They have differed only on which groups in a society are especially susceptible to free ridership, and why.

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[30]Claus Offe, "Two Logics of Collective Action," in Claus Offe, *Disorganized Capitalism* (pp. 170-220.

C. Relating Olson's Theory to the American Party System

Significant to this dissertation is Olson's observation that "a purely political organization -- an organization that has no function apart from its lobbying function -- obviously cannot legally coerce individuals into becoming members. A political party, or any purely political organization, with a captive or compulsory membership would be quite unusual in a democratic political system."[31]

The party system literature seems to have accepted this observation at face value. Strong party advocates who lament "the increasing irrelevance of American parties"[32] in the aggregation and articulation of interests have found it unnecessary to invoke Olson's observation to account for party decline, much less use it to anticipate the rebirth of the strong parties. Indeed, the very suggestion that his seminal book -- and particularly its insights about free-riding -- can be implicated in party revitalization as well as party decline would doubtless strike strong party advocates during moments of charity as counterintuitive, during moments of reserved candor as a non-start, and during moments of absolute honesty as nothing less than sheer stupidity, even madness.

The absence of *The Theory of Collective Action* in the standard literature on party systems and party decomposition may be due, therefore, to a conviction that it states the obvious and is the very last place one would look for hope that a return to a responsible party system will occur

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[31]Olson, *The Logic of Collective Action* , p. 133.
[32]Wattenberg, *Decline of American Political Parties*, p. 58

any time soon. To relate party enervation to Olson's free rider problem is a tenable if gratuitous exercise; American parties are manifestly weak organizations because they lack the selective incentives with which to discipline and reward members. To speak of a "free rider promise" is quite another; parties will remain weak as long as the political candidates wearing their labels are able to finance their campaigns without the selective incentives of their parties.[33]

Of course if they were pressed, strong party advocates who have discerned "the onward march of party decomposition"[34] over the past 30 to 40 years could easily add Olson's observation to a set of more prominent reasons explaining why "dealignment" has progressed steadily since 1968, and why parties have become increasingly "irrelevant"[35] to electoral politics. They might contend that the proliferation of PACs and other private sources of campaign money since the early 1970s, as well as the arrival of television as the dominant instrument for political candidates to communicate their messages to voters, have induced candidates to bypass their national and state parties.[36] Replacing the parties have been independent, "candidate-centered" campaigns that eschew party programs

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[33]Its absence in the party system literature may also be due to a conviction that Olson's theory is essentially an economic one better suited to explaining the groups in civil society that compete against one another to influence how limited public resources are to be distributed among themselves than to explaining explicitly political groups like the two parties that offer alternative visions of how their members think limited public resources ought to be distributed among the groups occupying civil society.
[34]Walter Dean Burnham, "American Politics in the 1970s: Beyond Party?" in *The American Party Systems: Stages of Political Development*, 2d ed., edited by W.N. Cambers and Walter Dean Burnham (New York: Oxford University Press), chapter 11.
[35]Wattenberg, *Decline of American Political Parties*, pp. 50-72.
[36]Blumenthal, *The Permanent Campaign*, pp. 17-26.

and appeals and stress non-party factors like constituent service, pork-barrel projects, ombudsmanship, and the candidates' personal qualities.

After listing these modern campaign conditions, strong party advocates might conclude with Olson's observation that "there is obviously no purpose in having (a party) organization when individual (entrepreneurial) ... action can serve the interests of the individual as well as or better than an organization."[37] Party decomposition has occurred apace because candidates no longer depend on their parties as they did in the pre-television period, when party workers and resources played a crucial mediating role between candidates and voters, and candidates either supported assiduously their party or did not and risked forfeiting this crucial campaign assistance. Parties have since become superfluous to candidates. As such, candidates no longer feel compelled to identify their candidacies with their parties' official programs. The disappearance of official programs from campaign discourse in turn has made parties irrelevant to voters.

To be sure, it would be hard to disagree with anyone who might claim that Olson's *Logic of Collective* offers a compelling ancillary explanation of why party decomposition occurred at an almost breath-taking speed between 1965 and 1980. As candidates for office increasingly ran and won without the "selective incentives" of their parties, their motivation to support actively their parties' programs perforce ebbed.

New electoral strategies appeared that consigned parties to the sidelines. "Candidate free ridership" assumed the form of a candidate

[37]Olson, *Logic of Collective Action*, p. 133.

donning a party label merely to inform strong party adherents whose votes the candidate wanted that he at least nominally shared their political values and deserved to be supported on election day. Lip service to the party, on the one hand, and constituent service to the voters, on the other, were the twin materials from which a candidate constructed a winning electoral coalition after 1968. Assiduous cultivation of special interests, often located outside a candidate's district or state, completed the new electoral strategy, securing a candidate's financial coalition and enabling him to finance competitive, media-oriented campaigns without recourse to his party.

There is no doubt, then, that Olson's theory can be deployed in its original form to explain persuasively the onset of party decomposition in the 1960s. How compelling is Olson's theory, however, in explaining not the *emergence* of party decomposition but its *long-term endurance and progression*? At first glance, it might seem exceptionally compelling. As long as candidates remain independent of their parties for campaign resources, a condition that is likely to persist in the foreseeable future, they would seem to have no incentive whatsoever to support actively the programs and goals of their parties. Provided they remain attentive to constituent interests and campaign contributors, members of the Senate and the House can expect to be returned to office as often as they desire.[38]

Is Olson's theory *still* compelling in explaining the endurance of party decomposition when a more subtle view of parties is embraced by

[38]Between 1982 and 1992, senators running for reelection won approximately 78% of the time. Members of the House won approximately 93% of the time. The odds clearly favor incumbents.

the researcher who subscribes to his theory but wonders if there is more to it than a generation of supporters and critics has assumed? This dissertation suspects that the theory not only cannot explain long-turn party decomposition, but in fact can only anticipate the recomposition of responsible parties, provided the researcher considers the impact of congressional parties on the condition of the national party system.

Supporters of strong parties have concentrated their focus largely on the degree to which voters feel psychologically attached to one party or the other and tend to see political matters as other party sympathizers do. Less studied has been the degree to which members of Congress support their "congressional party" on matters of importance, no doubt because most congressional scholars have accepted almost as an article of faith that congressional parties since the late 1960s and the early 1970s have declined along with voter partisanship and are therefore less important to study than congressional entrepreneurship, candidate-centered elections, committee and subcommittee activities, etc. Even less studied are the chords linking the behavior of congressional parties with the electorate's partisan attachments and voting choices. Only recently have scholars questioned the prevailing assumption that congressional parties are weak. How might the behavior of congressional parties, *particularly House congressional parties,* influence voters' partisanship?

D. Cox and McCubbins' "Legislative Leviathan:" How Remedies to Collective Action Problems in the Congressional Party Affect Party Programs

A couple of recent, exceptionally provocative studies suggest that the ease with which pundits have separated declining partisanship among the electorate from the condition of "congressional parties" has contributed to the generally pessimistic and possibly wrong impression of the future of party government in the United States.

Cox and McCubbins, and Rohde demonstrate that party cohesion in the House of Representatives is far higher and more impressive than is popularly thought, despite the extent to which members finance their campaigns with PAC money and eschew their parties' assistance.[39] Moreover, they demolish the conventional belief that congressional leaders are institutionally weak and that rank and file members are essentially political entrepreneurs pursuing their own personal agendas to the detriment of their parties.

Cox and McCubbins are particularly relevant to this study because they model legislative agency more precisely than most of the congressional literature. They argue that rational interests have prompted the rank and file in recent decades to empower congressional leaders -- the speaker, party floor leaders, party whips, and so on -- to foster party cohesion inside the legislature and curb congressional free-riding and

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[39]David W. Rohde, *Parties and Leaders in the Postreform House* (Chicago: University of Chicago Press, 1991); Gary W. Cox and Mathew D. McCubbins, *Legislative Leviathan: Party Government in the House* (Berkeley, Calif.: University of California Press, 1993)

entrepreneurship, constraining when necessary but in no way eliminating rank and file autonomy. Even junior members whose first inclination is to resist party mandarins and "go it alone" have assented to this arrangement, Cox and McCubbins contend, because a member's party record still matters on election day: "substantial components of a party's record affect all its members similarly: for example, all are hurt by scandal or helped by perceptions of competency, honesty, and integrity; all or nearly all are helped by the party's platform, when taken as a package ... party record can be changed in ways that affect the vast majority of party members' reelection probabilities ... the electoral fates of members of the same party are tied together."[40] Elsewhere they observe in tones recalling Olson: "the party's reputation, based on its (legislative) record is a public good for all legislators in the party."[41]

Since the party record is a collective good, the member will not usually help promote it unless he is forced to do so. Instead he will hopefully assume that his party peers will minister to the needs of the party, compiling a record of achievement he can opportunistically affix to

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[40]Cox and McCubbins, *Legislative Leviathan*, p. 112. The authors include "three sets of results (based on House election statistics between 1948-1988)... to show both that there really is a common element in the reelection fates of (House) incumbents of the same party and that it is large enough to be worth doing something about," p. 117. They find that "an incumbent with an initial probability of victory of .90 would suffer a decline of .03 (to .87) were unexpected events to generate a one-percentage-point decrease in the swing to her party. A five-percentage point decrease would produce a decline of .208 (to .692). The interpretation ... is that the unobserved forces that harm other members of the party also hurt the member in question. In other words, the common factors in the reelection chances of incumbents of the same party are large enough that the chances of each can be predicted by the average experiences of the rest," pp. 116-117.
[41]*Ibid.*, p. 123.

his own less partisan, more entrepreneurial record that will impress his constituents on election day and return him to office.

Under this inviting free-rider climate, no member will support the needs of his party, the party will suffer, and the member's reelection will be far more difficult than it could have been. Hence the "legislative leviathan," authorized to make the party member with entrepreneurial instincts do what is in his own self-interest: support his party program in order to stay elected.[42] Reinforced by Rohde's study of the reduction of sectional divisions within the parties and reforms of congressional rules and procedures starting a generation ago, the authors argue that party cohesion is exceptionally high on "issues of importance."

Theirs is a significant contribution to legislative studies that agitates and possibly shatters the dominant view that procedural reforms adopted a generation ago "in the name of democracy" conspired to make Congress a more unwieldy, less cohesive institution than it had been for most of the

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[42] The "legislative leviathan" refers to House party leadership and the selective rewards and punishments at its disposal to foster party cohesion. Cox and McCubbins find that the leadership has considerable leverage over potential free riders. Committee assignments and transfers are one area in which the leadership can reward and punish rank and file members: From the 80th to the 100th Congresses "more than 40 percent of freshman assignment requests and nonfreshman transfer requests are denied by the Democratic CC (Committee on Committees. More than 30 percent of entering Democratic freshmen fail to get their most-preferred committee assignment even by the end of their third Congress. Almost 10 percent of freshmen fail to get any of their initially requested committee assignments even by the end of their fifth Congress," pp. 43-44. These findings "imply a positive correlation between a member's loyalty to the leadership and his or her chances of receiving preferred committee assignments," p. 22. The authors also find that "the committee government model ... the idea that members, once appointed to a standing committee, are automatically ensured security of tenure and promotion by seniority and has led to committee autonomy "is invalid", p. 45. The authors' main point is that party cohesion in the House exists to a considerable degree because the party leadership has the power to maintain discipline. The bottom line is that party loyalty matters a lot more than is customarily thought. Neither rampant entrepreneurship nor (sub)committee government explain how the House really works.

twentieth century. Indeed, the authors contend that House reforms of the 1970s were heralded by party leaders as a way to enhance their control of the legislative agenda (see Chapter Four).

The book's single weakness is that the authors do not extend the rational choice and game theory implications of their analysis far enough. Seeing the "legislative leviathan" as a rational choice "safeguard" against the disappearance of programmatic cohesion that would surely result if discipline were absent and rampant entrepreneurial behavior and free-riding allowed to flourish, Cox and McCubbins are content to conclude that this leviathan disciplines members when doing so advances "issues of importance" to the congressional party, issues that are themselves portrayed as exogenous, fixed, immutable, and beyond challenge. Rather than explain how these "issues of importance" come into being, how they are defined, or how they can be changed, the authors assume the existence of these issues and focus on why and how they are supported. This leads them to make a tautology: the leviathan appears whenever issues of importance are up for a vote, issues are important whenever the leviathan appears, party members obey the leviathan whenever its appears, and the leviathan has carried out its mission whenever a majority of party members has supported a particular issue on the party agenda.

The authors leave unanswered the provocative question of why the rank and file should not be expected, from the same rational impulses that cause them to authorize the leviathan to punish free riders and foster party cohesion at one time, to concoct ways to circumvent the leviathan that do not invite punishment at a later time. Why should members be expected to behave this way? *In order to become part of the leviathan, to secure the very House leadership positions whose institutional powers make the leviathan the principal source of party cohesion.*[43]

The work of Richard Fenno is abandoned precisely at the point where its implications become most interesting.[44] The legislative leviathan the members authorize may, as Cox and McCubbins assert, foster the kind of congressional party cohesion that plays well "back home" and thus helps secure *reelection*, the first of three goals that Fenno reports the average member seeks to satisfy. But this same juggernaut, operating even as it does within sharply specified limits that still makes entrepreneurship possible, would presumably make Fenno's other two intra-institutional goals -- *prestige* and *good policy* -- much more difficult to achieve for a rank and file member willing to obey the leadership and "be a back bencher" against his own desire to stand out, develop his own congressional power base, and amass institutional power and prestige.

Plainly it is unlikely that a member fitting Fenno's description would happily subordinate or postpone indefinitely his own ambitions to the imperatives of his congressional party and so resign himself to a career of obscurity, glacial advancement, or spotty and infrequent policy achievement, even if doing so helped him achieve the initial goal of reelection through his demonstration of fealty to his party. Reelection for the sake of reelection simply makes no sense in Fenno's legislative

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[43]Cox and McCubbins, *Legislative Leviathan*, p. 93; p. 133; p. 135.
[44]Richard Fenno, *Home Style: House Members in their Districts* (Boston: Little, Brown, 1978).

cosmology.[45] Reelection is a means to prestige and good policy, not an end in itself. Yet if Cox and McCubbins' findings about strong congressional parties are correct, the same ambitious member knows all-too-well that the legislative leviathan will discipline and punish him if he pursues his policy and/or career ambitions in ways that appear to undermine the congressional party's interests and harm his party colleagues' electoral fortunes. The member may, for example, be denied a transfer request to a committee on which he must sit to satisfy his own particular policy goals.

The challenge confronting the rational member, it would seem from the logic of Cox and McCubbins, is to rise above the obscurity that obedience to the party leadership portends. Only in this way can he amass the support he needs to one day become part of the leadership. More precisely, his challenge is to build a legislative constituency with which to advance policy and/or career goals *without* going so far as to antagonize the leviathan and invite the retribution that might sabotage a member's policy and/or career goals.

In short, the rational desire to evade the very discipline the leviathan engenders and stand out in the House so as to foster support for individual policy goals and advancement is a feature that Cox and McCubbins do not entertain in their otherwise outstanding analysis. Olson similarly does not consider this possibility in his analysis of "effective groups." It is sufficient for these writers to observe that: (1) since effective groups have the means to punish free riders and reward obedient,

[45]There are, of course, competing cosmologies that treat reelection as an end in itself, most notably David R. Mayhew, *Congress: The Electoral Connection* (New Haven: Yale University Press, 1974).

conformist members (2) potential free riders get the message and fall into line which (3) perpetuates the group's effectiveness. Theirs is a vaguely static statement of the issue: the effective group's goals are of a fixed character that members can only support, not challenge or try to change.

Yet intuition and the logic of their own arguments suggest that a rational desire for a group member to free ride must persist even after the member has been induced by his own self interest to support coercive measures to curb free riding in his peers. If it does, the calculating member can be expected to do things that aim to further this desire without crossing the leviathan and destroying his congressional career. If he tries too hard to placate it, however, the ambitious member will destroy his career by consigning it to obscurity. In the most literal sense of the term, the ambitious member must be "politically correct" in the execution of his or her objectives.

Thus by the logic of Fenno, Cox and McCubbins, and Olson, the leviathan's very existence, designed to reduce free-riding among party members, would seem to guarantee subsequent entrepreneurial evasions.[46] Cox and McCubbins do not address this part of the issue, preferring to emphasize the many instances in which the leviathan has been empowered to discipline and punish errant members when they refuse to support an existing set of party imperatives.

Their silence on this last matter raises considerable questions about the relationship among campaign finance, membership PACs, and party

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[46]Fenno, *Home Style*; Cox and McCubbins, *Legislative Leviathan*; Mancur Olson, *The Logic of Collective Action.*

government. The strong party loyalty that critics bemoan is in frightfully short supply among the electorate and inside Congress in fact appears to exist to an impressive degree inside the House of Representatives, and precisely in the way strong party advocates say it should be achieved: with discipline, accountability, and strong party leaders -- all of them "selective incentives," in Olson's language.

In short, the strong party system inside Congress, intended to play well back in a member's district, by its very existence would seem to spawn, indeed necessitate, entrepreneurial activity if we accept Fenno's and Olson's observations at face value. *Strong institutional positions* that cannot be shared have caused members to covet them (speaker, party leader, whip, certain committee positions). After all, prestige and good policy are considerably more difficult to secure without them. *More democratic procedures* in congressional party caucuses governing how these positions are allocated have impelled members to compete against one another to secure them (see Chapter Four).[47] To secure one of these positions, a member must give his colleagues a compelling reason to support his candidacy over his rivals in the party caucuses. And to triumph he must distinguish himself from the reigning party leadership and agenda he is supposed to follow by: (1) showing he can lead the party more ably than anyone else and/or (2) proposing a better, more electorally appealing party agenda than the present one. The leadership candidate

[47]As long as the strict seniority system operated, there was plainly no reason for a member to campaign for senior committee positions, all the more so if he was a junior member. Length of service was all that mattered. Concerning elective party positions like speaker and party leader, the criteria for election before the 1970s included personal reputation, mastery of parliamentary rules, district location, and ability to build coalitions.

must be different from everyone else in his party, but in a way that does not smack of party disloyalty.

The temptation for a member to "free ride" becomes apparent. Only free riding has to be done in crafty, counterintuitive ways that do not antagonize party leaders and party colleagues. The incentive to form an MPAC becomes a little clearer.

Free riding under these formidable institutional constraints thus entails certain start up costs and considerations not included in Olson's classic formulation of the problem. Free riding in the case at hand assumes the paradoxical form of actually *helping* the party in the short run, and in ways that, if carried far enough, serve by their own logic to change the party's fundamental character in the long run. In the campaign to lead the congressional party, leadership candidates must out do their party rivals, trusting that the back benchers whose caucus support they solicit will faithfully support the existing party agenda and thus send a united party signal to the voters that will advance the party's collective interests on election day.[48]

The provision of money by leadership aspirants to colleagues has modestly helped the congressional party in the short run, and starting in 1978 with Representative Henry Waxman MPACs have been the preferred means to provide it. Yet it has been easily and widely imitated in a campaign system in which money has never been in short supply. As the competitive edge that money contributions once gave a leadership

[48]The back benchers, then, are expected to produce what McCubbins and Cox call "collective benefits legislation."

candidate has become blunted by imitators, something far more substantial has been needed to secure the support of undecided party colleagues. The slide from dollars to party ideas, and from ideas to an alternative party vision on which the rank and file can campaign, has thus taken place. Again, the MPAC has been the means to do this. After all, nothing in FECA restricts PACs to raising and giving money. Significantly, almost nobody has noticed this.

V. Tying It All Together: One Party System's Free Rider Problem is the Next System's Free Rider Promise: Membership PACs, Self-Interest, and Party Renaissance

A. Back to Membership PACs

The rather glib indictment of MPACs that Joshua Goldstein offers at the opening of this chapter is possible only when no account is made of the formidable institutional constraints that all legislators must reckon with as members of either the House or the Senate. The hyper-party system that critics fear is on the rise simply is not in a member's self-interest to stoke as long as the satisfaction of his own career objectives depends not only on the immediate goal of reelection, but also on his getting elected to a leadership position or powerful (sub)committee chair, an aspiration that itself depends on his party's attaining or retaining a majority of seats in his branch of the legislature. As Cox and McCubbins persuasively argue, for a party to attain or retain a majority of legislative seats, it must evince a high degree of cohesion and solidarity when central elements of the party agenda are up for a vote.

The important -- and routinely ignored -- point is that Fenno's three individual goals -- especially institutional prestige/power and good policy -- sooner or later become inextricably linked to the fortunes of the member's congressional party. As long as this holds true, congressional parties must be far stronger and more united than popular opinion has come to believe. Members of Congress appreciate this better than anyone, and have created "the legislative leviathan" to foster the high degree of party cohesion and discipline that would never materialize in its absence.

But cohesion for what?

Party cohesion is a means to secure a particular set of party ends that is expected to play well back in the member's district and thus help the congressional party on election day. "(P)arty records have at least a 'noticeable' impact on the reelection probabilities of their members ... there is a common element in the electoral chances of members of the same party."[49]

Cox and McCubbins do not extend their study to include the content of the party program, or its capacity to be changed. They prefer to argue merely why it is in the members' self-interest to have it enacted: it helps him get reelected.[50] Nevertheless, the authors make two implicit, very

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[49] Cox and McCubbins, *Legislative Leviathan,* pp. 120-121.

[50] The party program, which Cox and McCubbins call the "party record ... refers to the things that might go into a voter's evaluative process ... (it) include(s) actions -- and even beliefs -- in addition to outcomes. A party's record, thus, is a commonly accepted summary of the past actions, beliefs, and outcomes with which it is associated. Of course, it is quite possible under this definition that some aspect of a party's record (some particular action, belief, or outcome) will help some of that party's incumbents, have no effect on some, and

important points that strong party advocates must consider before they elegize the passing of the two party system as the preeminent instrument for interest aggregation and articulation, and start predicting the rise of "Weimar America:" (1) party ideas and programs must still matter to voters, else the congressional party would not employ instruments of coercion and selective incentives to make sure they are enacted; and (2) because they still matter to voters, party ideas and programs must be attractive, else the electorate will oppose the reelection of the member who supported them during the previous congressional session. If these points hold true, then the ambitious member should be expected to take a personal interest in defining just what his party's ideas and programs are, and challenging and changing them when their enactment either harms his party's prospects or has no effect on them at all. After all, his legislative future partly stands or falls on them, even if his own reelection is assured.

Moreover, if these points hold true, then Martin P. Wattenberg's assertion that voters harbor not so much negative feelings toward the parties, contra Nie, Verba, and Petrocik,[51] as they do *neutral* feelings might be a supremely accurate reading of National Election Studies data. As such,

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hurt still others. This does not mean that the party's record varies from district to district, but just that evaluations of it vary. A party's record is best understood as the central tendency of mass beliefs rather than as a single primordial belief with which everyone is somehow endowed ... there is generally a systematic and more or less "correct" component in mass opinions about the parties. Moreover, because district perceptions of what actions, beliefs, and outcomes should be associated with the parties are averages of individual perceptions, the systematic component in district perceptions is larger and the idiosyncratic component smaller. Thus, incumbents -- who, electorally speaking, face district rather than individual perceptions ... of the party record -- tend to be faced with a similar perception of their party record, regardless of where they run," pp. 110-111.

[51]Norman H. Nie, Sidney Verba, and John R. Petrocik, *The Changing American Voter*, (Cambridge, Mass.: Harvard University Press, 1976).

it should come as welcome news to strong party advocates who have puzzled over just what obstacle(s) need to be overcome before a party renaissance can take place.[52] A loss of trust in government? A deep-seated dislike for parties? Bad campaign finance laws that have hurt the parties? Or simply a failure to return content to the party and communicate it to the voters?

If Wattenberg's assertion that voters customarily thought to be "negative" toward the two parties are more apt to be "neutral" and, further, are more likely to be "no-preference nonpartisans" than "Independents," then the parties and their most ambitious members unquestionably have a rational interest in emphasizing ideas and programs once again. Not because it is the "responsible" thing to do, not because it will restore faith in public institutions, not for any similar high minded reason, but because a return to programs after a generation in which they have played second fiddle to candidate-centered campaigns is the most promising way for a congressional party to win the support of the vast bloc of uncommitted voters who have grown weary of a politics devoid of content and perhaps secure the chamber majority an ambitious member needs if he is to ever lead it. Neutral attitudes are presumably easier than negative attitudes to convert into support for one or the other party.[53] The only problem is, Who is to define party programs so as to increase their salience among a neutral electorate and impel voters to elect their supporters to office?

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[52]Wattenberg, *Decline of American Political Parties*, pp. 69-72.
[53]*Ibid.*, p. 71.

In Cox and McCubbins' conception of congressional behavior, then, the ends do not justify the means -- the legislative leviathan is not created only to ensure that free-riding and entrepreneurship are minimized and the party platform is enacted, end of story. That platform is itself a means to something else. What? The authors say a member's reelection. Surely the platform is more than just an instrument for reelection? According to Fenno's legislative cosmology, reelection is desirable only if a legislator's party is already the *majority*, since power devolves on the majority party. If the party is not the majority, its platform must do more. *It must secure the reelection of incumbents and also help challengers get elected.*

Thus the legislative leviathan's ends -- party ideas and support for them -- are also the *means* for the party to increase its membership in the legislature, not just to return incumbents to office and perpetuate the status quo. If all strong party cohesion does is enact a party program that perpetuates the status quo, then the ambitious junior member will want to change the program so its enactment will help (re)elect more of his party to office, all the more so if he belongs to the minority party.[54] Increased far enough and the party will find itself the majority (or a stronger and more capable majority). As a member of the majority party, the ambitious legislator is able to concentrate his energy on leading it, and perforce the entire legislative branch (or at least one house of it). And to lead it, he must show that he helped make his party the majority in the first place. Otherwise his colleagues will have no reason to back his candidacy for a leadership post in the party caucus.

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[54]Cox and McCubbins, *Legislative Leviathan*, pp. 124-135.

B. Helping Oneself by Making the Party More Attractive

How is the ambitious legislator to do this? In a campaign environment in which the one thing that is not in short supply is money, MPAC money contributions have become less important than they once were. Indeed, given the extent to which incumbent and challenger congressional candidates do not depend on party money, or any single source of money, to finance their races (see footnote 11), it is quite possible that "MPAC legislators"[55] in the past have overstated the impact that their money contributions would have on party colleagues. Further, as party fundraising in the past decade has increasingly become part of the official job description of party leadership posts, caucus members have started to look for unique strengths in a leadership candidate that recommend him over his rivals besides a demonstrated talent for raising vast amounts of money for party candidates that MPACs have been used to showcase (see Chapter Five). Where the question once asked of a leadership candidate was, in effect, "How much money can he raise for my campaign if he is elected majority leader?," the question now asked is "What else can he do for my campaign besides raise lots of money?"

With money no longer a sure way to build a majority, if indeed it ever was, the ambitious member aspiring to lead his house has been left with no other choice except to improve the "voter appeal" of the party platform and provide congressional candidates with non-financial

[55]Henceforth, "MPAC legislator(s)" refers to any congressional incumbent who maintains a political action committee.

resources that are at least as effective for winning election as money is. The importance of ideas to party politics is thus revealed, and the self-interest an ambitious member has in offering them to his party colleagues crystal clear. However, not every member has the talent or patience to offer them, and in a single member district system in which victory goes only to the candidate with more votes than anyone else, there simply is not enough "room" for too many competing party ideas.[56] Yet the need for them is there.

Although Cox and McCubbin's work is only tangentially concerned with campaign finance, it spotlights the important features commonly missed in the campaign finance literature. Incumbent candidates are at once constrained by: (1) their constituents' needs and voters' criteria for selecting leaders; (2) party rules and customs that are far stricter than is popularly believed; and (3) the structures of their own ambitions, whatever they may be, that must navigate between the first two constraints without violating either one if they are to be satisfied. These three constraints presumably reduce to a considerable degree the influence private contributors exert over politicians to whom they give campaign money. Slavish obedience to one's financial constituency would risk violating the other constraints.

The MPAC is the logical expression of these constraints. On the one hand, an MPAC helps advance the congressional party's interests and thus placates the leviathan; FEC data show that MPAC legislators seldom give

[56]The single member district system is perhaps the most effective protection against the rise of a dangerously fragmented party system. Strong party advocates sometimes ignore this.

to candidates of the other party (see Chapter Eight). On the other, an MPAC permits the MPAC legislator to develop his own power base within his party -- by personally aiding colleagues in their campaign efforts and putting them in his debt. Finally, by evincing a commitment to his party, the MPAC legislator maintains a semblance of loyalty to his party which pleases the segment of his reelection constituency that still votes according to party affiliation. His reelection secured, his party credentials apparently intact, the member can concentrate on the fulfillment of his own objectives, including a reinvention of his congressional party via the MPAC to secure the party majority he needs to lead his chamber.

The intersection of interests and constraints that has given rise to the MPAC might, therefore, constitute a "fifth column" in the member's party, seeming to promote the party's present interests while in fact transforming them by ultimately serving the member's own goals and vision. Is this bad? Or, as Chapter Nine will argue in its investigation of Speaker Newt Gingrich's GOPAC, is the MPAC one path to a strong party system that many political scientists declare ended in 1968? And if it is a path to, and not the bane of, a strong party system, what does the MPAC tell political scientists about FECA, the regime that legalized MPACs? If MPACs can be partly implicated in a renaissance of parties, FECA may not be as bad as it has seemed. What does it tell political scientists about the sources of strong parties? If stronger parties might emerge from MPACs, and MPACs are themselves reflections of the sponsoring members' own ideas and visions, then the impact and danger of private interest money in congressional politics may be overstated by critics and the importance of the individual member and his ideas mistakenly discounted. If congressional politics for the past thirty years has been as devoid of content as it has been dominated by money, it may be because, until recently, nobody bothered to test whether ideas might still have a decisive role to play.

In what form would this intersection of interests and constraints next appear under a regime that banned or sharply restricted PACs, including MPACs? As MPACs lose their appeal because so many members have formed them as to cancel out their potential benefits, what new form might this intersection take even if PACs are never formally prohibited? If innovation is the child of ambition, and legislators are ambition personified, it seems reasonable to expect legislators to experiment with bold new vehicles for personal advancement that honor the letter of the law, placate their parties, and do not hurt their reelections. As will be seen, Representative Newt Gingrich's GOPAC provides insights about this (see Chapter Nine).

VI. Eight Empirical Issues

More specifically, this dissertation will explore the eight following empirical issues to: (1) reach a comprehensive understanding of why MPACs exist; (2) determine whether MPACs help answer larger questions about campaign finance; and (3) advance an amendment to Olson's theory of collective action that may explain why the entrepreneurship that drained parties of their content starting approximately a generation ago may also find it in its interest to replenish parties with programs in the current one.

(1) This dissertation will argue that the most important problems for which FECA is blamed in fact emerged approximately 80 years before FECA was adopted and reflect the myriad rational interests of the three actors who comprise modern congressional campaign finance: (a) *private contributors* who have a material interest in the legislation that members of Congress produce; (b) *congressional candidates* who need money and other resources to run the campaigns which are themselves the cornerstones of a democratic system; and (c) *members of Congress* who, in addition to winning reelection, want to rise in the legislature and/or make good policy and must obey the institution's rules and customs to do so.

This study argues that modern campaign finance, and all its problems, resulted from systemic factors that appeared in federal politics for the first time in the late nineteenth century and have remained there ever since. To support this point, the study will survey the federal campaign finance system that existed before 1971 (see Chapter Three). It will show that campaign finance problems have remained essentially unchanged since the late nineteenth century, and were no less serious or controversial in the early and middle twentieth century as they have been for the past two decades. Yet as the electoral systems of 1896 and 1932 attest, controversial and unseemly campaign finance practices can flourish without necessarily harming the strong party system that many believe is a requisite of a healthy democratic-republic. Those who contend that a return to responsible party government is unlikely until comprehensive campaign finance reform is adopted may be overstating the culpability of current campaign finance laws in party decomposition and wasting their time proposing better ones.

(2) This dissertation will show that MPACs cast into sharp relief the three actors (and their myriad interests) comprising modern campaign finance. Just as MPACs have served for many pundits as a convenient shorthand device for indicting the current campaign system, they are a convenient vehicle for the researcher to address the most prominent and persistent issues concerning federal campaign finance.

(3) This dissertation will show that the two general activities in which MPACs engage -- raising money from private sources interested in legislative outcomes and transferring it to needy congressional candidates -- informally existed long before FECA was adopted and assumed a formal character only after the legality of PACs was affirmed in 1974. FECA did not so much create new activities as "reprocess" and expose old ones. Pursuant to this, the study will consider the history of the congressional campaign committees and informal transfers of campaign money from one legislator to another that had become routine practices by the 1940s (see Chapter Four).

(4) This dissertation will show that MPACs cannot be included among the list of factors said to account for party decline. Further, it contends that MPACs have actually *strengthened* the two-party system in modest but discernible ways. It will examine the contribution patterns of MPACs to determine whether MPACs make contributions to candidates of the other

party (do Democratic MPACs give to Republican candidates and vice-a-versa?) and whether MPACs are more apt to support poorly financed challengers than traditional PAC are (see Chapters Five and Eight).

(5) This dissertation will suggest that the self-interested behaviors associated with MPACs may contribute to the restoration of a programmatic two party system that many theorists contend is a requisite of a robust and healthy republican government.[57] It will investigate one class of MPAC that has specialized in the provision of campaign and ideological training to inexperienced congressional candidates, not money. If this hypothesis is confirmed, it would be the dissertation's most significant finding, suggesting that the present campaign finance system possesses the seeds for a party renaissance. Such a finding would run counter to the conventional wisdom holding that FECA in general and MPACs in particular have helped enervate the party system (see Chapters Four and Nine).

(6) This dissertation will show that the proliferation of MPACs and other forms of member-to-member giving by the early 1980s was due more to democratic changes that occurred inside Congress than to FECA. To this end it will consider the rule changes that occurred in both houses of Congress in the early 1970s that made leadership and committee chair positions subject to a democratic vote in party caucuses, not strict seniority. These rule changes in turn encouraged ambitious members to campaign

[57]There is an enormous literature arguing the need for a strong party system. E.E. Schattschneider's oeuvre remains the centerpiece of this literature. Other seminal works making a similar point are V.O. Key's *Southern Politics in State and Nation* (New York: Knopf, 1949); Anthony Downs' *An Economic Theory of Democracy* (New York: Harper and Row, 1957).

for leadership and committee chair positions by, among other things, furnishing campaign contributions to congressional candidates in the expectation of their support (see Chapter Four).

(7) This dissertation will show that MPACs are only the most conspicuous way that legislators funnel money to congressional candidates, and that informal and unregulated ways exist that are at least as effective. To demonstrate this the dissertation will detail the 1988 race for Senate majority leader, in which the two candidates who had well-capitalized MPACs lost soundly to the candidate who reportedly used informal and unreported "brokering techniques" to achieve the same effect that MPACs aspire to have, while avoiding the negative publicity that MPACs draw to sponsoring legislators (see Chapter Six).

Further, the dissertation will conditionally suggest that the lessons of this race are generalizable. To that end, it will argue that as long as there are private interests that are materially affected by legislative outcomes, members who are interested in amassing prestige, power, and influence in Congress, a fungible money economy, and an expansive reading of the First Amendment, efforts to tame the influence of money in congressional campaigns may achieve only modest results. On this basis, this study will suggest that the system now in place, which operates on the principle of public disclosure of campaign contributions and expenditures, may be the best that can be expected in a culture that counts among its most cherished values democratic elections and campaigns as well as a market economy.

(8) This dissertation will argue that private contributors interested in influencing members of Congress and policy outcomes will use most legal

means available to them to get money to the members who control outcomes. To test this hypothesis it will compare the (sub)committee assignments of MPAC members with the interests of contributors that give money to member's MPAC (see Chapter Six).

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Plainly the campaign environment has never existed in isolation from other political interests and ambitions of legislators, a significant fact that many campaign scholars and journalists have carelessly ignored, despite everything that Fenno's legislative work has told them about members of Congress.[58] When FECA's institutional background is properly accounted for, the strengths and weaknesses of the act can be more accurately assessed.

This dissertation will examine four "background factors" that have powerfully influenced FECA:

First, comprehensive federal campaign finance reform legislation was enacted between 1970 and 1976 to eliminate brazen abuses that by the late 1960s had become endemic in federal elections and endow all elections for federal offices (the presidency, Senate, and House) with essentially identical campaign rules. During the pre-FECA era, for example, primary elections for federal offices were regulated not by the federal government but by the states. By extending federal jurisdiction to primary as well as

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[58]Fenno, *Home Style.* According to Fenno, members pursue three goals: reelection, institutional prestige, and good policy.

general elections and making all campaign contributions and expenditures subject to public disclosure, FECA's intention was to apprise the electorate of the financial strength of an incumbent candidate -- who in the past had routinely been supported by "fat cat contributors"[59] whom the act purged from federal campaigns -- compared to that of his/her challenger -- who typically was inadequately financed, especially in the primary campaign.

So that this information could be conveniently acted upon by small interest groups and individuals of modest incomes to restore competitiveness to races in which the incumbents enjoyed an overwhelming financial advantage, FECA and subsequent rulings by the Federal Election Commission (FEC) established the legality of PACs, a decision that at the time was praised as one the most democratic ways to compensate for the departure of the fat cat contributor and foster genuine grass roots political participation. On paper, these FECA provisions promised to make all federal elections more competitive than they had been, reduce the influence of big money contributors, and broaden political participation.

Second, however, the political and electoral context to which FECA would apply was itself undergoing profound change, and had been for over a decade. Beginning in the 1958 congressional election and climaxing

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[59]Like so many terms in America's political lexicon, the term "fat cat contributor" is of uncertain origins. It gained wide circulation during the later years of the Nixon Administration amid revelations that individuals had made enormous contributions to the Nixon reelection effort. The paradigmatic fat cat undoubtedly remains the insurance mogul W. Clement Stone who in 1968 gave more than $2.8 million to the Republican Party. All but $39,000 of this figure went to Nixon's primary and general election campaigns. Herbert Alexander, *Financing Politics: Money, Elections and Political Reform* (Washington, D.C.: Congressional Quarterly Press, 1976), p. 70

in the 1964 election, a cohort of liberal Democrats entered the Senate and House who supported the same liberal social agenda yet repeatedly found this agenda thwarted by committees chaired by conservative southern Democrats who hailed from "safe" districts. Liberal frustration with archaic and undemocratic congressional rules and President Johnson's ambitious domestic agenda would change this. A combination of internal congressional reforms proposed by the liberal Democratic Study Group and the passage of progressive federal election laws (starting with the 1965 Voting Rights Act) would, by the early 1970s, effect a fundamental change in the demographics and operating style of Congress that would bear directly upon FECA's operation.

Third, the desire to reform the entire political system was a decisive factor in the adoption of FECA and other reforms and would later influence the act's trajectory. Many of these associated reforms addressed the internal workings of Congress and are closely associated with the second point. Others affected the orientation of politicians and voters to the two major parties.

Significantly, for nearly a decade, beginning with President Kennedy's 1961 creation of the Commission on Campaign Costs, efforts to reform campaign finance had been attempted but languished, owing to a lack of interest inside and outside Congress. Disenchantment with the Vietnam War, fear that the American presidency had bloated to "imperial" proportions in the face of a timid Congress, and revelations of unseemly campaign practices culminating in the Watergate affair unleashed a reform ardor that made FECA a reality.

Fourth, the Watergate scandal precipitated the election of young and ambitious Democrats to Congress who wanted to leave their mark on the institution as quickly as possible but also intended to make congressional service a vocation. This pair of almost contradictory interests profoundly shaped FECA's evolution. Unwilling to play by the traditional rules of Congress and delay making a personal impact on the institution, yet also reluctant to challenge and antagonize a newly empowered congressional leadership in order to make a personal impact, these members explored ways to push the limits of existing rules, including FECA, to promote their own policy and career objectives without alienating the very Democratic colleagues whose cooperation and support they would need to get anywhere in Congress.

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The four changes that Congress underwent beginning a generation ago on an electoral, party, and institutional level provide the proper background in which to test this study's eight empirical issues.

VII. Conclusion

Innovative public policy proposals, like campaign finance reform in the 1970s, are untested and untried. Hence their innovative and often controversial character. They are advanced with great hope and expectation by their supporters against the considerable doubts, fears, and warnings of their opponents. The debate over them centers on which side, with the available evidence, sounds like it will be right in the long run.

Too often, however, this debate is unrealistic. Perhaps because assessing the strengths and weaknesses of a typical policy proposal is complicated enough, the debate over it tends to assume that the proposal, if signed into law, will address an essentially static environment. It then tries to answer something approximating the following question: what will happen when "public policy x" is introduced into a stable environment? Will it improve the status quo, harm it, or leave it mostly unaffected? The debate generally does not adequately account for the possible effects that a changing environment might have on a well intended but untested public policy: what will happen to "public policy x" as the environment over which it has substantial but far from exclusive jurisdiction changes owing to forces beyond "policy x's" reach? Will "policy x" still fulfill its promises? *Can* "policy x" still fulfill its promises?

FECA was specifically crafted to reform the financial character of federal campaigns. This proved a tall order. Why? Neglected at the time FECA was hailed as a panacea for campaign abuse and corruption was that the federal campaign environment had already been undergoing profound change from institutional forces over which even a broadly interpreted FECA would have no jurisdiction. Many of these forces -- the ones with which this project is concerned -- were, like FECA, unleashed in the middle and late 1960s on behalf of better government. Since these reform forces were uncoordinated, however, they combined to affect the campaign environment in a manner that altered the very problems that FECA was supposed to correct. Thus they can be implicated in a host of disappointments for which FECA is usually held responsible, like the development of MPACs.

Moreover, this study intends to address a few questions that existing empirical work on Congress and institutions has raised but not answered. To accomplish these objectives, FECA will be treated as a dependent and independent variable.

Treating the history of FECA as a dependent variable, this dissertation will examine the reform impulses and expectations that contributed to its enactment in 1971. More important, it will survey the rational choice and institutional factors that have caused congressional members to interpret FECA in ways that seem to violate the act's spirit and intentions. Special attention will be paid to changes that have occurred inside the U.S. Congress and to the Democratic and Republican parties that have encouraged ambitious members to found personal PACs and furnish financial and other services to fellow politicians.

Treating FECA as an independent variable, this dissertation will consider how the act's explicit rules, regulations, and prohibitions have channeled and directed -- but not fundamentally changed -- traditional congressional ambitions and behaviors in unusual but not all together surprising directions.

This dissertation is not exclusively concerned with the successes and failures of 1970s congressional campaign finance reform. Indeed, there is considerable evidence that FECA has worked more effectively than its critics have alleged and that, for all the unanticipated consequences that have since followed, like MPACs, it is probably the best regulatory regime that can be expected, given the enduring constellation of norms and ambitions influencing congressional members and the politically active public that existed long before FECA was enacted and will doubtless remain long after the act has been replaced by "something better." As this dissertation hypothesizes, FECA may be partially responsible for the most unexpected of unintended consequences that appears in the next few years: a revitalization of the American party system via membership PACs.

This dissertation is principally interested in explaining the unanticipated evolution of FECA and, moreover, suggesting why, 25 years after its enactment, FECA's shortcomings -- if they can be called that -- may have less to do with flaws and loopholes in the act itself than with the uncontested hegemony of four classical liberal environments that FECA has been charged with regulating: a *free market economic environment* in which money, including political money, is fungible and difficult to control; a *pluralist environment* in which a person's right to influence public policies affecting his/her interests is broadly protected and sacrosanct; a *competitive democratic environment* in which elections and campaigns are the means by which political leaders are chosen and cost money to wage; and a *political environment* in which individual ambition has long been recognized as a motivating force for any person who enters it, no matter the degree to which rules and procedures are designed to channel and tame its expression, but which has been tempered by the need for even the most ambitious and independent person serving in it to attract the support and cooperation of his party peers to get anything accomplished.

In a very real sense, these four environments have dictated the heights to which American party politics has reached and the depths to which it has sunk. They may help explain why American electoral politics is not "conducive to the creation of more modern organizations of mass mobilization and representation,"[60] but instead has historically been structured and mediated by the two party system, with decidedly mixed results.

If these environments combined to allow the content of American politics to descend to unprecedented depths after 1968 -- perhaps because their "normal" patterns of interaction were profoundly destabilized by innovations in the mass media that reduced the importance of parties to electoral politics for a generation and dramatically expanded opportunities for a "candidate centered politics" -- then it is entirely possible these environments have finally adapted to the mass media and are inducing politicians to return content to politics in a manner reminiscent of the five previous *strong* party systems.

Although this chapter has focused on recent research on the House of Representatives to suggest that individual ambition and collective party goals are inextricably linked, this dissertation is not an attempt to predict that party resurrection, should it happen, will emanate from the logic of the House, or that MPACs are the only way such a resurrection can take place. Rather it is to argue that a political entrepreneur can stray only so far from his national party before the uncontested structure of the American

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[60]Walter Dean Burnham, "The System of 1896," *The Evolution of American Electoral Systems*, p. 198.

political system forces him to choose between becoming politically irrelevant or returning substance to his party. If this is so, the important question is, Will strong party advocates like the content of this new party system?

Chapter Two

Placing MPACs in the Existing Research on Campaign Finance

I. Introduction

As Chapter One previews, the central objective of this dissertation is to argue that the most extreme form of congressional entrepreneurship -- the membership PAC -- and the campaign finance regime that has allowed the MPAC to flourish -- the Federal Election Campaign Act -- cannot be easily added to the list of *prominent* factors forecasting the *long term* decline of parties, and might even be implicated in the imminent return of a strong party system. To establish these points, this dissertation will undertake two tasks.

First, by accounting for both the causes and manifestations of controversial and ugly campaign finance practices that flourished long before FECA was adopted in 1971, and reminding readers that during the period in question *two* responsible party systems were able to succeed one another almost seamlessly (1896-1932; 1932-1968), this dissertation modestly hopes to show that strong, responsible party systems do not stand or fall exclusively on the condition of how political campaigns are financed, a position that some scholars might find objectionable.[1]

[1] For example, see David E. Price, *Bringing Back the Parties* (Washington, D.C.: Congressional Quarterly Press, 1984), pp. 239-262; Steven Stockmeyer, "Commentary," in *Parties, Interest Groups, and Campaign Finance Laws*, ed. Michael J. Malbin (Washington, D.C: American Enterprise Institute for Public Policy Research, 1980), 309-313; Austin Ranney, "The Political Parties: Reform and Decline," in *The New American Political System*, ed. Anthony King (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1978), 241-245.

Campaign finance laws may NOT be among the causes of party decline. Proposals to reform FECA in order to restore strength to parties may be a red herring, even Pollyannaish.

Second, by proposing a link among congressional parties, individual congressional ambitions, and the feelings voters have for parties, this dissertation more daringly hopes to show that the same self-interest that drained the party system of content and responsibility a generation ago may also lead to the restoration of strong parties in the present generation. It is suspected that MPACs are powerful evidence that a responsible party system is about to replace what Blumenthal calls "the permanent campaign system."[2]

Plainly this dissertation *assumes* rather than *explains* that strong party systems structured American politics and elections from 1801 to approximately 1968. More able scholars of party and electoral systems have produced a rich literature convincingly establishing this point.[3] This dissertation does not presume to have anything new to add to this literature, much less anything that might call it into question. Further, it agrees with leading party system theorists that after 1968 the strong party

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[2]Sidney Blumenthal, *The Permanent Campaign* (New York: Simon and Schuster, 1982).
[3]V.O. Key, Jr., "A Theory of Critical Elections," *Journal of Politics* 17 (February 1955): 3-18; V.O. Key, Jr., "Secular Realignment and the Party System," *Journal of Politics* 21 (May 1959): 198; Walter Dean Burnham, Critical Elections and the Mainsprings of American Politics (New York: W.W. Norton and Company, 1970); The standard history of strong party systems organizes these systems into five periods: (1) 1801-1814; (2) 1815-1852; (3)1853-1892; (3) 1896-1931; (4) 1932-1980. In Paul Kleppner, Walter Dean Burnham, Ronald P. Formisano, Samuel P. Hays, Richard Jensen, and William G. Shade, *The Evolution of American Electoral Systems* (Westport, Conn.: Greenwood Press, 1981. Sidney Blumenthal suggests, however, that a distinct sixth party system emerged after 1968, in which the "permanent campaign" replaced the alternating dominance of the two major parties. In *The Permanent Campaign* .

system succumbed to a more entrepreneurial politics that assumed often alarming forms and was facilitated by the proliferation of private money in campaigns and the advent of television as the dominant instrument for mass political communication.

However, this study is dubious of predictions that parties will continue to decline. It advances a theory to explain why. MPACs are the focus of this explanation because they cast into sharp relief how far a political entrepreneur can stray from a responsible party before he is forced to choose between becoming irrelevant to politics or restoring the "responsibility" to his party.

The balance of this chapter is a review of the campaign finance literature. It shows that the MPAC remains the most incompletely documented of all PAC types and deserves to be analyzed in its own right. Moreover, it argues that many of the approaches used in the standard campaign finance literature can be used to study MPACs.

II. The Campaign Finance Literature

There exists a considerable literature on corporate, labor, and trade association political action committees (PACs), most of which explores to whom PAC contributions are made and what PAC contributions seek to accomplish. Comparatively little academic work has considered membership PACs (MPACs), doubtless because MPACs represent a tiny and declining fraction of the more than 4,000 PACs registered with the Federal Election Commission (FEC). Indeed, newspapers of record like the

New York Times, Washington Post, and *Wall Street Journal* and Washington "insider" publications like *Congressional Quarterly, Roll Call,* and the *National Journal* have reported far more extensively on MPACs than the academic literature has, usually with the underlying objective of arguing that their existence discredits FECA as an effective regulatory regime and calls into question legislators' motives and probity.

The considerable body of scholarly research on PACs has been prompted by the looming question of whether FECA should be replaced by a new regulatory regime that would more successfully promote competitive congressional races and reduce incumbents' advantages over challengers. The particular form a new regime should take remains a topic of enormous debate. Much of the literature has addressed the perennially popular idea to limit campaign expenditures by incumbents and challengers and demonstrated why, if enacted, it would only bolster the "incumbency effect," the tendency for incumbents to achieve relatively easy reelections owing to the many advantages deriving from their legislative offices.[4] Considerable attention has also been given to the factors contributing to an interest's decision to form a PAC, the amounts of PAC contributions made to candidates, and which candidates PACs favor in the allocation of campaign money.

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[4]This observation is best made by Gary C. Jacobson, "The Effects of Campaign Spending in Congressional Elections," *American Political Science Review*, 72 (1978), pp. 469-91; "Money and Votes Reconsidered: Congressional Elections, 1972-1982," *Public Choice*, 72 (1984), pp. 469-491. Jacobson calls ideas to establish campaign spending limits on incumbents and challengers "incumbency protection" because the marginal value of campaign money is higher for challengers than incumbents.

These foregoing issues have impelled the research to test "long standing theories of collective action and the demand for regulation drawn from the industrial organization literature."[5] The research has also addressed questions of democratic legitimacy to determine what, if anything, a new regulatory could do to help challengers wage more robust campaigns, promote electoral competition, and present real alternatives to voters.

In addressing these topics, campaign finance research has ably conceptualized the campaign contribution environment and corrected several myths surrounding campaign finance. Nevertheless, it has concentrated on a rather narrow set of empirical issues, focusing on the relationship between PACs and candidates to the neglect of the larger political environment -- perhaps because it has lacked an easy method to include it. This dissertation hypothesizes that a complete understanding of FECA's successes and disappointments is possible only when the larger political environment is considered in tandem with congressional campaign finance. MPACs are an attractive way to consider these two contexts at once.

A. The Literature's General Characteristics

The study of the effects of congressional campaign finance reform began almost immediately following the adoption of the 1971 Federal

[5]Kathleen A. Rehbein and Brian E. Roberts, "Firm-Level Political Participation." Presented at the annual meeting of the Public Choice Society, New Orleans, Louisiana, March 1992, p. 1.

Election Campaign Act (FECA), producing two general species of literature: an *academic literature* that is at once detached and empirically narrow and a *popular literature* that is at once critical and often frankly alarmist. The academic literature remains ambivalent about FECA's long term impact while the popular literature and media -- leading daily newspapers, magazines, and critical investigations of Congress -- mostly agree that the financing of congressional elections is as deeply troubled today as it was twenty five years ago when the act was adopted and needs to be completely overhauled.

Their considerable differences notwithstanding, these two literatures have, either explicitly or implicitly, employed nearly identical assumptions. Early analogies appropriated from the "Chicago School" of economic regulation have served as these literatures' organizing principles which, in its simplest form, "assumes that actual political choices are determined by the efforts of individuals and groups to further their own interests."[6] Thus campaign contributions to congressional candidates are assumed to comprise part of a *quid pro quo* that are expected to be "repaid" by the victorious candidate in the form of political favors or access.

This economic interpretation of campaign finance has prompted scholars and journalists to focus their empirical sights on the relationship between congressional candidates and PACs, the campaign contribution arms of many organizations whose political objectives are fairly easy to

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[6]Gary S. Becker, "A Theory of Competition Among Pressure Groups for Political Influence," *The Quarterly Journal of Economics*, 98 (1983), p. 371.

discern because the activities and interests of their parent organizations are usually fairly obvious: "for exploring these exchanges as efficiently as possible, the one between PACs and incumbent candidates serves best. It is the best known, most commented upon, and most fully documented of the exchanges in American campaign finance."[7]

Starting with an economic conception of exchange and a fairly narrow political relationship, the academic and popular literatures have gone on to consider the extent to which victorious candidates perform favors for their PAC supporters and in what form these favors are rendered. The more probing and sometimes openly critical of these studies have also explored the extent to which such favors oppose the interests of a legislator's constituency. A related endeavor has been to determine the degree to which PAC contributions favor incumbent candidates over challengers and why.

In executing these tasks, a significant portion of the academic literature and most of the popular literature have tended to neglect the larger political environment in which the relationship takes place. As a consequence, these literatures have reached critical conclusions about FECA that, if many times accurate, are far from complete. They have overlooked empirical work exploring other political contexts that have affected the forms and avenues that campaign finance has taken and can be expected to affect any future finance campaign regime that Congress enacts.

[7]Frank J. Sorauf, *Inside Campaign Finance: Myths and Realities* (New Haven: Yale University Press, 1992)p. 64.

When the literature has admitted that broader political contexts and motivations have shaped the PAC-candidate relationship, it has not explored them with the same thoroughness it has the relationship itself. Instead the literature has been content to state in general terms the probability that related contexts matter and expected other research programs to explain how and in what ways they matter. This narrow empirical focus, for all it has told us about campaign finance, has thus tended to cast aside the impact of such factors as internal legislative rules, political parties, and legislative agency on the present condition of campaign finance. Yet there is considerable circumstantial and empirical evidence indicating that these factors have influenced deeply campaign finance's evolution over the past two decades. To date only a few scholars have examined the links connecting them.

In short, the existing research has, with a few important exceptions, conceived PACs as existing outside the legislative branch. More precisely, most PAC research has implicitly assumed a classic pluralist model, treating PACs as interest groups external to and independent of Congress and legislators as "dependent variables" that stand to react to external pressures and inducements. Finally, even when the literature has conceded congressional agency/autonomy, this feature has more often than not been considered from the vantage of the PACs and therefore has been treated as a factor that either affects PAC decision making or serves to thwart PAC goals. The result is a plethora of research that, for all its quality, tells only part of the story about the evolution of congressional campaign finance, even when it admits that bigger factors have shaped it.

Of course, subtle and important distinctions abound in these organizing principles. In general, the PAC literature has addressed *four* interconnected but discrete issues:

(1) behavior: how do PACs decide which congressional candidates merit political contributions?

(2) objectives: do PACs contribute to candidates with the goal of influencing electoral outcomes or legislative decision making?

(3) effectiveness: if influencing electoral outcomes is the goal of PACs, to what extent do PAC contributions influence elections? If influencing decisions is the goal of PACs, to what extent do PAC contributions influence decision making?

(4) desirability: do PACs (and other interest groups) promote evenly the interests of a cross section of society or do they instead favor a small and unrepresentative segment of society?

These four emphases would produce clearer findings if more attention were paid to recent changes inside Congress, legislators' ambitions, constraints, and interests, and the political parties. As the literature now models congressional campaign finance, Congress's internal structure and norms and legislators' ambitions and independent wills play little part in the exchange between PACs and candidates. Indeed, this conception "flourishes especially in much of the American writing about interest groups and lobbying, which overlooks the purposive, even aggressive behavior of public officials on behalf of their own interests in these dealings."[8] Furthermore, political parties have scarcely been mentioned in the literature, particularly the influence of congressional parties. Their weakness has been accepted as a matter of faith, despite compelling evidence to the contrary. In the unidirectional and unmediated exchange between PACs and candidates that is assumed to exist by many campaign finance theorists, parties thus have been accorded an inconsequential role. Finally, until very recently, little consideration has been given to a fifth feature: what factors precipitate the formation of PACs? The narrow conception that dominates the literature assumes as a matter of course that PACs exist and goes on to examine their impact on legislative outcomes.

B. Why Focus on MPACs?

Perhaps because it is much smaller compared to the other PAC species, the MPAC has been neglected by scholars. But if much PAC research to date has shared the overarching objectives of determining FECA's effectiveness as a policy regime and advancing ways in which campaign finance can be improved, then MPACs deserve systematic attention. Focus on MPACs draws together all the disparate political arenas that the existing campaign finance research has not because MPACs' sponsors -- senators and representatives -- occupy simultaneously all these arenas. The MPAC's mere consideration thus compels the

[8] *Ibid.*, p. 63.

researcher to investigate these political arenas in a systematic manner as well.

To be sure, MPACs do not constitute a large PAC category that could grow still larger -- plainly they do not, never have, and have been gradually falling out of fashion since the 1985-1986 election cycle (see Appendix 2). Even if they grew to their maximum size, MPACs would represent under 15% of all federal PACs[9]. Their smallness as a PAC category notwithstanding, MPACs arguably *are* the intersection between the campaign environment FECA was supposed to reform and the larger congressional context FECA has, unavoidably, been a part of. Few subjects touch on more issues concerning the congressional and campaign environments than MPACs: campaign finance, PAC formation and behavior, congressional norms and procedures, the relationships between the incumbent and his or her political colleagues, individual legislative ambitions and strategies, the behaviors of incumbent candidates who can easily raise but do not personally need enormous sums of political money, and the tactics of organized interests that are eager to give campaign money when they believe it will advance their causes.

Any campaign finance reform, to be judged effective, must address this intersection of issues that MPACs occupy. But could it? If it could, would the cure be worse than the disease? It is fair to state that implicit in any reform is the objective of regulating the separate phenomena of which the MPAC is a perfect expression: the role of political money, the goals and

[9]If every member of Congress formed a PAC, there would be only 535 of them out of approximately 4,100 PACs registered with the FEC in 1992. While it is technically possible for a member to form more than one PAC, few ever do so.

types of contributors, and the ambitions and constraints of candidates, particularly incumbent candidates. This is an extraordinarily large set of issues that touches on almost every facet of American politics. Can any single reform do all these things? Should any single reform be charged with such a diverse set of fundamental responsibilities?

The MPAC, *despite* its smallness as a category, forces the campaign finance researcher to confront in the most comprehensive way the prominent and enduring features of the congressional environment. The MPAC, *because* of its small size and affiliation with one clear interest (a member of the House or Senate), provides answers to the important questions of why and how PACs are formed? Other approaches to campaign finance only describe segments of the congressional environment and seldom venture into sticky questions of PAC formation. Still, the other approaches identify important features of campaign finance that a systematic MPAC treatment must also address. They also contain weaknesses that MPAC research can help redress.

III. The Literature Up Close

A. Behavior

Gopian, Poole and Romer, Poole, Romer and Rosenthal, Snyder, Grier and Munger, and Stratmann explore the patterns of PAC contributions in congressional elections.[10] They find that most PACs contribute in a manner that suggests they have coherent objectives. Gopian, Poole and Romer, and Poole, Romer, and Rosenthal claim that these objectives are *ideological* in character.

Poole and Romer's piece typifies this work. Starting with the hypothesis that traditional PACs contribute to congressional candidates according to a spatial model in which the closer a candidate's characteristics are to the PAC's ideal point, the more likely he or she will receive money, Poole and Romer conclude that PACs "contribute in a manner highly consistent with a simple spatial model."[11] MPACs may operate in a similar manner, with MPAC legislators furnishing support to candidates whose views and party positions approximate their own.

Poole and Romer's piece is notable for the extent to which it conceives legislators as dependent variables who are scrutinized by PACs to determine if they are worthy recipients. Little account is made of the extent to which legislators solicit PAC contributions in order to advance

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[10] J. David Gopoian, "What Makes PACs Tick?: An Analysis of the Allocation Patterns of Economic Interest Groups," *American Journal of Political Science*, 28 (1994); Keith T. Poole and Thomas Romer, "Patterns of Political Action Committee Contributions to the 1980 Campaigns for the United States House of Representatives," *Public Choice*, 47 (1985): 63-112; Keith Poole, Thomas Romer, and Howard Rosenthal, "The Revealed Preferences of Political Action Committees," *American Economic Review*, 77 (1987), pp. 298-302; James M. Snyder, "Campaign Contributions as Investments: The U.S. House of Representatives 1980-1986," *Journal of Political Economy*, 98 (6): pp. 1195-1227; Kevin B. Grier and Michael C. Munger, "Committee Assignments, Constituent Preferences, and Campaign Contributions," *Economic Inquiry*, 29: 24-43; Kevin B. Grier and Michael C. Munger, "Corporate, Labor, and Trade Association Contributions to the U.S. House and Senate, 1978-1986," *Journal of Politicss* 55 (1986): pp. 615-43; Thomas Stratmann, "Are Contributions Rational? Untangling Strategies of Political Action Committees," *Journal of Political Economy*, 100 (1992): 647-664.

[11] Poole and Romer, "Patterns of Political Action Committee Contributions to 1980 Campaigns for the U.S. House of Representatives," p. 106.

their own political goals. Yet as Fenno has famously contended, an accurate understanding of the congressional environment depends on the recognition that legislators are activist agents who set three general goals for themselves -- (1) reelection, (2) institutional prestige and advancement, and (3) the creation of good policy -- and seek to realize them in all the political activities they undertake.[12] Moreover, a legislator's "style" of decision making is shaped and constrained to a considerable degree by the structure of his or her geographic, reelection, primary, and personal constituencies. Presumably Fenno's observations influence the relationship between legislators and PAC contributors and must be included in any accurate model of the campaign environment. They no doubt also figure in a legislator's decision to form an MPAC.

Denzau and Munger offer one of the more realistic depictions in the PAC literature of the political environment of which campaign finance is only a part.[13] Sensibly noting that "congressmen are not ciphers, meekly responding to pressure-group activities,"[14] the authors construct a model of the political world that includes: (1) interest groups; (2) rational legislators seeking to maximize votes and the efficient allocation of staff resources and personal time; and (3) voters who may or may not be ignorant of certain political issues. The authors argue that a legislator's "supply price" for a policy favored by an interest group depends on "the

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[12]Richard Fenno, *Home Style: House Members in Their Districts* (Boston: Little, Brown, 1978).
[13]Arthur T.Denzau and Michael C. Munger, "Legislators and Interest Groups: How Unorganized Interests Get Represented," *American Political Science Review*, 80 (1986), 89-106.
[14]*Ibid.*, p. 101.

productivity of his effort, as determined by committee assignments, priority and ability, and by the preferences of his unorganized constituency in the home district."[15] These considerations cause PACs to behave *pragmatically*, not ideologically. The authors predict that "interest groups will, in general, seek out legislators whose voters are indifferent to the policy the interest group seeks. Thus, voters who do have preferences over policy are in effect represented, even though they are not organized."[16]

An important feature of their piece shared by this dissertation is the awareness that "it is impossible to consider interests separated from their institutional context, and any analysis of groups in isolation will produce only a limited and distorted understanding of their impact."

Hinich and Munger elaborate on Denzau and Munger's recognition that candidates have rational interests and strategic objectives that figure into their decisions to seek contributions and spend dizzying amounts of money on campaigns.[17] Like the stronger PAC research, mostly of the academic kind, their piece is an important contribution to political realism because it underscores that exchange moves in *two* directions. Indeed, the recognition of the bilateral nature of exchange has only recently appeared prominently in the literature.

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[15]*Ibid.*, p. 89.

[16]*Ibid.*, p. 106.

[17]Melvin Hinich and Michael C. Munger, "An Equilibrium Spatial Model of Voters, Legislators, and Interest Groups," in Peter Ordeshook, ed., *Models of Strategic Choice in Politics* (Ann Arbor, Michigan: University of Michigan Press, 1989), pp. 49-67.

Grenzke outlines theoretically an environment that accounts for the work of Fenno.[18] She finds that member voting record, member power, and the closeness of the election are only modestly related to PAC contributions. She suggests that two non quantifiable factors play a substantial role in PAC behavior:

> The aggressiveness of incumbent solicitations and PAC-Representative friendships ... serve as reminders of the complexity of PAC decisions. PACs, like other political groups, tend to give to friends and to people who ask for help, even when more 'rational' criteria would suggest diverting their contributions to House members who are more powerful, more supportive, and running in more competitive districts.[19]

Grenzke concludes by offering that variations in "PAC attributes (may) help to explain PAC contribution decisions."[20]

The importance of her piece cannot be overestimated because it stresses that the political environment is a larger and more amorphous one than much PAC research admits, comprised of factors that only occasionally lend themselves to rigorous statistical analysis and also factors that are too intangible to quantify. Furthermore, the campaign environment is largely governed by politicians' rational choice calculations.

Although Grenzke does not intend her analysis to raise bigger questions about FECA's legitimacy, she nevertheless identifies in

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[18]Janet Grenzke, "Candidate Attributes and PAC Contributions," *Western Political Quarterly* (1989): 245-264.
[19]*Ibid.*, p. 260.
[20]*Ibid.*, p. 260.

theoretical terms the broader environment which FECA has operated in and been affected by. Like most of the PAC literature, Grenzke does not address at all MPACs. Nevertheless, she points to the factors that gave rise to them, like legislators' electoral and institutional ambitions, that would surely endure even if MPACs were banned.

B. Objectives

In one of the earliest pieces analyzing the goals behind campaign contributions, Ben-Zion and Eytan apply economic principles to campaign contributions and offer that "large contributors contribute more to leading candidates, not because they also 'like' the candidate, but rather as a result of rational investment policy. Candidates with a higher probability of winning also have a higher probability of being able to pay their specific political debts to contributors."[21] Theirs is an enduring piece because it helps explain why contributors with rational interests prefer incumbent candidates to challengers. Do MPACs follow the same pattern? Moreover, the authors describe many of the rational choice motivations of PACs, candidates, and voters that presumably would remain immune to any but the most repressive campaign regulatory regime. Thus PACs are interested in securing public policies that favor their interests and make contributions accordingly. On the other side of the exchange are the candidates who have their own preferences that figure into every decision

[21]Uri Ben-Zion and Zeev Eytan, "On Money, Votes, and Policy in a Democratic Society," *Public Choice*, 17 (1974): p. 9.

they make. They are interested in achieving (re)election and institutional success. To realize these goals they must compare the benefits attendant in serving one's geographic constituency with those attendant in serving interest groups in exchange for contributions that finance their campaigns.

These observations, simple though they are, make the piece prescient. Appearing only three years after FECA was enacted, it essentially explains why the act would not deliver on all its initial promises by recognizing in abstract terms the diverse and enduring motivations, interests, and objectives of the congressional and campaign environments over which FECA simply has no jurisdiction. The MPAC seems a logical if highly unusual innovation when it is considered with Ben-Zion and Eytan's piece in mind. Finally, the piece remains fresh two decades after its appearance because it outlines all the forces any future reform regime would have to tame in order to outclass FECA.

Welch asks whether political money is given by economic interest groups to influence electoral outcomes or to "purchase" political favors?[22] He answers that they contribute "in order to obtain political favors, not to affect electoral outcomes."[23] Like much of the literature, Welch has a fairly narrow conception of the electoral environment, viewing PACs essentially as informed consumers whose political preferences are registered by their actual contributions. The candidate is treated as a dependent variable who receives money. Again, the almost canonical work of Fenno is ignored.

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[22]William P. Welch, "The Allocation of Political Monies: Economic Interest Groups," *Public Choice*, 35 (1980): 97-120.
[23]*Ibid.*, p. 115.

Correcting for such oversights in the political environment's conceptualization are pieces by Davis and Hinich and Enlow and Hinich which find that the electorate judges candidates according to the distance between a candidate and the voter's spatial ideal point.[24] Candidates take the electorate's spatial evaluation into account to maximize the probability of election, underscoring the fact that candidates are not mere dependent variables who are "determined" by PAC contributions but rather independent agents who must appreciate the many constraints, demands, and opportunities affecting their political situations before they can take actions.

C. Effectiveness

Dawson and Zinser, Lott and Warner, and Silberman maintain that campaign contributions, including PAC contributions, have a discernible impact on electoral outcomes and thus can be considered effective.[25]

Other research rates effectiveness by the ability of campaign contributions to affect legislative outcomes. Chappell, Welch, Evans,

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[24]Otto Davis and Melvin Hinich, "Some Results Related to a Mathematical Model of Policy Formation in a Democratic Society," In *Mathematical Applications in Political Science II*, ed. Joseph Bernd (Dallas: Southern Methodist University Press, 1966); James Enlow and Melvin Hinich, *The Spatial Theory of Voting* (New York: Cambridge University Press, 1984).

[25]Paul A. Dawson and James E. Zinser, "Broadcast Expenditures and Electoral Outcomes in the 1970 Congressional Elections," *Public Opinion Quarterly*, 35 (1971): pp. 398-402; Paul A. Dawson and James E. Zinser, "Political Finance and Participation in Congressional Elections," *The Annuals*, 425 (1976): pp. 59-73; William F. Lott and P.D. Warner, "The Relative Importance of Campaign Expenditures: An Application of Production Theory," *Quality and Quantity*, 8 (1974): pp. 99-106; Jonathan Silberman, "A Comment on the Economics of Campaign Funds," *Public Choice*, 25 (1976): 69-73.

Grenzke, Wright, and Austen-Smith and Wright claim that PACs are less influential than is commonly assumed because there is little evidence that PAC contributions affect congressional roll call votes.[26] Wright, for example, examines whether PACs have influence over congressional decisions and finds that, owing to their grass roots character and willingness to accept contributions earmarked for candidates who oppose the interests of the PAC's parent organization, they are less influential than is popularly thought.[27]

Wright is one of the earliest empiricists to probe the normative aspects of congressional campaign finance. His central concern is not that PACs directly undermine good public policy, because by his reckoning they do not have the coherence to do so, but rather whether the time legislators spend raising PAC money takes them away from crafting good public policy. His concern seems particularly relevant to MPACs because a member who forms one must invest considerable personal resources capitalizing their treasuries and supervising their contributions. More important, Wright reaches counterintuitive conclusions about PAC effectiveness that must be addressed by critics who vilify PACs for their

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[26]Harry W. Chappell, "Campaign Contributions and Congressional Voting: A Simultaneous Probit-Tobit Model," *Review of Economics and Statistics,"* 64 (1982): 77-83; William Welch, "Campaign Contributions and Legislative Voting: Milk Money and Dairy Price Supports," *Western Political Quarterly*, 35 (1982): 478-95; Diana Evans, "Oil PACs and Aggressive Contribution Strategies," *Journal of Politics*, 50 (1988): 1047-56; Janet M. Grenzke, "PACs and the Congressional Supermarket: The Currency is Complex," *American Journal of Political Science* 33 (1989): 1-24; John R. Wright, "PACs, Contributions, and Roll Calls: An Organizational Perspective," *American Political Science Review*, 79 (1985): 440-414.

[27]John R. Wright, "PACs, Contributions, and Roll Calls: An Organizational Perspective," *American Political Science Review*, 79 (1985): 440-414.

alleged undue influence and on this basis call for a new campaign finance regime:

> The fundamental paradox about an organizational arrangement common to many political action committees ... is that the organizational arrangement most conducive to raising money from individual contributors is also the organizational arrangement least conducive to influencing congressional voting. Paradoxically, the very factors that allow some PACs to become very rich are the very same factors that undercut their potential influence.[28]

If Wright's observation is approximately correct, the current campaign finance regime may be more effective than its critics purport, calling into question the need and desirability for a "new and improved one."

To be sure, there is considerable evidence challenging Wright's observation. Silberman and Durden, Kau, Keenen, and Rubin, Kau and Rubin, Stratmann, and Grier, Munger, and Roberts claim that PAC contributions do affect roll call votes.[29]

The literature recognizes that the exclusive use of roll call and (sub) committee votes to assess a legislator's responsiveness to PAC contributions offers only limited insights concerning PAC effectiveness.

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[28] *Ibid.*, p. 411.

[29] Jonathan Silberman and Gary Durden, "Determining Legislative Preferences on the Minimum Wage: An Economic Approach," Journal of Political Economy, 58 (1976): 317-29; James B. Kau, Donald Keenan, and Paul H. Rubin, "A General Equilibrium Model of Congressional Voting," Quarterly Journal of Economics," 97 (1982): 271-93; James B. Kau and Paul H. Rubin, *Congressmen, Constituents and Contributors* (Hingham, Mass.: Martinus Nijhoff Publishing, 1982); Thomas Stratmann, "What Do Campaign Contributions Buy? Deciphering Causal Effects of Money and Votes," *Southern Economics Journal* 57 (1991): 606-620; Kevin Grier, Michael Munger, and Brian Roberts, "The Economic Determinants of Corporate Political Activity, 1978-1986." Presented at the 1991 annual meeting of the Midwest Political Science Association, Chicago, Illinois.

Indeed, such votes are the most obvious but probably least likely points in the legislative process where contributions will have a substantial impact. Heard, Alexander, Malbin, Herndon, Gopoian, and Langbein argue that campaign contributions achieve their purposes in more subtle and informal ways, like procuring for the contributor access to a grateful legislator.[30]

Hall and Wayman offer one of the most persuasive recent critiques of the "vote-buying hypothesis" by arguing that the effects of contributions "are more likely to appear in committee than on the floor" and that "the behavior most likely to be affected is members' legislative *involvement, not their votes* (italics added)."[31] This claim calls into question "considerable research on members' voting decisions (that) offers little support for the popular view that PAC money permits interests to buy or rent votes on matters that affect them."[32] They conclude that there is substantial empirical support for the influence of monied interests in the legislative process.

D. Desirability

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[30]Alexander Heard, *The Cost of Democracy* (Chapel Hill: University of North Carolina Press, 1960); Herbert E. Alexander, *Money in Politics* (Washington, D.C., Public Affairs Press, 1972); Michael J. Malbin, *Parties, Interest Groups, and Campaign Finance Laws,* (Washington, D.C. American Enterprise Institues for Public Policy Research, 1980); James F. Herndon, "Access, Record, and Competition as Influences on Interest Group Contributions to Congressional Campaigns," *Journal of Politics,* 44 (1982): 996-1019; J. David Gopian, "What Makes PACs Tick: An Analysis of the Allocation Patterns of Economic Interest Group," *American Journal of Political Science,* 28 (1984): 259-81; Laura I. Langbein, "Money and Access: Some Empirical Evidence," *Journal of Politics,* 48 (1986): 1052-62.

[31]Richard L. Hall and Frank W. Wayman, "Buying Time: Moneyed Interests and the Mobilization of Bias in Congressional Committees," *American Political Science Review* 84 (1990), p. 797.

[32]*Ibid.,* p. 796.

Much of the academic literature that has studied the impact of PAC contributions has not explicitly reckoned with larger normative questions concerning FECA's effectiveness. In a real sense, it has not had to contend explicitly with normative issues because its empirical findings have indicated whether FECA has mostly succeeded or failed. In contrast, the popular literature has not hesitated to tackle normative questions about PACs in particular and the regime that legalized them in general, usually in a highly critical manner.

Stern leads among writers of the popular literature in vilifying FECA.[33] Hewing to the narrow focus and tendency to see exchange as unidirectional, he documents case after case of PACs corrupting legislators and thus the legislative process, prompting the title of his book "the best congress money can buy." Unabashedly neo-populist in tone, Stern concludes his mostly anecdotal, untheoretical study of campaign finance with the observation "that the present campaign-finance law was not handed down on a mountain top. It is not graven in marble. Congress made that law, and Congress can change it"[34]

Clawson, Neustadtl, and Scott bring to their analysis of corporate PACs the same narrowness and lack of detachment that Stern does and, principally on the basis of interviews with corporate PAC directors, report that "we think most readers will be troubled, as are we, by the world view

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[33]Philip M. Stern, *The Best Congress Money Can Buy* (New York: Pantheon, 1988). Others in this "genre" include Brooks Jackson, *Honest Graft* (New York, Knopf, 1988); Elizabeth Drew, "Politics and Money," *The New Yorker* 6 (December 1982), pp. 54-149;
[34]*Ibid.*, p. 199.

and activities of corporate PAC directors."[35] They conclude their study with a list of "structural reforms" they maintain would solve the central problems bedeviling today's regime, claiming that their proposals would preclude the unintended consequences that most reform ideas would not.[36]

Although not the single concern in their pieces, Hinich and Munger, Aranson and Hinich, Tullock, and Jacobson advance theoretical and empirical reasons for believing that sanguine expectations that a new campaign finance regime would outperform FECA are probably wrong.[37] Hinich and Munger observe: "we are not optimistic about the chances for reform of the campaign environment."[38]

More daringly because it contradicts conventional wisdom, Denzau and Munger conclude that the power of interest groups and PAC money is substantially less than critical investigations have alleged.[39] By considering not only interest groups' impact on issues where constituents are well informed but also the tendency for legislators to sit on committees whose jurisdiction will be of most interest to voters, the authors suggest that interest groups have only minimal influence over congressional behavior.

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[35]Dan Clawson, Alan Neustadtl, and Denise Scott, *Money Talks: Corporate PACs and Political Influence* (New York: Basic Books, 1992), p. 2.
[36]*Ibid.*, pp. 191-219.
[37]Hinich and Munger, "An Equilibrium Spatial Model of Voters, Legislators, and Interest Groups"; Peter H. Aranson and Melvin Hinich, "Some Aspects of the Political Economy of Election Campaign Contribution Laws," *Public Choice*, 34 (1979): 435-461; Gordon Tullock, "The Purchase of Politicians," Western Economic Journal, 10 (1972): 354-355; Gary C. Jacobson, *Money in Congressional Elections* (New Haven: Yale University Press, 1980).
[38]Hinich and Munger, *Ibid.*, p. 66.
[39]Denzau and Munger, "Legislators and Interest Groups: How Unorganized Interests Get Represented."

Theirs is an unorthodox but highly significant conclusion because, if true, it suggests FECA, for all the strange consequences that followed it like MPACs, may not be the utter failure critics with a more narrow focus insist it has been. If so, replacing it with something "better" may only cause as many problems as it solves.

Yet recent work calls into question one of the authors' key assumptions: that the committee assignment process in the House is one of pure-self selection in which members request, and are routinely granted, assignments that reflect their constituents' concerns. "More than 40 percent of the freshman assignment requests are denied by the Democratic CC (congressional caucus)."[40] This finding suggests that there may be other explanations for legislators' ability to withstand PAC pressure, like the capacity of congressional parties to discipline any member who champions a cause that contradicts his party's agenda. Moreover, it may explain why ambitious members found PACs to advance in an institution where "pure committee self-selection" is less common than is popularly thought: desiring positions that are *NOT* theirs for the asking, members must employ a variety of campaign tactics to build a legislative constituency. Furnishing money to party colleagues in the expectation of their support is but one.

In perhaps the most comprehensive and up-to-date study of FECA, Sorauf also suggests that campaign reform may raise as many problems as it corrects.[41] Although confining his scope to the campaign context, Sorauf

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[40]Gary W. Cox and Matthew D. McCubbins, *Legislative Leviathan: Party Government in the House* (Berkeley: University of California Press, 1993) p. 43.
[41]Frank J. Sorauf, *Inside Campaign Finance.*

nevertheless details it with a thoroughness not seen in most PAC research. Thus he advances a realistic theory of exchange in which legislative agency is prominently featured, considers the different motivations of politicians and how they have affected FECA, and performs the rare service of detailing FECA's successes. Sorauf also carefully explains the shortcomings of many recent reform proposals and suggests why reform of campaign system as presently conceived may be unwise.

More boldly, Box-Steffensmeier and Dow suggest that any campaign regulation might be worse than outright deregulation because limits on individual contributions encourage wealthy PACs to distribute monies across a wider range of incumbents than would be the case in a system in which ceilings were absent.[42] This in turn hurts more under financed challengers than would otherwise be the case: "the removal of constraints on contributions allows investors to target the allocation of their resources. That is, the wealth is not distributed in as an egalitarian manner among incumbents as would otherwise be the case." Significantly, they argue that institutions unrelated to the campaign environment promote at least as much the incumbency effect and that effective reform must aim to reform them too: "to reduce the importance of large contributions in political affairs one must simultaneously deregulate the campaign finance market and reduce those institutional powers which make certain

[42]Janet M. Box-Steffensmeier and Jay K. Dow, "Campaign Contributions in an Unregulated Setting: An Analysis of the 1984 and 1986 California Assembly Elections," *Western Political Quarterly* 45 (1992): 609-28.

individuals so valuable to special interests."[43] Unfortunately, the authors do not expound on the importance that unconnected institutions have on campaign finance, preferring to raise the possibility rather than explore it. Yet theirs is a significant proposition that comes closer than the rest of the literature to connecting the campaign environment to related political contexts. They are among the few in campaign finance research to posit the importance of legislative rules and structure on campaign reform and raise questions that must be answered by a new regime if it is to succeed.

Grenzke and Ben-Zion and Eytan, as noted, withhold any normative criticism of FECA. Nevertheless, they ably specify in the abstract the myriad factors that explain why interest groups contributions to politicians take place at all: friendship, goals, influencing policy, politicians' agency and aggressiveness, etc.[44] These factors have characterized the American political landscape since the ratification of Constitution and will doubtless continue shaping it with or without future reform.

Dawson et al dismiss the resiliency of these features when they advance reforms that they promise will live up to their name. Ironically, the authors admit elsewhere in their study the formidable and robust character of these features that can be expected to withstand all but the most repressive government "reforms":

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[43] *Ibid.*, p. 627.

[44] Grenzke, "Candidate Attributes and PAC Contributions;" Ben-Zion and Eytan, "On Money, Votes, and Policy in a Democratic Society."

> it is difficult to devise rules that have the intended consequences[45] (owing to) the quintessential liberal dilemma, which applies in most areas of government policy, not just campaign finance. Liberalism leaves the private sector free to control itself and operate as it wishes...then attempts to correct the worst consequences of the free market through various kinds of government programs. *But even when the government programs move in the right direction, they are always minimal, with far too little power to do more than frustrate the basic direction of the private sector* (italics added).[46]

The central, and deeply troubling, question this seemingly harmless observation raises but does not answer is, How much power is required before a government reform can accomplish its stated ends? The complexity of the American political environment suggests a lot, perhaps a good deal more than is desirable.

Other literature has considered the threat that PACs and other modern-day campaign contribution devices pose to the viability of the two party system. Starting with Schattshnieder's classic observation that "modern democracy is unthinkable save in terms of the parties,"[47] this literature sees the PAC-representative relationship as undercutting a representative's allegiance to his party. This in turn reduces the parties to little more than empty name plates whose nominal members pursue their own narrow agendas, make programmatic accountability next to impossible, and threaten democracy. PACs are thus seen as part of a larger disturbing phenomenon that is both a cause and reflection of party decline and harmful to democracy. Proposals to reform and strengthen the party

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[45] Dawson et al, *Money Talks*, p. 196.
[46] *Ibid.*, p. 246*n*3.
[47] E.E. Schattschneider, *Party Government* (New York: Farrar and Rinehart, 1942), p. 1.

system include the abolition of PACs. The critical popular media tend to espouse this view.

As Chapter One reports, a couple of recent, exceptionally compelling studies suggest that the ease with which pundits have extended their observations about party decline among the electorate to the condition of "congressional parties" is just plain wrong.

Rohde and McCubbins and Cox demonstrate that party cohesion in the House of Representatives is far higher and more impressive than is popularly thought, despite the extent to which members finance their campaigns with PAC money and eschew their parties' assistance.[48] Moreover, they dismiss the conventional belief that congressional leaders are institutionally weak and that the rank and file are essentially political entrepreneurs pursuing their own personal agendas to the detriment of their parties.

McCubbins and Cox show that certain rational choice assumptions have prompted the rank and file to foster party cohesion inside the legislature, constraining when necessary but in no way eliminating rank and file autonomy. Reinforced by Rohde's study of the reduction of sectional divisions within the parties and reforms of congressional rules and procedures starting a generation ago, the authors argue that party cohesion is exceptionally high on issues of importance.

The central weakness in their investigation is that it does not extend the rational choice and game theory implications of their analysis

[48]David W. Rohde, *Parties and Leaders in the Postreform House* (Chicago: University of Chicago Press, 1991); McCubbins and Cox, *Legislative Leviathan.*

far enough. Seeing the "legislative leviathan" as a rational choice "safeguard" against the disappearance of programmatic cohesion that would surely result if discipline were absent and rampant entrepreneurial behavior allowed to flourish,[49] Cox and McCubbins are content to conclude that this leviathan disciplines members when doing so advances the congressional party's general interest.

The authors leave unanswered the interesting question of why the rank and file should not be expected, on the basis of the same rational choice impulses that cause them to empower the leviathan in the first place, to concoct ways to circumvent the leviathan that do not invite punishment. Why should members be expected to behave this way? *In order to become part of the leviathan, to secure the very leadership positions whose institutional powers make the leviathan the principal source of party cohesion.*

Again, the work of Fenno is discounted precisely at the point where its implications become most interesting. The legislative leviathan the members authorize may indeed foster the kind of congressional party cohesion that plays well "back home" and thus helps him secure reelection. But this same juggernaut, operating even as it does within

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[49]Cox and McCubbins contend that a member's party record still matters on election day: "substantial components of a party's record affect all its members similarly: for example, all are hurt by scandal or helped by perceptions of competency, honesty, and integrity; all or nearly all are helped by the party's platform, when taken as a package ... party record can be changed in ways that affect the vast majority of party members' reelection probabilities ... the electoral fates of members of the same party are tied together (p. 112)." Elsewhere they observe: "the party's reputation, based on its (legislative) record is a public good for all legislators in the party (p. 123)." Since the party record is a collective good, the member will not help promote it unless he is forced to do so. Hence the existence of the "legislative leviathan."

sharply specified limits that makes entrepreneurship possible, would presumably make Fenno's other two intra-institutional goals -- prestige and good policy -- much harder to achieve for a rank and file member willing to obey the leadership and "be a back bencher" against his own desire to stand out and develop his own congressional power base.

It is exceptionally unlikely, however, that a member fitting Fenno's description would happily surrender or postpone his own ambitions to the imperatives of his congressional party and resign himself to a career of obscurity, glacial advancement, or spotty and infrequent policy achievement, even if doing so helped achieve the initial goal of reelection through a demonstration of fealty to his party. Reelection for the sake of reelection makes no sense in Fenno's legislative cosmology.[50] Yet if Cox and McCubbins' findings about strong congressional parties are correct, the same ambitious member knows that the legislative leviathan will discipline and punish him if he pursues his policy and/or career ambitions in ways that appear to undermine the congressional party's interests and harm his party colleagues' electoral fortunes.

The challenge confronting the rational member, it would seem from the logic of McCubbins and Cox, is to rise above the obscurity that obedience to the leviathan portends and gradually amass the support needed to one day become part of the leviathan. More precisely, the challenge is to build a legislative constituency with which to advance policy and/or career goals *without* going so far as to antagonize the

[50]There are, of course, competing cosmologies that treat reelection as an end in itself, most notably David R. Mayhew, *Congress: The Electoral Connection* (New Haven: Yale University Press, 1974).

leviathan and invite the retribution that might sabotage a member's policy and/or career goals.

In short, the rational desire to evade the very discipline the leviathan engenders and stand out in the House so as to foster support for individual policy goals and advancement is a feature that Cox and McCubbins do not entertain in their otherwise outstanding analysis. Yet intuition and the logic of their own argument suggest that this rational desire must be present. If it is, the calculating member can be expected to do things that aim to further this desire without crossing the leviathan and destroying his congressional career. If he tries too hard to placate it, however, the ambitious member will destroy his career by consigning it to obscurity. In the most literal sense of the term, the ambitious member must be "politically correct" in the execution of his or her objectives.

Thus by the logic of Fenno, Cox and McCubbins, and Mancur Olson, the leviathan's very existence would seem to guarantee subsequent entrepreneurial evasions.[51] Cox and McCubbins do not address this part of the issue, preferring to emphasize the many instances in which the leviathan has been empowered to discipline and punish errant members.

Their silence on this last matter raises considerable questions about campaign finance and its relationship to party government. The strong party loyalty that critics bemoan is in frightfully short supply among the electorate and inside Congress in fact appears to exist to an impressive degree inside Congress, and precisely in the way strong party advocates say

[51]Fenno, *Homestyle;* Cox and McCubbins, *Legislative Leviathan;* Mancur Olson, *The Logic of Collective Action* (Cambridge: Harvard University Press, 1965).

it should be achieved: with discipline, accountability, and strong party leaders.

Ironically, the strong party system inside Congress, intended to play well back in a member's district, by its very existence would seem to spawn, indeed necessitate, entrepreneurial activity if we accept Fenno's and Olson's observations at face value. *Stronger institutional positions* that cannot be shared have caused members to covet them. *More democratic procedures* governing how they are allocated have impelled members to compete against one another to secure them. To secure these postions, members must give their colleagues a compelling reason to support their candidacies in the party caucuses. And to triumph they must stand out from the party leadership and agenda they are supposed to follow by: (1) showing they can lead the party more ably than anyone else and/or (2) proposing a better party agenda than the present one. They must be different, but in a way that does not smack of party disloyalty.

The temptation for a member to free ride becomes apparent. Only free riding has to be done in crafty ways that do not antagonize party leaders and party colleagues. The incentive to form an MPAC becomes a little clearer.

Free riding under these formidable institutional constraints thus entails certain start up costs and considerations not included in Olson's classic formulation. Free riding in this case winds up assuming the paradoxical form of actually *helping* the party in the short run, and in ways that, if carried far enough, serve by their own logic to change the party's fundamental character in the long run. In the campaign to stand out, members must out do their party rivals, trusting that the back benchers whose caucus support they solicit will faithfully support the party agenda and thus send a united party signal to the voters.[52]

The provision of money to colleagues has modestly helped the congressional party in the short run, and starting in 1978 MPACs have helped provide it. Yet it has been easily and widely imitated in a campaign system in which money has never been in short supply. As the competitive edge that contributions once gave has become blunted by imitators, something far more substantial has been needed to achieve a similar effect on undecided party colleagues. The slide from dollars to party ideas, and from ideas to an alternative party vision on which the rank and file can campaign has thus taken place. Again, the MPAC has been the means to do this. After all, nothing in FECA restricts PACs to raising and giving money. Significantly, almost nobody has noticed this.

Although Cox and McCubbin's work is only tangentially concerned with campaign finance, it spotlights the important features commonly missed in the campaign finance literature. Incumbent candidates are at once constrained by: (1) their constituents' needs and campaign requirements; (2) legislative rules and customs that are far stricter than is popularly believed; and (3) the structures of their own ambitions, whatever they may be, that must navigate between the first two constraints without violating either one if they are to be satisfied.

[52]The back benchers, then, are expected to produce what McCubbins and Cox call "collective benefits legislation."

The MPAC is the logical expression of these constraints. On the one hand, an MPAC helps advance the congressional party's interests and thus placates the leviathan; FEC data show that MPAC legislators[53] seldom give to candidates of the other party (see Chapter Nine). On the other, an MPAC permits the MPAC legislator to develop his own power base within his party -- by personally aiding colleagues in their campaign efforts. Finally, by evincing a commitment to his party, the MPAC legislator maintains a semblance of loyalty to his party that pleases his reelection constituency. His reelection secured, his party credentials apparently intact, the member can concentrate on the fulfillment of his own objectives, including a reinvention of his congressional party via the MPAC, provided he has the vision, talent, and energy to do so.

E. Membership PACs

As has been stated already, MPACs are something of an orphan in the PAC literature. This is almost certainly due to the small category they form. Since 1974, there have been only 87 such PACs registered with the FEC. As this project is prepared, there are only 47. At their peak in 1985-1986, there were only 64. Thus MPACs have never accounted for more than 2% of all registered PACs, making them unlikely material for

[53]Henceforth, "MPAC legisltor(s)" refers to any congressional incumbent who maintains a political action committee.

traditional PAC analyses that depend on larger sample sizes. Moreover, they are the most ephemeral of all PACs, usually existing only during the election cycle in which leadership positions are expected to be vacated.

To date, only two academic researchers have studied MPACs on their own terms. Baker's out of print, pamphlet-length study is little more than a descriptive account of MPACs that concludes with the observation that the harm they cause the political system is more in the perception than the reality.[54] As long as legislators capitalize PACs and distribute campaign money to politicians, Baker argues, voters will have a cynical perceptions of elections and Congress. Wilcox is more sanguine, concluding that MPACs and more informal forms of member-to-member giving complement the activities of the member's party.[55]

The existing MPAC literature, such as it is, is highly descriptive. It examines MPACs as they are and concludes that they are essentially innocuous. Perhaps the most interesting feature of MPACs, however, is not that they either promote or harm the party system but that they are an expression of "constrained legislative ambition." That is to say, to carry out their individual objectives in the late 1970s and 1980s, many legislators pushed FECA and party rules to their limits, exploited their own rich financial networks, and imitated the examples of each other. The result was the MPAC. In the late 1970s, when only a few members were daring enough to form PACs, MPACs proved unusually effective as vehicles for

[54]Ross K. Baker, *The New Fat Cats* (New York: Priority Press Publications, 1989).
[55]Clyde Wilcox, "Share the Wealth: Contributions by Congressional Incumbents to the Campaigns of Other Candidates," *American Politics Quarterly*, 17(4): 386-408; "PAC'ing It In," Paper presented at the 1989 meeting of the Western Political Science Association, Salt Lake City, Utah, pp. 11-12

advancement. They enabled ambitious junior members to stand apart from their peers and build independent networks of obligation without unduly upsetting party decorum. The case of Henry Waxman, outlined in Chapter One, underscores this point. As MPACs proliferated, however, their effectiveness wore off, to the point where academic researchers could declare them benign.

But if the same underlying desires that spawned MPACs in the first place (the desire to stand out, to advance rapidly in the congressional party, to construct a power base independent of the party) are unchanged, and MPACs are no longer effective vehicles for pursuing them, at least via straight money contributions, scholars concerned about campaign finance and congressional behavior should ask what innovation will next appear to carry on where traditional MPACs have left off. They should ask what a campaign reform can reasonably be expected to accomplish when nothing changes but the letter of the law; long existing behaviors may only assume new and more covert forms, not change for "the better."

Chapter Three

The Modern History of Campaign Finance and Issues of Change and Reform

I. Introduction

Reform of the federal campaign finance system in the 1970s remains "the most comprehensive attempt yet to tame campaign money (and) defines the beginning of the contemporary period or regime in American campaign finance."[1] Despite its comprehensive character, FECA (and its 1974, 1976, and 1979 amendments) is today among the most vilified features of the federal political system because, its many critics contend, the act has permitted unseemly behaviors to flourish -- like the formation of membership PACs -- that betray the spirit in which FECA was enacted and contribute to the enervation and exhaustion of the responsible party system without which "modern democracy is unthinkable."[2]

* * * *

As calls for a more effective regime mount that will reduce the importance of big individual contributors and PACs in federal elections, lessen the advantages enjoyed by incumbents in congressional campaigns, and promote more competitive races, it pays to review FECA's quarter

[1]Frank J. Sorauf, *Inside Campaign Finance: Myths and Realities* (New Haven: Yale University Press, 1992), p. 2.
[2]E.E. Schattschneider, *Party Government* (New York: Farrar and Rinehart, 1942), p.1

century history and the forces that precipitated its enactment. FECA's history furnishes valuable lessons about the possibilities and limits of federal campaign reform that reform proponents are wise to heed before singing the praises of a new and untried campaign regime, however promising it may seem.

By accounting for both the causes and manifestations of controversial campaign finance practices that flourished long before FECA was adopted in 1971 and implemented the following year, and reminding readers that during the period under investigation *two* responsible party systems were able to follow one another almost seamlessly (1896-1932; 1932-1968), this chapter modestly hopes to show that strong, responsible party systems do not stand or fall on the condition of how political campaigns are financed, a position that some scholars might challenge.[3] Campaign finance laws may NOT be among the causes of party decline. Proposals to reform FECA in order to restore strength to parties may be a red herring, even Pollyannaish.

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[3]For example, see David E. Price, *Bringing Back the Parties* (Washington, D.C.: Congressional Quarterly Press, 1984), pp. 239-262; Steven Stockmeyer, "Commentary," in *Parties, Interest Groups, and Campaign Finance Laws*, ed. Michael J. Malbin (Washington, D.C: American Enterprise Institute for Public Policy Research, 1980), 309-313; Austin Ranney, "The Political Parties: Reform and Decline," in *The New American Political System*, ed. Anthony King (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1978), 241-245.

II. Classes of Change: Some Theoretical Considerations

The implicit assumption behind campaign finance reform is that "changes in formal institutions induce changes in political behavior."[4] The important question is, What *kind* of changes in political behavior are changes in federal campaign finance rules capable of inducing? Until this question is resolved, the present system, for all its considerable flaws and unanticipated consequences, probably should remain in operation because a new system may not fare any better than the present one and in fact could generate as many new problems as it does solutions to old ones.

A. The Two Challenges of Change and Reform

There are two prominent challenges confronting reform or regulatory proposals of any kind.

The first challenge is persuading relevant institutions to overcome their natural predisposition for stability, continuity, and inertia in order to adopt a reform or regulation that carries with it the certainty that these institutions will also change in the process. Much of this chapter will detail why campaign finance came to be regarded as an important problem and how the legislative and executive branches came to support comprehensive changes in federal campaign rules that had served them so well for almost five decades.

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[4]Robert Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton, N.J.: Princeton University Press, 1993), p. 17.

The second challenge is rewriting the "rules of the game" to produce the reform's intended effects and minimize the occurrence of unintended consequences. The remainder of this dissertation will show why this challenge is not at all easy to execute, by focusing on the long standing forces associated with membership PACs that FECA has falsely been blamed for spawning.[5]

B. The Three Changes that Campaign Finance Reform Aspires to Make

There are three intended effects that campaign finance reform proposals have sought to produce since campaign finance became an important political issue in the early twentieth century: (1) a reduction in the role and importance of big contributors; (2) an expansion in the role of small contributors; and (3) a reduction in the advantages that incumbent candidates enjoy over their challengers.

In announcing these stated goals, the implicit hope has been that the reform proposal, if adopted, would not create new and perhaps graver problems as it addressed existing ones that were deemed critical enough to warrant government action in the first place.

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[5]In a symposium on campaign finance reform at Harvard University, the Center for Responsive Politics' Ellen Miller claimed that, after 20 years of FECA, genuine campaign finance reform was now possible because much had been learned concerning unanticipated consequences and how to prevent them from arising, in *Money & Politics: Is Reform Possible?* (Harvard University Video Services Center, 17 October 1994). This optimistic view is shared by many reform advocates. Forgotten is that by their nature, unanticipated consequences cannot be anticipated.

But are new problems on the one hand and the solutions to existing problems on the other as unrelated as they seem? Can existing problems be solved *without* at the same time giving rise to new ones that may be even worse? As Wildasvsky has sensibly suggested: "to understand where future policies are likely to lead us, we need to know about past policies. For, as policy becomes its own cause, the future problems in which we are increasingly interested are a response to our past solutions."[6]

Well might Wildavsky further query if past problems do not so much disappear as mutate into future problems by the intervention of a "solution" that merely eliminates the old way the problems have expressed themselves -- but not their cause(s) -- and thus preserves the conditions for the problems to express themselves in new, perhaps more worrisome ways.

C. Reforms and "After-the-Fact Problems (Conditions)"

Owing perhaps to its relentless "can do" spirit, its singular "Yankee ingenuity," and its extraordinary industriousness, the United States has evinced a robust faith in its ability to make outcomes conform with intentions.[7] Nowhere has this faith been more conspicuous than in the area of social and political "problem solving."

[6]Aaron Wildavsky, *Speaking Truth to Power: The Art and Craft of Policy Analysis* (Boston: Little, Brown and Company, 1979), p. 79. Wildavsky could easily be commenting on FECA in this passage. Touted as a solution to past campaign problems, FECA legalized such things as PACs to expand and democratize participation in the financing of campaigns that today are cited as the act's biggest failure.

[7]A dramatic example of this faith is President John Kennedy's intention in 1961 to have the United States "land a man on the moon, and have him safely return to earth, before the

The presuppositions behind campaign finance reform are that once a reform is enacted that *on paper* promises to accomplish its three stated imperatives, big contributors will happily accept their diminished role in the financing of campaigns rather than search for new ways to influence them, hitherto inactive small contributors will suddenly acquire an interest in making campaign contributions, and congressional incumbents will lose whatever it is that gives them a competitive edge over the usual poorly financed challengers.

These presuppositions ignore the inescapable fact that the overall effect intended by campaign finance reforms is the elimination of what might be called "after-the-fact problems," problems that are symptoms of deep cultural and behavioral predispositions that are unlikely to disappear merely with the wave of the "reform wand."[8] Thus big contributors contribute in shockingly high sums *only after* concluding that doing so (they hope) will help achieve public policies that advance their private interests or ideological values; potential but inactive small contributors decide not to contribute *only after* concluding that they do not care enough about politics to contribute, cannot afford to do so, or lack a compelling rational interest to do so; and incumbency advantages come

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decade is out," which was carried out almost flawlessly with five months to spare. It has become a common feature of the American political idiom to hear someone say, "if we can land on man on the moon, if we can defeat Saddam Hussein in only 96 hours, then we should be able to reform public education, end drug abuse, clean up Congress, etc."

[8]"Problems" may be an inappropriate term to use in this context. As John W. Kingdon argues, "there is a difference between a condition and a problem. We put up with all manner of conditions every day: bad weather, unavoidable and untreatable illnesses, pestilence, poverty, and fanaticism," in *Agendas, Alternatives, and Public Policies* (New York: HarperCollins Publishers, 1984), p. 115. Wiladvsky adds that a condition becomes defined as a problem when we come to believe that we should and can do something about it, *Speaking Truth to Power*, p. 42.

only after a candidate has acquired the statutory political power to perform favors for his/her constituents and other organized interests, providing the latter a compelling reason to curry favor with him/her in various ways. Also overlooked is that most legislators intend to make public service a vocation and need money and other resources -- and lots of them -- to carry out their ambitions in a competitive, democratic political system.

An analogous and more straightforward example of the kind of problem under discussion comes from the disappointing history of international law. The 1928 Kellogg-Briand Pact boldly outlawed war as a means for resolving international differences without appreciating that war is "merely" the final, brutal expression of deep seated national differences that precede war's outbreak.

D. The Status Quo, Change, and Reform: Distinguishing Features

The underlying premise behind any idea that is touted as a "reform" is that it will "change" the "status quo" to which it is targeted. The Eighteenth Amendment and the Volstead Act were supposed to change the existing pattern of alcohol consumption in the United States. The Kellogg-Briand Treaty was designed to change the customary way in which international conflict was expressed and resolved.

The hope and expectation, of course, is that the reform will not merely change the situation to which it is targeted, but change it in a manner that: (1) noticeably leaves the situation better than it was before the reform was implemented and (2) does not create new problems as it addresses existing ones. By this standard, the Prohibition movement and the Kellogg-Briand Treaty were *not* reforms: the former did not perceptibly change the pattern of alcohol consumption and in fact changed the liquor trade for the worse, by inadvertently handing it over to organized crime; the former changed no aspect of international conflict, as World War II's outbreak proved.

As Robert Putnam has observed with respect to democracy in Italy, reforms that have sought to make good changes have often been betrayed by the actual history of reform:

> Two centuries of constitution-writing around the world warn us, however, that designers of new institutions are often writing on water. Institutional reform does not always alter fundamental patterns of politics. As Deschanel characterized politics and government in the French Fourth Republic: 'The republic on top and the empire underneath.' ... *That institutional reforms alter behavior is an hypothesis, not an axiom.* Theorists of institutions have lacked controlled settings in which to assess empirically the effects of changing rules (italics added).[9]

III. Campaign Finance Reform and the Issue of Change

Considered with the last section's observations in mind, the 25 year history of FECA assumes an importance that goes beyond the narrow issue of campaign finance. This chapter begins a survey of FECA's history, asking how FECA was enacted? Chapters Four through Nine will consider whether FECA has actually altered the behaviors and ambitions of

[9]Putnam, *Making Democracy Work*, p. 18.

political actors, redistributed campaign resources more equitably, and inculcated new contribution norms among big and small contributors, or has merely changed how these behaviors and ambitions have been expressed. Since membership PACs (MPACs) directly involve the four generic features that campaign finance entails -- private contributors, candidates, a market economy, and democratic campaigns -- they will be used to address these considerations.

How were existing and also changing practices in Congress affected by FECA? More important, how was FECA affected by changing practices in Congress? Indeed, when all is said and done, how much really changed? Are things like MPACs unique abominations that could not have existed without FECA, or simply the latest expression of long-existing behaviors that became more conspicuous after Congress democratized its internal procedures a generation ago (see Chapter Four)?

Before answering these questions, however, it helps to consider what factors precipitated the enactment of FECA. The 1970s brought fundamental change to federal campaign finance. When the decade began, campaign finance had long been associated with the notorious "fat cat" contributors. By the mid-1970s, the fat cats had been purged from the system and replaced by a new constellation of contributors, most of whom were erstwhile fat cats using new vehicles -- like political action committees, independent expenditures, professional lobbyists, and the provision of technical information -- to influence campaigns and public policies that had been concerns to them before FECA's enactment and remained so after.

What are we to make of the change that FECA represented, a change that itself would, by the late 1970s, be universally indicted for handing the campaign finance system over to "the new fat cats" and contributing to the decline of parties? That is the empirical question with which this chapter is concerned.

A. Effecting Change: How Is It Possible?

As this project is prepared, many political scientists are exploring the influence of institutions on political life. The adoption and unexpected evolution of campaign finance reform in the 1970s touches on one theoretical interest these scholars find particularly important. The recent history of campaign finance invites us to consider *the relationship between institutions and political change in a complex society.* This is a significant topic because institutions are "usually associated with continuity: They are by nature inertial and linked to regularities in human behavior."[10] Perhaps none fit this description more than the institution that enacted FECA -- the United States Congress. FECA can help show what role institutions play in the process whereby policies change radically and why institutions are willing to assume the role of agent of change in the first place.

The "new institutional question" that the case of FECA may help answer, then, is: How do institutional factors contribute to the explanation

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[10]Peter A. Hall, "The Movement from Keynesianism to monetarism: Institutional Analysis and British Economic Policy in the 1970s," in Kathleen Thelen and Sven Steinmo, *Structuring Politics: Historical Institutionalism ins Comparative Analysis*, p. 90.

of change? In this case, how and why was Congress able to change campaign laws in 1971 that for almost fifty years had served its interests well?

B. Normative Implications

"Change," however, is an ambiguous term. If we are to posit that usually obdurate institutions under certain conditions can effect change, then we might take the additional step of distinguishing among the kinds of change they aspire to make. Is there a specific class of changes offering a high probability that changes' consequences will bear a close resemblance to the changes' intentions? Is there a specific class of changes having only a low probability that the stated intentions and actual outcomes will roughly coincide?

From these questions concerning change the normative, generalizable implications of this dissertation naturally follow: in which areas of public and private life are America's public institutions suited to legislate, for better or worse? In which areas are these same institutions unsuited to legislate because doing so will only invite evasions and perhaps even engender new pathologies that are more troubling than the original problems? Finally, in which areas are unseemly consequences a necessary price to pay if a more cherished social or political good is to be achieved?

The last question is particularly important to this dissertation and will be reconsidered in the concluding chapter. If two cherished goods in the United States are (1) a participatory political system and (2) democratic elections and campaigns, is it not possible that some of the unattractive aspects associated with these goods, like how elections are financed and communicated to the electorate, are the price to be paid for them? The old quip that "not all good things go together" may apply with particular poignancy to the case at hand, a point that is lost on many reform proponents who focus on the narrow issue of campaign finance to the exclusion of the more important political values that campaign reform seeks to advance.

In areas that are unsuitable for comprehensive governmental involvement (if they exist), is it safe to conclude that such areas promise to make a mockery of the laws intended to redeem them and, by guaranteeing failure, can only foster cynicism toward the public institutions that enact and implement them, threatening to discredit the political system more? Unless there is a high probability that intentions and outcomes will closely approximate one another in a particular area of governmental action, there seems little justification for a public action because the result may only produce disappointment and thereby undermine public faith in elected institutions.

These problems are not as simple as they sound. In a political system as open to outside influence and pressure as the United States, it is next to impossible for elected officials and public institutions to resist taking action, often at tremendous long-term cost to their reputations, the social fabric, and the economy, in areas they might suspect from the outset should be avoided but which they cannot ignore because public pressure to intervene is too great. In no class of public policy is this pressure felt more intensely than the one that encompasses what many pundits call "bumper-sticker causes," causes like congressional term limits, balanced-budget and anti-flag burning measures, and so on that are comparatively easy to understand and thus highly salient to the public, seem to recommend simple solutions, and are difficult for even the sincerest and best informed legislator to oppose without appearing to have betrayed the trust invested in him by his constituents in favor of "bad government." This demand "to do something" frequently leads the best intentioned political actors to legislate in unwise areas, or to legislate poorly.[11]

The essential issue, then, is that even amid compelling evidence that there may exist a distinct class of reform areas that should be avoided by public institutions (dealing with after-the-fact problems or conditions) as well as a distinct class in which the state is justified in entering, can the state confine itself to the one and eschew the other when interest groups alleging to represent the "public interest" demand reform laws in the unsuitable areas?[12]

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[11]For more on "symbolic efforts" by political actors to satisfy interest groups, even if only temporarily and ineffectively, see Murray Edelman, *The Symbolic Uses of Politics* (Urbana: University of Illinois Press, 1964), Chapter 2.

[12]Characteristic of this is Brooks Jackson's call for a new campaign finance law because, even though he admits that in reality "big money" does not control the political system, it appears to control the system and thus undermines the public's faith in government (Harvard University symposium, *Money & Politics: Is Reform Possible?* 17 October 1994). Are appearances more important than the reality they express? Perhaps. Should they be? At what point is the public responsible for learning enough about its political system to know that bad appearances are not always evidence of a serious problem and might be better off left alone?

C. The Durability of Self-Interest

The big question remains, then, What class of change does FECA represent? The changes promised by many reform laws that end up falling short of their intentions might be described as "unobtainable changes,"[13] changes that aim to improve behavior but manage only to alter how behavior is expressed.

"Obtainable changes" can, when properly administered, closely approximate their intentions because by their nature they are difficult to evade. They attempt to reform and regulate inanimate things or redistribute discrete and tangible resources: transportation safety (automobiles, airlines), workplace conditions, and so on. As Wildavsky aptly summarizes:

> Were we to study transfer programs, such as food stamps or social security supplements, we would discover that government has been successful in delivering money and food. Why? Because it has what it needs to attain the objectives -- the capacity to supply food and money to people who need *and* want them. When government writes checks or supplies food stamps, it has done its job. Difficulties arise, to be sure, in getting the correct amount to

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[13]Aaron Wildavsky's superb survey of the public policy field refers to "unobtainable objectives" as the objectives originally chosen (that) are beyond the ability of any democratic to achieve...(p. 46)." Wildavsky offers as one example drug addiction: "because addicts love the stuff and the dope traffic is so lucrative, the incentive for buyers and sellers to get together is far stronger than governmental ability to keep them apart. Government might fractionally limit the traffic by making it harder for the parties to find each other and complete their business, but it cannot impose penalties stringent enough to deter most of these tempting transactions (pp. 46-47)." While retaining most of Wildavsky's meaning, this author prefers his own "unobtainable changes" to describe reforms that strive to alter existing behavior patterns but are unlikely to succeed because those patterns have deep cultural roots.

people, but government does not have to interest itself in what people do with the money or food.[14]

Unobtainable changes, in contrast, are prone to failure because they attempt to regulate or restrict behaviors whose existence is owed to the fact that, in the given culture and society, these behaviors "work" when people follow them. As such, they are rational coping mechanisms and will not be surrendered by the targeted groups that use them in the absence of full scale repression. Reforming them via government legislation will likely only cause them to be expressed in creative new ways that obey the letter but not the spirit of the law. With respect to campaign finance, the actors who engage in it do so because they have very sound reasons either to contribute money to campaigns or to accept it.

D. Campaign Finance Reform: An Unobtainable Change?

Campaign finance reform, it is suspected, falls into the class of changes known as "unobtainable change." As such, it is capable of achieving only modest results with respect to "better elections" before it begins undermining their democratic character and jeopardizes the most important of American political goods: an open and participatory political system.

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[14]Wildavsky, *Speaking Truth to Power*, pp. 48-49.

The problem facing campaign finance reform is that it aspires to tame a wide scope of behaviors that are firmly rooted in America's classical liberal ethos and constitutional order and as such have been and will remain until their hegemony is directly and fundamentally contested "rational means" of getting by in America society.[15] To regulate or curtail most rational behaviors is bound to disappoint, either because it is more expensive than is anticipated or just plain impractical.

FECA is an example of a statute whose entire purpose is to regulate rational behaviors. As such, it dramatizes that class of laws that seek to make unobtainable changes. FECA can be classified with a plethora of reform laws and reform movements that superficially bear no similarity to one another but share the fundamental objective of reforming or regulating human behavior(s): state regulation of the securities market, the prohibition laws of the 1920s, constitutional proposals to outlaw abortion, criminalization of narcotics use, and so on, laws and causes that by themselves cannot make the targeted problem go away but at best can only force it to assume a new, perhaps more covert and sinister form.[16]

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[15] Antonio Gramsci's *Prison Notebooks* (in particular his investigations of "hegemony," "the war of position," and "the war of maneuver") offers an outstanding way to understand the possibilities and limits of change in American politics and elections.

[16] In no way should this passage imply that the author believes the intentions of these movements are either bad or wrong or that "rational" behaviors are perforce "good" or "moral." The author's point is only that there are limits to what governments can achieve on their behalf and that, if certain reform ideas have merit, they might be better carried out by other agents. The AIDS prevention movement is a good example. To control the spread of the HIV virus, the government might mandate the use of condoms by all sexually active males on penalty of a prison sentence. What kind of outcry would this spark? How would it be enforced? What constitutional issues might be raised? Educating the sexually active public about the HIV virus and suggesting ways to prevent its contraction -- with condoms, abstinence, monogamy, avoidance of dirty hypodermic needles, appeals to religious edicts, etc. -- might in the long run be a more effective way to reform behavior than to resort to the government.

To appreciate the intentions and consequences of FECA, it pays to survey briefly the history of campaign finance, and attempts to reform it, throughout the twentieth century.

E. Prelude to the Balance of This Chapter

Money, personal ambition, relatively robust party structures, and the existence of organized and wealthy interest groups can accurately be said to have characterized American politics for most of the twentieth century. Attempts to restructure this politics so as to limit the role and importance of big contributors and expand the role of small contributors have been attempted almost since the dawn of the twentieth century.

For most of this period, indeed until the early 1970s, campaign finance was controlled by the political parties whose coffers in turn were filled by "fat cat contributors," people of enormous personal wealth whose willingness to make large contributions to the political parties reduced the importance of small contributors.[17] One early student of American campaign finance estimated that in 1928 approximately 69.7 percent of the receipts of the Democratic National Committee and 68.4 percent of the

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In the author's conversations with Dr. Jay Budziszewski and Steven A. Barracca, the question was raised: Can the government adopt laws that have an "educative effect" on the public, even if they fall short of actually reforming behavior? Civil rights legislation of the 1950s and 1960s indicates that the answer is yes. However, under such circumstances, advocates of these laws should recognize from the outset the limits of such laws. Thus civil rights legislation did not suddenly cause problems of racism and discrimination to disappear. However, it did make the public conscious of such problems, the first step toward solving them.

[17]Frank J. Sorauf, *Inside Campaign Finance: Myths and Realities*, (New Haven, Conn.: Yale University Press, 1992), p. 3.

receipts of its Republican counterpart came from contributions of $1,000 or greater.[18] As Sorauf notes, "in the late 1920s, a less political family could have bought two of Henry Ford's Model T's with a thousand-dollar bill."[19]

Interest in reforming the campaign finance system has ebbed and flowed during the twentieth century. Seldom has it disappeared completely from the range of public issues before the federal government at any given moment (though, to be sure, it has often been at best a marginal issue).

From 1905 -- the year in which President Theodore Roosevelt first urged Congress to enact a law that mandated public disclosure of campaign contributions and prohibited corporate campaign contribution -- until 1960, several presidents supported in principle the idea of campaign finance reform but did little to realize it. President John Kennedy demonstrated considerably more interest in the idea than his predecessors had. In the first year of his administration, Kennedy created the Commission on Campaign Costs "which started a chain of promising events"[20] that culminated in the enactment of FECA in 1971 after several tortuous years during which the political system vacillated between indecision and resistance on the one hand and zeal for reform and change on the other.

Interest in campaign reform has been at its greatest, and has resulted in actual legislation, during periods that Samuel P. Huntington has aptly

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18Louise Overacker, *Money in Elections* (New York: Macmillan, 1932), p. 133.
19Frank J. Sorauf, *Inside Campaign Finance: Myths and Realities*, p. 3.
20Herbert E. Alexander, *Financing Politics: Money, Elections, and Political Reform* (Washington, D.C.: Congressional Quarterly Press, 1976), p. 131.

called "creedal passion periods." According to Huntington, creedal passion periods "differ from other times in American history in the extent to which traditional American ideals were articulated and efforts made to bring institutions and practices into accord with those ideals ... they are distinguished by institutional realignment and reform."[21]

Given Huntington's observation, it is no surprise that the first successful attempt in the twentieth century to reform campaign finance occurred during the Progressive Era and the second after 1968, two periods in which massive shocks to the political system occurred and comprehensive reforms of the system were attempted by the federal government and outside interest groups.

IV. A Brief Chronology of Campaign Finance Reform

A. Introduction

Thus the first serious attempt to reform campaign finance occurred during the Progressive Era, when the federal government also sought to control trusts and monopolistic combinations, improve safety and health at the workplace, and reduce the inordinate influence that wealthy elites seemed to exert over elected officials.

Before the 1960s, Congress had not considered the matter of campaign reform in a concerted manner since 1940, when the Hatch Act

[21]Samuel P. Huntington, *American Politics: The Promise of Disharmony* (Cambridge, Mass.: Belknap Press, 1981), p. 86.

was passed that, among other things, forbade federal employees from participating in elections. Indeed, until FECA was enacted in late 1971, the principal statute governing the financing of federal campaigns was almost a half-century old. Known as the Federal Corrupt Practices Act of 1925, the act was largely a series of regulations that had first been enacted in 1910-1911.

In 1966, two relatively minor campaign reforms were enacted, changing for the first time in almost thirty years the campaign finance system. The first was the Williams Amendment, introduced by Senator John J. Williams (R-DE), which forbade "corporate tax deductions for advertisements in programs and books with a political connection."[22] The second was the Long Amendment, sponsored by Senator Russell Long (D-LA), which provided a tax subsidy for presidential election campaigns. Interestingly, the Williams Amendment was largely repealed in 1968 and the Long Amendment was repealed even before it went into effect, in considerable part because they prohibited certain kinds of voluntary campaign giving that were deemed unseemly yet turned out to be crucial to the two major parties. Finally, in 1970 a political broadcast bill was enacted on Congress's initiative and vetoed by President Nixon. "Neither the executive nor the legislative branch could claim credit for major electoral reforms from 1925 until 1972 "[23]

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[22]Leta Holley, interview by author, 2 August 1994.
[23]Herbert E. Alexander, *Money in Politics* (Washington, D.C.: Public Affairs Press, 1972), p. 198.

B. Campaign Finance in the Nineteenth Century: A Non-Problem.[24]

If social and political problems arise only after a variety of changes in the system have occurred to make them possible, then it is no surprise that campaign finance was scarcely a problem during most of the nineteenth century.[25] Three general reasons explain why.

First, until the late nineteenth century, "professional legislators"[26] as we understand them today were a rarity, even if their political ambitions were as fiery as modern legislators' are. The period's "rules of the game" discouraged their proliferation. With respect to the House of Representatives, the unstated custom honored in many congressional districts limited an incumbent to two or three terms in order to promote

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[24] Campaign finance was essentially non-existent in eighteenth century and early nineteenth century American politics. Politics was regarded as a "gentleman's pursuit." Candidates were expected to pay their own campaign expenses and win office strictly on the basis of their reputations. Indeed, actively campaigning for office was regarded as crass and undignified. In the case of presidential campaigns, candidates "were debarred by custom from intervening personally in the election campaign ... their greatness is supposed to prevent them from taking the field." In M.I. Ostrogorski, *Democracy and the Organization of Political Parties* (New York: Haskell House Publishers, 1970), p. 342.

[25] The author recognizes that much of this thesis may seem committed to the structural-functionalist school. Nothing could be further from the case, as this section and Chapter Four hope to show. The author's main suspicion is that changes in informal and formal rules often give rise to new behaviors and cause old ones to assume a new appearance.

[26] Max Weber's typology of politicians remains definitive and particularly useful to this dissertation. Weber distinguishes between two types of politician, the politician who lives "for" politics -- the "gentleman politician" -- and the one who lives "off" politics -- the "professional politician." Writes Weber: "Either politics can be conducted ... by wealthy men ... or political leadership is made accessible to propertyless men who must be rewarded. The professional politician who lives 'off' politics ... receives either income from fees and perquisites for specific services -- tips and bribes are only an irregular and formally illegal variant of this category of income -- or a ... salary or both." In Max Weber, *From Max Weber* , Hans H. Gerth and C. Wright Mills, eds., (New York: Oxford University Press, 1958), p. 86.

circulation in a given House seat.[27] The case of *Congressman* Abraham Lincoln of Illinois' seventh Congressional District is paradigmatic of this. Abraham Lincoln, reported to have been among his century's most politically ambitious politicians, was restricted to a single term as an Illinois congressman (1847-1849) owing to a gentleman's agreement in which Whig support for his election was conditioned on his pledge to stand for office only once.[28]

Under this prevailing norm of congressional service, the need to amass large campaign treasuries was non-existent, and a candidate's dependence on his political party great. (This is not to suggest that graft, bribery, and venality were absent from the nineteenth century political system. Quite the contrary, these things were so common as to be almost prosaic, only they usually occurred in forums other than the campaign.[29])

Second, for the entire nineteenth century, in fact until the ratification of the Seventeenth Amendment in 1913, senators were chosen by state legislatures, not the public. This significantly lessened the need of even the most ambitious Senate aspirant to raise campaign money.

Third, the American state remained relatively weak and underdeveloped for much of the century. Furthermore, American capital and industry were rather disorganized and dispersed.[30] Not until the late

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[27]In an informal exchange with the author, Walter Dean Burnham pointed out that this unofficial custom was widely honored, though he was unable to say in how many congressional districts.

[28]Stephen B. Oates, *With Malice toward None: The Life of Abraham Lincoln* (New York: Mentor Books, 1977), pp. 73-74.

[29]For more on political corruption in the nineteenth century, see Earl R. Sikes, *State and Federal Corrupt-Practices Legislation* (Durham, N.C.: Duke University Press, 1928).

[30]See Stephen Skowronek, *Building the American State: The Expansion of National Administrative Capacities, 1877-1920* (New York: Cambridge University Press, 1982).

nineteenth century -- when the federal government began to assume a more activist role in the regulation of industry and commerce, and colossal corporations and trusts whose good fortunes increasingly depended on a friendly federal state proliferated to an alarming degree -- was their any rational motivation for private interests to finance campaign treasuries in the hope of "purchasing" legislative support and access.

In a real sense, the "political market" that consists of contributors and candidates, and in 1995 is subject to regulation, did not exist for most of the nineteenth century, at least not on the federal level,[31] because candidates had little to "sell" once they were elected and infant corporations had nothing to "buy."

These three features made campaign finance a "non-problem" for most of the century. Indeed, the little reform that did take place focused principally on the objective of insulating the *civil service* from party pressure and making it as non-partisan as possible. Thus the first federal campaign finance regulation was enacted in 1867, prohibiting political assessments of federal employees. The 1883 Civil Service Reform Act (AKA the Pendelton Act) extended and strengthened this provision,

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[31]In his pioneering history of corrupt political and campaign practices in the United States, Earl R. Sikes devotes most of his attention to corrupt practices that occurred on the state and local levels during the nineteenth and early twentieth centuries, a strong indication that the political market was concentrated on the non-federal level. *State and Federal Corrupt-Practices Legislation* (Durham, N.C.: Duke University Press, 1928). Not coincidentally, legislation mandating candidates to reveal their sources of money was first enacted on the state level. In 1890, the New York State Lagislature passed the first such legislation. In 1907, the year that Congress passed the first federal law dealing with campaign finance not dealing with the civil service, no fewer than 12 states already had disclosure and/or spending laws.

forbidding political assessments of government personnel and sharply restricting government employees from soliciting other government workers for political money.[32]

By the end of the nineteenth century, a series of court decisions, rulings by the Justice Department, and related enforcement actions essentially eliminated direct assessments of federal civil service employees (regulation in this vain continued into the twentieth century, culminating in the 1939 Hatch Act and its 1940 amendments, which imposed comprehensive restrictions on political activities by civil service employees).[33]

C. Campaign Finance Reform in the Twentieth Century

With (1) the advent and proliferation of powerful and rich national corporations and trusts deeply concerned by the policies of the federal government, (2) the emergence of "career politicians" unbound by any gentleman's agreement to limit voluntarily their congressional service in order to make way for new blood, (3) the increasing activism of the federal

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[32]Ari Hoogenboom, *Outlawing the Spoils: A History of the Civil Service Reform Movement, 1865-1883* (Urbana: University of Illinois Press, 1968), pp. 215-235.

[33]Of course, federal campaigns did cost money in the nineteenth century and assessments on patronage jobs helped raised this money. Civil service reforms deprived the parties of the leading way they funded themselves. As luck would have it, at the same time the non-partisan civil service was emerging, a new, far richer legion of potential contributors emerged, forever changing the character of federal campaigns. Assessments were a form of "shakedown" that people endured as the price for an often menial government job. They gave simply to land and retain public jobs. The new campaign contributors, in contrast, gave because it furthered goals other than securing employment. They did not need to be told by party leaders to give. They did so of their own volition, to buy political access, legislative favors for their companies, etc. It is this feature that reform must address to be effective: voluntary actions based on self-interest.

government in the nation's commercial and economic affairs, and (4) the popular election of senators, the financing of political campaigns became a brand-new feature of the American political system, a "political technology" that had never existed before because the conditions favoring its use had been absent.[34] As such, it also became a brand-new *problem* in the American political system.

The extent to which the eastern financial community underwrote William McKinley's successful 1896 presidential campaign against William Jennings Bryan was perhaps the earliest unambiguous sign that the traditional way of running federal campaigns had been replaced by a political market of self-interested candidates and contributors that remains essentially intact today.[35]

The storied "muckrakers" of the early twentieth century who helped define and animate the Progressive Era grew particularly alarmed by the deleterious effects that campaign contributions to politicians might have on the public interest. Their fears were not all together unfounded. In the closing weeks of the 1904 presidential election, it was widely reported that large corporations had contributed tens of millions of dollars

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[34]It is during this period that the House congressional campaign committees were established. The Senate followed suit after the Seventeenth Amendment was passed in 1913.

A central axiom of this project, discussed at length later, is that democratic elections, perhaps America's most important political good, breed campaigns and thus a need for money to fund them. Support for this axiom is the rapidity with which the Senate parties formed campaign committees when the Senate was at last subject to democratic elections. If this axiom is true, the best way to control campaign money might be to restrict or simply do away with democratic elections, a point most campaign finance reformers would reject as "un-American." This point will be reconsidered in the last chapter.

[35]Lawrence Goodwyn, *The Populist Moment: A Short History of the Agrarian Revolt in America* (New York: Oxford University Press, 1978).

to Theodore Roosevelt's Republican presidential campaign, several of which had received much coveted antitrust protection from the Justice Department between 1901 and 1903.[36] Allegations that the Democratic Party was similarly financed by a handful of wealthy benefactors also appeared.[37] Although the charges against the Republicans were stronger and more serious, they apparently did not diminish popular support for Roosevelt's bid. He soundly defeated Democratic nominee Alton B. Parker, 56.4% to 37.6%.[38]

A year later, these allegations resurfaced with a vengeance. In a special investigation of insurance companies based in New York by the New York State Legislature, chief counsel Charles Evans Hughes disclosed that several insurance officers had contributed extraordinary amounts of money to the Republican Party in 1896, 1900, and 1904. Utilities, oil companies, and banks were also found to have generously financed political campaigns on all levels. One individual contribution to Roosevelt's campaign was $48,000.

Given the huge, even grotesque sums of money that the investigation revealed, it is not surprising that the press reported extensively on Hughes' revelations, and that the reading public in turn started calling for comprehensive reform of the campaign finance system.

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[36] *New York Times*, 25 October 1904, p. 8; *New York World*, 1 October 1904, p. 6.
[37] *Wall Street Journal*, 8 October 1904, p. 1.
[38] The similarities between the 1904 and 1972 presidential elections are astonishing with respect to campaign finance reform. The Republican nominees easily won both elections, despite being linked to undesirable campaign practices during their campaigns. Their victories notwithstanding, Roosevelt's and Nixon's association with these practices precipitated calls to reform the entire campaign finance system. In the case of Nixon, they also precipitated his resignation.

The political community took notice, starting with the president himself. In an effort to distance himself from allegations that his 1904 campaign had been bankrolled by the very "robber barons" who in 1905 were the focus of public rage, President Roosevelt observed in his 1905 message to Congress that

> In political campaigns in a country as large and populous as ours it is inevitable that there should be much expense of an entirely legitimate kind. This ... means that many contributions, and some of them of big size, must be made, and ... in any big political contest such contributions are made to both sides. It is entirely proper both to give and receive them, unless there is an improper motive connected with either gift or reception. If they are extorted by any kind of pressure or promise ... then the giving or receiving becomes, not only improper, but criminal. It will undoubtedly be difficult as a matter of practical detail to shape an act which shall guard ... against such misconduct; *but if it is possible to secure by law the full and verified publication in detail of all the sums contributed to and expended by the candidates or committees of any political parties, the result can not but be wholesome* ... (italics added)

Besides urging Congress to adopt a campaign contribution and expenditure disclosure law, the president also recommended that "all contributions by corporations to any political committee for any political purpose should be forbidden by law."[39] Roosevelt's two-part reform proposal established the contours of reform for the rest of the century: *controlling* the sources of campaign money on the one hand and *publicizing* its sources and recipients on the other.

[39]*Congressional Record*, 1905 December, p. 96.

The president's decision to support reform was strongly influenced by public interest advocacy groups that pushed for reform following the disturbing revelations of 1904-1905. The most important of these groups, the National Publicity Law Association (NPLA) -- a bi-partisan movement whose officers included former Senator William E. Chandler (R-NH), Democratic Representative Perry Belmont, Republican Charles Evans Hughes, William Jennings Bryan, labor leader Samuel Gompers, and Harvard President Charles William Eliot -- called for federal legislation to require the public disclosure of all campaign expenditures and contributions.[40] (As will be seen, the NPLA played approximately the same role in campaign finance reform that Common Cause would play almost 70 years later).

In 1907, Congress responded. The 1907 Tillman Act curtailed the role of corporations in campaigns by forbidding national banks and corporations from contributing to the campaigns of federal officials. Interestingly, the bill that became the Tillman Act was essentially the same one that Senator William E. Chandler had originally introduced in 1901, to no effect whatsoever. It had languished in the interim because the press and public did not consider campaign finance to be a serious issue compared with other matters of the day. It was enthusiastically embraced by the media as the best way to clean up the system only after campaign finance became a prominent public concern in 1904-1905.[41] (Like Chandler

[40]Herbert E. Alexander, *Financing Politics: Money, Elections, and Political Reform* (Washington, D.C.: Congressional Quarterly Press, 1976), p. 132.
[41]For example, the *New York Times* printed the Chandler bill and called on Congress to enact it, four years after Chandler had introduced it. In 22 September 1905, p. 8

at the turn of the century, a tiny group of legislators during the 1950s and 1960s would introduce comprehensive measures to reform campaign finance, to no avail. Nevertheless, their persistance kept the idea alive until the public and media once again became interested in reform in the late 1960s).

The National Publicity Law Association's efforts bore fruit in 1910, when Congress approved the first federal campaign fund disclosure law. Congress followed up on these initial accomplishments with a 1911 amendment that imposed limits on the amount of money that House and Senate candidates could spend on their campaigns and mandated that primary, convention, and pre-election financial statements be filed by congressional candidates. As has been noted, these provisions later served as the foundation for the 1925 Federal Corrupt Practices Act, which itself regulated campaigns until 1972.

The 1910-1911 campaign finance provisions were contested in 1921 in what was the first challenge to campaign finance laws.[42] Senator Truman Newberry (R-MI) was convicted by a federal court of grossly exceeding limits on campaign expenditures during his successful 1918 race against Henry Ford in the Republican Senate primary. Financial records showed that Newberry had spent approximately $180,000 in the year preceding his election, most of which had been spent during the *pre-nomination period.* These expenditures violated both the 1911 federal law that limited Senate campaign expenditures to $10,000 and a Michigan

[42]Earl R. Sikes, *State and Federal Corrupt-Practices* (Durham, N.C.: Duke University Press, 1928), pp. 207-210.

statute that limited Senate candidates to $1,875 in primaries.[43] In 1919 Newberry and his campaign staff were found guilty of breaking the 1911 federal statue. Newberry was sentenced to serve two years in prison.

Newberry appealed his sentence, the outcome of which established a precedent that effectively endured until 1972. Concluding that Congress's authority to regulate elections under Article 1, Sections 2 and 4 of the Constitution did not extend to primaries and pre-nomination activities, the United States Supreme Court ruled that primaries were matters for the individual states to regulate under the Tenth Amendment.[44] Primaries for federal offices, the majority opinion asserted, "are in no sense elections for an office, but merely methods by which party adherents agree upon candidates whom they intend to offer and support for ultimate choice by all qualified electors."[45] Since most of Newberry's spending had occurred prior to the Republican primary, the court determined that he had not broken any federal laws. The Supreme Court overturned the part of Newberry's conviction that had been based on FCPA.

This narrow view of federal authority over elections was "effectively, although not explicitly overruled"[46] by the Supreme Court in 1941 in *United States v. Classic.*. Holding that a primary could be construed as part of the election process outlined in Article 1, Sections 2 and 4 of the Constitution, the court announced that Congress had considerable

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[43]"Bill of Exceptions," *Newberry v. United States*, 256 U.S. 232 (1921), pp. 232-95.
[44]*Newberry v. United States*, 256 U.S. 232 (1921).
[45]*Ibid.*, at 250.
[46]Albert J. Rosenthal, "Campaign Financing and the Constitution," *Harvard Journal on Legislation* 9 (March 1972): p. 370.

authority to regulate state primaries.[47] However, Congress preferred the earlier decision. It did not seize *Classic* to extend its campaign regulatory powers and mandate the public disclosure of pre-nomination expenditures until 1972.[48] Federal prohibitions on corporate, national bank, and union political activities were found by the court to apply to primary elections.

D. The Federal Corrupt Practices Act of 1925

Regulation of federal campaign finance evolved between 1910 and 1925 in disparate and uncoordinated ways, with courts, the Department of Justice, and other federal and state agencies issuing sometimes contradictory decisions relating to how campaigns must be financed.[49] The need to bring together, rationalize, organize, and codify this mish-mash of regulations became undeniable by the early 1920s, after a Senate investigation of the Teapot Dome Scandal disclosed that government oil land had been leased by the Harding Administration to private developers in gratitude for their enormous contributions to the Republican Party in 1920.[50] Moreover, three senators (among them Truman Newberry) had been censured for flagrant violations of campaign spending restrictions

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[47]*United States v. Classic,* 313 U.S. 299 (1941).
[48]Kent Cooper, interview by author, 16 August 1994. Several court decisions issued after *Classic* unequivocally determined that state primaries were integral parts of the election process, providing an ample legal basis for Congress to ignore the *Newberry* ruling and regulate primaries: *Terry v. Adams,* 345 U.S. 461; *Smith v. Allwright,* 321 U.S. 649 (1944); *Rice v. Elmore,* 333 U.S. 875 (1948).
[49]David Adamany and George Agree, "Election Campaign Financing: The 1974 Reforms," *Political Science Quarterly* 90 (Summer 1975): p. 201.
[50]Louise Overacker, *Money in Elections,* (New York: MacMillan, 1932), 147-51.

between 1920 and 1924. The ensuing public outcry impelled Congress to consider "clean elections" legislation designed to reassure a suspicious and unsettled public that it remained a branch of unsurpassed integrity and probity. Pursuant to this, in 1925 Congress enacted the Federal Corrupt Practices Act (FCPA) which, as noted, remained the principal campaign law until 1972.[51]

FCPA required the public disclosure of all receipts and expenditures by Senate and House candidates and by political committees that sought to influence federal elections in two or more states (thus making their activities of an interstate character that the federal government could regulate under the Constitution's "commerce clause"). It also established ceilings on campaign spending at "$2,500 to $5,000 for a House candidate and at $10,000 to $25,000 for a Senate candidate."[52]

Brief discussion of FCPA's central provisions is important because it reveals the considerable difficulties campaign regulatory regimes face in a fungible money economy and a malleable legal environment. Spending limits were set on Senate and House campaigns ($2,500 for House candidates, $10,000 for Senate candidates). The 1940 Hatch Act extended on this provision by limiting to $5,000 the contributions an individual could make to a federal candidate or to a political committee in one calendar year. Furthermore, the law established a $3 million limit on committee expenditures. Finally, a federal gift tax was adopted which levied a progressive tax on contributions of more than $3,000 to a single candidate

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[51]Leta L. Holley, interview by author 2 August 1994.
[52]Sikes, *State and Federal Corrupt-Practices Legislation*, pp. 221-224.

or committee in any year. The prohibition on corporate giving that had existed since 1907 was temporarily applied to labor unions.

On paper, these provisions seemed sound, imposing ceilings on campaign spending and contributions to prevent excessive spending by a single individual or interest: "obviously the thinking behind the limits was to stop money from dictating and unfairly influencing elections and also to end the unfair edge held by rich candidates or the party committee with the most money."[53]

It soon became apparent, however, that these limits could be easily circumvented. While individuals could give no more than $5,000 to any one committee supporting a candidate, a candidate or his supporters could set up an unlimited number of committees. Wealthy individuals could also make a multiplicity of contributions in the names of different members of their families.[54] The same logic applied to taxable contributions to political committees. While most corporations and financial establishments were forbidden to contribute money to federal campaigns, corporate officers and stockholders in their capacity as private citizens routinely coordinated their contributions to favored candidates, leaving the unmistakable impression that their contributions were effectively corporate contributions.[55] Although FCPA required candidates to report all general campaign expenditures made with their "knowledge

[53]Kevin Salley, interview by author, 16 August 1994.
[54]This practice endures under the present laws. Distasteful though it is to many critics, it is hard to imagine a way to stop it without raising a host of important constitutional questions.
[55]The modern day equivalent of this is known as "bundling," one of the most controversial practices that has flourished since FECA's enactment and for which FECA has routinely been blamed.

and consent," candidates routinely used the legal subterfuge that they were unaware of the moneys spent by private citizens in their behalf.[56]

E. Slowly Moving toward a New Regime

Congressional efforts to revise and strengthen FCPA and the Hatch Acts first occurred in 1948 and 1951, when special House committees dealing with campaign spending advised that changes be made. In 1948, the House Select Committee on Campaign Expenditures recommended a "substantial raise"[57] in existing limits on campaign expenditures to reflect the increased costs of goods and services, as well as the population increase since passage of FCPA. In 1951 the committee announced that spending limits made it "patently impossible for a candidate to conduct a Congressional or Senatorial campaign" and that "present unrealistic limitations on campaign contributions and expenditures are an invitation to criminal violation."[58] The House committee urged that financial disclosures be extended to primary elections, that political organizations be prohibited from receiving or spending money for a candidate without the candidate's written authorization, and that the law against election activities by federal employees be eased.

[56]This practice, known in today's parlance as "independent expenditures" is undoubtedly the biggest obstacle to campaign finance reform. A citizen's First Amendment right to spend money to promote his political views was affirmed in 1976 in *Buckley v. Valeo* 424 U.S. 1 (1976).
[57]*Congress and the Nation, 1945-1964: A Review of Government and Politics in the Postwar Years* (Washington, D.C.: Congressional Quarterly Service, 1965), p. 1534.
[58]*House Special Committee to Investigate Campaign Expenditures,* Report No. 3252, 81st Congress, 2nd session, 1951, pp. 21-22. The authors wishes to thank the FEC's Kent Cooper for sharing his personal library of campaign finance materials.

These and other suggestions were not adopted, no doubt in considerable part because the unpopular Democratic Truman Administration and the Republican Congress were extremely hostile to one another and suspicious of any change that risked giving a financial advantage to one party over the other.[59] Moreover, the war in Korea (1950-1953), labor strife at home, Senator Joseph McCarthy's investigation of suspected communist subversives (1950-1954), and other problems adjusting to the post war political and economic order made the issue of campaign finance reform among the least important to Congress and the public-at-large. A decade would pass before another House committee would address the issues relating to campaign finance.

Contributing to the marginalization of campaign reform was the opposition of powerful southern Democrats. Until the late 1960s, Democrats in South who secured their party's nomination were all but certain to win the general election. They understandably did not want any federal laws interfering with state primary provisions that favored their party and eased their campaign tasks.[60] House Speaker Sam T. Rayburn (D-TX) reflected the sentiments of southern Democrats: "I don't think the Federal Government ought to get into the regulations of primaries."[61]

The House was not alone in considering the issue of campaign finance during this period. In 1953, the Elections Subcommittee of the

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[59]This feature continued to undermine campaign finance reform in the 1980s and early 1990s. Republicans and Democrats distrust any reform measure offered by the other side and, in an almost knee-jerk reaction, reject it.
[60]Robert A. Caro, *The Years of Lyndon Johnson: The Path to Power* (New York: Knopf, 1982), pp. 306-340.
[61]*Congressional Quarterly Almanac 1960* (Washington, D.C.: Congressional Quarterly 1961), p. 290.

Senate Committee on Rules and Administration recommended that the limit on expenditures for national political committees be increased from $3 million to $10 million a year. Moreover, the subcommittee suggested increases in permissible spending for congressional campaigns. These proposals were not adopted.

In 1955, Senator Thomas Hennings (D-MO), the subcommittee chairman, sponsored a bill requiring that all committees active in federal campaigns publicly disclose their financial statements, even if their activities occurred in only one state and seemed to be a non-federal matter. His bill also recommended increasing spending limits for congressional candidates and national political committees. Although the subcommittee and the full committee reported Hennings' bill, it never reached the Senate floor. From 1955 to 1958 southern Democrats and Republicans, under the direction of majority leader Lyndon Johnson (D-TX) and minority leader William Knowland (R-CA), prevented Hennings reform bills from reaching the floor.[62]

The movement that eventually led to FECA arguably started in the mid-1950s. "Public pressure for 'clean elections' intensified"[63] in 1956 after Senator Francis Case (R-SD) announced that he had been offered a $2,500 campaign contribution from oil producers on the condition that he vote for the Harris-Fulbright Natural Gas Bill.[64] Fearing that other legislators might have succumbed to the same arrangement that Case had resisted,

[62]*Congressional Quarterly Almanac 1955* (Washington, D.C.: Congressional Quarterly, 1956) p. 375-78; *Congressional Quarterly Almanac 1956*, pp. 444-46; *Congressional Quarterly Almanac 1957*, p. 652-53.
[63]*Congressional Quarterly Almanac 1960*, p. 288.
[64]*Congressional Quarterly Almanac, 1956*, p. 469.

President Eisenhower vetoed the measure, explaining in his veto message that his strong support for the measure was not enough to still his concern that the legislative process that passed it might have been compromised.

This presidential challenge to the Senate's probity prompted three congressional investigations into the relationship between politicians and private contributors.[65] One Senate investigation frankly admitted that Case's revelation described an attempt "to influence by political contribution the vote (on natural gas legislation) of a Member of the United States Senate."[66] The committee recommended revision of the 1925 FCPA, the Federal Regulation of Lobbying Act of 1946, and related laws.

Another investigation, directed by Senator Albert Gore, Sr. (D-TN), issued a comprehensive report detailing the contributions made by wealthy benefactors to presidential candidates in the prior two years (the Senate's willingness to "air its dirty laundry" and expose itself to public criticism in an election year seems to have been conditioned by its insistence that presidential campaigns, including Dwight Eisenhower's, be similarly scrutinized). The large amounts of some of these contributions, legal though most were, prompted widespread public concern about the state of campaign finance. Forced to respond, Senators Johnson and Knowland introduced a compromise election reform bill. It was not reported out of committee.

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[65]The Case scandal served as what Murray Edelman calls a "focusing event," a kind of shorthand device that neatly summarizes for the public the more complicated issues involved in a problem, *The Symbolic Uses of Politics*.
[66]*Congressional Quarterly Almanac*, 1960, p. 288.

Upon assuming the chair of the Rules and Administration Committee in 1957, Senator Hennings used his enhanced committee power and the public's heightened interest in campaign reform to report favorably his "clean elections" bill out of committee. However, Johnson and Knowland continued to prevent it from reaching the floor. In 1960, he finally secured floor debate for his bill. It became the first significant bill taken up by the Senate that year.

Congressional opposition to the bill was considerable. Moreover, vigorous outside support for campaign finance reform had waned substantially since the campaign investigations of 1956-1957.[67] Public attention in 1960 had turned to the presidential campaign, during which the candidates concentrated on foreign policy matters and said comparatively little about domestic issues, and next to nothing about campaign finance.[68] Hennings was undeterred. His strategy was to report an enfeebled version of the bill out of committee and then strengthen it on the Senate floor with amendments.

Aided by the progressive northern Republican Kenneth Keating (R-NY) and Estes Kefauver (D-TN), Hennings added several significant provisions during the debate that would have changed significantly the

[67]Nowhere was the national complacency that became associated with the Eisenhower years more evident than on procedural issues concerning the government, for instance, on issues concerning how campaigns should be funded. The issue was of marginal importance, kept alive by a tiny cadre of legislators whose moral and ethical probity was far greater than their ability to move legislation.
[68]Michael R. Beschloss, *The Crisis Years: Kennedy and Khrushchev, 1960-1963* (New York: Edward Burlingame Books, 1991), pp.1-62; Richard Reeves, *President Kennedy: Profile of Power* (New York: Simon & Schuster, 1993), pp. 18-38; Theodore Sorensen, *Kennedy* (New York: Harper & Row, 1965), pp. 11-223.

financing of congressional campaigns.[69] First, federal candidates would have been required to report spending in primary activities. Observed Keating: "it is a well-known fact that in roughly one-third of our states today success in a primary is tantamount to election."[70] Second, state and local committees would have been required to disclose expenditures of $2,500 or more in federal elections. Third, individuals could have spent a total of $10,000 for political purposes in one year. Fourth, limits on spending by congressional candidates would have been raised. The bill and its amendments passed the Senate, by a relatively impressive 55 to 22 vote.[71] However, the measure died in the House Administration Committee. The committee's chairman, Omar Burleson (D-TX), was, like most of his southern colleagues, vehemently opposed to any federal jurisdiction over state primaries.[72]

The tortuous path to FECA was interrupted by Hennings' death in 1960 and his replacement as Rules and Administration chairman by Mike Mansfield (D-MT) who, after succeeding Johnson as majority leader in 1961, was too preoccupied with other matters to supervise reform.[73] Senator Howard Cannon's (D-NV) ascendancy to the chair of the committee's Elections Subcommittee also dampened the cause.[74] Nevada's campaign finance laws at the time were among the weakest in

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[69]Alexander, *Money in Politics*, pp. 201-202.
[70]*Congressional Quarterly Almanac 1960*, p. 289.
[71]*Congressional Quarterly Almanac 1959*, p. 295; *Congressional Quarterly Almanac 1960*, pp. 288-90
[72]*Congressional Quarterly Almanac 1961*, pp. 400-1; p. 607.
[73]Mansfield was one of the most popular and least effective majority leaders in modern congressional history. In Harry McPherson, *A Political Education: A Washington Memoir* (Austin, Texas: University of Texas Press, 1995), pp. 44-45.
[74]Alexander, *Money in Politics*, p. 202.

the nation and Cannon had no interest in replacing them with significantly tougher federal ones.

To be sure, as chairman of the Elections Subcommittee, Cannon went through the motions of considering several reform proposals in 1961. However, he never fought for any of them with the same passion and determination that Hennings had when he headed the subcommittee. The bill Cannon's subcommittee finally passed in 1961 was little more than the gutted version Hennings had first reported in 1959 and then strengthened on the floor the following year with the assistance of Senators Keating and Kefauver. This time, however, Cannon fought off all efforts to attach amendments designed to strengthen disclosure laws and contribution limits. As such, the bill that emerged "was a minimal reform."[75] Though the measure passed the Senate, it died once again in Omar Burleson's House Administration Committee.[76] The conservative character of the House in the early 1960s did not bode well for reform. However, John Kennedy's rise to the presidency jump-started reform.

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[75] *Ibid.*, p. 203.
[76] *Congressional Quarterly Almanac 1961*, pp. 400-1; p. 607.

F. Impetus from the Kennedy White House

Just about every post-war president, including Bill Clinton, has supported in principal campaign finance reform. Few presidents, however, have been willing to expend scarce political resources on a cause guaranteed to impair support on Capitol Hill for other, more prominent administration initiatives.[77] President Truman, for instance, supported public financing of federal campaigns but did little, indeed could do little given his unpopularity and a hostile Republican Congress, to secure it. Dwight Eisenhower was even more prone to lip service on the issue. Only as *former* presidents did Truman and Eisenhower come out strongly in favor of reform, endorsing the recommendations of President Kennedy's 1961-62 Commission on Campaign Costs. Eisenhower pointed to the problem:

> It does mean ... that we have put a dollar sign on public service and toady many capable men who would like to run for office simply cannot afford to do so. Many believe that politics in our country is already a game exclusively for the affluent. This is not strictly true; yet it is the fact that we may be approaching that state of affairs is a sad reflection on our elective system.[78]

If, as Samuel Huntington contends, the 1960s ushered in the nation's sixth "creedal passion period" in which a comprehensive renewal

[77]For an outstanding if dated analysis of presidential agendas, see Paul C. Light, *The President's Agenda: Domestic Policy Choice from Kennedy to Carter* (Baltimore: Johns Hopkins University Press, 1983).
[78]"The Ticklish Problem of Political Fund Raising and Spending," *Reader's Digest*, January, 1968. From the files of Kent Cooper.

of the political and social system was undertaken for the first time in a generation, then surely the Kennedy Administration was one of the period's catalysts. One area in which it was a genuine catalyst for change, for better or worse, was campaign finance.

During his eight years in the Senate, John Kennedy had expressed more than a passing interest in campaign issues and procedures.[79] Among his least well-known and most enduring and significant legislative accomplishments was his successful campaign against a 1956 constitutional proposal before the Senate to abolish the Electoral College.[80] His *Profiles in Courage* contains several references to campaign matters. Moreover, Kennedy sat on the Senate Special Committee to Investigate Political Activities, Lobbying, and Campaign Contributions, one of the three committees formed to investigate campaign finance following the 1956 Case revelation.

These concerns and interests prompted Kennedy to plan for the creation of the Commission on Campaign Costs during the 1960-61

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[79]His family's enormous wealth -- estimated to be $250 million in 1960 -- and constant charges that Kennedy bought elections with the family fortune doubtless made Kennedy particularly sensitive to the campaign finance issue.

[80]Herbert S. Parmet, *Jack: The Struggles of John F. Kennedy* (New York: Dial Press, 1980), pp. 342-343. Parmet makes only passing reference to this remarkable piece of information. So does Arthur M. Schlesinger's *Thousand Days: John F. Kennedy in the White House* (Boston: Houghton Mifflin, 1965), pp. 99. Writes Schlesinger: "(Senator Kennedy) was not investing energy in the laborious process of infilitrating the inner ring of the Senate leadership. He preserved affable relations with the (Senate) club, but was not of them. He discharged his party duties with efficiency, indulged his own interests in matters like Indochina, Alegeria, *and the electoral college,* and wondered how to pursue larger goals (italics added)." The author has yet to locate a careful study of Kennedy's intervention to save the Electoral College, though its implications for the 1960 presidential election were decisive. Kennedy narrowly beat Nixon by fewer than 115,000 votes in the popular vote (49.7% to 49.5%), yet soundly defeated him in the Electoral College, 303 votes to 219 (56% to 41%). In his next project, the author plans to explore this.

presidential transition, which was eventually formed in the spring of 1961.[81] The commission's mandate was principally but not exclusively restricted to the financing of presidential campaigns.[82] The attention this blue ribbon panel drew to generic issues of campaign finance set in motion events that would, before the decade was over, call into question the entire way federal elections were conducted.

The problems that Kennedy associated with presidential campaigns -- namely that wealthy special interests exerted too much influence over them -- were essentially the same ones that had long been associated with congressional elections. Several recommendations issued by the commission in 1962 eventually found their way into FECA. Among the panel's suggestions were:

(1) That individuals, business, labor unions, and private organizations be encouraged to take part in and to make expenditures for voluntary bipartisan political activities such as voter registration. This recommendation bore a strong resemblance to the comprehensive legalization of political action committees (PACs) in the 1970s, which by

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[81]Several of the commission's members are well known to political scientists: Alexander Heard, Herbert Alexander, and especially V.O. Key.
[82]In the preamble of the commission's final report, the commission declared: "while our recommendations are directed toward problems of presidential and vice presidential campaign finance, in accordance with our charge, our recommendations carry implications for campaigning for other offices. We are aware of the possibility of overemphasis of a presidential campaign to the detriment of congressional, state, and local races, but it is our view that the measures we propose would have a desirable effect on all political fundraising." In *Financing Presidential Campaigns*, Report of the President's Commission on Campaign Costs, (Washington, D.C.: Government Printing Office, April 1962), p 4.

the 1980s had become one of the most criticized aspects of campaign finance reform.[83]

(2) That tax incentives be tried for an experimental period extending over two presidential campaigns.[84] Something akin to this was adopted in 1971 and remains in operation. Reformers have suggested that the concept be extended to congressional campaigns.

(3) That the unrealistic and unenforceable limits on individual contributions and on total expenditures by political committees be abolished, and that an effective system of public disclosure be instituted, requiring that the main sources and uses of money in presidential elections be reported to a single elections office. The proposed system would have required that periodic reports be submitted by all political parties, committees, and candidates, and other campaign groups raising or spending $2,500 or more on behalf of federal candidates, showing a total income and expenditures and listing by name contributions and expenditures.[85] 1971 FECA and the 1974 amendments effectively adopted these recommendations.

> The report (was) a comprehensive program for reforming the financing of the political system ... there was little innovation in the report's recommendation; most of the proposals had been aired before. The purpose (was) to get things moving in this area of legislation by detailing comprehensive program for reform of political finance -- disclosure, publicity, limitations, corrupt practices

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[83]*Financing Presidential Campaigns,* Report of the President's Commission on Campaign Costs, (Washington, D.C.: Government Printing Office, April 1962), pp. 12-14.
[84]*Ibid.,* p. 12
[85]*Ibid.,* p. 12.

tax incentives, and political broadcasting. To that date, there had been many isolated proposals, but none was comprehensive or related part-to-part for specific election. The report accomplished its purpose.[86]

The commission's report was significant because it exposed many of the fallacies associated with the most popular reform proposals. One counter-intuitive idea it advanced is that limits on campaign spending are not enforceable and may even be unconstitutional.[87] Ever since campaign finance became a public concern, the conviction that limits can be made effective and are highly desirable has been shared by many pundits, even though almost every reputable academic study has demonstrated the contrary.

The commission's report also advanced the pioneering idea that Congress had not considered, the creation of a Registry of Election Finance to receive, examine, tabulate, summarize, publish, and preserve data on campaign funds.

The commission's proposals were greeted with praise by the media. However, the conservative structure and temperament of Congress in the early 1960s made them far less popular there and resulted in their effective defeat until a series of dramatic changes, starting in the mid 1960s, shifted control of the Congress to progressive Democrats and gave campaign

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[86]Herbert E. Alexander, *Financing Politics: Money, Elections, and Political Reform* (Washington D.C.: Congressional Quarterly Press, 1984), pp. 33-34.

[87]*Buckley v. Valeo* 424 U.S. 1 (1976) declared unconstitutional spending limits on certain campaign activities, citing the First Amendment.*Washington Monthly* recently called it one of "the five dumbest Supreme Court decisions" in history, a view shared by many campaign critics. In Daniel Franklin, "The Five Dumbest Supreme Court Decisions: A Stroll through the Brethern's Hall of Shame," *Washington Monthly*, 26 October 1995, 12-13.

finance and other procedural reforms in Congress the critical mass of support they needed to get enacted.[88]

Legislators in 1962-1963 were dubious of any presidential initiative in an area they considered a legislative proprietary. Campaigns and elections constituted one such area, given the Constitution's provisions charging Congress with the duty of regulating elections (Article 1, Section 2 and 4).

Even without a constitutional provision on which to hang its resistance, Congress in all probability would have still opposed the president's campaign reform proposals. Most of Kennedy's progressive New Frontier languished in congressional committees during his truncated presidency because the half century old seniority norm in Congress, outmoded and unrepresentative legislative districts, and de facto disenfranchisement of southern blacks had permitted conservative southern Democrats to control a disproportionately large number of committee chairs and prevent reform-oriented domestic legislation from being reported out of their committees if they disliked it. Successful efforts in late January 1961 by the Kennedy White House, Speaker Rayburn, and House majority leader John McCormack (D-MA) to include more liberals on the powerful and highly conservative Rules Committee had been insufficient to faciliate passage of the president's domestic program. In the absence of tough federal measures to enforce the voting rights of blacks living in southern states and to reapportion congressional districts from

[88]John W. Kingdon calls this "the policy window" in his excellent study of public policy, *Agendas, Alternatives, and Public Policies.*

rural and underpopulated southern districts to burgeoning and politically liberal urban areas, the choke-hold that conservative Democrats exerted in other committees over progressive legislation was fairly complete and likely to persist, particularly when they were joined by a majority of congressional Republicans to form the "conservative coalition."

The de facto conservative Congress thwarted a wave of northern liberal Democrats that began arriving to Congress in 1958 and came to form the largest legislative bloc after 1964.[89] Frustrated by conservative veto power, these liberal Democrats used the Democratic Study Group (DSG) to explore ways to break the enormous power southern conservatives had, particularly after the 1968 election when it seemed likely that unless the rules of Congress were changed to weaken the seniority rule and eliminate the inordinate power of conservative Democrats, Congress would acquiesce to President Nixon's political and social conservatism (see Chapter Four).

G. The Impetus to Reform: The Creedal Passion Moment.

Following President Kennedy's assassination, campaign reform essentially stagnated. "After taking office in 1963, (President) Johnson ... canceled a White House conference on campaign financing which President Kennedy had planned and did not renew the relatively limited

[89]Barbara Sinclair, *Majority Leadership in the U.S. House* (Baltimore: The Johns Hopkins University Press, 1983), pp. 10-13.

Kennedy Administration requests to Congress for certain campaign spending reforms."[90]

Starting in 1965, however, a series of interconnected events coalesced to revive the issue. Like President Theodore Roosevelt in 1905, Johnson was forced to pay attention to the issue amid a storm of controversy surrounding questionable fundraising methods used by the Democratic Party in the 1964 presidential election.[91] To neutralize the controversy and appear squarely on the side of "clean elections," Johnson submitted to Congress a package of campaign reforms in May 1966.[92]

Although reform was only a peripheral issue from 1963-1966, events also took place inside Congress to help revive it. Late in 1963, the Senate Finance Committee proposed an amendment to allow tax credits for small political contributions. A less generous substitute was offered, and the Senate passed the measure. However, the amendment died in conference committee because the Treasury Department feared it would cost too much in revenue, President Johnson did not personally intervene to save it, and House Ways and Means chair Wilbur Mills (D-AR) opposed it.[93]

A key figure in keeping reform alive was Senator John J. Williams (D-DE), who was one of the Senate's most prominent opponents of corruption in campaign finance and American politics.[94] Among his

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[90]*Congressional Quarterly Almanac 1966* p. 485.
[91]*Congressional Quarterly Almanac 1965,* pp. 1549, 1151;*Congressional Quarterly Almanac 1966,* p. 485, 495.
[92]This was an example of Murray Edelman's "symbolic politics."
[93]Kent Cooper, interview by author, 12 August 1994.
[94]McPherson, *A Political Education: A Washington Memoir*, pp. 80-81.

accomplishments for "cleaner' government were his early criticisms of President Eisenhower's chief of staff Sherman Adams for accepting expensive gifts and money from private interests. Moreover, his investigation of Lyndon Johnson Senate aide Bobby Baker culminated in Baker's resignation in 1963, the subsequent full Senate investigation, and Baker's 1967 conviction. Most important, William's criticism of the 1964 Democratic Convention program, which raised a purported $1 million for the party with tax-deductible advertisements costing as much as $15,000 a page, prompted passage of the Williams Amendment forbidding tax deductions for advertisements in political literature.[95] Williams contended that these advertisements were tantamount to corporate contributions to political parties. As such, they violated FCPA's provision forbidding corporations and labor unions from making direct or indirect contributions for political purposes.

The Williams Amendment posed a serious threat to the parties' campaign treasuries, forcing Congress to renew its interest in campaign finance. Among President Johnson's 1966 campaign finance proposals was a tax deduction for political contributions to compensate for the money lost due to the amendment. Johnson also proposed extending expenditure disclosures to primary elections and requiring reports by committees operating in only one state on behalf of federal candidates.[96] The

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[95]The Republicans also raised money via the sale of tax-deductible advertising. In 1964 the Republican Party issued a book, *Congress -- The Heartbeat of Government*, that included advertisements costing $10,000-a-page.

[96]Robert E. Mutch, *Campaign, Congress, and Courts: The Making of Federal Campaign Finance Law* (New York: Praeger, 1988), p. 38.

president's proposals were flawed.[97] The main problem was that responsibility for processing disclosure reports was lodged in the Clerk of the House and the Secretary of the Senate, without providing for their review for violations of the law.[98]

Until the late 1960s, Congressional indifference and frequent antipathy to reforming the campaign finance system owed themselves in large part to the internal norms and procedures of Congress. As has been noted, the seniority system that had operated since the 1910s resulted in the control of the most powerful congressional (sub)committees by southern conservative Democrats who hailed from essentially one party districts in which election outcomes were effectively determined in Democratic primaries. They expressed little interest in the needs of candidates in competitive districts and little desire to tamper with election laws that had plainly served them well.

This indifference to campaign reform ended as southern politics assumed a more competitive character. By the mid-1960s, conservative whites began to support the hitherto weak southern Republican Party, at first on the presidential level and gradually on the state level, as newly enfranchised southern blacks began supporting liberal Democrats in the primaries and as dissatisfaction with the Great Society and the federal government escalated. Moreover, *Baker v. Carr* (1962), *Reynold v. Sims* (1964), and *Wesberry v. Sanders* (1964) resulted in the reapportionment of congressional districts that helped more liberal candidates, ending the easy

97Kent Cooper, interview by author, 12 August 1994.

98Not until FECA 1974, which created the independent Federal Election Commission, was this problem surmounted.

reelections that senior southern Democrats had enjoyed. Confronted with mounting Republican competition on the outside and liberal Democratic opposition from the inside, traditional southern Democrats discovered an interest in campaign finance issues.

Campaign finance reform was also stimulated by important secular factors. The perception that the federal government had grown out of touch with mainstream America -- as evinced by such events as the wrenching Vietnam War, racial unrest, and the disappointments of the Great Society -- led liberal legislators and public interest advocacy groups to focus more on *procedural changes* in the government, and less on substantive outcomes. The emerging view was that unless government reformed its archaic rules and norms of behavior, its outputs would be at variance with the public weal.

After a long period of silence, the House Subcommittee on Elections held hearings on campaign finance and issued in 1966 the bi-partisan Ashmore-Goodell Bill, "the most comprehensive bill considered in Congress until that time."[99] Introduced by Robert T. Ashmore (D-SC), chairman of the subcommittee, and Charles Goodell (R-NY), the ranking Republican on the subcommittee, the bill included many of the strongest ideas associated with campaign reform, among them calls for a bipartisan Federal Election Commission responsible for receiving, analyzing, auditing, and publicizing expenditure reports by all candidates and committees in federal elections. Moreover, the bill proposed removing limits on spending by candidates and committees, extending federal

[99] Herbert E. Alexander, *Financing Politics*, p. 34.

jurisdiction to primary elections and nominating conventions, imposing disclosure requirements, and requiring committees to report if they planned to raise or distribute $1,000 or more for federal elections. A registration system for defined political committees was also proposed.[100]

The bill proposed forbidding trade associations, corporations, and labor groups from using their regular funds to support the staff and administrative expenses of any of their political operations, involved in partisan activities, including PACs. Since the vast majority of PACs in 1966 were affiliated with unions, organized labor opposed the entire bill, prompting many liberal to oppose it as well.[101] The bill's supporters hoped to report the bill to the whole floor, expecting that liberals would have a difficult time voting against reform.

As it turned out, the bill did not even receive the full House Administration Committee's approval in 1966. The following year, it was reported once again by the subcommittee. This time the full committee approved it, adding a provision prohibiting legislators and congressional candidates from using political funds for personal use. This provision was attached shortly after Senator Thomas Dodd (D-CT) was censured for the misuse of his political funds.[102]

The Senate was more recalcitrant. The Senate Privileges and Elections Subcommittee, still chaired by Senator Cannon, refused in 1966

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[100]Many of these ideas were included in the Federal Election Campaign Act, 1971 and its 1974 amendment.
[101]*Congressional Quarterly Almanac 1967*, pp. 568-569.
[102]The 1966 Dodd scandal also served as what Murray Edelman calls a "focusing event," a kind of shorthand device that neatly summarizes for the public the more complicated issues involved in a problem, *The Symbolic Uses of Politics*. See also Charles D. Elder and Roger W. Cobb, *The Political Uses of Symbols* (New York: Longman, 1983).

to support the administration's reform ideas. "Cannon's resistance is pretty easy to explain. Nevada had no campaign disclosure laws at the time and he felt little pressure from home to push for reform."[103]

Cannon's opposition to reform deserves analysis because it highlights new institutionalism's thesis that individuals are influential in the evolution of ideas, and that there is nothing strictly "deterministic" about political processes. In 1962 Cannon declined a personal call by President Kennedy to introduce the administration's election reform bill "by request." This meant the senator would not advocate the bill as his own, even though as chair of the Elections Subcommittee as well as a member of the president's party his advocacy of a White House initiative normally would have been a foregone conclusion and probably would have been decisive. In 1963 Cannon refused even to introduce the administration's bill. Had the bill been in the legislative pike prior to the president's assassination, Congress might have been inclined to pass it in 1964 in honor of Kennedy, as it had several other New Frontier items. As it happened, serious reform did not occur until 1971. In 1966 neither Cannon nor any other ranking member of the Senate Rules and Administration Committee agreed to introduce President Johnson's campaign reform bill. Its eventual sponsor was Senator Joseph Clark (D-PA), a prominent and unabashed critic of the Senate establishment whose liberal iconoclasm estranged him from the mainstream party leadership and made him one of the most disliked and ineffective members of the

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[103]Kent Cooper, interview by author, 15 August 1994.

chamber.[104] Removing any lingering doubts that Clark was a member of little stature, no hearings were scheduled to study the president's bill that he introduced. Instead Senator Cannon arranged for both the subcommittee and the full Senate Committee to report out the same weak bill that his committee had offered year-after-year.[105] The editorial storm this tactic raised, however, led Cannon to promise to hold hearings later on President Johnson's bill

In 1967 Cannon reluctantly introduced Johnson's latest bill, a much weaker version of the Ashmore-Goodell bill. The bill was watered down to require that disclosure reports continue to be filed with the Secretary of the Senate and the Clerk of the House -- two offices that were unlikely to demand full and accurate reports by the legislators for whom they worked -- rather than to an independent Federal Elections Commission or other single repository. The president's bill required more disclosure, but it "would have overwhelmed the two filing offices with financial reports without creating a way to keep them separate from Congressional interference and to audit all the data and publicize violations."[106]

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[104]McPherson, *A Political Education: A Washington Memoir* , p. 29. Why the administration settled on Clark to introduce its proposals remains a mystery. Shortly after arriving in the Senate in 1959, Clark established himself as a maverick whose irreverence was equaled only by his ineffectiveness. The year before he was invited by Johnson to shepherd the administration's bill through the Senate, Clark published *Congress -- The Sapless Branch* (New York: Harper & Row, 1965), a searing account of the Senate that did nothing to endear him to the very people to whom he looked the next year to support the bill. One explanation for Clark's selection is that President Johnson had no desire to see his proposals become law, yet wanted the public to reward him for supporting "clean elections" and demonize the Senate for seeming to oppose them.
[105]Kent Cooper, interview by author, 15 August 1994.
[106]Leta L. Holley, interview by author, 2 August 1994.

Pushed by criticism and intensifying public pressure, Cannon reluctantly steered the Johnson bill without significant change through the first Senate hearings on election reform in several years. Both Cannon and the Senate, however, refused to support an amendment submitted by Clark that would have required reports to be filed with a single elections office. Cannon defended his opposition to an independent commission by asserting that "the Constitution gave Congress the sole power to judge the elections, returns and qualifications of its own Members."[107] Another Clark amendment was also defeated, requiring a version of personal disclosures of finances similar to the requirement for disclosure of gifts and honorariums in the Ashmore-Goodell bill.

The Senate voted 87-0 for the full bill, including the Williams Amendment. No doubt the Baker and Dodd scandals were significant factors in the Senate's strong support for the measure. Eager to transmit the impression that it had cleaned up its internal affairs, and expecting that the conservative House would reject it anyway, the Senate engaged in "symbolic politics" by adopting the bill. In fact the House did reject the measure in 1968.[108]

The Ashmore-Goodell measure was stuck in the full House Administration Committee for almost a year. Certain liberals, seemingly taking their cues from labor lobbyists, succeeded in weakening the bill by making small changes in section after section. Moreover, there was an organized effort to stop the bill with procedural rules, by failing to provide

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[107]*Congressional Quarterly Almanac 1967*, p. 570.
[108]*Congressional Quarterly Almanac 1967* pp. 567-74 *Congressional Quarterly Almanac 1968*, pp. 647-61, 659-61.

quorums in the committee whenever the bill was up for consideration, a tactic that played into the hands of southern conservatives who opposed the measure.

Some Republican pressure was used to get the Ashmore-Goodell bill reported out. Finally, an agreement was apparently reached among Democratic House leaders to delete sections that organized labor disliked and have the House Administration Committee report the bill out in deference to public pressure but with the intention of consigning it permanently to the House Rules Committee. Since the legislative session was closing, only the most prominent legislation could be scheduled. Congress adjourned for the 1968 elections without further action on the matter.

In 1968 Congress partially repealed the Williams Amendment forbidding corporate tax deductions for corporate advertising in political program programs issued during the party conventions. It seems that both parties realized the deduction would be crucial to financing the presidential election that year. Moreover, earlier proposals to provide tax incentives for small political contributions were deemed unlikely to make up for big contributions lost in the wake of the Williams Amendment.[109]

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[109]Many reform advocates include tax incentives among their ideas to encourage contributions from people of modest means and reduce the importance of big contributors. As David Adamany and George Agree show, these incentives might achieve only modest and even contrary results: "despite the most extensive media and mail appeals in history, only 12% of Americans contributed to politics in 1972 -- the same percentage that gave in 1960 and 1964. The newly enacted tax incentives (in the 1971 Revenue Act) did not expand political giving; only 2.5% of tax payers took the credit and only 1.3% used the deduction. Treasury figures reveal that high-income taxpayers used tax incentives disproportionately," in *Political Money: A Strategy for Campaign Financing in America* (Baltimore: The Johns Hopkins University Press, 1975), ch. 7. As the case of voting suggests, there is only so much the government can do to induce certain kinds of behavior before it

In an effort to avoid the bad publicity the Dodd scandal had brought to the Senate, the House created a committee on Standards and Conduct. The Senate had already established a similar body. Unlike the House committee, the Senate's was a select committee that could recommend disciplinary action but could not legislate it. The Dodd case was presented to the select committee soon after it was organized, following the Bobby Baker scandal and before it had written a system of standards and conduct.

Both committees drafted codes of conduct, with reference to conflicts of interest, disclosure of personal incomes, lobbying, and other ethical issues. The main objective behind these moves was to preclude the need for Congress to address more divisive issues concerning procedures for raising and spending campaign funds. Nevertheless, by taking up the issue of internal procedural reform, both houses signaled to the public that perhaps far-reaching reforms of this kind were necessary.

The Dodd censure was not unexpected, though censure in either house was and is unusual. The extraordinary media coverage the case drew contributed further to the public's view that Congress was out of touch and in need of change.

There had only been five censures in the history of the Senate up until the Dodd case, three of which had concerned campaign finance

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starts engaging in a form of "social engineering." With respect to voting, many critics maintain that burdensome registration laws discourage voting. With respect to campaigns, many critics maintain that big interests have an incentive to organize PACs and give money which small contributors do not have, and that tax incentives would be an easy way to encourage small contributions. Overlooked is that such measures might have only a marginal effect on voting and contribution patterns. Many registered voters refuse to exercise the franchise because it is their right. Many people do not contribute to campaigns because they do not want to. Until this basic fact is appreciated, campaign critics will be missing the point of participatory government and a citizen's right <u>not</u> to participate in it.

improprieties that had occurred in the early 1920s and largely explain why FCPA was adopted in 1925: as a "publicity measure" to mollify the public's concern that Congress had corrupt impulses and could be easily compromised by economic elites. Truman Newberry was seated but condemned for excessive and illegal expenditures in a primary. Frank L. Smith was prohibited from sitting for accepting, contrary to Illinois and federal laws, over $450,000 in campaign contributions, including more than $200,000 from officers of public utilities companies.[110] William S. Vare (R-PA) was unseated following revelations that he and his supporters spent $785,000 on his campaign in the Pennsylvania Republican primary.[111]

Attention to the need to reform procedures further increased during the 1968 presidential election. Several major committees affiliated with the Nixon campaign failed to file on time official reports required under the FCPA. These reports were supposed to give an indication before the election of who was giving to whom and in what amounts.

The Nixon campaign's tardiness received considerable media coverage because it seemed to contradict the "law and order" slogan that Nixon and his running mate Spiro Agnew were campaigning on and, furthermore, suggested the Nixon campaign was delaying until after the election the potentially embarrassing if legal fact that it was being financed by a handful of very wealthy contributors. By election day, the Nixon

[110]Sikes, *State and Federal Corrupt -Practices Legislation*, pp. 229-233.
[111]*Ibid.*, p. 228-242.

operation had filed only 5 of the 20 reports required of it, only one of which had been filed on time.

For the first time in the history of the FCPA, the Clerk of the House of Representatives sent to the Attorney General a report documenting the Republican violations and a violation by one Democratic committee. The Justice Department ordered the FBI to investigate reports of 21 late-filing committees. The investigation was still pending when Nixon became president in January 1969.

Republican explanations for the late filings included: (1) the claim that a faulty computer program had double counted some contributions and correcting the errors had caused the delays; (2) avowals that some reports had actually been prepared on time but not filed, pending completion of the remaining reports; (3) the claim that some reports had been notarized before the general election but were not filed until later; and (4) the claim that the postal service had delayed their delivery: "the reports were in the mail."

With respect to improprieties that surfaced in the congressional elections that year, the Clerk of the House referred to the Justice Department the names of 65 House candidates who had not filed at all disclosure reports and 42 candidates who had missed filing deadlines. The department ignored these cases, as it had similar cases in the past. The Justice Department reasoned that there was no precedent for prosecution of either non-filing or late filing campaigns in the 50 year history of

FCPA.[112] Explained a department spokesperson: "Fair play demands that before prosecutions are undertaken, the Department of Justice has an obligation to notify all candidates and committees that henceforth violators will be proceeded against."[113]

In 1970 the Clerk of the House informed congressional candidates that future violations of FCPA would be reported. The House Special Committee to Investigate Campaign Expenditures suggested that the Clerk transmit to the Attorney General the names of candidates who failed to file pre- or post-election reports, and about 30 such cases were so transmitted. Interesting because the case says much about the limits of campaign finance laws, Dennis J. Morrisseau, who ran as the Liberty Union candidate for Congress in Vermont, publicly refused to comply with the FCPA disclosure provisions on the grounds that they were unenforceable, unenforced, and had no salutary effect on campaign spending. He claimed that his intention was to highlight the empty procedure for reporting and added that he was prepared to suffer the penalties for noncompliance.

In fact there was much to Morriseau's claim. Only once, in 1928, had a political committee been indicted for violating FCPA's disclosure requirements. The case was appealed to the Supreme Court, which ruled

[112]FEC Chairman Trevor Potter has suggested that *better* enforcement of present laws might accomplish a great deal with respect to better campaigns. His implicit assumption is that the potential for bad publicity is the best prescriptive for good elections, in *Money & Politics: Is Reform Possible?* . In Richard L. Berke, "The Agency Congress Loves to Hate," *New York Times*, 17 July 1994, sec B, p. 3. The author is sympathetic with this view, as the final chapter suggests. The potential to embarrass publicly a candidate and his contributors might work wonders on behalf of good campaigns. Many critics insist that only comprehensive changes, including public financing of campaigns, can redeem campaigns.
[113]*New York Times*, 28 May 1970, p. 33.

that the defendants could not be charged with reporting violations but could be charged with conspiracy to commit these violations.[114] Since conspiracy was as difficult to prove then as it is today, the defendants were ultimately acquitted of any wrong doing under FCPA.[115]

The House Clerk tried to persuade Morrisseau to cooperate, but he refused. The Department of Justice seemed wary of prosecuting Morrisseau because doing so would have compelled it to prosecute other violators. After nearly five decades of virtual non enforcement, the precedents of 1968 and the official warnings of 1970 had been intended to inform all candidates well before the next election that henceforth FCPA would be enforced. The act was not, however, because the real precedent had been non enforcement. All these events had the effect of focusing the public's attention on an issue that had been a marginal concern to congressional leaders for almost five decades.

Notwithstanding the public's heightened interest in the issue, formidable obstacles to campaign finance reform remained. First, the Nixon Administration did not count campaign finance reform among its priorities. Indeed, it opposed a measure passed by Congress in the interest of better elections, vetoing the Broadcasting Act of 1970 that would have improved challengers' access to television and radio. Second, changes in the leadership of the House Administration Committee occurred in 1969 and 1971 that did not bode well for reform. Chairman Omar Burleson moved to Ways and Means, relinquishing the chair to Representative

114 *Burroughs v. U.S.* 290 U.S. 232 (1934).
115 *New York Tribune*, 28 April 1934.

Samuel N. Friedle (D-MD), who did as little to advance reform as his predecessor had. Following Friedle's 1970 defeat, Representative Wayne Hays (D-OH) assumed the committee chair and followed in the tradition set by Burleson and Friedle of resisting reform (see Chapter Four). Ashmore, who had strongly supported reform, retired from office in 1969 and was succeeded as the head of the subcommittee on Elections by Watkins Abbitt (D-VA), a conservative Democrat who was not at all eager to tamper with campaign procedures.

V. FECA

In late 1971 Congress adopted the Federal Election Campaign Act, requiring fuller disclosure of political funding than ever before and setting limits on advertising expenditures for candidates for federal office, during both nomination and general election campaigns. Why, given the extraordinary hesitation and opposition up until then to reform campaign finance, was Congress able to produce this legislation so quickly?[116]

A. External Pressure

Significant is that campaign finance reform from 1925 until 1971 was, for the most part, an idea that had been kept alive by a succession of lone, reform-minded legislators who refused to yield to wide-spread

[116] For an highly anecdotal case study detailing how FECA was enacted, see Robert L. Peabody, Jeffrey M. Berry, William Frasure, and Jerry Goldman, *To Enact a Law: Congress and Campaign Financing* (New York: Praeger Publishers, 1972).

congressional resistance and who received no sustained support from outside interest groups. As has been suggested, these legislators acted principally as "political prophets," admonishing their colleagues of the need to change *the way* they did business in order to improve what they produced. In doing so they affirmed Lewis Froman's assertion that the policy content of legislation can be considered as the instrument for effecting changes in the way the political process operates.[117] Their efforts came to naught, even when the Kennedy White House committed some of its prestige to the issue.

The challenge facing these figures was similar to the one Margaret Weir and other new institutionalists have said confronted early proponents of Keynesian economics in England and the United States: overcoming time-honored practices, institutional rules and cultures, public uninterest, and dated ways of thinking to enact new ideas that threatened the status quo. In the case of campaign reform advocates, the principal challenge was the conservative temperament of Congress, in large part a reflection of voting rules and the seniority system that killed widely favored liberal measures before they reached the floor. Only as conservative Democrats gradually departed Congress and increasing numbers of progressive Democrats entered it did a decisive legislative constituency for campaign and other procedural reforms materialize.

As noted, reform advocates inside Congress also did not enjoy the sustained and vigorous support of outside groups and the media for most

[117]Lewis Froman. "The Categorization of Policy Content," in *Political Science and Public Policy*, ed., Austin Ranney, 1968.

of the period during which campaign reform floundered. Yet each time congressional calls for reform had been energetically seconded by such groups -- in 1904-1911, 1923-1925, and eventually 1968-1974 -- comprehensive legislation had been adopted.

The prevailing view shared by the civil society and political community during reform's nadir was that a successful political system generated policy *outcomes*, not changes in the *procedures* that lead to outcomes. This was the standard congressional paradigm from 1933-1971, during which expansive programs from the New Deal to the Great Society boldly proclaimed that the proper duty of government was "to do things" for people, and that Congress's specific role was to enact them. Campaign reform properly understood deals with procedures, not outcomes. Not until mass disenchantment with government appeared in the late 1960s, setting off the sixth "creedal passion moment," was there incentive for politicians and public interest advocacy groups to devote their resources to procedural reform. The "war on poverty," the effort to land a man on the moon, civil rights, the Vietnam War, and related issues were the preoccupations of most political actors before then.

The electoral and institutional rewards associated with programs to reform internal procedures and voting norms were thus minimal. Moreover, such programs were risky for the ambitious politician who might push them. The poo-bahs of Congress could railroad anything smacking of procedural change, and ruin anyone calling for it, and did so with particular energy and determination when threats to their own committee power appeared (see Chapter Four).

Given these factors, it is no surprise that only the most entrenched and least effective legislators focused on reforming the procedures of government, and that their efforts were continually defeated. More was needed to realize the ideal of campaign reform and other procedural changes, though the role of these legislators in keeping the idea alive and developing reform alternatives was crucial to reform's eventual enactment. They helped make sure that campaign finance as "a problem (was) recognized (and that) a solution ... (was) available in the policy community." All that was needed to open the "policy window" and make reform a reality was "a change in the political stream (e.g., a change of administration, a shift in partisan or ideological distribution of seat in Congress, or shift in national mood."[118] This final element came in a surprisingly short period.

Congress and the Nixon Administration were forced to give serious consideration to reform after 1968. As noted, public awareness of problems in campaign finance intensified during the 1968 election amid revelations that the FCPA's disclosure and spending provisions were regularly ignored by congressional candidates of both parties and the Nixon campaign. Before this heightened awareness had had time to dissipate and reform had returned to the margins of public policy, as had happened in 1956-57 following Congress's investigation of campaign finance abuse and excess, the Citizens Research Foundation stoked it even more by reporting that total campaign spending in the United States had soared from $200 million in 1964 to $300 million in 1968. Finally, President

[118]John W. Kingdon, *Agendas, Alternatives, amid Public Policies*, p. 174; p. 176.

Nixon's veto of the 1970 Political Broadcast Bill stimulated liberal members to redouble their efforts to enact more comprehensive reform before the 1972 election.

In January 1971, in an unprecedented effort to compel the enforcement of federal laws on campaign limitations that had been neglected for almost 50 years, the public interest group Common Cause filed a suit to enjoin the Republican and Democratic National Committees and the Conservative Party of New York from violating or conspiring to violate two sections of the FCPA.[119] Common Cause's law suit alleged that these committees were encouraging and assisting the formation of multiple committees on behalf of single candidates, in order to accommodate individual contributions in excess of $5,000 and to enable expenditures on behalf of a single candidate in excess of $3,000,000 in one year, an alleged violation of the spirit and intention of the Federal Corrupt Practices Act.

Common Cause v. DNC was the first class action ever filed in the area of campaign finance.[120] The defending parties successfully moved for a dismissal of the charges on grounds of lack of standing, lack of court jurisdiction, and other technical legal matters.[121]

Common Cause filed the suit with more than judicial action in mind. The suit promised to bring great publicity to both the newly founded Common Cause and to the organization's contention that, in

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[119]Andrew S. McFarland, *Common Cause: Lobbying in the Public Interest* (Chatham, N.J.: Chatham House Publishers, 1984), pp. 150-154.
[120]Leta L. Holley, interview by author, 2 August 1994.
[121]*Common Cause v. Democratic National Committee* 333 f. Supp. 803 (1971).

view of the disastrous Vietnam War, perceived presidential "imperialism" and detachment from mainstream society, and congressional passivism, it was time for the government to mount a comprehensive reform of the way it conducted itself. Common Cause's timing could not have been more auspicious, advocating reform ideas at the same time the public's "issue attention cycle"[122] on matters concerning the need to reform government was at its greatest.[123]

The action of Common Cause called into question all of the elements of campaign finance that had operated since the 1920s: the reluctance of the Justice Department to enforce FCPA; the failure to administer the law properly; interpretations of the law that plainly violated the law's intentions and spirit; the right of the voting public to know the facts about political financing; and the true character of political parties and campaigns.

As noted, the Senate passed fuller disclosure bills in 1960, 1961, and 1967, but the House refused to pass them. In 1971, the House Administration Committee reported out the Hays-Abbitt bill which on its face was less effective than the disclosure provisions of the bill which the

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[122]Anthony Downs, "Up and Down with Ecology -- The 'Issue-Attention Cycle'," *The Public Interest* 28 (Summer 1972): 38-50.

[123]Telling evidence of the importance outside interest in campaign finance had on reform' s eventual adoption is the number of articles listed under "campaign funds" in the *Reader's Guide to Periodical Literature* from 1966 to 1975: (a) 1966-67: 32; (b) 1967-68: 28; (c) 1969-70: 5; (d) 1970-71: 19; (e) 1971-72: 26; (f) 1973-74: 51; (g) 1973-74: 65; (h) 1974-75: 87. Moreover, surveys suggest the public had grown deeply suspicious of government. The University of Michigan's Center for Political Studies found that approximately 55% of its respondents agreed that "government is pretty much run by a few big interests" in 1971, as compared with about 30% in 1964. In Warren E. Miller, Arthur H Miller, and Edward J. Schneier, *American National Elections Studies Data Sourcebook*, 1952-1978 (Cambridge, MA: Harvard University Press, 1980), p. 257, 259.

Senate had already passed by a vote of 88-2. Parliamentary maneuvers in the House, however, resulted in the House's adoption of the Senate's disclosure provision, minus the provision for the Federal Election Commission, by a vote of 372-23. The Senate and House conferees agreed on a compromise bill that was stronger than the House version and weaker than the Senate one. It was signed by Nixon in December 1971.

The first FECA was greeted with mixed reviews. Among its weaknesses was its failure to provide for an independent Federal Election Committee. In 1974, the reform forces that had pushed for the 1971 act exploited the Watergate scandal and revelations of campaign finance abuse by the Nixon administration, changes in Congress's internal norms (see Chapter Four), the proliferation of public interest advocacy groups, and growing public disillusionment with the federal government to win passage of the stronger 1974 Federal Election Campaign Act, which remains the principal campaign law. It mandated the creation of the FEC and clarified certain provisions. Supreme Court rulings overturned important aspect of the law, and it was amended in 1976 to address the court's actions (for more on 1974 FECA, see Chapter Four).

FECA was heralded at the time as an important accomplishment. Today it is blamed for the undue influence big contributors seem to have over campaigns. The remainder of this dissertation will consider whether FECA is to blame for the disappointing state of parties and campaigns, or other factors that were adopted in the interest of more democratic elections. MPACs will serve as a shorthand device for addressing this issue.

Chapter Four

Antecedents of Membership PACs

I. MPACs' Place in Federal Election Laws

Federal election law treats membership PACs in approximately the same way it does political action committees affiliated with labor unions, trade associations, ideological groups, and corporations. All of these organizations are technically known as "multicandidate political committees"[1] and are legally certified to raise money and make limited financial and in-kind contributions[2] to candidates running for federal offices. (Although the term "political action committee" has entered America's political lexicon and is even included in the tenth edition of *Merriam-Webster's Collegiate Dictionary,* it does not appear once in the 1971 Federal Election Campaign Act or any of its three amendments.[3])

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[1] According to the FEC, a "multicandidate political committee" is a political committee with more than 50 contributors that has been registered for a minimum of 6 months and, with the exception of state party committees, has made contributions to 5 or more candidates for federal office. Unlike a "political committee," a multicandidate committee may contribute up to $5,000 per candidate per election.

[2] The FEC defines "in-kind contribution" as "services, goods or property offered free or at less than the usual charge to a political committee." Representative Newt Gingrich's GOPAC, as will be seen, almost exclusively uses this form of contribution to assist Republican candidates in federal and non-federal elections. As the 1994 mid-term election results suggest, it can be a remarkably effective form of campaign assistance.

[3] Recognizing that the term "political action committee" possesses a certain formal quality to it, the FEC employs it in the election guides it issues to organizations interested in forming "multicandidate committees" and desiring to know the legal restrictions on them.

The similarities notwithstanding, there are important differences between MPACs and other PAC "types" that deserve elaboration.[4]

To start, the FEC does not recognize MPACs as a separate and distinct PAC category.[5] Instead most MPACs fall under the formal rubric "nonconnected political committee." Nonconnected political committees (NPCs) are political committees that support or oppose candidates for federal office, as their labor, association, and corporate "cousins" do, but are NOT established or administered by:

1. Any candidate for federal office;[6]
2. Any party committee;
3. Any labor organization or corporation.

Since nonconnected political committees are usually referred to by the generic designation "PACs," they are routinely confused with another PAC species: the "separate segregated fund (SSF)," popularly known as the

[4]The following discussion of federal election laws and PAC "types" is based on the author's interviews with: (1) Lata L. Holley, the FEC's Law Library Director (2 August 1994); and (2) Kevin R. Salley, a spokeperson for the FEC Public Affairs Office (7 August 1994).
[5]The FEC maintains only four PAC designations: (1) labor; (2) corporate; (3) trade-health-membership; and (4) nonconnected
[6]In a discussion with Kent Cooper, the FEC's director of public records and a long time observer of federal campaign finance, the question of MPAC's legality was raised with respect to this provision. The FEC considers a candidate any "individual who seeks nomination for election or election to federal office. Candidate status is triggered only after the individual, or another agent acting on the individual's behalf, has raised contributions or made expenditures either of which aggregate in excess of $5,000." Since legislators who form MPACs are also candidates for federal office when they run for reelection, MPACs seem to be a flagrant violation of the law. Cooper was at a loss to explain why no law suit had ever been brought against an MPAC on this basis (personal interview, 15 August 1994).

corporate, trade association, or labor PAC. The nonconnected political committees differ, however, from SSFs in several important respects:

1. There is no connected organization. The NPC does not have a "connected organization" and thus is not sponsored by a corporation or labor group. However, a NPC can have a non corporate/non labor sponsor, such as a partnership or an unincorporated membership organization (or a member of Congress). In contrast, a SSF by definition is connected with an organization.

2. Limited support from sponsor. A NPC must be a self-supporting operation. It must pay for all the administrative and operating costs it incurs, using a portion of the contributions it raises for campaign activities for this purpose. The committee's sponsor (for example, a legislator) is allowed to help finance the committee's expenses. Any financial support the committee receives from its sponsor, however, is considered a contribution and therefore is subject to an annual contribution limit of $5,000.[7]

The sponsoring organizations of SSGs are forbidden from making any contributions or expenditures relating to federal elections and campaigns. However, the sponsoring organization is permitted to assume all of the SSG's administrative and solicitation costs. This potentially unlimited support from the sponsoring organization is not counted as a

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[7]Senator Robert Dole (R-KS), for instance, cannot transfer unlimited amounts of money from either his personal funds or Senate campaign committee to his MPAC, Campaign America.

contribution. This provision permits the SSG to use all the money it raises exclusively for political purposes

3. Unrestricted solicitations. A NPC may solicit any individual, group, or committee for contributions. SSGs, in contrast, may raise contributions from only a specifically defined "restricted class" of individuals and groups.

4. $1,000 registration threshold. An NPC assumes the legal character of a "political committee" under the Federal Election Campaign Act when it either receives contributions or makes contributions exceeding $1,000 in a calendar year. An SSG becomes a political committee as soon as it is established by a connected organization.

5. Federal/Non-Federal election activity. If a political committee intends to support both federal and state/local candidates, it may register as a political committee active in both federal and non-federal elections. Alternatively, the committee may establish one bank account for federal activity, and a second bank account for state and local activity.

a. One committee for federal and non-federal activity

The committee may register as a political committee that engages in both federal and non-federal election activities. Under this option, all contributions it receives are subject to FECA's prohibitions and contribution limits, regardless of whether the funds are ultimately used in federal or non-federal elections. All receipts and disbursements must be reported to the FEC, including those that relate to non-federal election activity. Moreover, contributors must be informed that their contributions count against FECA contribution limits, even if they are explicitly made in support of a non-federal candidate. (Contributions made to non-federal campaigns are also subject to election laws of the state in which they are made.)

Most MPACs are organized under this provision, no doubt because most members who form them are interested in federal elections.

b. Two accounts for federal and non-federal election activities

Alternatively, the committee may establish a political fund to conduct federal election activity and a second fund, with a separate bank account, to engage exclusively in non-federal activity.

Under this option, the federal account alone is considered a political committee subject to FECA's registration and reporting provisions. The federal account may receive only contributions designated or expressly solicited for federal campaigns and must observe FECA's prohibitions and limits on contributions. Moreover, all of the federal account's receipts and disbursements must be reported to the FEC.

In contrast, the committee's non-federal account does not fall under FECA's jurisdiction but rather the states in which the non-federal activities are conducted. Thus it is not subject to FECA's registration, contribution, and reporting provisions. Non-federal activity is not included in the reports of the federal account.[8]

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[8]This provision has recently drawn a great deal of attention and may, depending on its interpretation, be the source of Representative Newt Gingrich's undoing. At the time of this

6. Incorporation of the committee. A NPC has the option of registering as an incorporated group. A political committee that incorporates for liability purposes is not subject to the prohibition on making corporate contributions and expenditures.

The principal feature of MPACs that distinguishes them from "conventional" NPCs and PACs in general is their service to an individual legislator's political objectives. MPACs are typically established to channel money and other forms of campaign assistance from one legislator to another in order to "purchase" the recipient's support.[9] In the words of Edward Zuckerman, a long-time student of campaign finance and the author of the *Almanac of Federal PACs,* "leadership PACs, in effect, are personal campaign contribution machines."[10] Joshua Goldstein

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writing, the FEC and the House Ethics committee are investigating Representative Newt Gingrich's GOPAC on the suspicion that its non-federal activities fall under alternative (a), not (b), and as a consequence have violated several of the provisions described. GOPAC insists that it maintains a separate non-federal account (alternative b) and has not violated any federal regulations. The case is significant because GOPAC claims that 90% of its activities are of a non-federal character. Moreover, it purportedly raises huge contributions from individuals for its non-federal activities that would be plainly illegal if all of GOPAC activities were subject to federal election statutes. GOPAC refuses to publicly disclose the nature of it non-federal activities, citing the law.

In what was perhaps a moment of unintended candor, Judy Weiss, a Republican fundraiser and former GOPAC employee who departed the committee in 1993 on amicable terms and speaks glowingly of Gingrich and his politics, revealed that the "non-federal" part of GOPAC has received contributions as high as $100,000 from individuals in one calendar year (interview by author, 15 August 1995). If GOPAC is found to fall under provision (a), Gingrich's political future would plainly be in serious jeopardy.

[9]This assistance is not restricted to campaign contributions. FEC rercords show that in the spring 1994, Bob Dole's Campaign America, the PAC he formed in 1979 to campaign for Republican candidates, gave $10,000 to Senator Bob Packwood's legal defense fund to help Packwood defend himself against accusations of sexual harassment by two dozen employees.

[10]Edward Zuckerman, interview by author, 2 August 1994.

of the Center for Responsive Politics believes MPACs are much more than just money machines: "Leadership PACs are the political party, the political machine, if you will, of the individual...*they are in essence the personal political parties of these politicians* (italics added)."[11]

Furthermore, MPACs' funds often underwrite the political travels and activities of the legislators who form them. The usefulness of this is obvious, permitting the "MPAC legislator" to participate in political events around the country, stump for his colleagues, and develop a national and/or legislative constituency with which to seek higher political office, rise in the legislature, or promote his policy goals. Explained Suzanne Niemele Hellmann, the political director of Senator Bob Dole's Campaign America: "C.A. works to get Dole 'into the field.' It promotes Republicans around the country by linking them to Dole, the 'unofficial leader' of the GOP."[12]

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To demonstrate that 1971 FECA and its amendments are seriously flawed and in need of drastic revision, critics of the current campaign regime are prone to cite MPACs as one of several pathologies for which FECA is uniquely responsible. The argument runs that by affirming the legality of PACs in the early 1970s, which before then had been sufficiently

[11]Joshua Goldstein, interview by author, 12 August 1994. In this researcher's opinion, Goldstein overdoes it when he characterizes all MPACs as "personal political parties." However, his description is absolutely correct with respect to Newt Gingrich's GOPAC, which this researcher believes has revitalized the GOP, for better or worse (see Chapter Eight).
[12]Suzanne Niemela Hellmann, interview by author, 9 August 1994.

in doubt to restrict PAC use mostly to organized labor[13], FECA opened up a Pandora's Box of new problems for campaign finance, the most significant of which was the shocking proliferation of PACs representing interests of every stripe, including congressional interests. Commented campaign finance critic Joshua Goldstein about MPACs:

> The way in which, in essence, a leadership PAC works proves there is a real problem with the financing of political campaigns. Does it not say that members of Congress know that money works? You know, the really damning thing (about MPACs), by their very existence, is that (they show) that PACs get something, that something is gotten with PAC money. They damn the entire system of campaign finance by showing that, through the (congressional) members themselves, contributions get something.[14]

Among the proposals critics advance to redeem federal campaigns are regulating more strictly all PAC activities (or banning them outright) and explicitly prohibiting MPACs.[15] The assumption behind this proposal, it seems, is that by formally outlawing MPACs, the causes that give rise to MPACs will disappear along with them.

A review of the MPAC's ancestry suggests, however, that the foregoing assumption may be frankly Panglossian, long on optimism and

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[13]The first PAC was founded by the CIO in 1943, the CIO-PAC. When the AFL and CIO merged, the PAC was renamed the "Committee on Political Education (COPE)." The dollars that the CIO PAC and other labor PACs distributed came not from the union treasuries, but from voluntary contributions by union members. Such activities were neither officially sanctioned nor prohibited by the 1925 FCPA. Over the next 30 years labor groups, corporations, and business groups formed PACs. Many other groups refrained. PACs were considered a loophole in federal election laws, tolerated but not officially sanctioned.
[14]Joshua Goldstein, interview by author, 12 August 1994.
[15]For example, *The New York Times* routinely editorializes about the need to ban MPACs. See, for example, March 21, 1994, A10.

short on historical fact. The historical record indicates that the activities in which MPACs engage have been conducted by legislators in one form or another since campaign finance became a prominent concern of political candidates and contributors in the late nineteenth and early twentieth centuries, long before FECA was enacted and MPACs emerged as one of the act's alleged unintended and undesirable consequences. When considered in light of this history, MPACs seem less a monstrous corruption of FECA's good intentions than the adaptation of long existing behaviors to the "letter of the law" and, furthermore, to changes that were made inside the House and Senate in the early 1970s.

The balance of this chapter traces the "ancestry" of MPACs to show that the behaviors associated with MPACs predate by at least half a century the formal advent of MPACs.

If genuine and effective correction of campaign finance laws depends on accurately specifying the problems to be solved and identifying their *causes* -- not merely pointing to their effects and manifestations -- than the history of "proto-MPACs" is useful to know. It suggests that the bigger problems routinely blamed on FECA may not have originated with FECA at all and, furthermore, would not necessarily vanish under a stricter finance regime but only mutate into something new.

II. Member-to-Member Giving: A Brief History

In a word, MPACs are nothing so much as the *institutionalization* of a long-standing and highly informal legislative norm: the transfer of money from members of the Senate and House who possess more than they need (or enjoy greater access to networks of contributors than their colleagues do) to political candidates -- either incumbents or challengers -- whose sources of financial support are few and political expenses and campaign needs greater than they can personally afford to meet.[16]

In most cases before and after FECA's adoption, transfers of this kind have been highly informal, coming from a legislator's personal funds. In other instances, legislators occupying "safe seats" who have assembled more money than they need to conduct a formidable reelection campaign have shared their campaign committee surplus with financially strapped colleagues.[17] In yet a third example of informal member-to-member support, electorally secure legislators have acted as intermediaries, directing money from private contributors to candidates they favor. Significant is that in such instances, the recipients are made aware that legislators engineered the contributions and presumably feel as much an obligation to them as they do to the actual contributors.

Perhaps not surprisingly, this third technique of "brokering" campaign contributions was possibly invented -- and unquestionably raised to an art form -- by Lyndon Johnson during his legislative career.

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[16]Edward Zuckerman, interview by author, 2 August 1994.
[17]Kent Cooper, interview by author, 15 August 1994.

His "genius" for helping the campaigns of other Democrats may explain in part his swift rise and remarkable influence in Congress.

In light of these long-existing forms of member-to-member giving, MPACs seem the latest expression of behaviors that FECA did not create but merely encouraged to assume a new, more formal character.

A. The "Brokering" of Campaign Money: An Informal, Effective, and Old Tool

During the 1940 congressional election, when it appeared the Democrats would sustain considerable losses in the House and perhaps cede outright control, Representative Lyndon Johnson, then a junior member with less than three years of legislative service, supervised an extraordinary campaign to raise money from Texas oil producers and distribute it to endangered Democratic colleagues.

At the time, the Democratic National Committee (DNC) and the Democratic Congressional Campaign Committee (DCCC) served as the principal sources of campaign money for needy House Democrats. The DCCC was formed in the late nineteenth century to raise money and distribute campaign funds to Democrats running for the House (see Chapter Three, footnote 31). In 1940, owing to increasing public disenchantment with the New Deal and anxiety over President Roosevelt's unpopular foreign policy that promised to involve the United States in a world war, contributions to the DCCC and DNC dropped precipitously and were woefully insufficient to assist to any meaningful degree beleaguered incumbents.

Johnson, equipped with only a tepid authorization from President Roosevelt and House Speaker Sam Rayburn to reverse the Democrats' bleak fortunes, single-handedly replenished the coffers of the DCCC and transformed what portended to be a Republican sweep into a gain of eight seats for the Democrats.

Not surprisingly, Johnson's impressive fund raising skills endeared him to the colleagues they helped save and the Democratic party as a whole. He immediately became a significant presence in the House. Anticipating the importance that a legislator's fund raising skills would come to have in congressional leadership races in the 1980s[18], Johnson's biographer observes:

> The new power he possessed did not derive from Roosevelt's friendship, or from Rayburn's. It did not derive from his seniority in the House, nor even -- despite the relationship that power in a democracy bears to the votes of the electorate -- to his seat in it. *His power was simply the power of money* (italics added).[19]

The 1940 campaign was the beginning of a political career that would take Johnson all the way to the White House. His facility for raising money from persons of enormous wealth and directing it to Democratic colleagues partly explains why his congressional career was as meteoric and substantial as it was. He continued the same practices following his

[18]see Chapter Six.

[19]Robert A. Caro, *The Years of Lyndon Johnson: The Path to Power* (New York: Knopf, 1982), p. 659.

1948 election to the Senate. Johnson's elevation to that body's majority post just four years later and success in greatly expanding the post's authority no doubt were consequences of the gratitude many of his Democratic peers felt for the fund raising activities Johnson did in their behalf.

Johnson's practice of raising money from wealthy Texans and serving as the conduit for the contributions -- always underscoring to the recipients that he was responsible for them -- never included his own personal and campaign resources, though, as Robert Caro and Robert Dallek have extensively documented, Johnson's fledgling radio enterprises made him a rich man in his own right.[20] Instead Johnson acted as a "political broker" who informally encouraged potential contributors to "invest" their resources in races that would most benefit the Democratic party. In return for these party-building services, Johnson collected a kind of "broker's commission" in the form of his colleagues' gratitude and support. (As Chapter Five details, Senator George Mitchell (D-ME) brilliantly imitated Johnson's informal brokering techniques in the 1980s and leap frogged over two more senior competitors who had MPACs to become Senate majority leader in 1988.)

[20] *Ibid.*, pp. 608-623 ; Robert Dalleck, *Lone Star Rising: Lyndon Johnson and His Times, 1908-1960* (New York: Oxford University Press, 1991), pp. 225-267.

B. Campaign Committee Surpluses: "Sharing the Wealth"[21] with the Less Fortunate (Candidates)

Especially prevalent among southern legislators during the pre-FECA regime was the informal practice of "donating" one's campaign surplus to needy colleagues. Representative Hale Boggs (D-LA) was a legendary practitioner of this custom, which may explain in part why he became majority leader in 1970 and probably would have risen to House speaker in 1976 had he not died in a plane crash in 1972.

The precise origins of this practice are not clear, though one can reasonably speculate that donating surplus campaign money was a function of two political conditions that prevailed in the South until the adoption of the 1965 Voting Rights Act: (1) the hegemony of the Democratic party, which resulted in the effective elections of candidates to office in the Democratic primaries, reducing by as much as half (if not more) a candidate's (re)election costs but not necessarily contributions to his campaign treasury in the same proportion and (2) the natural inclination of collegial legislators in the South (and throughout the country for that matter) to support one another's careers and causes whenever circumstances permitted.[22] This inclination may have been

[21]Clyde Wilcox, "Share the Wealth: Contributions by Congressional Incumbents to the Campaigns of Other Candidates," *American Politics Quarterly* 17 (October 1989), pp. 386-408. Wilcox uses Huey Long's famous campaign slogan to describe member-to-member giving in his pioneering study. It expresses perfectly the phenomenon under consideration and so is repeated here.

[22]This feature of Congress is almost always ignored in the academic literature, perhaps because it is much more difficult to document than committee and floor votes, committee assignments, and other favorite topics in the congressional literature. Yet intuition suggests it must play a significant role in the life of Congress. Members become friends, sometimes close ones, and as such should be expected to perform all manner of favors for one anther.

pronounced in the South, given the well-documented feeling among most southern Democratic legislators that they were bound in a struggle to preserve a "way of life" that liberals in Congress were determined to dismantle and needed to look after one another to maintain their numbers, protect their chairmanships of several powerful committees, and mount an effective resistance.

Known as "cash on hand" in the parlance of today's campaign finance laws, this form of member-to-member exchange is the direct ancestor of MPACs:

> It was an effort to help people who needed a little help. If you raised more money than you needed in your campaign, you'd give some to a couple of other members of your delegation who were hard up for funds. This early form of giving was not directed to any particular purpose such as gaining control of a committee or anything of that sort. It was generally sort of a good-will giving and in fairly small amounts.[23]

This observation is correct as far as it goes. The congressional period alluded to hewed to the strict seniority rule and so obviated the need for a member to "campaign" for a committee chairmanship with contributions and other forms of support. However, the observation misses the more subtle forces that were probably behind this sharing. A more discerning interpretation that better conforms with theories of exchange is offered by late Representative Richard Bolling (D-MO):

[23]Kent Cooper, interview by author, 15 August 1994.

> I don't think there's any question that the highly organized southern conservatives had a self-support system that went on on a continuous basis. You'd get a drunk that was an uncontrollable drunk in a committee chairmanship and they'd take care of him in every way including contributions to his campaign.[24] Now you couldn't prove that in a million years, but it was a marvelous thing to watch.[25]

Although informal transfers of money from one member to another were commonplace in the South for much of the twentieth century, the custom was by no means confined to the region. Moreover, MPACs did not completely replace this custom following FECA's adoption and the accompanying legalization of PACs. Wilcox reports that "nearly half of all members of Congress contributed (informally) to other candidates during the 1983-84 election cycle."[26] To date, no similar study of subsequent congressional elections has appeared in the literature, but if other trends in campaign finance are any indication, informal member-to-member transfers have likely increased substantially in the last decade.

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[24]One cannot resist wondering if the "drunk" cited by Bolling is not a thinly veiled reference to the late Wilbur Mills (D-AR), whose long and widely unpopular tenure as chairman of the House Ways and Means Committee and decisive opposition to many liberal programs that came before "his" committee came to an end in 1975 only after reports of his drinking problems and a compromising romantic liaison were widely carried by the media, though rumors of his possible alcoholism had circulated for several years before then. Mills -- conservative, Democrat, southern, out-of-touch with the membership -- was the archtypical product of the strict seniority rule that the liberal and cantankerous Bolling had fought since the late 1950s and finally weakened when his reform ideas were adopted by the House in the early 1970s.
[25]Baker, *The New Fat Cats*, p. 18.
[26]Wilcox, "Share the Wealth," p. 406.

III. The Generic Features of Member-to-Member Contributions

As Chapter One reports, Representative Richard Bolling was a major intellectual force in the Democratic Study Group (DSG), the House caucus he helped establish in 1959 that supported liberal candidates and causes and advanced many of the proposals to reform the House's archaic rules (notably the strict seniority rule) which, when finally adopted in the 1970s, would increase the attractiveness of establishing MPACs, much to Bolling's chagrin. Ironically, the DSG pursued its goals in ways that would come to be associated with MPACs.

In 1966, as the DSG's campaign for internal reform was gathering momentum, Bolling wrote of the dissatisfaction he and his liberal colleagues felt for the pre-reform House:

> In the many years I have been a Member of Congress, the House has revealed itself to me as ineffective in its role as a coordinate branch of the federal government, negative in its approach to national tasks, generally unresponsive to any but parochial interests.[27]

Bolling went on to explain the cause of this diappointing state of affairs: "The entire function of the House is determined by the effective action of the majority. Yet the majority of House Democrats has not had effective control of the House"[28] because the strict seniority system gave control of House committees to conservative southern Democrats and withheld from the party's congressional leadership the authority it needed

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[27]Richard Bolling, *House Out of Order* (New York: Dutton, 1966), p. 221.
[28]*Ibid.*, p. 223.

to maintain party discipline and promote cohesion. Bolling and the DSG aimed to reduce this conservative power and make the congressional party more united by eliminating the strict seniority system:

> The one purpose of the changes is to make the committee system of the House more representative of the majority views of the two parties. This should, as a consequence, increase the party's leadership and the individual Member's responsibility for legislative action and his accountability to the country and to his constituency.[29]

Pursuant to these objectives, in 1963 the DSG began raising and distributing campaign money to liberal candidates who appeared likely to support the DSG's reform agenda if elected. Giving money to candidates via the DSG was purposely more open and formal than the approaches favored by the southern conservatives and Representative Lyndon Johnson. Still, the underlying motivations of all three were presumably identical, to build support in the House for each interest's priorities: the DSG's progressive policy goals, southern conservative's continuing control of powerful committees, and Johnson's political ambitions.

A. More on the Underlying Motivations of Member-to-Member Exchange: The Pursuit of Policy Goals and Personal Advancement

The central objective behind the DSG's campaign contributions was to increase liberal membership in the House so that the group's ambitious agenda of internal congressional reform and progressive social proposals

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[29]*Ibid.*, p. 229.

could at last prevail over the opposition of "the conservative coalition," the House alliance of conservative southern Democrats and Republicans that had blocked passage of many liberal bills since the late 1930s. In contrast, Lyndon Johnson's fund-raising activities on behalf of his Democratic congressional colleagues had more personal motivations:

> A hallmark of Johnson's career had been a lack of any consistent ideology or principle, in fact of any moral foundation whatsoever -- a willingness to march with any ally who would help his personal advancement. His work with congressional campaign committee brought this into sharper focus.[30]

The DSG's liberal policy objectives on the one hand, and Johnson's indifference to ideology and the political positions of the Democrats to whom he steered contributions on the other -- while perhaps not as crass and self-serving as the foregoing passage suggests -- anticipate the *two* general operating styles of most MPACs that came into being after PACs were declared legal in 1971.

The majority of candidates who received campaign funds from Johnson's financial network in 1940 were northern liberal Democrats battling formidable GOP opponents. Since southern Democrats confronted only nominal opposition that year and in several congressional elections thereafter, they received little aid from Johnson. As an intimidating and magnetic southern Democrat who would not become identified with such unpopular liberal causes as civil rights until after he bacame president, Johnson could take for granted southern Democratic support on matters of

[30]Caro, *The Years of Lyndon Johnson*, p. 663.

personal interest to him, whether or not he courted southern Democrats with brokered contributions.[31] By favoring the nothern Democrats, Johnson expanded his congressional constituency to include members whose first inclination might have been to dismiss him as just another conservative Democrat who opposed progress.

To be sure, Johnson helped his party. But in doing so he helped himself, establishing himself as an independent presence within the congressional party, a party fiefdom of sorts to whom Democrats owed a separate political tribute.

Interestingly, the contributions that Johnson steered to New Deal Democrats came mostly from sources whose antipathy to the New Deal should have prompted them to back even weak Republican challengers: wealthy oil producers who loathed the New Deal as a boon to the industrial North and agricultural Midwest that the oil-rich Southwest was underwriting. Johnson was "helping New Dealers with the money of men who hated the New Deal."[32]

Anticipating another MPAC practice, Johnson did not conceal from his financial network the fact that their money was supporting liberal candidates. His network of pliant and pragmatic contributors was far less interested in electing a House that reflected its own conservative political

[31]Until his ascension to the White House, Johnson was universally distrusted by the liberal wing of the Democratic party. His legislative record gave little hint that he would become a champion of civil rights and other liberal measures. In 1957, for example, Johnson voted against an "anti-lynching" bill before the Senate, an act that seriously hurt his reputation among liberal icons like Eleanor Roosevelt. His selection in 1960 as John Kennedy's running mate was seen by liberals as a sell-out by Kennedy to win the conservative South in the November election.
[32]*Ibid.*, p. 663.

and ideological sensibilities than it was in cultivating members of virtually any stripe who would not jeopardize its narrow economic interests. Thus the preservation and expansion of the cherished oil-and-gas depreciation allowance was all that contributors expected from recipients, a condition that grateful liberal Democrats were usually able to satisfy with little harm to their consciences.

This concern of contributors with narrow interests anticipated yet another, related practice that has become associated with FECA: the inclination for conventional PACs and individual contributors with important legislative interests to contribute overwhelmingly to *incumbents* of both parties, and neglect *challengers* belonging to the same party as the contributors do, in order to protect and promote their industry and economic interests vis-a-vis the legislative powers that be, not the powers that *might (or might not) be.*

Johnson mastered the practice of political exchange and in doing so exposed many of the generic elements that such exchange entails. So too did the DSG. Favors granted by contributors and politicians on other politicians expect favors returned, else they would not be granted.[33] Johnson's support of Democratic candidates expected grateful victors to support him on matters that were of personal concern to him. The DSG's support of liberal candidates expected grateful victors to support the group's agenda when elements of it were before the House. Private contributors' support of the candidates that Johnson and the DSG favored

[33]The classic work on exchange and gift-giving remains Marcel Mauss, *The Gift: Forms and Functions of Exchange in Archaic Societies* (New York: Norton, 1967).

expected all the beneficiaries, if elected, to protect and promote their respective concerns. Ultimately, these are the elements that any campaign regime seeks to regulate.

IV. Congressional Party Committees

Lyndon Johnson's activities during the 1940 campaign were not officially part of the DCCC, though they indirectly saved it from bankruptcy. In principle, the campaign committees of both parties in the House and Senate aim to be instruments of party discipline.[34] They are suppose to make contributions to members who support their congressional party's agenda and deprive more independent members of money.

As the history of party committees shows, however, principle and practice have only occasionally meshed. The willingness of congressional campaign committees to reward supporters and punish dissidents has been uneven. Their ability to discipline, punish, and reward has depended on such related factors as the existence of strong party leadership, policy consensus within the congressional party, and the availability of money. To achieve the last, the committee chairs must have been enthusiastic, even aggressive fund raisers, qualities that not all chairs have shared.

Also undermining the principle of party discipline has been the overarching goal of all the party campaign committees to maintain,

[34] House: Democratic Congressional Campaign Committee (DCCC) and National Republican Congressional Committee (NRCC); Senate: Democratic Senatorial Campaign Committee (DSCC) and National Republican Senatorial Committee (NRSC).

expand, or secure a majority of seats in the house with which they are affiliated in order to control legislative procedures and (sub)committees. Consequently, a candidate's *nominal* party affiliation has traditionally been a more important criterion in determining committee contributions than has a candidate's party loyalty and substantive record.[35]

Chairmanships of the campaign committees have been held by a variety of types of members. Representative Mike Kirwan (D-OH), who headed the DCCC from 1948 to 1970, used the DCCC chairmanship to promote what amounted to his personal agenda. Kirwan's power base was the Appropriations' Subcommittee on Public Works. He combined his goals on Public Works with the prerogatives he possessed as DCCC chair to foster support for his agenda. On one occasion, Kirwan was informed by Congressman James Roosevelt (D-CA) that prior commitments would prevent him from attending a tribute to Kirwan honoring his success as the DCCC chair. Kirwan's reply, according to Thomas O'Neill, was, "Gee, that's too bad. Will you still be appearing before my committee next week about that river you want dredged. Roosevelt replied that he would. "Fine," said Kirwan, who asked once more where he would be the following evening. Realizing the connection, Roosevelt answered, "Looks like I'll be at your party, Mike."[36]

[35]The norm of serving one's congressional party on certain procedural issues against one's own ideological values and preferences is an old and sometimes amusing one. In 1986, the liberal Republican Lowell Weiker (R-CT) supported arch conservative Republican Jesse Helms (R-NC) in the latter's campaign to be recognized as the ranking Republican on the Senate Foreign Relations Committee, even though moderate Republican Richard Lugar (R-IN) had chaired the committee from 1981-1987, when Republicans controlled the Senate.
[36]Thomas P. O'Neill, *Man of the House* (New York, Random House, 1988), pp. 154-55.

Despite his demand for the loyalty of his Democratic colleagues, Kirwan apportioned DCCC money in a manner that suggested his objective was merely to maintain and if possible increase the party's nominal majority: every Democrat running received a $500 contribution. Kirwan, moreover, preferred to remain in Washington and supervise his powerful subcommittee rather than travel around the country to stump for Democratic candidates and raise money for the DCCC.

A. The DCCC under Thomas O'Neill: Closer to the MPAC

Following Kirwan's death in 1970, Thomas O'Neill (D-MA) ascended to the DCCC chair and visited fundamental changes on the organization's operating style.[37] O'Neill replaced Kirwan's practice of indiscriminate contributions with a more systematic and disciplined one. Furthermore, O'Neill's personal style was far more activist than his predecessor's, as shown in his enthusiasm for campaigning for Democratic candidates around the country and raising money for the committee.

O'Neill also introduced more institutional innovations to the DCCC that proved highly successful and remain in operation to this day. Prominent among these was his use of polls to determine where DCCC money could be most effectively spent. To make the DCCC more than just a "money source," the future House speaker authorized a DCCC sponsored

[37]From 1970 to 1972, O'Neill co-chaired the DCCC with Ed Edmondson (D-OK). Edmondson resigned in early 1972 to run unsuccessfully for the U.S. Senate. O'Neill served as the sole chair until 1974.

poll in late 1973 to forecast how a vote to impeach President Nixon would affect members' reelection prospects.

The changes O'Neill instituted had the effect of transforming the DCCC chairmanship into a much-coveted position from which to mount a campaign for leadership posts after the strict seniority was weakened in the 1970s. Chairing it permitted a member to remake the committee in "his own image." Within certain confines, the chair could use DCCC money to help whomever he wanted, whenever he wanted, and in the process amass an inventory of political IOU's that could be redeemed at some future date.

O'Neill showed, as Johnson had in 1940, that furnishing money and other forms of support to colleagues was a superb way to develop an intra-House constituency without harming the party's institutional interests. Extensive travels in behalf of the DCCC exposed O'Neill to audiences that he had previously had no reason to appear before as a liberal congressman serving Massachusetts' Eighth District. Most important, he inadvertently discovered another perk associated with the position that he and later campaign committee chairs, particularly Representative Tony Coelho (D-CA), would exploit when they formed MPACs: in tirelessly raising money for the DCCC throughout the country, O'Neill established a personal stable of contributors into which he could tap long after relinquishing the DCCC chair.[38]

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[38]O'Neill established the Democratic Candidate Fund in 1978, which he continued to supervise after his retirment in 1987, indeed until his death in 1994..

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The chairmanship of the Republican campaign committee had long furnished its occupants with the opportunities that O'Neill's activism created at the DCCC. For instance, Joseph W. Martin (R-MA) in 1938 and Charles Halleck (R-IN) in 1946 chaired the Republican National Congressional Committee (RNCC) and "utilized their success in those elections as a springboard to the floor leadership of their party."[39]

Thomas O'Neill's successful tenure at the DCCC doubtless eased his rise from party whip to majority leader and finally to House speaker in 1976. He appears not to have had much flexibility in giving party money to incumbents, insofar as contributing more money to one incumbent than to another would have smacked of favoritism and reduced his influence among House Democrats during party caucus votes in which he had a personal stake: "the chairman has to watch it that he doesn't end up antagonizing more incumbents than he pleases. Some (incumbent) guy may say 'jeeze, I only got $3,000 and Jones got $4,000 -- how come?"[40]

These constraints notwithstanding, O'Neill could and did exercise considerable discretion with Democratic candidates in open seat races, far more than Kirwan had. Commented one House Democrat about O'Neill's style: "I supposed the main benefit (in being DCCC chairman) is being able to put money into or withhold it from non-incumbent races. A freshman might have difficulty overlooking a candidate for party leadership who appears to have just put $5,000 into his campaign."[41]

[39]Robert L. Peabody, ed., *Leadership in Congress* (Boston: Little Brown, 1976), p. 39.
[40]*Ibid.*, p. 262.
[41]*Ibid.*, p. 262.

V. The Post-Reform Congress in the FECA Era

A. Representative Wayne Hays and the Advent of the De Facto MPAC

Arguably the first occasion on which the DCCC chair raised and distributed money to colleagues in order to promote explicitly his own legislative career as well as his party's fortunes occurred during the tenure of Wayne L. Hays (D-OH).[42] As head of the DCCC from 1973 to 1974, Hays contributed approximately $202,814 during the 1974 special elections and fall election to 143 members of the Ninety-fourth Congress who would vote in House Democratic Caucus in December to determine if he would retain the chair of the House Administration Committee.[43]

Hays' DCCC contributed $102,980 to 74 members of the Ninety third Congress who were reelected and an additional $87,000 to 69 of the 75 freshmen Democrats.[44] Moreover, the committee directed $12,834 to 14 members of the Ninety-third Congress that had been earmarked for them when it was received by the DCCC. In all, the DCCC contributed $280,314 in the 1974 elections to Democratic candidates.[45]

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[42]Kent Cooper, interview by author, 15 August 1994.
[43]"Lobbying on Chairman,"*Congressional Quarterly*, 25 January 1975, p.3.
[44]Among the victorious Democratic challengers who received $1,000 from the DCCC was Henry Waxman. In an institution in which Senator Moynihan's "iron law of emulation" seems to operate, one can reasonably ask if Waxman's 1978 decision to form a MPAC was not inspired by Hays' DCCC example.
[45]These figures come from the personal files of Kent Cooper, who witnessed Mills' DCCC activities from the newly created FEC. The FEC did not establish its computer data base of campaign expenditures and receipts until the 1977-1978 election cycle. For this reason, the period 1972-1976 is a daunting one for the researcher to investigate, requiring him/her to use a primitive microfilm system.

Thirteen triumphant Democrats received more than $2,500 each from the Hays committee. They included two influential committee chairmen; three members elected in the 1974 special elections; and the newly elected chairman of the Democratic Caucus, Phillip Burton.[46]

Hays' DCCC contributions are interesting because they were made at the same time that the strict seniority rule was weakened. DSG efforts to promote House democracy had at last been realized following almost fifteen years of persistant and indefatigable work. As one of the House's most feared and unpopular leaders, Hays stood to lose the main source of his power under the new regime. His committee chair, which under the old norm would have been his merely by virtue of his 26 years of uninterrupted House service, was in jeopardy by the new, more democratic selection process that the Democratic Caucus adopted in 1974 at the DSG's behest.

During Hays' successful fight to retain his position, the issue was raised for the first time in the history of campaign finance that DCCC contributions directed by the chair to freshmen members may have affected their votes in the Democratic Caucus. The average contributions to freshmen was $1,260.[47]

Leading public interest advocacy groups like Common Cause and Ralph Nader's Congressional Group publicly called for Hays' replacement, contending that his service at the DCCC conflicted with his chairmanship of the committee whose jurisdiction included congressional campaign

[46]*Ibid.*
[47]*Ibid.*

finance issues.[48] Moreover, they publicly endorsed Hays' challenger in the race, Representative Frank Thompson, Jr. (D-NJ).[49] (These groups also urged the removal of the chairs of the House Agriculture and Armed Services committees, issuing extensive studies detailing why).

This involvement by outside groups in an internal legislative affair was itself a startling development that congressional reforms unwittingly prompted. Under the classical legislative regime, political pressure groups had possessed few opportunities to influence leadership decisions and other internal congressional matters because decision making had been concentrated in the House chairs who in turn owed their positions to strict seniority.

The new selection methods, however, gave outside groups a pretext to become more involved.[50] The more democratic methods meant that party caucuses in which leadership and committee posts were distributed would no longer be "rubber stamp ceremonies" but instead genuine democratic events during which the caucus members could be lobbied by outsiders to vote for one candidate over another, just as they had been lobbied in the past on matters relating to substantive legislation.

From the perspective of a junior member, the changes meant that he could seek influential positions that the old regime had denied him,

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48"Hays' Campaign Contributions," *Congressional Quarterly*, 25 January 1975, p.3.
49Hays' caucus victory was short-lived. In 1976, Hays was forced to resign from Congress amid reports of an extramarital liaison with one Elizabeth Ray.
50Walter J. Oleszek, *Congressional Procedures and the Policy Process* (Washington, D.C.: Congressional Quarterly Press, 1989), pp. 284-285.

and recruit friendly outside interests to lobby members on behalf of his candidacy.[51]

B. Internal Congressional Reform and Campaign Finance Reform: When Reform Streams Collide

O'Neill was easily the most innovative figure to be affiliated with the DCCC since Johnson informally but decisively rescued it in 1940. It was the Republicans, however, who demonstrated that party congressional committees (and hence any committee overseen by a moderately competent and respected legislator) could raise staggering amounts of money. From 1976 to 1982, the receipts of the three Republican party organizations -- the Republican National Committee and the House and Senate party committees -- increased from $43 million to $191 million. In the same period, the Democratic counterparts' receipts grew from $15 million to $29 million.[52] As these figures suggest, there clearly existed private interests inclined to contribute generously to political campaigns.

Despite these large increases, during the 1970s the party committees actually receded in importance as other sources of funds for congressional candidates emerged. In 1972, party committees accounted for approximately 17 percent of the contributions to all House campaigns and 14 percent to all Senate races. By 1974, only 4 percent of House campaign contributions came form the party committees; in the Senate the party's

[51] *Ibid.*, p. 285.
[52] Gary C. Jacobson, *The Politics of Congressional Elections* (Boston: Little, Brown, 1987), p. 69.

contributions declined to 6 percent.[53] In absolute dollars, contributions from the party committees increased steadily from 1972 to 1984. The three Democratic committees spent $66 million in 1984. However, other sources of money also increased, causing these party contributions to represent a declining share of the total money spent in congressional races.

Largely accounting for the new money sources were PACs. Following the 1971 election act -- which purged "fat cat contributors" from federal elections and affirmed the legality of PACs -- and the 1975 "Sun-PAC decision" -- an FEC ruling that encouraged the formation of corporate PACs and thus gave erstwhile fat cat contributors a legal way to help finance campaigns -- the number of PACs increased from 600 in 1974 to more than 4,100 in 1990 and became a prominent source of congressional campaign money. Between 1979 and 1986, total PAC contributions as a fraction of all contributions to the average victorious House candidate increased from 17 percent to 42 percent; for the average victorious Senate candidate, total PAC contributions went from 11 percent to 27 percent of all contributions.[54]

Not a few critics have bemoaned the prominence of PACs, concurring with the FEC's Leta L. Holley that "one of the troubling things is that at the same time that the RNC and DNC were improving their system of contributions and raising lots of money for candidates, they were overtaken by the PACs, which undermine strong parties."[55]

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[53] *Ibid.*, 63.
[54] A. James Reichley, *The Life of the Parties: A History of American Political Parties* (New York: Free Press, 1992), p. 369.
[55] Leta L. Holley, interview by author, 2 August 1994.

Ignored in this and similar observations is that PACs were not so much brand new money sources as they were old money sources expressing themselves in new, more overt ways.[56] The infamous fat cat did not lose his interest in contributing campaign money when FECA replaced the FCPA in 1971 and imposed substantial limits on personal giving. He merely exercised this interest in a new form, the political action committee.

C. More on Internal Reforms: Democratic Elections beget Campaigns, and Campaigns Cost Money

The most important change that spurred the development of MPACs and others forms of open member-to-member campaign

[56]As Frank Sorauf has observed, this is one of the most impressive accomplishments of FECA: it has provided as a matter of public record the contributors and the sums of money they have spent that under the old regime had been concealed, making American campaign finance the most open in the world. The irony is that by exposing activities which have gone on for decades, FECA has also been blamed for causing them. By this logic, the physician who diagnoses cancer in an unsuspecting patient is also responsible for its occurrence.

David Adamany observes that FEC disclosure laws produce more data than FEC auditors, the media, and voters can digest. In "PACs and the Democratic Financing of Politics," *Arizona Law Review* 22 no. 2 (1980): 597-98. This is not an insignificant technical problem that any reform must address. The system arguably works too well for its own good. Perhaps the best solution, one supported by FEC chief Trevor Potter, is to provide more resources to the current system (hire more auditors, put FEC reports "on-line," etc), not enact a completely new regime. Harvard University symposium, *Money $ Politics: Is Reform Possible?* 17 October 1994; Trevor Potter, "Pity the Watchdog in a Lion's Den," *Wall Street Journal*, 2 August 1994.

Of course, this would require a substantial increase in the FEC's annual appropriation, which, as this dissertation is prepared, Congress seems unlikely to make. In March 1995, the House Appropriations Committee approved a measure that would slash the FEC budget for the current fiscal year by 10 percent. In the author's opinion, Congress's most serious fault with respect to FECA has been its refusal to provide the FEC with an adequate budget.

contributions was arguably not FECA's adoption but rather expanding the number of congressional leadership posts subject to a democratic vote.

Although the practice of legislators' contributing money to colleagues was common and long standing -- particularly among the southern Democratic wing -- it was rarely mentioned and cannot be documented because reporting requirements in the pre-FECA regime were considerably more lax than they are today (See Chapter Three). Still, there is enough anecdotal evidence to show it was common. Richard Bolling:

> I know that a good deal of money moved around but it was not illegal to give long green. Nobody ever talked about it. Even later on in my career when I was more "in," I heard very few specific details. The reason it was legal was because there weren't laws and a lot of it moved around in cash.[57]

D. House Reform

Before the 1970s, until Wayne Hays' tenure at DCCC in fact, there is little evidence that campaign contributions from one legislator to another were consciously designed to influence elections to leadership posts and (sub)committee chairs. As has been observed, there was little need to use money to influence internal elections because leadership positions in the absence of personal scandal or gross incompetence automatically devolved on the most senior committee member of the majority party. Further, only the speaker and floor leaders were elected by the membership, elections that were little more than rubber stamp enterprises, since

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[57]Baker, *The New Fat Cats*, p. 23.

nominations to these positions were made in secrecy by a small and tightly-knit group of senior members.

By the mid-1970s, the traditional rules of Congress had been replaced by the most ambitious and far-reaching measures to be visited on the institution since 1912. Among these measures were a weakening of the seniority rule, making it easier to remove, challenge, and discipline insensitive and out-of-touch chairpersons; increasing the independence of the subcommittee's from their parent committees, which led to genuine contests for chairmanships; the requirement by the majority Democrats of caucus approval for all chairs of the standing committees, which meant that the organization of all House Democrats constituted an electorate, which had not previously been the case.

The widespread belief that the House was complacent, inefficient, and undisciplined finally got the DSG's reforms off the ground beginning in 1971. The DSG had long contended that the House's decentralized decision making structure thwarted coherent legislation and undermined innovative domestic programs that most House Democrats supported. The group believed that by reforming internal congressional procedures, the House could facilitate coherent policy formulation, increase accountability, and reduce the inordinate power of conservatives. The group concentrated its energies on the Democratic Caucus, hoping to transform it into a "disciplined force for progressive legislation."[58]

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[58]Leroy N. Rieselbach, *Congresional Reform*, (Washington, D.C.: Congressional Quarterly Press, 1986), p. 63.

In 1971, both parties in the House decided that factors other than seniority should be used to select chairpersons and ranking minority members. Pursuant to this, each party authorized its caucus -- the convention of all congressional members belonging to the same party -- to vote on the recommendations of the party "committee on committees" for chairperson or ranking minority member. The Republican procedure included a conference vote on its committee on committees' nominations, which were not necessarily based on seniority. The Democratic procedure included a provision in which members of a given committee could force a vote in the caucus on their committee's chairperson. This provision, though a radical break with the past, did not fully democratize the committee system because it required members to call *publicly* for a caucus vote. This understandably made them reluctant to challenge a chairperson, who might survive a vote and exact revenge on the committee members who had pushed for his removal.

The 1971 reforms were extended in 1973 when House Democrats decided the entire DC should vote on the nominee for each committee chair and, if one-fifth of the members so desired, by secret ballot.

Initially, these changes had little practical effect. For the first couple of years, all selections effectively honored the strict seniority rule: negative votes against the party's senior committee member ranged from two to 40 and in no instance reached one-third of the votes cast. The Republican

Conference raised two challenges. In both cases, however, the senior members retained their ranking status by three-to two-margins.[59]

The effects of these democratic reforms were finally felt in 1975. The new procedures allowed junior members of the caucus to nominate candidates for committee chairperson if the caucus rejected the committee on committees' official recommendations. The DC, with seventy five freshmen, used these procedures to depose the long-time heads of the House Agriculture, Armed Services, and Banking, Currency, and Housing Committees. As has been reported, Representative Hays escaped the same fate, partly by using practices that anticipated MPACs. So unpopular was Hays in 1974, despite his seniority, that the committee on committees actually rejected his renomination for another term as chair of the Administration Committee. He avoided defeat in the DC, however, with the support of freshmen he had assisted as chair of the DCCC.

Progressive House Democrats were not entirely satisfied with this first wave of party caucus reform (1971-1973) and sought to improve on it. In 1975, the DC adopted a new system for distributing committee assignments that built on the more modest changes made in 1973. In 1973, the House party leaders (Speaker, majority leader, and whip) were entitled *ex officio* to join Ways and Means Democrats, who also constituted the party's Committee on Committees, in making committee assignments. The same year, the party formed the 24 member Democratic Steering and

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[59]The fact that seniority was no longer sacrosanct but usually honored was enough to warn congressional leaders that they could be challenged and possibly removed if they veered too far from the sentiments of the rank-and-file. Observerd Veterans' Affairs Chairman G.V. Montgomery (D-MS): "I have to have loyalty to the Democratic Caucus. They gave me the chairmanship." *Congressional Quarterly*, 1 August 1987, p. 1700.

Policy Committee (DSPC), which consisted of the party's elected leaders (Speaker, floor leader, and DC chairperson), 12 members elected by the DC to represent geographic regions, and nine others appointed by the Speaker. This had the effect of increasing the power of the congressional party's leadership at the expense of the committee chairs.

In 1975, the DC relieved the Ways and Means Committee of its committee assignment powers and gave them to the Steering and Policy Committee. This change was significant because the DSPC was more liberal and representative of the congressional party than Ways and Means Democrats were. Moreover, the party's elected leaders exercised far more authority over the DSPC than they did over Ways and Means. The DC retained the right to vote on each nominee for a committee chair and to approve the DSPC's recommendations for panel assignments.

E. Increasing the Number of Elected Positions in the House

Besides "democratizing" offices that had previously been distributed according to strict seniority, the DC *expanded* the number of offices that were subject to a democratic vote and *limited* the number of such offices that a member could hold at one time.

During the 1970s, House Democrats reduced the concentration of committee power that had become a feature of the traditional House system. Under the new regime, no member could head more than one legislative subcommittee, sit on more than two full committees, or be a member of more than one "exclusive committee."[60] Each Democrat was allowed to serve on one exclusive or major committee. Chairpersons of exclusive or major committees could not head any other committee or a subcommittee on a committee other than the one they chaired. Finally, no member could sit on more than five subcommittees. These provisions expanded the opportunities for junior members to rise swiftly to influential positions, since committee chairmen were no longer permitted to hoard leadership positions on their panels.

More important, the House increased subcommittee power and autonomy. New rules also made it easier for junior members of a full committee to assume positions of authority on a committee's subcommittee. In 1973, the DC recognized all party members on each standing committee as the "committee caucus" and authorized them to select subcommittee chairs, set subcommittee ratios, and establish subcommittee budgets.

The attraction of seeking a subcommittee chair was increased substantially by the famous 1973 "subcommittee bill of rights." This manifesto enjoined full committees to respect the jurisdiction of their subcommittees. All legislation referred to a full committee was to be forwarded to the appropriate subcommittee within 14 days. Subcommittees were authorized to elect their own leaders, write their own rules, employ their own staffs, hold hearings, and act on legislation. In short, they closely resembled full committees.

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[60]Exclusive committees are Ways and Means, Rules, Appropriations

As the 1970s progressed, the DC also adopted additional procedures to facilitate members' rise to positions of subcommittee authority. The DC established "bidding procedures" that allowed even junior members to obtain desirable subcommittee assignments and leadership posts. Bidding was in order of seniority. Each Democrat on a full committee was guaranteed a choice of one subcommittee membership before any could secure a second subcommittee assignment. This allowed each member to seek an advantageous slot, and to secure a reasonably senior position on some subcommittee.

A similar procedure governed the selection of subcommittee chairs. Members requested the chairmanship of their preferred subcommittee. The full committee caucus then ratified their choices, by secret ballot when there was competition for a particular subcommittee chair. Without this change, Henry Waxman's campaign for the Health subcommittee chair would have been impossible. Because of it, Waxman and many others like him had an incentive to run for leadership posts and to use all means customarily associated with a political campaign to do it.

In sum, these provisions not only restricted the number of positions any member could hold but virtually guaranteed that the available assignments would be shared widely among committee members. Broad participation in subcommittee activity also became a reality. These provisions unwittingly increased the incentive for members to campaign for leadership positions, *provided* they did not antagonize party leaders in their quest to build a personal congressional constituency. With more powerful offices subject to democratic elections, members sought to secure them with the means used in any democratic election. This in turn dramatically affected FECA's trajectory.

F. Senate Reform

Similar democratic changes occurred in the Senate. In 1970, the Senate adopted a provision, which went into effect in 1971, that restricted members to only three committee (two major, one minor). Another provision allowed a member to chair only one committee and one subcommittee of a major panel.

In 1973, Senate Republicans adopted a provision according to which committee members would choose the ranking minority member from among their own number without regard for seniority. However, the no ranking minority members were deposed after the rule went into effect.

Senate Democrats did away with strict seniority two years later. On January 17, 1975 they adopted a series of far reaching reform proposals in their caucus, the most important of which was voting to select committee chairpersons by secret ballot whenever one-fifth of the caucus requested it. Adopted by voice vote, the change took effect on January 20 and thus did not affect the selection of committee chiefs earlier in the week.

However, the change had important consequences on the evolution of campaign finance, making it much easier to depose a chairman without fear of retribution. For junior and ambitious members, the reform allowed them to campaign for Senate leadership positions long before their time. As with similar changes in the House, the reform was designed principally to warn conservative southern chairman to be more responsive to the agenda of the Senate Democratic majority or face possible removal. Long after conservative Democrats had been replaced by legislators more reflective of the parties to which they nominally belonged, this reform remained in operation in both houses and profoundly affected the growth of MPACs.

Under the new selection procedure, a list of chairmen nominated by the Democratic Steering Committee (DSC) was distributed to all veteran and freshman Democrats. The members then checked off the names of the chairpersons they wanted to include in a secret ballot. The list they initially checked off was unsigned.

If at least twenty percent of the caucus members demanded a secret vote for a particular post, one was automatically held two days later. This method obviously protected the identity of members seeking to challenge a chairman, yet gave the chairman 48 hours to try to repel the challenge. One of the reform's sponsors, Dick Clark (D-IA) explained his advocacy of the measure because the Senate Democratic Caucus had "no procedure for nominating committee chairmen except tradition. I wanted to get this change in writing."[61] Clark added that he did not anticipate the reform to precipitate an upheaval in the power structure of the Senate that occurred in 1974 in the House when a similar reform went into effect, resulting in the legendary ouster of three long-serving conservative Democratic chairmen: "it would be misleading to say that this change would lead to

[61]"Senate Committees," *Congressional Quarterly*, 25 January 1974, p. 4.

the removal of sitting chairmen next time (1977), but there's a message there."[62]

G. Back to FECA: The Consequences of Internal Reform

These internal changes, occurring as they did at roughly the same time FECA was enacted, precipitated many unanticipated consequences. While the application of the strict seniority rule had resulted frequently in the (re)elections of chairs whose only qualification was advanced age and long congressional service, not legislative competence and policy expertise, the rule -- perhaps to its credit -- had also obviated any internal campaigning for senior leadership positions of the sort Waxman engaged in.

Reforms designed to democratize the two chambers fundamentally reoriented the operating calculus of the ambitious member interested in securing reelection, amassing prestige, and making good policy. Unlike in the old system, "where getting along to go along" had been the injunction to heed if one wanted to rise and thrive, the 1970s reforms meant that the same ambitious member with leadership aspirations and/or policy objectives actively had to cultivate support among his party colleagues to advance them. In short, he had to build a personal legislative constituency that would support him in the more democratic caucus meetings. At the same time, the member had to display a semblance of courtesy to the party leaders, whose new powers in the DSPC and elsewhere could be used

[62] *Ibid.*, p. 4.

against the member if his own interests clashed with the party's central objectives. Member-to-member giving in all its legal forms seemed the best way to satisfy these two imperatives, allowing a member to "purchase" support from his colleagues while advancing the party's interests.

In short, the logic of democratic elections in Congress spurred the development of MPACs, not FECA.

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The first hint that many of the same tactics a politician uses to win election to Congress could be fruitfully applied to congressional party leadership contests occurred in the 1970 race for House majority leader, the earliest significant leadership race conducted under the first wave on internal reform. Democrats elected to the House the previous November but not yet sworn in were lobbied extensively by aspirants for the majority post. Morris K. Udall (D-AZ), for instance, contacted personally all incoming Democratic freshman on election night and provided each with a copy of his book, *The Job of a Congressman*.[63]

Udall lost the race to Hale Boggs, whose generous contributions to party colleagues may help explain his victory. The race anticipated the more competitive and sophisticated techniques that would become common place by the late 1970s whenever leadership positions were vacated. As new members whose elections were influenced by the

[63]Morris K. Udall and Donald G. Tacheron, *The Job of a Congressman* (Indianapolis: Bobbs-Merril, 1970).

Vietnam War and the Watergate scandal entered Congress, they demanded responsibilities and a greater sense of participation and influence in the chamber. Committee and subcommittee posts opened up as never before and they campaigned for them by all means available.

Party leadership opportunities expanded less dramatically than committee chairs could, but even in this area efforts were made to "democratize" them.

Plainly there could be only a small set of floor leaders for each party as well as only one House speaker. Further, whips among House Democrats were *appointed* by the majority leader in consultation with the speaker, not elected by the DC.[64] Some reformers among House Democrats began calling for an elective whip -- conferring democratic legitimacy on a hitherto appointive post and creating a new rung on the leadership ladder that was up for grabs.

Behind the reform to elect the whip was Representative Philip Burton (D-CA) who, probably more than any other, propelled House members in the direction of bankrolling colleagues to advance in the leadership.[65]

Reports suggest that Burton was a figure of enormous skill and ambition, considerable energy, fierce determination, and great political astuteness.[66] He was elected the DSG chair in 1971 in a contest against Representative James Corman (D-CA), who had been endorsed by senior

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[64]This post became elective in 1986. See Chapter Seven.
[65]Kent Cooper, interview by author, 15 August 1994.
[66]Peabody, *Leadership in Congress*, p. 249.

members of the group and had served in the House four years longer than Burton.

Burton strengthened the DSG by expanding the group's traditionally liberal membership to include moderates, border-state conservatives, and older members. By making the DSG more representative of the congressional party as a whole, Burton's personal influence increased in the Democratic Caucus.[67]

In October 1972, following the death of Hale Boggs, Thomas O'Neill was elected to succeed him as majority leader. Two widely respected members were in line for appointment to the post of majority whip, which O'Neill had held and was now vacating -- John McFall (D-CA) and John Brademas (D-IN).

As they were awaiting their selection to the whip post, Burton mounted an open assault on the appointive character of the whip post. On the night of the 1972 elections, in his capacity as DSG head, Burton personally contacted every newly elected Democrat and asked the latter to support his amendment in the December caucus to transform the whip into an elected post. Burton did not add that he intended to be a candidate for whip in the event the DC converted the post into an elected one. Only an eleventh hour appeal by O'Neill urging that the whip post remain appointive derailed Burton's amendment. O'Neill went on to appoint McFall and Brademas as co-whips. Burton's leadership ambitions continued.

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[67]John M. Barry, *The Ambition and the Power* (New York: Viking, 1989), p. 14.

The 1976 retirement of House Speaker Carl Albert (D-OK) and the presumed ascendancy of O'Neill to the speakership furnished Burton, who by then chaired the DC, with his next opportunity to secure a leadership post. Burton had used his DSG position to assist Democratic candidates in a manner akin to the one Johnson had used in 1940 and, according to Leta Holley, "used the interest groups he was friendly with to take care of Democrats and also make sure that the people who got the contributions gave him credit for them."[68]

The 1976 race for House majority leader represented a significant departure from the highly informal member-to-member contributions that had occurred under the classical regime. As such, it was nothing so much as the confluence of two separate reform streams -- campaign finance reform and internal House democratization -- combining to affect the good intentions of each one.

In the contest, the most heated and democratic leadership race until then, three of the four candidates contributed substantial sums of money to party colleagues to secure their support.

Burton seems to have introduced all the innovations that his rivals had no choice but imitate. For example, at the 1976 Democratic National Convention in New York, Burton conferred with House candidates and prospective candidates to solicit their votes for his leader bid should they win office in November.

Burton's main rivals, Representatives Jim Wright (D-TX) and Richard Bolling (D-MO) helped House candidates in campaign

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[68]Leta L. Holley, interview by author, 2 August 1994.

fundraising, while party whip McFall (D-CA) relied on the tradition of the party promoting whips to the post, a strategy whose obsolescence under the new order guaranteed that he would be eliminated on the first caucus ballot.

FEC records from the 1975-1976 cycle are not especially useful in tracking the individual contributions made by the candidates. The reporting procedures at that time were still new. At least one person who observed the race closely reports that at one point Burton began to distribute money from his own campaign committee to colleagues.[69] It did not take long for the other rivals to learn about this practice. There was little doubt, given Burton's history, that Burton's latest salvo was done in the expectation that beneficiaries, if elected, would vote for him.

A classic prisoner's dilemma faced the others, confronted as they were with the problem of how to respond. An observer at the time reported that Bolling's campaign manager, Gillis W. Long (D-LA) urged Bolling to imitate Burton and make contributions from his own campaign committee. Bolling expressed repugnance for the practice and refused to ape Burton.

Wright, however, fought fire with fire. Soon after Wright announced his candidacy for majority leader, his office prepared a list candidates and colleagues whose campaigns were short on cash but who had a good chance of winning in November. In a move reminiscent of Johnson's in 1940, Wright called on wealthy Texans who had previously contributed to his own campaigns to make contributions to Democratic

[69]Kent Cooper, interview by author, 15 August 1994)

candidates and let Wright take credit for them. Like Johnson in 1940, Wright promised his mostly conservative supporters that even liberal recipients, if elected, would be "responsible and solid, not wild-eyed and untrustworthy."[70]

Wright's brokering efforts purportedly raised $50,000. Wright personally distributed the contributions to the candidates, underscoring his role. He, like his rivals, also, campaigned personally for colleagues. "Twenty-one of the candidates he campaigned for became freshmen members and he believed all voted for him as majority leader."[71]

Wright defeated Burton by one vote in the caucus (148-147). However, their rivalry did not end until Burton's sudden death in 1982. Expecting that Burton would challenge him in the future, either in the leader's race or, if something happened to O'Neill, for Speaker, Wright formed an MPAC, the Majority Congress Committee,[72] with which to match contributions that Burton continued to broker. In 1978, Burton raised money for congressional candidates, going so far as to help strong primary candidates in the belief that "helping a primary winner would give him a leg up on Wright."[73]

Wright's victory notwithstanding, it was Burton who is cited as the innovator by old hands at the FEC.[74] He is recognized as importing to the

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[70]Barry, *The Ambition and the Power*, p. 24.
[71]*Ibid.*, p. 24.
[72]Wright formed a second, much smaller MPAC named the Fund for New Leadership.
[73]Barry, *The Ambition and the Power*, p. 30. In one race Burton is said to have funneled over $100,000 to a strong primary candidate who lost to the candidate for whom Wright had raised money.
[74]Wright went on to form one of the first MPACs, which by the mid-1980s was one of the best capitalized and most generous PACs of its kind. Wright became House speaker in 1987.

House a system of practices that had been employed for many years in the California Assembly. Jesse Unruh, the legendary assembly speaker and leader of the state Democratic party, for several years had raised money and distributed it to Democratic colleagues, including Burton, who was elected to the California State Assembly in 1956 as its youngest member.

The first *formal* use of the California system introduced by Burton occurred in 1978, when Henry Waxman formed his MPAC. It has since come to be regarded as the first open and well documented example of a rank-and-file member of Congress contributing money to colleagues in the expectation of support for an elective post that not long before would have been out of his reach.

VI. The Republicans

The changes made in the Democratic Caucus were possible only after enough liberal Democrats had been elected to break the virtual stranglehold that the southern conservative wing had exerted over reform initiatives. As has been observed, the DSG played an important role in their election, furnishing campaign support since 1963 to liberal candidates who were inclined to back the DSG agenda if elected. Mass disenchantment with the Vietnam War and the second Nixon Administration also played a considerable role, ushering into office a larger-than-usual cadre of liberal candidates in the 1974 congressional election who favored the DSG reforms.

So far this chapter has argued that these moves to democracy in the Democratic Caucus created the incentive for ambitious junior members to "campaign" for congressional leadership positions that had been off limits to them during the classical regime. This in turn increased the use of informal member-to-member contributing and, when PACs were legalized, the gradual adoption of MPACs by Democrats. If FECA's good intentions have been betrayed by its consequences, then, it has been suggested, congressional democratic reforms may be to blame, not FECA.

Less has been said of the Republican congressional party apart from procedural changes that Republicans made in their house caucuses. Yet Republican members formed the more effective and interesting MPACs during the period under investigation and we must ask, why?

Prior to the DSG reforms -- during the classical regime in which congressional committees had enjoyed enormous power over policy outcomes and the strict seniroity rule allowed southern conservative Democrats to chair many committees -- and before the 1965 Voting Rights Act -- which, when passed, would gradually replace conservative Democrats with Democrats and Republicans more representative of their parties -- congressional Republicans had exerted a considerable impact on legislative outcomes even though for most of the period they were the minority in both Houses. Norman Ornstein observes that "to a junior Republican there was something to look forward to, even if he wasn't going to be in the majority. It wasn't the same as being chairman, but it was the next best thing ... (because) there was a major constructive role for senior Republicans to play."[75]

Contrary to popular opinion, the Democratic reforms and the arrival of liberal Democrats actually *increased* Democratic homogeneity in Congress. To be sure, reforms encouraged ambitious members to compete against party colleagues for posts, engage in "entrepreneurial politics" that sometimes went against the party's agenda and weakened cohesion, and exploit the proliferation of non-party money sources to wage "candidate centered campaigns." However, reforms also strengthened the power of the congressional leadership over important policy matters and assignments, a feature that increased party cohesion. In fact, party cohesion probably increased because more offices were made the subject of peer vote.

Increased Democratic homogeniety after 1974 changed the Republican congressional calculus as much as it did the Democratic calculus. The generally more liberal (sub)committees were no longer inclined to produce Democratic deadlocks between conservatives and liberals that Republican members had routinely broken in the old days in favor of the conservatives. Thus Republicans' ability to have an impact as a "critical minority party" declined. Increased Democratic cohesion reduced significantly the number of occasions when Republican votes could determine a committee outcome. Observed Henry Waxman about the new balance of power: "If we have a united Democratic position, Republicans are irrelevant." Increasingly, the Democrats were united. "On

[75]Norman J. Ornstein, "Minority Report," *The Atlantic* (December 1985, pp. 30-35), p. 32.

committees, the party caucuses created by the Subcommittee Bill of Rights, the increased influence of party leaders, and the potential of pressure from the Democratic Caucus all focused more legislative activity on creating agreements among Democrats."[76]

The Democrats' increased ability to cooperate among themselves and agree on policy objectives came at the Republicans' expense. John McCain's (R-AR) decision to quit the House in 1986 and run for the Senate was based on the widespread conviction "that the only difference between a freshman Republican and a ranking Republican is that the ranking Republican gets to ask questions first."[77]

In the few policy areas in which the "conservative coalition" still controlled a bill, like areas involving the House Armed Sevices Committee, the liberal Democratic floor had the numbers to reverse these victories with amendments. Former minority leader John Rhodes quoted O'Neill as saying in 1977: "Republicans are just going to have to get it through their heads that they are not going to write legislation."[78]

This bleak state of affairs prompted young and ambitious Republicans either to quit the House to run for the Senate, as McCain and a few others did during the 1980s, or remain in it and try to achieve what until late 1994 seemed a hopeless pipe dream, a Republican majority. Under the new constellation, anything less than a majority would consign the Republicans to perpetual impotence.

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[76]David W. Rohde, *Parties and Leaders in the Postreform House* (Chicago: University of Chicago Press, 1991), p. 128.
[77] *Congressional Quarterly*, June 21, 1986, p. 33. Trent Lott (R-MS) followed in McCain's footsteps in 1988.
[78]John J. Rhodes, *The Futile System* (Garden City, N.Y.: EMP Publications, 1976), p. 33.

Most senior Republicans, like House minority leader Robert H. Michel (R-IL), persisted in the belief that the party could influence policy outcome by working with the Democratic majority whenever possible. By building a record of policy accomplishments, these Republicans thought the party over time could project a responsible governing image to the electorate and secure a majority.[79]

The first Republican House member who recognized that the Republicans would not achieve anything until they set themselves apart from the Democrats and secured a majority was also the first member to form an MPAC explicity devoted to helping conservative candidates win election to Congress. In 1969 conservative Congressman John Ashbrook founded the Conservative Victory Fund (CVF), "the oldest political action committee affiliated with a member of Congress from either party," according to its executive director, Ronald W. Pearson.[80] Unlike Democratic MPACs that have existed to help members compete against one another for leadership positions, CVF has "contributed exclusively to federal candidates with an emphasis on conservatives challenging liberal incumbents or running for open seats ... and incumbents facing strong reelection opposition. (It) only contributes to conservative candidates in federal elections."[81]

When Joshua Goldstein speaks of MPACs as "the personal political parties of politicians," he is more accurately describing CVF, and the spectacularly successful GOPAC, than he is MPACs affiliated with

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[79]"Michel Has Designs on 1992,"*National Journal,* 17 December 1988, pp. 3194-3195.
[80]Ronald W. Pearson, interview by author, 5 August 1994.
[81]*Ibid.*

Democratic members. CVF's Pearson admits as much when describing his operation:

> Several times in the last few years I've seen us (CVF) classified as a "leadership PAC." You miscast us when you call us a leadership PAC. John Ascroft, who headed it for fifteen years before his death (in 1982) never viewed it as "his" PAC. He viewed it as a way to do good for conservatism and get a genuine conservative majority that could pass things ... the FEC's definition kind of caused confusion about leadership PACs ... If a congressman or senator had a leading role in it, it became a leadership PAC. The term is a flawed approach, too broad. CVF, and GOPAC for that matter, is a very different PAC from, say, (Congressman Thomas) Foley's PAC (the House Leadership Fund) because it does not exist to win leadership races. Leadership races are useless unless you're the majority.[82]

Young members thought that Michel's moderate and concilatory approach was doomed to failure because it would never give voters a compelling reason to support GOP candidates. Ashcroft's approach, though theoretically sound, they thought did not go far enough because it relied on furnishing money, and nothing else, to conservative candidates whose real needs were campaign and ideological training. They argued that House Republicans had to advance a platform and "style," and find and train attractive and impressionable young people to transmit them, that would contrast sharply with the Democratic majority's agenda and so provide voters with a set of genuine political alternatives: a choice, not an echo.[83]

Since the RNC and RCCC were controlled by moderate senior Republicans for most of the 1980s, young Republican members seized

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[82] *Ibid.*
[83] *National Journal*, "Congressional Focus: Local Politics," 14 August 1987,

MPACs as a way to reinvent the Republican party from outside the official party apparatus. The most talented of these Republicans, Newt Gingrich, borrowed ideas pioneered by CVF and pushed them to the extreme with GOPAC. As of this writing, he may well have created a new, distinctive Republican party via one of the most ambitious and audacious uses of MPACs that has involved ideas and other intangible resources, not campaign contributions, to elect people to office, establish bonds of loyalty, and secure a party majority (see Chapter Eight).

VII. Conclusion

In summary, both congressional parties were encouraged by changed circumstances to employ MPACs. However, their reasons for doing so were very different. As long as Democrats believed they would retain control of both houses for the foreseeable future, the party's most ambious members used MPACs to compete against *one another* for control of the institution, not to develop a consistent party agenda and recruit and train a new generation of legislative candidates. The party suffered and fell into a state of ideological inconsistency and even disrepair as Democratic members accepted as an article of faith that they would be the majority -- party platform be damned -- and scrambled against one another to lead this majority and perforce the entire legislature. The uneasy relationship between liberal Democrats and moderate "new" Democrats that tarnished the entire party's image in 1994 is telling evidence of this.

As long as Republicans were the minority party, their most visionary members used MPACs and other unconventional tactics to compete against *Democrats* to attain a majority. This meant using the MPAC as more than just a vehicle for making financial contributions to party colleagues. Being an impotent minority, daring members had nothing to lose and everything to gain if they hit upon an approach that carried into office a large number of like-minded Republican candidates. This bred experimentation, and MPACs became the laboratories in which to experiment. It meant using the MPAC as an alternative "miniature political party," replete with a political ideology and program that candidates could adopt to distinguish themselves from Democratic incumbents and appeal to voters.

Chapter Five

A Brief Overview of MPACs: Why They Exist, How They Operate

I. Introduction

MPACs have been affiliated with four "kinds" of legislators: (1) junior legislators who want to secure party leadership positions or coveted committee assignments; (2) legislators who harbor presidential ambitions; (3) party leaders whose continued control over the legislature depends on their party's retaining a numerical majority; and (4) Republican ideologues who have wanted more conservatives elected to office in order to achieve a cohesive Republican majority.

This chapter briefly surveys these four kinds of MPAC. It also describes how MPACs are organized and managed and identifies their main sources of support. This chapter is a prelude to the more detailed investigation of MPACs included in Chapters Six through Eight.

A. Rational Choice Considerations: To Rise, the Junior Member must Show that He/She Can Give.

As Chapter Seven reports, Representative Charles Rangel (D-NY) formed an MPAC with enormous reluctance during his 1986 campaign against Representative Tony Coelho (D-CA) for House majority whip[1]: "It was something that I personally and politically opposed. I told all of my

[1]The Democratic whip post was made an elective office in 1986.

people that I would go into any district, campaign for anybody ... But for God's sake, don't throw me into the money-raising market."[2]

His reluctance notwithstanding, Rangel was forced by the practices of Representative Tony Coelho to form the Committee for the 100th Congress. During the early 1980s, Coelho had demonstrated a genius for fundraising as chairman of the Democratic Congressional Campaign Committee (DCCC). His efforts averted an impending financial crisis for the committee, earning the gratitude of his Democratic peers. In doing so he helped make fund-raising a central function of the party leadership. Coelho used the talents he honed and the financial contacts he established while with the DCCC to capitalize the MPAC he established in 1983, the Valley Education Fund (named after the San Joaquin Valley that he represented until 1989).

Rangel's dilemma and eventual, reluctant decision to form an MPAC on the basis of rational self-interest dramatizes the new logic that governed the Senate and House after the various changes in campaign finance and internal rules had been finally adopted in the 1970s (see Chapter Four). No longer were candidates for party leadership posts judged merely by their personal probity, years of service, and demonstrated knowledge of parliamentary procedures, as they had been during the classical congressional regime. Their ability to raise money for their party also figured into their selection. MPACs and other forms of member-to-member giving served as instruments to demonstrate this

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2"Members with Cash on Hand Reach Out to Help Others," *Congressional Quarterly Weekly Report*, 28 September 1991, p. 2764.

ability. A member's refusal to engage in fundraising, even on principled grounds, effectively disqualified him from rising to a party leadership position. As in any political campaign, the voters -- in this case members of the congressional party caucus -- asked candidates what the candidates would do for them if elected? By the 1980s, the expected answer was, "raise lots of money for you that you can't."[3]

Senator Paul Simon (D-IL) -- a strong critic of PACs who has cosponsored legislation for the public financing of Senate elections -- in 1984 established an MPAC -- the Democracy Fund -- to aid Democratic candidates. Simon rationalized his apparent hypocrisy: "I want to have public financing (of elections). But as long as we have this system, I have to use it ... You've got to play the game by the current rules."[4] Similar sentiments were expressed by Representative David Obey (D-WI) who, like Senator Simon, is a leading critic of PACs but nevertheless formed one in 1986, the Committee for a Progressive Congress: "As I've said elsewhere, you don't play touch while the other guy is playing tackle."[5]

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Approximately 84 legislators have established MPACs since 1978 (see Appendix 1). If a member aspires to a leadership position or wants to earn the gratitude of his colleagues, federal election law encourages him to

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[3]Kent Cooper, interview by author, 16 August 1994
[4]"Even Some Critics Use Them," *Congressional Quarterly Weekly Report*, 2 August 1986, p. 1751.
[5]"Members with Cash on Hand Reach Out to Help Others," *Congressional Quarterly Weekly Report*, 28 September 1991, p. 2765.

establish an MPAC and contribute as much as $5,000 per election to a candidate. Individuals are limited to a maximum contribution of only $1,000 (see Chapter Four). Another attraction of MPACs is that a legislator who forms a PAC can use the PAC's money to finance political travel and activities around the country.

Most members have been candid about the connection between their MPACs and their political aspirations. When Rangel finally established an MPAC he confessed that it "was solely related" to his majority whip campaign. I would never have any (other) reason for a PAC."[6]

B. Overview

The task of identifying membership PACs is not as simple as it may seem. As Chapter Four reports, the FEC does not recognize MPACs as a separate and distinct PAC category. Most MPACs fall under the formal rubric "nonconnected political committee," a category that in 1992 included approximately 1,100 PACs. Compounding the problem of identifying MPACs is that many members distance themselves from their PACs, hoping to avoid the bad publicity that MPACs tend to generate for their sponsors. For example, the names of MPACs seldom reveal with

[6]MPACs are the most ephemeral kind of PAC, usually existing for no longer than the leadership campaign in which a member is involved. Only a handful have lasted longer than two election cycles. True to his word, Rangel stopped accepting MPAC contributions after the 1986 whip race and gradually drew down the money that remained in it over the next two election cycles. Members have been know to use their MPACs after leaving office, particularly those who become lobbyists and use contributions to advance their clients' interests.

whom they are affiliated. In preparing this dissertation, the author compiled a comprehensive list of MPACs based on: (1) a dated and unofficial FEC press release[7]; (2) a Common Cause press release;[8] (3) discussions with Edward Zuckerman, Joshua Goldstein, and Kent Cooper; and (4) a *National Journal* cover story on MPACs.[9]

As Appendix 2 shows, between 1978 and 1988, MPACs formed at an increasing rate. Since 1988, the number of MPACs has steadily declined.

Most MPACs are modestly capitalized. A few others are large. In 1993-1994, PACs associated with Senator Bob Dole (R-KS) and Representative Newt Gingrich (R-GA) were among the 50 largest PACs registered with the FEC. During the 1985-1986 election cycle -- the "golden age" of MPACs -- eight MPACs reported receipts in excess of $1 million. Eleven others collected less than $10,000. During the same cycle, 11 MPACs contributed money to more than 100 candidates. 12 others contributed to fewer than ten candidates. These figures indicate that MPAC resources were concentrated in the largest MPACs. Of the 64 MPACs that were active in 1985-1986, the eleven largest contributed over 75% of all the MPAC contributions.

Compared to the entire universe of PACs, most MPACs in 1985-1986 were large: according to the FEC, less than 30% of all PACs made contributions of at least $20,000. Collectively, these PACs accounted for

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[7]"PACs Associated with Recognized Individuals," FEC Press Office April 1991.
[8]"85 Current U.S. Representatives Raised More than $1 Million Each from Special-Interest PACs during the Period 1981-1990; PACs Contribute More than $290 Million to Current House Members during Period, according to Common Cause Study," *Common Cause News*, 2 July 1991, pp. 4-6.
[9]"Power PACs; What Happens when Lawmakers Run Political Action Committees," *National Journal*, 1 October 1994, pp. 2268-2273.

approximately 90% of all PAC contributions made during that election cycle. In contrast, approximately 66% of all MPACs contributed at least $20,000 in 1985-1986. They accounted for almost 98% of all MPAC contributions made in 1985-1986.

During the 1985-1986 election cycle, MPACs formed before 1982 contributed an average of $164,000. Those formed after 1982 contributed an average of $55,000. Although there was a positive relationship between MPAC age and size, some of the largest MPACs in 1986 were relatively new. The MPACs affiliated with Representatives Coelho and Rangel managed to raise large sums of money in their first year of operation (see Chapter Seven). Other MPACs never raised much money and ceased to operate without ever having made a single contribution.

This dissertation measured MPAC size on the basis of candidate contributions rather than receipts because many of MPACs use direct mail to raise money, an enormously costly enterprise. MPAC receipts are also used to underwrite the political travels of the sponsoring member, support sometimes large staffs, and rent office space. MPACs vary widely in the percentage of total receipts they contribute to candidates (see Chapter Eight, Tables 8.1 and 8.2).

MPACs raise money mainly from individuals and other PACs. MPACs affiliated with presumptive presidential candidates and with members with strong ideologies generally raise large sums of money through direct-mail solicitations of individuals. PACs associated with committee chairs and chamber leaders raise significant amounts from traditional PACs. For example, Majority Leader Jim Wright (D-TX) and

Majority Whip Thomas Foley (D-WA) raised only 18% and 39% of their money from individuals in 1985-1986. The rest came from traditional PACs. In contrast, Representative Markey (D-MA, a liberal ideologue) and Senator Dole (R-KS, minority leader) raised about 85% of their MPAC receipts from individuals.

MPACs also differ in their organization. Several have official boards to make contribution decisions. Representative David Bonior's (D-MI) PAX Americas, which named Bonior as its "co-chair," included on its "executive committee" the actors Edward Asner, Colleen Dewhurst, and Richard Dreyfuss. Its board of directors included the actress Whoopi Goldberg, the authors E.L. Doctorow and Studs Terkel, and the radio host Casey Kasem. According to one MPAC director, however, these boards are mostly for show. Significant decisions are made by the member and his Washington staff.[10] Members tend to serve as honorary chairmen or treasurers.

Several members have also been affiliated with state-level PACs that are permitted to raise money outside FECA for contributions to state and local candidates. State MPACs are regulated by the campaign laws of the state within which they operate and complicate enormously the task of identifying all PACs affiliated with politicians. "State level MPACs" are beyond the scope of this dissertation. Suffice it to say that these MPACs have been associated principally with House members who have sought to influence state legislators when the latter have been engaged in

[10]Ronald W. Pearson, interview by author, 3 August 1994.

redrawing congressional districts,[11] members who have sought to influence, rebuild, or commandeer their state political parties,[12] members running for president who have complemented their federal MPACs with state MPACs in crucial primary states,[13] and members running for governorships.[14] The attraction of forming state MPACs is great. Many states have campaign finance laws that are considerably more permissive than FECA is. For example, direct corporate contributions are permitted in 30 states, and union contributions in 40. In 26 states, individual donors can contribute as much as they please. Spending restrictions are similarly lax.

C. MPACs and Aspirants to the Presidency

One "species" of MPAC is affiliated with politicians whose presidential ambitions are fairly apparent but who want to deny them until the most auspicious moment in the campaign cycle.[15] Presidential MPACs do much more than make campaign contributions. Most of these MPACs raise money by direct mail, an endeavor that generates finely tuned mailing lists for members by the time they formally enter the

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[11]For instance, former Representative Stephen Solarz (D-NY) formed a committee to influence favorably New York State legislatures when they redrew districts in 1990.
[12]For instance, Senator Alfonse D'Amato (D-NY) has a state PAC that he has used to rehabilitate the New York Republican Party.
[13]For instance, Senator Joesph Biden (D-DE) formed a MPAC in Iowa in 1987 in preparation for his 1988 presidential candidacy. The Iowa caucus is the first official "event" in the presidential election process.
[14]For instance, Representative Jim Florio (D-NJ) formed the Committee for a Clean and Safe America under state law in 1987, two years before winning the New Jersey governorship.
[15]"GOP Presidential Hopefuls Gave Plenty to Party Candidates,"*Congressional Quarterly Weekly Report*, 17 February 1979, pp. 307-311.

presidential contest and must have a reliable reservoir of financial supporters to draw on on short notice. (Representative Markey used his MPAC in a similar manner when he was planning to run for the Senate in 1984, see Chapter Seven). Direct mail is an enormously costly enterprise. As a result, a significant portion of income is spent on direct mail, and relatively little on campaign contributions.

To be sure, presidential MPACs contribute money to candidates. The total contributions made by presidential MPACs between 1978 and 1986 is displayed in Table 5.1. The table also shows the percentage of receipts contributed by these MPACs. For most presidential MPACs, the figure is low. In 1986, no presumptive presidential candidate devoted more than 20% of his MPAC receipts to candidates. In contrast, Representative Coelho's PAC gave 80% of its receipts to candidates.

Table 5.1: Presidential MPAC: Total Dollar Contributions, 1978-1986[16]

	TotCont 78	TotCont 80	TotCont 82	TotCont84	TotCont86
Dems					
Kennedy			$171,709	$191,675	$269,858
Cranston				$112,000	
Glenn			$20,388	$14,456	$2,237
Hollings			$6,000	$12,400	$11,500

[16]The author wishes to thank the National Library on Money & Politics, and in particular the Library's media coordinator, Jacqueline R. Duobinis, for help in conceptualizing and preparing Table 5.1.

Biden					$18,215
Gephardt					$58,096
Simon					$68,873
GOP					
Crane			$8,250	$1,000	
Dole	$8,704		$156,210	$312,666	$271,422
Kemp	$9,831	$2,000	$105,600	$209,849	$128,315

Source: National Library on Money & Politics

Table 5.2: Presidential MPAC Contributions as % of Total Receipts[17]

	%Cont78	%Cont80	%Cont82	%Cont84	%Cont86
Dems					
Kennedy			7%	5%	10%
Cranston				10%	
Glenn			41%	14%	10%
Hollings			3%	23%	157%
Biden					14%

[17]The author wishes to thank the National Library on Money & Politics, and in particular the Library's media coordinator, Jacqueline R. Duobinis, for help in conceptualizing and preparing Table 5.2.

Gephardt					5%
Simon					16%
GOP					
Crane			8%	5%	
Dole	4%	0%	55%	25%	8%
Kemp	25%	2%	43%	10%	4%

Source: National Library on Money & Politics

Because presidential candidacies can be aided by both incumbents and losers (who often occupy positions of power and prestige in their local parties and communities even when they lose elections), it is not surprising that presidential MPACs are more inclined to support challengers and big losers than other MPACs. Table 5.2 shows contribution patterns of these MPACs

Tables 5.3-5.5: Contribution Patterns of Presidential MPACs[18]

Table 5.3: Presidential MPAC Contributions to Incumbents

	%Inc78	%Inc80	%Inc82	%Inc84	%Inc86
Dems					
Pres			42%	54%	27%

18The author wishes to thank the National Library on Money & Politics, and in particular the Library's media coordinator, Jacqueline R. Duobinis, for help in conceptualizing and preparing Tables 5.3 - 5.5.

Rest	54%	68%	575	68%	39%
GOP					
Pres	12%	50%	43%	46%	40%
Rest		9%	27%	51%	43%

Source: The National Library on Money & Politics

Note: mean values for each group for each year. Rest refers to all MPACs affiliated with "non-presidential legislators."

Table 5.4. Presidential MPAC Contributions to Marginal Candidates

	%Mar78	%Mar80	%Mar82	%Mar84	%Mar86
Dems					
Pres			42%	13%	44%
Rest	25%	31%	35%	40%	50%
GOP					
Pres	25%	50%	43%	35%	49%
Rest		52%	19%	40%	59%

Source: The National Library on Money & Politics

Note: mean values for each group for each year. Marginal candidates are candidates whose general election vote was between 45% and 55%. Rest refers to all MPACs affiliated with "non-presidential legislators."

Table 5.5: Presidential PAC Contributions to Easy Winners.

	%Esy78	%Esy80	%Esy82	%Esy84	%Esy86
Dems					

Pres			44%	51%	29%
Rest	53%	47%	46%	42%	37%
GOP					
Pres	47%	50%	22%	44%	19%
Rest		24%	13%	40%	14%

Source: The National Library on Money & Politics

Note: mean values for each group for each year. Easy candidates are candidates who won the general election with more than 55% of the vote. Rest refers to all MPACs affiliated with "non-presidential legislators."

Table 5.3 shows that Democratic presidential MPACs are more inclined to support non-incumbents than are other Democratic MPACs. Contributions by Republican presidential MPACs show no distinctive pattern. Republican presidential MPACs tend to give more to sure winners than other Republican MPACs. This pattern is not duplicated by the Democratic counterparts. The Republican means obscure significant differences between Kemp and Dole. In 1986, Kemp contributed substantially more money to safe incumbents. Among the Democrats, the means in 1986 are affected by the existence of John Glenn and Ernest Hollings, who in that year probably abandoned presidential ambitions that they had formally pursued for the first time in 1984. Disregarding the data from these two candidates results in a sizable decrease in money to incumbents (14%) and sure winners (14%), and an increase in contributions to marginal candidates (54%).

Interestingly, presidential MPACs tend to favor candidates in states that hold caucuses or primaries early in the presidential election season. In 1986, Kemp's Campaign for Prosperity contributed 34% of its receipts to candidates in Iowa, Michigan, and New Hampshire. In contrast, Minority Leader Robert Michel's Republican Leader's Fund contributed only 5%. Senator Dole's Campaign America contributed 12% of its receipts to candidates in these states. In contrast, Senator Richard Lugar's Republican Majority Fund gave only 3%. Richard Gephardt's Effective Government Committee contributed 36% of its money to candidates in Iowa and New Hampshire.[19] Coelho's Valley Education Fund gave only 3%. Senator Paul Simon's Democracy Fund was the only presidential MPAC that did not unduly favor candidates in these states.

ii. More on Presidential MPACs

How do legislators with fairly obvious but undeclared presidential ambitions justify their MPACs? They or their aides will usually explain that their PACs are intended mainly to support party causes and philosophy. According to Suzanne Niemela Hellman, the political director of Senator Bob Dole's Campaign America (CA), "Senator Dole is the unofficial leader of the Republican party and will help the Republicans

[19]Gephardt's PAC also made many contributions to non-federal races in these states. It is difficult to specify exactly how much because these contributions did not need to be reported to the FEC. They are itemized in the PAC's expenditure disclosure form. Until this form (known as the "FEC Schedule B") is computerized, a task the FEC is gradually performing, contributions to non-federal races wil be difficult to track.

at all levels. Campaign America helps him do this."[20] What they do not say is that MPACs also enable legislators to postpone forming an official presidential campaign committee, which federal election law requires all active presidential candidates to do. When the author pressed this point, Hellmann replied:

> We're (CA) not promoting Dole, we're helping Republicans ... but, you know, in politics, everything is connected. Right now, the senator is interested in winning a (GOP) majority this year ... who knows how this will affect his presidential future? You can't predict this stuff. You do hope all the things you want come to pass.[21]

Being able to make appearances and expand name recognition across the country have been important to presidential aspirants since presidential election procedures were changed in the early 1970s and state primaries proliferated. For undeclared candidates, financing these activities is a costly one that MPACs help meet.

Taxpayers' dollars provided to legislators for official business cannot be used for travels that are unrelated to legislative matters or are strictly political. While influential members typically have large surpluses in their personal campaign accounts, their supporters usually give in the belief that the money will underwrite a member's reelection efforts, not other political ambitions.[22]

By establishing MPACs, legislators can avoid these obstacles. Their fundraising appeals usually advertise that the money raised will be used

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[20]Suzanne Niemela Hellmann, interview by author, 9 August 1994.
[21]*Ibid.*
[22]Edward Zuckerman, interview by author, 2 August 1994.

by the members to campaign for other candidates or to promote the members' political values to a wider audience. Rarely if ever mentioned is that these activities are conducted in behalf of a possible bid for the presidency. Characteristic of this is a fundraising appeal distributed by Campaign America in 1993 that never mentions Bob Dole's well-known desire to be president:

> Senator Dole created Campaign America as a vehicle through which he, as the Republican Leader of the United Stated Senate, can build and strengthen our party nationwide. Most importantly, Campaign America will lead our Party's battle to defeat entrenched liberal Democrats and win a Republican majority in the U.S. Senate by 1996 -- and possibly as soon as 1994.[23]

The appeal goes on to depict Dole as a tireless campaigner for the Republican party:

> Senator Dole's campaign visits ... may be the most valuable asset we (CA) can offer. Last year (1992) Bob Dole traveled to 31States (sic) making fundraising and political visits on behalf of our best candidates from the State House to the White House. Without Campaign America's logistical, organizational and financial help, few of those visits would have occurred or been successful for our candidates ... Campaign America is the #1 support group of its kind for Republican candidates. With your support Bob Dole and Campaign America will remain on top.

Perhaps the earliest sign that a member may be planning a run for the presidency appears when he files organization papers with the FEC to

[23]Campaign America flier, *What is Campaign America?*

form a PAC.[24] Members and their aides, however, go out of their way to deny that the MPAC is part of the effort. Thus CA's Hellmann contends that "we're not promoting Dole, we're helping Republicans."[25] An official associated with Jack Kemp's Campaign for Prosperity in the 1980s said that "Kemp has been popular on the circuit since the 1970s because of his football career and his role in the supply side economics movement. CP allowed him to spread the message. Sure, he ran for president (in 1988) and may run again (in 1996), but Kemp is mostly about ideas."[26] Despite the fact that Senator Simon's Democracy Fund was formed just a few years before his own 1988 campaign for the presidency, he claimed in 1986 that "I have no plans or ambitions to be Senate leader at all. It occurs to any member of the Senate that you might be a presidential candidate sometime, but I have not been making speeches in Iowa and New Hampshire, places like that."[27]

D. MPAC Expenditures

Joshua Goldstein, an official at the Center for Responsive Politics and an ardent critic of MPACs, asks:

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[24]In 1992-1993, Senator Phil Gram (R-TX), former Defense Secretary and congressman Dick Cheney, former Tennessee Governor Lamar Alexander and New Jersey Governor Christine Todd Whitman established political action committees to explore possible presidential bids. In January 1995, Cheney announced he would not run in 1996.
[25]Suzanne Niemela Hellmann, interview by author, 9 August 1994.
[26]interview by author, 7 August 1994.
[27]"The Struggle for Influence," *Congressional Quarterly Weekly Report*, 12 August 1986, p. 1751.

> The really interesting element about leadership PACs is, How are they spending the money? Campaign America may raise $10,000,000 or whatever and contribute only $400,000 to candidates. In this case, what is happening to the $9.6 million that isn't being spent (on races). What are (MPACs) doing with all the money they aren't contributing to colleagues?[28]

The answer is fairly clear, FEC itemized expenditure reports show. The expenditures that MPACs are required to itemize form one of the most revealing disclosure reports that the FEC requires all PACs to file, and explain why contributions to candidates often account for only a small fraction of the income that best established MPACs collect.[29] These forms are rife with payments made to travel agencies, airlines, car rental companies, credit card companies, hotels and restaurants, mailing list companies, printers, employee salaries, and so on.

The biggest MPACs also maintain large office suites and employ large staffs. Campaign America, for example, operates from a large and comfortable office suite near Washington's Union Station and employs seven staff people and seven field operatives.[30] Speaker Newt Gingrich's GOPAC is similarly elaborate, maintaining a large suite near Capitol Hill and employing ten full time staff people.[31] Among Democratic MPACs, Senator Edward Kennedy's Fund for a Democratic Majority and former

[28]Joshua Goldstein, interview by author, 12 August 1994.
[29]This itemized disbursement report, "FEC Schedule B," requires that every PAC expenditure be listed and explained. The author believes that when this form is included in the FEC's computer data bank -- a task that is gradually taking place at the time of this writing -- that the limits of good reform will have been reached. Easy public access to financial information is, in the author's judgment, the best check on the role of campaign money. Whether the public would take advantage of this easy access is another story.
[30]Suzanne Niemela Hellmann, interview by author, 9 August 1994.
[31]Jana L Rogers, interview by author, 3 August 1994.

Representative Dan Rostenkowski's America's Leaders Fund are among the largest and most sophisticated.

E. Why Party Leaders Form MPACs

Since their leadership positions depended on maintaining a Democratic majority, those in the party leadership during the 1980s and early 1990s formed MPACs to share wealth they did not personally need with the Democratic candidates who did. Speaker Thomas O'Neill's PAC, the Democratic Candidate Fund, during his service routinely made $500 contributions to Democratic candidates. House Ways and Means Chairman Dan Rostenkowski's America's Leaders Fund generously supported Democratic candidates from its establishment in 1984 until 1992 (An enormously successful fundraising effort in 1985 gave his PAC more than $700,000 to spend). Former Speaker Thomas Foley's House Leadership Fund and Democratic leader Richard Gephardt's Effective Government Committee also made large and numerous contributions to Democratic candidates.[32]

[32]There is something mildly "Orwellian" about the names of most MPACs. Only three MPACs have included the legislators' names in their titles. The CVF's Pearson suggests that MPACs are unseemly and most members who have them do not want to be too closely identified with them.

F. MPAC Critics

The deluge of criticism that has been directed at MPACs has been interesting. As MPACs became more popular in the mid 1980s, several public interest groups began to include them among the flaws that FECA has generated.

During a March 1985 appearance before the Senate Rules Committee, then Common Cause Chairman Archibald Cox proposed that MPACs be prohibited. Common Cause and similarly minded groups alleged that MPAC contributions to congressional campaigns gave givers undue influence in both leadership elections and in votes on legislative issues. According to Joshua Goldstein:

> it's hard for a member to avoid the gaze of a colleague who gave money to him. Money has a special cachet when it comes from a colleague. Does it (the MPAC) not say that members of Congress know that money works? ... (LPACs) damn the entire system of campaign finance by showing, through the members themselves, that contributions get something ... Congressmen give money to colleagues ... to influence their behavior.[33]

G. Size and Structure

MPACs vary in size and organization. During the early 1980s, the largest MPAC was the National Congressional Club, managed by associates of Jesse Helms (R-NC) to help conservative candidates. The club was and remains unique because it has maintained close ties to a sprawling

[33]Joshua Goldstein, interview by author, 9 August 1994.

network of Raleigh-based outfits that promote conservative causes. As has been reported, Campaign America and GOPAC are also operations of considerable size, employing large staffs (GOPAC is the largest MPAC in operation and the ninth largest PAC of any kind, according to the FEC).

Most MPACs, however, are temporary and highly informal. For example, Congressman Dick Armey's (R-TX) Policy Innovation Committee lists his wife as its treasurer and appears to be headquartered in his Texas home. Senator Bennett Johnston's (D-LA) Pelican PAC was managed by a circle of former aides-turned-energy lobbyists from 1985-1991 (see Chapter Six).

H. Patterns of Giving

Most MPACs provide assistance to candidates more on the basis of their partisan affiliation than their philosophical inclinations, indicating that MPACs complement rather than undermine the objectives of a member's national party: "We coordinate with the Republican establishment," claims CA's Hellmann.[34] Furthermore, most MPACs are pragmatic, refraining from contributing until after the party's nominee in a race has been chosen: "We wait until after the (primary) candidates have slugged it out before furnishing support ... We try to avoid the hodge-podge of primaries," explains the political training coordinator of one Republican MPAC.[35] Campaign America's Hellmann says:

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[34] Suzanne Niemela Hellmann, interview by author, 9 August 1994.
[35] Interview by author, August 7, 1994.

> CA does not get involved usually until the primary is over ... (however) there are a few instances in which we get involved. In the Arizona Senate primary, (Jon) Kyl has received help because he is the most visible candidate in the primary ... if other primary candidates are ridiculous, we'll get involved ... Dole once helped a primary Senate candidate because Dole got help (from him) in his presidential bid.

Senator Bob Dole's Campaign America, the second largest MPAC after GOPAC and the 41st largest PAC in 1991-1992, seems to have followed a pragmatic strategy since its founding in 1978.[36] As GOP leader in the Senate and de facto leader of the Republican party since 1993, Dole has used Campaign America to secure a Republican majority in the Senate and House. Provided a candidate calls himself a Republican and wins the primary, he will receive CA assistance. According to Suzanne Niemela Hellmann:

> (CA has) no systematic method of deciding who gets help. All we want is a Republican majority in the Senate and House ... it basically follows Dole's slogan "47 more (senators) in '94." There is no system. Like in California, we don't say, we need to give $2,000 to this candidate and only $1,000 to that because one is more Republican than the other. We are not an issue oriented thing. Politics change too much for us to be systematic ... As a matter of fact, if a candidate calls us up for issue help, we refer them to the NRCC or NRSC for help.
>
> The case of Ollie North (the 1994 GOP Senate candidate in Virginia) shows that we support the party candidate. It's no surprise that Dole would have preferred Coleman to wrap up the nomination, but he didn't.[37]

[36]"Top 50 PACs - Receipts (Jan. 1, 1991- March 31, 1992); To 50 PACs-Spending (Jan 1, 1991- March 31, 1992)," *Congressional Quarterly Weekly Report*, 13 June 1992, pp. 1737-1738.
[37]Suzanne Niemela Hellmann, interview by author, 9 August 1994.

Another class of MPAC furnishes support principally on the basis of a candidate's ideology. The late Representative John Ashcroft and former Senator Steve Symms' Conservative Victory Fund (CVF) gives exclusively to Republican congressional candidates who are described by its executive director Ronald W. Pearson as "promoting conservative principles."[38] The CVF and Gingrich's GOPAC are among the few MPACs that are willing to contribute to primary candidates whose conservatism makes them more attractive than their party rivals. The CVF, for example, husbands its resources very carefully with an eye to helping only candidates who satisfy certain criteria established by the board. Explains Pearson:

> We send a questionnaire to Republican candidates (see Appendix 3). It's a straight forward questionnaire, covering a range of issues, like defense, economics, social values, and so on ... With this and other tools, like interviews, we identify people who are truly conservative on a gamut of issues and who could become active leaders of Congress ... active on some level, on the committee level, the floor, etc. We're one of the few (MPACs) that get involved primaries, unless all the Republican candidates have a strong conservative inclination. We will get involved in long shot races, sleeper races, if the guy is a traditional conservative who might become a leader or an active member.
>
> CVF doesn't support people who look like they will be back benchers. We don't have a lot of money to throw around, like Foley (House Leadership Fund) can. We seek the most bang for the buck, getting a few true conservatives to the House each election who stand to have a big impact. Once they're elected, their on their own. We give only to underfunded challengers.

[38]Ronald W. Pearson, interview by author, 5 August 1994.

How involved are the members in the management of their PACs? CA's Hellmann claims that "the senator (Dole) is very involved, as is Jan Coe, the executive director. There is no formal working group or committee that decides who should receive our help."[39] GOPAC's Cameron Shadron says that "being a visionary who wants GOPAC to carry it (his vision) out, Gingrich is very involved in everything GOPAC does ... He's here all the time."[40] CVF's Pearson reports that both Ashcroft and Symms "called the shots as far as final decisions were concerned. I simply did the paperwork, signed the checks, and carried out the orders. My guess is this is how all of them (MPACs) work ... because most congressmen want to be in control of anything they are linked to."[41]

Although the criteria for giving may vary among the MPACs, the MPACs' large budgets and the relatively small number of key races in any election make it likely that MPACs will contribute to many of the same candidates. This "canceling out effect" has been ignored by critics of MPACs who cite them as a danger to the consciences and independence of legislators.

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[39]Suzanne Niemela Hellmann, interview by author, 9 August 1994.
[40]Cameron Shadron, interview by author, 4 August 1994. GOPAC is located at 440 1st Street, N.W. Suite 400 Washington, D.C., within walking distance of Gingrich's congressional office.
[41]Ronald W. Pearson, interview by author, 5 August 1994.

I. MPAC Supporters

Though MPACs' objectives are as diverse as those of the members who form them, the sources of their revenues are not so diverse.

Only Helms' Congressional Club depends primarily on small contributors, most of whom are solicited by mass mail.[42] The CVF "has a very different donor from most leadership PACs. People give to us because they believe in the causes, not the man. Access is not the reason people give to CVF, as opposed to (Foley's) House Leadership Fund."[43]

Most MPACs, including those associated with Senators Dole and Kennedy, *do not rely on direct mail appeals as much as they do on interests that have displayed a financial commitment to the members' own reelections and welcome new opportunities to help them.* This is an important feature that Chapter Six will consider at length.

Wealthy individuals and interests are crucial to most MPACs' bottom line. Rangel's PAC, for instance, was capitalized by several well-heeled New Yorkers, including developer Donald Trump and Seagram & Sons chairman Edgar M. Bronfman. Dole's Campaign America has received the sustained and generous support of such figures as the Bass brothers, Mesa Petroleum head T. Boone Pickens and the California wine makers Ernest and Julio Gallo.

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[42]R. Kenneth Godwin, *One Billion Dollars of Influence: The Direct Marketing of Politics* (Chatham, New Jersey: Chatham House Publishers, 1988), p. 113.
[43]Ronald W. Pearson, interview by author, 5 August 1994.

Most MPACs, however, depend on other PACs for money. Some design their fundraising appeals for those PACs that have an interest in the member's policy interests and expertise (see Chapter Six).

Henry Waxman's PAC, for example, is financed in part by medical industry PACs. Rangel's PAC stressed the need for a northeastern to sit in the House leadership at fundraising events that New York's business, investment banking, and labor PACs attended.

Not surprisingly, members who already occupy influential posts receive contributions from a wider range of PACs. The $5,000 contributors to Campaign America include the Burlington Industries PAC and the Commodity Futures Political Fund and the National Education Association PAC. Contributors to Rostenkowski's PAC included PACs associated with unions, defense contractors insurance companies, investment bakers, agribusiness companies, and tobacco interests affected by the decisions made by the Ways and Means Committee.

It is not odd that a variety of interests contribute to the campaigns of powerful legislators. However, it is odd that many contributors do not seem concerned that money given to a member's PAC can be used to support candidates who are not sympathetic to the original contributor's interests.

The explanation offered by one MPAC director for why traditionally liberal interests contribute money to MPACs that end up supporting conservatives (and vice versa) is that "they trust our judgment."[44]

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[44]Suzanne Niemela Hellmann, interview by author, 9 August 1994.

There is evidence that this trust is not universal. Campaign America, which gives to GOP candidates without regard for ideological stripe, accepts contributions earmarked for a particular candidate from PACs that fear their money may go to GOP candidates with whom they disagree. Still, most contributions to MPACs seem designed to curry favor with the members who operate them:

> The logic behind donations to the classic leadership PAC is "I'll help Foley and I'll get closer to the speaker." These people don't really care if Foley turns around and gives it to someone they would prefer did not get the money because by their lights getting on the good side of Foley is worth it.[45]

Pearson's terse observation identifies one of the most important and durable features in campaign finance that most reform proposals underestimate. Contributors give because they have good reasons to. The balance of this dissertation will consider this feature, among several others, in assessing the desirability of a new campaign finance law.

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[45]Ronald W. Pearson, interview by author, 5 August 1994.

Chapter Six

Senate MPACs: The 1988 Majority Leader's Race[1]

It's our money and we're free to spend it as we please. It's part of this campaign business. If you have the money you spend it to win. And the more you can afford, the more you'll spend ... it's not unethical.

-- *Rose Kennedy* [2]

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I. Introduction

The main reason for MPACs and informal "brokered" contributions in the post-reform Senate becomes apparent by reviewing the details of the 1988 race for Senate majority leader, a post that opened up when Robert F. Byrd (D-WV) announced his decision to vacate it to become chairman of the Senate Appropriations Committee.[3]

The 1988 leadership race indicates that aspirants for party leadership posts in the post-reform Senate are expected to combine exceptional fund-raising talents with traditional leadership strengths like a mastery of parliamentary rules and an ability to build coalitions. "If you (a

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[1]This entire chapter is based on extremely useful conversations with Edward Zuckerman, an independent campaign finance observer and author of the *Almanac of Federal PACs* and *PACs and Lobbies,* and Joshua Goldstein, an official at the Center for Responsive Politics. Catherine Lowder, a staff member at the FEC's Public Records Division, helped this researcher establish the "money trail" of the MPACs under investigation.

[2]In response to charges that her son was using the family fortune to buy the American presidency. Unwittingly perhaps, the late Mrs. Kennedy neatly summarized the campaign finance game if one understands the "we" in her comment to refer not only to wealthy candidates but also to wealthy private contributors.

[3]"Congressional Focus: Byrd's Decision,"*National Journal,* 23 January 1988, p. 220.

legislator) can show your (caucus) colleagues you can raise money for them, you get influence with your colleagues."[4] The 1988 contest underscored that fundraising is a principle measure of leadership strength.[5]

II. The People and Issues Outlined

The 1988 contest to succeed Byrd in the majority post was the first post-reform Senate leadership race in which fundraising was recognized as an important leadership function. As such, Senators Daniel K. Inouye, J. Bennett Johnston, and George Mitchell -- the three leadership candidates -- competed against one another to show how easily they could raise money, and how much, for their colleagues' campaigns.

Senators Daniel K. Inouye (D-HI) and J. Bennett Johnston (D-LA) -- established MPACs to provide contributions to Democratic incumbents and challengers. By June 30 of that year -- six months before the Democratic caucus would convene to choose the new leader -- they had distributed $178,900 to Democratic incumbents and challengers and had $375,679 left to spend, according to FEC records. By the end of the 1987-1988 campaign cycle, Johnston's PAC had raised a total of $391,980 and disbursed a total of $224,823, $202,154 of which had been contributions to Democratic candidates. Inouye's PAC had raised $368,848 and disbursed

[4]Joshua Goldstein, interview by author, 12 August 1994.
[5]"No Safe Bets in Senate Majority Leader's Race," *Congressional Quarterly*, 19 Novemeber 1988, pp. 3357-3361.

$308,821, $258,848 of which had been contributions to Democratic candidates.

Significant to this dissertation, Senator George J. Mitchell (D-ME), who went on to win the leadership race, did *not* form an MPAC. However, he was recognized as an exceptionally able fund-raiser, embracing informal "brokering techniques" that recalled those pioneered by Representative Lyndon Johnson in the 1940 election (see Chapter Four). As chairman of the Democratic Senate Campaign Committee (DSCC) during the 1985-1986 campaign cycle, Mitchell had demonstrated a singular ability to raise money for Senate candidates.[6] He was widely credited with helping the Democrats regain control of the Senate after six years of Republican control.[7] As DSCC chair, Mitchell built a personal stable of dependable and friendly contributors into which he tapped during the 1988 leadership race. Before 1988, this valuable resource had permitted Mitchell to remain a prominent fund raiser for Democratic candidates even after his two year term at the DSCC had expired. Simply put, Mitchell had wealthy contacts none of his colleagues did. Like Lyndon Johnson in 1940, Mitchell routinely forwarded "bundles" of checks to candidates with an attached note emphasizing his personal role in the contributions.

As the leadership contest unfolded, Democratic senators insisted that their votes in the party caucus would not be affected by the

[6]"A Consensus Builder to Lead the Senate,"*National Journal*, 3 December 1988, pp. 3079-3080.

[7]Michael Barone and Grant Ujifusa, *The Almanac of American Politics, 1992* (Washington, D.C.: National Journal, 1991), p. 530.

contributions they collected from the three aspirants.[8] It is easy for even the skeptical researcher to believe them. To a large extent, the contributions made by the three senators canceled each other out. Indeed, by election day 1988, Inouye's and Johnston's MPACs each had contributed the legal maximum to all Democrats running for the Senate.

The 1988 leadership race remains instructive and is detailed in this chapter because it casts into sharp relief the difficulty of taming the role of money in a political environment in which three generic features are likely to persist with or without a tougher campaign regime: (1) private interests who welcome new opportunities to give campaign money and enjoy the constitutional right to participate in elections; (2) elections which by their democratic character are highly competitive and thus expensive to wage; and (3) ambitious political rivals who are inclined to imitate each other's successful tactics, lest they be defeated by them.

As Chapter Four reports, fund raising ability by the mid-1970s had become a significant factor in many House leadership races. However, not until the mid-1980s did fund raising become a prominent feature in Senate leadership contests.

During the classical Senate regime, the selection of the Senate majority leader was essentially an insider's race whose outcome depended on such factors as personal reputation and demonstrated knowledge of Senate rules and procedures. As the last chapter suggested with respect to the House of Representatives, however, these characteristics, though still

[8] "Senate Democrats' Tight Race," *National Journal*, p. 2605; *New York Times*, 17 November 1988, p. A9.

important, were no longer sufficient to secure leadership posts. An aspirant had to campaign for a leadership position by showing that he could raise money for his party colleagues' campaigns if the need ever arose.

III. Showcasing One's Ability to Raise Campaign Money

A. Member-to-Member Giving: Not "Legalized Bribery" but an Indication of Things to Come

The leading charge leveled against MPACs is that they are crass attempts by legislators to "purchase" the support of other legislators via campaign contributions.[9] Joshua Goldstein contends that "congressmen give money to colleagues to influence leadership races, saying, in essence, that leadership PAC money, and implicitly all PAC money, has some kind of influence over congressional behavior."[10] Since it is rather easy for a legislator to match dollar-for-dollar the contributions made by his rivals for a leadership post, this charge seems unwarranted. If anything, MPAC contributions cancel one another out, leaving the beneficiaries "uncompromised" when leadership elections are held.

If this is so, then why do legislators bother to form MPACs and engage in other, more informal types of member-to-member giving?

First, political campaigns are nothing so much as expensive exercises involving innovation and imitation. To gain the edge in a race, a determined candidate must develop new slogans, identify and campaign

[9]"PAC Pollution," *New York Times*, 3 March 1991, p. A10.
[10]Joshua Goldstein, interview by author, 12 August 1994.

on appealing issues, and devise new tactics.[11] To close the edge, the trailing candidate frequently must imitate his political foe's innovations, if only in order to neutralize them. When Representative Henry Waxman took the unprecedented and innovative step of establishing a PAC in 1977, he left his rivals off-balance and reaped the rewards. It was not long, however, before self-interested legislators imitated Waxman and over time eliminated the competitive edge that MPACs provided.

Second, MPACs and brokered contributions are demonstrations of what a legislator can do for his colleagues if they elect him to a leadership post. According to Zuckerman, they "are an opportunity for those members who have power and influence to use their power and influence to raise lots of money, turn around and help their colleagues, and show just how well connected they are."[12] The size of the contribution is less important than what it symbolizes to the undecided caucus member who received it: the legislator's access to a personal network of contributors into which he can tap should the party ever need financial assistance. Member-to-member giving properly understood is a "marketing tool," not a legally permissible way to "buy" legislative support.

The most conspicuous marketing tools are MPACs. By no means are they the only ones, or even the most effective, however. In the 1980s, Johnston and Inouye decided to display their fundraising skills and money connections by respectively establishing Pelican PAC and the Senate

[11] U.S. campaigns have long been likened to mass consumer marketing. Nobody understood this better than Joseph P. Kennedy during his son's first campaign for public office: "We're going to sell Jack just like soap flakes."
[12] Edward Zuckerman, interview by author, 2 August 1994.

Majority Fund. Significantly, their MPACs may have been partly an attempt to counter the credit Mitchell had received for helping return the Senate to the Democrats through his prodigious fund raising in 1985-1986.

B. How Important is Fundraising in Outcomes?

Do financial contributions determine the outcome of leadership races? Students of federal campaign finance are divided. Edward Zuckerman, a leading critic of the current campaign regime, doubts that they have had an impact on leadership races:

> So what about leadership PACs? You're wasting your time if you're looking for scandal and intrigue. They have changed not one leadership election. Some say Waxman became chairman of the subcommittee because of his PAC. If that's the case, we're all in trouble. They (critics) forget that he is a very smart, very able guy. Did it ever occur to them that this is why he was chosen? I'm no great fan of Congress, but sometimes it does recognize merit[13]

When the author shared Zuckerman's observation with Goldstein, Goldstein replied:

> You can't just say it (MPAC money) does or does not influence congressional votes. The influence of money in politics is more subtle than a quid pro quo. But the language of bills (before Congress) can be influenced, access can be bought, legislation can be bought. PAC money does buy you stuff.[14]

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[13]*Ibid.*

[14]Joshua Goldstein, interview by author, 12 August 1994.

C. Sources of Money, Styles of Giving: A Prelude

Federal election law permits a PAC to accept up to $5,000 from an individual or another PAC. Furthermore, a PAC can contribute up to $5,000 to a candidate for each election. Since the FEC treats primaries and general elections as separate elections, a PAC is legally permitted to contribute up to $10,000 to candidates who run in both. In 1988, a Senate candidate could have received as much as $20,000 from the MPACs operated by Johnston and Inouye. However, this total was probably far exceeded by money that the better connected Mitchell "brokered" through fund raising appearances and steered contributions. The irony is that Mitchell's informal approach was exempt from most FEC reporting requirements, yet it probably involved much larger sums of "special interest money" than the formal approaches embraced by Inouye and Johnston.

A survey of the fund raising activities of the candidates in the 1988 Senate leadership contest reveals a good deal about their styles and who their supporters were.

Inouye and Johnston delegated most of their fund raising tasks to long-time supporters. Johnston's Pelican PAC was, until its termination in 1992, managed by a cadre of former Senate aides who, in addition the their involvement with Pelican, also served as lobbyists for energy companies that had significant interests before the Senate Energy and Water Development Committee, which Johnston chaired from 1987 to 1994. Much of Pelican PAC's receipts for the six years it existed came from the electric, nuclear, and other energy interests that were directly affected by Johnston's committee activities and had generously supported his senate campaigns.

Inouye's Senate Majority Fund (SMF) similarly solicited contributions from sources affected by the senator's committee assignments on Appropriations and Commerce, Science and Transportation. Much of SMF's receipts from its establishment in 1985 until its termination in 1993 also came from Israel's supporters in the United States, who had long considered Inouye one of the Senate's most influential and helpful advocates of Israel.[15] Moreover, the SMF collected numerous contributions from brokerage firms and their employees and the transportation and communications industries. Not surprisingly, Inouye's MPAC also drew considerable financial support from lobbyists who represented clients concerned by his committees activities.

Because Senator Mitchell did not operate a formal MPAC subject to FEC disclosure laws, unequivocally establishing his financial sources is impossible. His case illustrates why outlawing MPACs might be futile and even undesirable, insofar as Mitchell engaged in almost identical behaviors as Johnston and Inouye. Yet he probably earned credit for more contributions than his rivals did, and did so without having to undertake the unseemly business of forming a PAC. Thus while Mitchell was outperforming his MPAC rivals in the race to raise money for their

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[15]Michael Barone and Grant Ujifusa, *The Almanac of American Politics, 1992* (Washington, D.C.: National Journal, 1993), p. 361-362.

colleagues from private interests, he was also able to take the ethical high ground by proclaiming his distaste for PACs.

Although in 1988 he lacked the large network of former staffers that Inouye and Johnston called on to supervise fundraising, Mitchell retained the extensive contacts that he had developed as chairman of DSCC. Moreover, the contributions he bundled for candidates, FEC records show, tended to come from interests whose business was directly affected by Mitchell's positions on the Finance Committee and his chairmanship of its Health Subcommittee.

D. The Contributors' Motivations

It is reasonable to assume that the interests and people who supported Inouye, Johnston, and Mitchell did so in pursuit of certain objectives. What might they have been? Ronald W. Pearson, executive director of the Conservative Victory Fund, suggested that

> the logic behind contributions to the classic leadership PAC is "I'll help (Tom) Foley's (House Leadership Committee) and I'll get closer to the Speaker." Educated guess: most leadership PACs, wherever they are officially located, are really being run and supported by friends and former congressional aides who became lobbyists and who do business with the congressman."[16]

Pearson's "educated guess" was affirmed by the FEC's Kent Cooper and Edward Zuckerman. Each person said that the lobbyists who manage

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[16]Ronald W. Pearson, interview by author, 5 August 1994.

MPACs typically claim they are asked to do so only because they are already on friendly terms with the senator.

However, access to influential members appears to enable lobbyists to command handsome fees for their services. For instance, Charles W. McBride, who was affiliated with Pelican PAC as a fund-raiser, earned more than $240,000 in 1988 from new clients who gave to Johnston's PAC at his urging.

* * * *

MPACs allow "conventional" PACs and wealthy private contributors to increase whatever influence contributions to winning candidates purchase. Conventional PACs, as has been mentioned, can contribute as much as $10,000 to any senator's campaign ($5,000 in the primary, $5,000 in the general). Having "maxed out" in this way, conventional PACs can contribute up to $5,000 to the same senator's MPAC (if he forms one). Moreover, there is no limit on the number of MPACs these PACs can support. Each MPAC the PAC supports in turn can make contributions to the same candidate whom the PAC can no longer directly support.

Why give to a candidate who may not win the race? "the guy is going to remain in the Senate, maybe as head of a powerful committee, no matter what happens in the leader race ... it's a win-win investment from the contributor's perspective," commented Joshua Goldstein on the 1988 leader's race.[17]

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[17]Joshua Goldstein, interview by author, 12 August 1994

IV. Case Studies: Sources of Money and "Styles" of Giving

A. Senate Majority Fund

FEC records suggest that Daniel K. Inouye's Senate Majority Fund (SMJ) was supervised by five prominent Washington lobbyists who specialized in issues that coincided with Inouye's various committee assignments. SMJ was founded in April 1987 and raised $368,848 by November 1988. Most of SMJ's contributors seem to have had narrow interests affected by the Appropriations and Commerce, Science, and Transportation Committees, on which Inouye served.

FEC records reveal that $225,000 (approximately two-thirds of the money SMJ raised in 1988) came in $5,000 sums, the legal maximum. These contributions came principally from conventional PACs affiliated with trade associations, unions, corporations, and wealthy individuals, many of whom were among the financial community's prominent figures and Israel's biggest supporters.

SMJ's management included William Ragan, a lobbyist specializing in shipping and tobacco affairs. Ragan was named in FEC records as SMJ's treasurer and chairman of the five person committee that ran it.

SMJ spent $308,821 in 1988, of which $258,848 went to 15 Democratic senators and five Democratic candidates. Interestingly, it gave to every Democratic incumbent facing reelection *except* rival George Mitchell. SMJ had on hand $368,848, more than enough to give to the maximum legal amount to every Democratic Senate candidate in the general election.

Inouye also appeared at colleagues fundraising affairs, capitalizing on the fame he acquired during the 1987 televised Iran-Contra hearings to attract contributors. Inouye's case underscores one of the incentives that senator's have to form an MPAC: facing no serious opposition in 1986 when he ran for his fifth term, Inouye nevertheless raised $1.2 million during the 1985-1986 election cycle, of which $572,277 came from PACs. When the campaign was over, Inouye received 74% of the vote and had nearly $600,000 in surplus cash.

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SMJ's financial supporters included interests affected by Inouye's various Senate duties and policy interests, among them maritime lobbies, American Indians, the cable television industry, and pro-Israel causes.

One SMJ fund raiser, for instance, was hosted by David Giersdorff, an official of the Exploration Cruise Lines.

Joe De La Cruz, another supporter, was president of the Quinalts, an Indian nation that occupies the foothills of the Olympic Mountains near the Pacific Ocean. His tribe contributed $1,000 to SMJ, one of several contributions totaling $6,300 given to the PAC by Indian leaders, tribes, retailers, and affiliated lobbyists and attorneys.

Inouye's committee assignments in 1988 may explain these contributions. The senator became chairman of the Select Committee on Indian Affairs in 1987 and supported several causes important to the Northwest Indians, becoming "something of a folk hero to the tribes."[18] In

[18] Barone and Ujifusa, *Almanac of American Politics 1992* , p. 330.

1988, Inouye was a central player in negotiations involving a land dispute in Tacoma that resulted in a $162 million proposed settlement for the Puyallup Indians.

Inouye has had a long association with Israel. Indeed, his support for Israel dates to the state's founding in 1948, several years before the emergence of pro-Israel groups as a leading source of federal campaign money. In 1951, before running for Congress, Inouye sold bonds on behalf of the fledgling state. Since his election to the House in 1958 and to the Senate in 1962, Inouye has remained an unwavering advocate of pro-Israel interests. As chairman or ranking minority member of the Foreign Operations Subcommittee since 1973, he has played a significant role in U.S. aid to Israel.

Given Inouye's strong support for Israel, it is not surprising that SMJ attracted contributions form some of America's wealthiest pro-Israel organizations. For instance, Lawrence Weinberg, owner of the Portland Trailblazers basketball team, businessman, and former chairman of the American Israel Public Affairs Committee (AIPAC), contributed $5,000 to SMJ in 1988. His wife Barbara Anne Weinberg, founder of the Citizens Organized PAC, also gave $5,000. These contributions formed part of the $96,500 that the Weinbergs contributed to political campaigns and PACs between 1985 and 1987, according to FEC records, suggesting that politically active and rich contributors welcome new opportunities to contribute.

National PAC, the largest pro-Israel PAC, by 1988 had contributed $10,000 to SMJ. Three other leading individuals associated with pro-Israel causes made substantial contributions to SMJ: Marvin Josephson, chairman of International Creative Management and National PACs chairman, who gave $1,000. Robert Asher, chairman of AIPAC and a former chairman of Citizens Concerned for the National Interest, a Chicago-based pro-Israel PAC, who gave $5,000. Edward Levy, president of AIPAC who gave $1,000.

SMJ raised at least $70,000 from interests affiliated in some way with pro-Israeli political groups. Significantly, these contributions appear to have been made in recognition of Inouye's long commitment to Israel, not in order to "buy" his support.

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Inouye's association with the Commerce, Science, and Transportation Committee as the second most senior Democrat may help explain other contributions to SMJ. Among the senator's priorities in the 1980s was promoting domestic shipping concerns, a cause for which the industry and its unions have expressed gratitude. For example, SMJ received $23,500 from PACs and executives affiliated with the maritime industry. The Marine Engineers Beneficial Association gave $5,000. So did George Hearn, senior vice-president of the Waterman Steamship Corp.

George Steinbrenner[19], chairman of the American Ship Building company, contributed $5,000. Moreover, he appears to have hosted a fund raiser in its behalf in 1987.

As chairman of the Communications Subcommittee, Inouye oversaw matters of particular concern to the cable television industry. In

[19]Better known as the controversial owner of the New York Yankees

October 1987, the SMJ received $5,000 contributions from the National Cable Television PAC and the Turner Broadcasting PAC. FEC records reveal that SMJ raised $12,000 from a California fund raiser sponsored by the National Cable Television Association, among whose attendee were Time executives, HBO, etc.

* * * *

Financial interests also figured prominently on SMJ's contributor's list. Henry Kravis of Kohlberg, Kravis, Roberts, and Company, the man who perfected the art of the leveraged buyout,[20] contributed $5,000. Matching him were Jack Nash, a major figure in Odyssey Partners, a takeover concern; Michael Steinhardt, a respected investor and friend of Nash; Daniel J. Good, director of merchant banking at Shearson Lehman Hutton, Inc; and George Kellner, one of the nation's biggest arbitragers.

A group of 21 Long Island, New York residents, most of whom were business officials associated with the Long Island Aerospace PAC, contributed $14,000 to SMJ. Long Island was and remains a center for defense manufacturing, and most of the people affiliated with the PAC in 1987 -1988 were employed by firms that depended on the defense industry for subcontracting jobs.[21] At the time these contributions were made, Inouye had already announced his intention to assume the chair of the Defense Appropriation Subcommittee upon John Stennis's retirement.

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[20]Bryan Burrough and John Helyar, *Barbarians at the Gate: The Fall of RJR Nabisco* (New York: Harper Perennial, 1990), pp. 154-167; pp. 301-302.

[21]In 1988, Grumman Aerospace, maker of the F-14 Tomcat and other Navy planes, was Long Island's biggest employer.

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The lobbyists who ran SMJ all represented clients with an interest in the activities of the committees and subcommittees on which Inouye served. Their clients, as best as can be pieced together, accounted for about ten percent of SMJ's contributions.

Ragan, for example, represented Sea Land Corp, a container ship firm, and American Ship Building.

SMJ's record keeping, according to the FEC, is managed by Campaign Resources, a subsidiary of the Griffin, Johnson, & Associates lobbying firm. One of the firm's principals, Patrick Griffin, a former aid to majority leader Byrd, served as SMJ's assistant treasurer. Griffin, Johnson's clients included CBS, McCaw Communications, Communications Satellite Corp, and United Cable Television, the Puyallup Indian Tribe, and the American Psychological Association.

The other three lobbyists officially associated with SMJ -- Thomas Boggs,[22] J.D. Williams, and Patrick J. O'Connor -- also had clients whose interests corresponded with Inouye's legislative specialities.

Bogg's firm, for example, represented, among the contributors to SMJ, the Auto Dealers and Drivers for Free Trade PAC; the American Trial Lawyers Association; the National Cable Television Association; and Bear, Stearns and Company.

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[22] Son of the late Representative Hale Boggs, see Chapter Four

Williams (whose wife also gave $5,000 to SMJ) was a partner at Williams and Jensen. His firm's clients included the National Cable Television Association and Turner Broadcasting.

O'Connor was a partner at O'Connor and Hannan, whose clients included the American Trucking Associations; the state of Israel; and the Pacific Telesis Group. He was a former treasurer of the Democratic National Committee.

B. Pelican PAC

J. Bennett Johnston established the "Pelican Political Action Committee" in the fall 1987 to raise money for his campaign to succeed Byrd as party leader in the Senate.[23] During its five years of existence, Pelican PAC was managed by a small group of former Johnston staffers whose principal occupation was representing some of the largest energy companies in the United States before the Senate Energy and Natural Resources Committee, which Johnston headed from 1987 to 1994.

FEC records suggest that the connection between Pelican PAC's managers and the interests that were affected by Johnston's committee activities permitted Pelican PAC to raise money swiftly and easily, directing it to the campaigns of his Democratic colleagues.

[23]Johnston unsuccessfully challenged Robert C. Byrd in 1986. Johnston complained that Bryd had done little as party leader to restore the Democratic majority in the Senate in the early 1980s, when the Republicans controlled it, and needed to be replaced by a younger and more dynamic Democrat.

According to FEC filing forms, Pelican PAC's principal managers were: (1) Treasurer Robert Szabo[24], an erstwhile Johnston staff official who, during his service at Pelican, was a registered lobbyist specializing in issues of concern to the electric utilities industry and (2) Charles W. McBride, Johnston's former administrative assistant and a registered lobbyist for the American Nuclear Energy Council and Commonwealth Edison.

According to the FEC, Pelican was formed on November 4, 1987. The previous day, Szabo made a $1,000 personal contribution to the PAC, which he used to open Pelican's bank account. During its first eight months, Pelican operatives raised $324,000. As has been mentioned already, the speed with which Johnston tapped into existing contributors who were predisposed to support him whenever and however they could served to showcase the senator's fund raising prowess, which by the 1980s had become a test of a prospective leader's mettle and one criterion by which to judge him.

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During his tenure as Johnston's legislative assistant from 1975 to 1978, Szabo concentrated on energy issues at a time when the energy matters were a leading congressional matter. In 1978, Szabo left Johnston's staff and joined the law-lobbying firm of Van Ness, Feldman, Sutcliffe & Curtis.

[24]According to Zuckerman, Pelican's headquarters was Szabo's own residence. It appears that many MPACs are operated in a similar manner.

During Szabo's affiliation with Pelican PAC, his principal activity was representing the Consumers United for Rail Equality, a coalition of coal consumers and bulk shippers. Its approximately 165 members were mostly electric utilities that used coal. Szabo's clients were directly affected by the Energy Committee, which Johnston chaired. Indeed, Szabo had appeared before it on several occasions as an expert witness.[25]

Van Ness' other clients also had interests before Johnston's committee. The Arctic Slope Regional Corporation, which in the 1980s controlled the mineral rights belonging to native Alaskans, was poised to earn several million of dollars if the Energy Committee approved a bill authorizing oil and natural gas exploration and drilling in the Arctic National Wildlife Refuge. In 1988, Johnston helped usher a bill out of his committee, which passed the Senate but died in the House.

Another Van Ness client was the Pacific Island Trust Territory of Palau, which was negotiating with the United States, specifically the Energy Committee, to become an independent nation.

Starting in 1987, Van Ness also represented the Uranium Producers of America, an ailing industry that was spared by bailout legislation that Johnston's committee wrote and reported to the Senate floor.

Van Ness' other partners and clients maintained extensive interests in the energy industry. Not surprisingly, many partners were former congressional staff members on the Energy Committee and now lobbied it.

Firm member Grenville Garside served on the Senate Energy Committee (and its prior incarnation the Interior Committee) from 1975

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[25]Joshua Goldstein, interview by author, 12 August 1994.

to 1978. William J. Ness was the committee's chief counsel from 1970 to 1976. Firm member Ben Yamagata was counsel and staff director to the Subcommittee on Energy Research and Development from 1975 to 1977, on which Johnston served in 1976.

The firm also included Ross D. Ain and Charles B. Curtis, former commissioners of the Federal Energy Regulatory Commission (FERC) in the late 1970s. Johnston's committee drafted the laws that FERC executed, and it also approved the president's nominees to FERC.

On February 24, 1988, Pelican PAC held a fund-raiser in the Georgetown offices of Van Ness, Feldman and appears to have raised an estimated $50,000. FEC filings show that the firm charged Pelican PAC approximately $119.40 for use of the office and refreshments. By paying this nominal fee, Pelican did not need to declare it an in-kind contribution subject to federal election laws.[26]

Through the contacts of Szabo, McBride and other figures, Pelican PAC appears to have tapped into contributors already inclined to support Johnston in whatever legal manner available to them. Nuclear and utility interests contributed the most of any single industry category. In 1988, energy interests contributed $99,930 --- approximately half of the $206,000 in contributions that could be unequivocally linked with any industry. Nuclear and electric interests contributed about $55,000 of that figure. Total contributions that year were approximately $237,000.

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[26]This figure is an estimate developed with the patient assistance of FEC Public Records staff persons. Catherine Lowder was particularly generous with her time and patience. If the FEC has one problem, it is the archaic microfilm system researchers must use to investigate itemized expenditures unrelated to campaign activities.

The heads of the 200 or more investor owned utility companies, which generate approximately 75% of the nation's electric power, all seem represented in Pelican PAC.

Why did utilities support Pelican PAC as generously as they did in 1987-1988? Though speculation, they may have done so in gratitude for Johnston's important role in a bill dealing with nuclear waste.[27] Under Johnston's leadership, Congress adopted a bill to locate in Nevada's Yucca Mountain the radioactive waste that utility companies had been accumulating for almost three decades. Nevada, of course, has few congressional seats and abundant federal land.[28]

Johnston's plan was highly unpopular. He generated support for it by promising senators that their own states would not have to deal with nuclear waste. His plan upset Nevada's senators, who filibustered the bill for two weeks, and disturbed the sensibilities of many other members who believed on principle that legislation affecting only one state should be enacted only with the consent of that state's entire congressional delegation.

Why did Johnston embrace such risky legislation in the same year he ran for majority leader and presumably wanted the votes of as many Democratic senators as possible? The plan's very controversy may explain why Johnston personally fought for it. To be sure, he permanently alienated Nevada's one Democratic senator, Harry Reid, and the state's 1988 Democratic Senate candidate, Richard H. Bryan, who went on to win

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[27]Joshua Goldstein, interview by author, 12 August 1994.
[28]For a compelling blow-by-blow account of this, see the PBS Frontline special,

in November. However, he also demonstrated to the remaining Democratic incumbents and the Democratic challengers running that year that he had the talent and fortitude to take on tough causes, a traditional strength that caucus members would look for in leadership candidates after the 1988 election. An act of entrepreneurship, seemingly reckless and at variance with the party's interests, translated into a display of courageous party leadership that party colleagues would appreciate at the end of the year. *Thus Johnston shored up part of his caucus constituency by showing he had formidable legislative skills.*

More interestingly, the plan's controversy provided Johnston a first-rate opportunity to capitalize Pelican PAC. The Nevada storage bill went before the Senate on November 4, 1987, *the same day that Szabo filed Pelican PAC's organization papers with the FEC.* Thus at the same time Johnston was pushing a measure that the nuclear industry strongly desired, he was providing the industry with a way in which to express its gratitude, which was apparently enormous: "nuclear power advocates are calling him 'Magic Johnston,' but the name applied to (Johnston) by Nevada politicians are unprintable."[29]

Though it is impossible to determine if there was any connection, the coincidence deserves mention. If there is any substance to it, it suggests that Johnston was *not* reacting to industry interests that had given him support in the past -- the standard criticism of the campaign finance relationship -- but leading these interests so that they would give it to him in the future. The senator anticipated that in gratitude for his

[29]"How Nevada was Dealt a Losing Hand," *National Journal,* 16 January 1988, pp. 146-147.

controversial efforts these interests would generously capitalize Pelican PAC, allowing him to contribute to Democratic colleagues. The enemies Johnston incurred as a consequence of this legislation -- a total of two Nevada Democrats -- were more than offset by the enormous contributions the legislation's passage precipitated to his MPAC, which Johnston then used to placate and impress the remaining Senate Democrats.[30] *Thus he shored up another part of his caucus constituency by showing his formidable fund raising skills.*

Charles McBride, also among Pelican PACs official management, served as Johnston's administrative assistant from 1973 to 1976. When the senator became the DSCC chief in 1976-1977, McBride served as its executive director. In 1987 and 1988, he headed his own lobbying firm, Charles McBride Associates Inc.

According to FEC records, McBride spent $986 for Pelican PAC's inaugural fund raising event in December 1987.

Charles McBride Associates, like Van Ness, Feldman, represented several nuclear and utility concerns in the 1980s. Among the most prominent were Westinghouse Electric Corp, Stone and Webster Engineering, Duke Power Company, Consolidated Edison of New York, Carolina Power and Light Company, and Virginia Electric and Power, all of which contributed to Pelican PAC.

Records show that McBride registered in January 1988 as a lobbyist for eleven new clients, most of which were in the nuclear and utility

[30]One assumes that these Democrats were also grateful to Johnston for removing this unpopular issue from the Senate, and in a manner that spared their own states from having to store toxic materials.

industries. In the same month, he amended registrations for five of his existing clients that had been technically inactive since 1983 and 1984. Later in 1988, he filed new registrations for several other clients.

Among the clients that McBride acquired or reactivated after Pelican PAC was formed were the American Nuclear Energy Council, Commonwealth Edison, GA Technologies (a builder of nuclear facilities) and such nuclear utilities as Southern California Edison and United Illuminating Company (an owner of the Seabrook plant in New Hampshire), Urenco, a uranium producer, and the Tri-City Industrial Development Council, which represented the interests of nuclear contractors at the federal nuclear facility in Washington state.

McBride's public disclosure records revealed that his lobbying activities for these clients in the first six months of 1988 earned over $248,000.

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From 1986-1988, Johnston effectively ran the Senate Appropriations Committee and its Defense Subcommittee because Chairman John C. Stennis (D-MI) was incapacitated. As de facto chairman, and with the help of former staffers, he seems to have been able to attract to Pelican PAC contributions from the defense industry.

One Washington lobbyist who aided Johnston in his majority leader campaign, John Walton, served as the senator's legislative assistant from 1977 to 1986. His clients in 1987 and 1988 included General Dynamics, General Electric. Martin Marietta, Textron, and Stone and Webster

Engineering. Senior official of General Electric were among Pelican PACs earliest contributors, giving in ranges from $500 to $1,000.

Some interests supporting Pelican PAC in 1987 and 1988 seem to have had interests that were affected by Johnston's other committees assignments. For instance, one Harry E. Barsh contributed $2,000 in the early part of 1988.

C. Mitchell: No MPAC but the Effects were the Same

Mitchell's goal was the same as that of Inouye and Johnston: to preserve and expand Democratic representation in the Senate and, in the process, earn the gratitude from victorious Democrats who select the majority leader. His strategies and tactics for pursuing it, however, were very different in appearance but ultimately relied on the same factors: wealthy private interests eager to support Mitchell at any chance, in whatever way he suggested.

As has been reported, Mitchell never formed an MPAC, a feature that the *New York Times* and other MPAC critics have delighted in pointing out when they editorialize about the dangers of MPACs.[31] Declining to form one might seem a handicap in any post-reform leadership race since MPACs are an ideal way for a candidate to demonstrate his fund raising prowess to undecided caucus members. A closer look at Mitchell's situation in 1987-1988, however, suggests that an MPAC would have been gratuitous and in fact needlessly limiting for him

[31] "PAC Pollution," *New York Times*, 21 March 1994, A10.

to form because Mitchell had supporters eager to contribute whenever and wherever he suggested they should. He could informally broker more numerous contributions to party colleagues than he could have with a PAC and at the same time avoid the whiff of disrepute that had long been associated with PACs.

Thus Mitchell's leadership bid succeeded in considerable part because of the gratitude he earned from eleven Democratic freshmen elected in 1986, when Mitchell was head of the DSCC and campaigned for them in person and raised money for them.[32]

Moreover, when the Democrats recaptured control of the Senate in 1986 after six years of GOP control, Mitchell's efforts at DSCC were largely cited as one reason for the Democrats good fortunes. Indeed, Mitchell's fundraising prowess seems to have been a key factor in his meteoric rise: despite having served less than two terms in the Senate[33], Mitchell was able to become a leading contender against three term Johnston and five term Inouye.

In 1988, Mitchell continued to demonstrate his fund raising talents through the contacts he established as DCCC chairman. Unlike his rivals, he did not form an MPAC. Moreover, Mitchell did not recruit professional lobbyists to manage his leadership campaign. But then, he did not need to.

Hewing to the conviction that outsiders should not play a central role in an internal matter like the leader's race, Mitchell assumed most of

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[32]The final caucus vote was 27 for Mitchell, 14 for Inouye, and 14 for Johnston.
[33]George Mitchell was appointed to Edmund Muskie's Senate seat when the latter became Jimmy Carter's Secretary of State in 1980. Mitchell was elected in his own right in 1982.

the fundraising chores himself. The list of donors Mitchell drew on, developed during his service at DSCC, was extensive.

In less than six months in 1987, Mitchell raised $874,065 to finance his own reelection campaign. By the end of 1987, the senator had assembled $1.2 million, despite the fact the his reelection in 1988 was widely regarded as a forgone conclusion from the outset and Maine's media markets were among the least expensive in the nation, and the cheapest in the Northeast. FEC records indicate that Mitchell ceased raising money for his own campaign in 1987. Campaign observers say that Mitchell encouraged would-be contributors to give instead to other Democratic candidates, with Mitchell taking credit for them as a broker.[34]

Mitchell's PAC contributors represented a wide range of interests. Labor groups, financial interests, and health associations were prominent, perhaps because many of these interests had concerns before the Finance Committee's Environment and Public Works subcommittee. Mitchell also chaired the Finance's Health Subcommittee.

According to one campaign observer, Mitchell tapped those PACs to give to needy Democratic candidates: "Mitchell aggressively went after that job (majority leader). He talked to many health groups about getting involved."[35]

A manager of a health association PAC reported that her PAC gave to five incumbents following Mitchell's request. She added that her PAC would have contributed to these figures with or without Mitchell's

[34]Edward Zuckerman, interview by author, 5 August 1994; Joshua Goldstein, interview by author, 12 August 1994.
[35]Joshua Goldstein, interview by author, 12 August 1994.

request. Doing so at Mitchell's request, which took the form of letting Mitchell attach a little note letting the recipient think that Mitchell had personally engineered the transaction, let her PAC do favors for both Mitchell and the senators, while saving the PAC the $5,000 it had planned to make to Mitchell before he refused it.

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Mitchell's strategy underscores the futility and indeed danger of outlawing MPACs, which several reform proposals have called for. The MPAC might be the most convenient way under the present regime for secure legislators to raise money and direct it to needy colleagues. But as Mitchell's case illustrates, it is not the only way. As long as legislators have networks of wealthy and eager contributors they do not personally need to wage successful campaigns, informal methods like those used by Mitchell will probably be employed. Moreover, their informal nature makes it difficult for campaign finance watchdogs to advance possible reasons behind contributions because the contributions need not be reported. This researcher was able to learn of Mitchell's efforts only from an anonymous source who may or may not be telling the truth and a campaign finance critic who passionately dislikes the present campaign finance system and whose organization advocates publicly-financed campaigns. He had no way to confirm most of their observations at the FEC, as he could the MPAC activities of the other two candidates. Outlawing MPACs might only drive currently conspicuous activities under the ground and make influence buying, if it exists, more difficult to monitor.

Mitchell's informal approach assumed other forms that campaign reformers would be wise to appreciate. To improve his chances in the leader's race, Mitchell routinely hosted fund-raisers for Democratic candidates, to which representatives of business, trade, and labor groups already close to him were invited. More subtly, he permitted the use of his name on the invitations of other fund-raisers. His sterling reputation served to draw larger crowds than might otherwise have been the case and thus larger contributions to his colleagues' chests.

Without his own MPAC, Mitchell was prohibited from raising money in $5,000 amounts and distributing it. While on the surface this may appear to have been a distinct disadvantage, the reality is that it had important advantages. His hands on approach and personal intervention in effect allowed Mitchell to get credit for others' giving, the sum of which was conceivably much higher than if Mitchell merely gave the maximum $5,000 PAC contribution to each campaign in which he was interested. A Mitchell MPAC, had it existed, could only have given $5,000 to a single candidate in an election. Mitchell's personal approach might have allowed him to steer four or five such PAC contributions to the same candidate. As long as the candidate understood that Mitchell was involved in these contributions, Mitchell was presumably much better off than he would have been with a MPAC.

V. Conclusion

The important point in this chapter is not that Mitchell's approach in 1988 was the wave of the future in campaign finance. It plainly relied on features many legislators do not have: a stellar personal reputation that attracts more money than the politician needs to retain his office, enormous time and personal energy, inexpensive reelection costs, etc.

Rather, it is to suggest that the undue influence that has come to be associated with campaign contributions should not be confused with *the way* these contributions are delivered. Characteristic of this confusion is Goldstein's belief that

> The very fact that many members of Congress have PACs and contribute to colleagues proves that PAC money matters. Congressmen, above everyone else, are in the position to know whether PAC money works. They would not waste their time forming them unless they expected a payoff. PACs work ... they prove that there is a real problem with the financing of campaigns.[36]

Critics of the present campaign finance regime might be wise to question their understanding of contributions. Is it the *PAC* or the *money* they find objectionable? Their understanding seems to be that money contributions from a legislator, wealthy person, or PAC to a needy candidate are premised on the expectation that favors of some kind will be returned if the candidate wins, perhaps at the expense of the public weal. In effect, the candidate assumes an obligation to the contributor when he

[36] *Ibid.*

accepts the latter's money that he will "honor" at some later point. When phrased this way, their concern seems reasonable. It expresses in the broadest sense the nature of exchange, gift-giving, and debt, and the potential for these things to "corrupt" the consciences of officials supposedly dedicated to the public weal. Yet critics reduce the problem they so eloquently generalize to *PACs* -- perhaps because PACs are discrete entities that are easy to demonize -- and imply that by eliminating PACs and the law that gave rise to them the problem of money will disappear with them. Critics also ignore evidence suggesting that it is precisely a legislator's dedication to his conscience that attracts generous campaign contributions, as Senator Inouye's long support of Israel and indigenous American groups shows.

If the real problem with American elections is the patterns of contributions, what difference does their method of delivery make? Whether the contribution is delivered by a formal PAC or the informal, harder-to-trace methods preferred by Mitchell in 1988, the recipient will presumably still feel a sense of obligation to the people who made the contribution possible. When Goldstein grouses about the power of "PAC money," is it the "PAC" or the "money" he is really troubled by? Furthermore, is money the only means with which to establish a sense of debt? Gingrich's GOPAC, the most successful MPAC to date, precipitated his rise to the speakership without the use of money contributions. What about the provision of helpful technical data to politicians? Or fund-raising appearances? Are not these just as effective ways to establish obligation as money contributions? In believing that "the mother's milk of American politics is money," critics have neglected that this politics also feeds on ideas, favors, and other forms of non-monetary exchange. What makes money a less salubrious foodstuff than these other items? The problem critics cite only starts with money. Should the day arrive when money is successfully controlled, perhaps through public financing of all federal campaigns, what next might critics set their sights on? In their quest to foster genuine democracy, critics may inadvertently make campaigns less democratic than they are and not even realize it.

Critics respond that they appreciate the fungibility of money, that it need not be delivered by PACs to undermine an official's conscience. Their remedy is to limit individual and PAC contributions and encourage many small contributions so that they cancel one another out and eliminate this sense of obligation. Yet Mitchell's example suggests that the forces at work in campaign giving are far more subtle and durable. A few tactful telephone calls to established supporters, a few personal campaign visits, and a few hand-written notes can accomplish just as much (if not more) as a regulated MPAC that must report all its activities and subject itself to scrutiny of a skeptical public.

The problems with Mitchell's approach become apparent when we visit the FEC. How much did Mitchell raise in 1988 for his colleagues? The total simply cannot be determined because public disclosure of Mitchell's fund raising activities was not mandated by law, and reasonably could not be mandated under a "tougher regime." Indeed, more of his kind would probably occur were MPAC simply outlawed because the motivations that lead interests to contribute campaign money and legislators to form

MPACs would almost certainly endure, the very ones critics think a tougher regime can tame. Observes Campaign America's Suzanne Niemala Hellmann:

> Dole created CA because it was an easy way to help Republicans ... It is an easy way to link his supporters to the candidates he supports ... You can bar PACs like CA, but that isn't going to stop him from helping Republicans or stop people from supporting his politics. He'll find a new way.[37]

What new, more covert form might they assume in the face of a tougher regime?

[37]Suzanne Niemela Hellmann, interview by author, 9 August 1994.

Chapter Seven

House MPACs

I: Introduction

As Chapter One briefly reports, following the 1978 congressional elections, Congressman Paul Rogers (D-FL) retired as the head of Health and Environment Subcommittee, perhaps the most powerful subcommittee of the Energy and Commerce Committee. His retirement set off a succession struggle that highlighted the extent to which internal reforms of the House, enacted in order to promote democracy in the chamber, affected seemingly unconnected areas like campaign finance law that had also undergone fundamental reform in the 1970s.

By the early 1970s, the Democratic majority in the House made the chairs of committees and subcommittees elective posts (see Chapter Four). Nevertheless, the tacit understanding when this reform was adopted was that, in the absence of a personal scandal or undeniable evidence of incompetence or party disloyalty, the most senior member of the majority party would assume the chair.[1] This rule seems to explain why David Satterfield (D-VA), who on the basis of seniority alone should have become the chair, did not succeed Rogers: Satterfield was among the last of the conservative Democrats ("his record was so reactionary that he was

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[1]Walter J. Oleszek, *Congressional Procedures and the Policy Process* (Washington, D.C.: Congressional Quarterly Press, 1989), pp. 93-97; Leroy N. Rieselbach, *Congressional Reform* (Washington, D.C.: Congressional Quarterly Press, 1986), pp. 80-81.

not even considered," observed *The Almanac of American Politics, 1982*) and was so unpopular among mainstream Democrats that the Democratic Caucus refused even to nominate him for the post.[2]

The next most senior member was, as Chapter One reported, Richardson Preyer (D-NC) whose voting record, personal integrity, and committee competence should have made him a shoe-in for the post.

However, junior member Henry A. Waxman (D-CA) who was two slots behind Preyer in seniority, challenged Preyer for a post that, under the traditional regime, would have gone to Preyer without challenge. Waxman employed several tactics in his "campaign" for the post. On matters of substance, Waxman contended that Preyer's financial interests in a pharmaceutical company would make him hostile to such cherished progressive Democratic initiatives as national health insurance. Waxman argued further that Richardson's congressional district, which was dominated by tobacco interests, would compel him to undermine efforts to curtail cigarette smoking.

Waxman complemented his substantive campaign with what in 1978 was a novelty, the formation of a political action committee. His PAC contributed $24,000 to Democrats on the Energy and Commerce Committee. Waxman beat Preyer for the post by three votes. Whether these contributions made the difference cannot be unequivocally established. Campaign finance critic Edward Zuckerman thinks they did not: "Some say Waxman became chairman because of his PAC. If that's

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[2]Michael Barone and Grant Ujifusa, *The Almanac of American Politics, 1982* (Washington, D.C.: Barone & Company, 1981), pp. 122-123.

the case, we're all in trouble. They (critics) forget that he is a very smart, very able guy. Did it ever occur to them that this is why he was chosen?"[3]

Presumably, however, the PAC did not injure Waxman's cause. Moreover, Waxman's innovation spawned much imitation. At the time, however, Waxman's activities were considered brash and disrespectful.

Up until the 1978 vote, only the *senior most members and party leaders* had helped finance their colleagues' campaigns. Waxman, a two term member, violated this long standing "gentleman's agreement" and, by breaking a taboo that he perceived as an impediment to his desire to advance rapidly in the House and make a difference, forced his colleagues, in effect, to do the same or else resign themselves to a career as "back benchers."

To be sure, Waxman was recognized soon after entering the House as a talented and energetic member. However, his break with norms was criticized harshly for three general reasons.

First, many were upset by the brazen way in which Waxman contributed. Had his contributions been more subtle, these critics would not have been upset.

Second, other critics argued that junior members had no business campaigning for positions

Third, the most prominent of critics were upset that Waxman's efforts were part of a quid pro quo in which his contributions would be rewarded by the chairmanship.

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[3]Edward Zuckerman, interview by author, 2 August 1994.

In a real sense, however, Waxman merely institutionalized long standing practices concerning member-to-member giving that changes in election law, the rules of the House, and the existence of plentiful contributors and safe seats made possible. "Friends of Henry Waxman," as the PAC was called at the time, is today widely recognized as the first MPAC and set an important and widely imitated precedent.

Upon securing the post, Waxman did not liquidate his PAC. Rather, he used it as part of a larger effort to achieve what Fenno calls "good policy." For instance, in 1981 and 1982, Waxman used the MPAC to help defeat an attempt by the full committee's chairman, John Dingell (D-MI), to weaken provisions in the Clean Air Act dealing with automobile emissions when the Act was scheduled for reauthorization.

In the early years following the creation of Waxman's PAC, few House members imitated Waxman. However, the MPAC played a prominent role in Representative Edward J. Markey's (D-MA) 1984 senate race, his race for House majority whip in 1986, and his 1988 race for chair of the House Democratic caucus.

II. The MPAC as Prelude to Higher Office

A. The Case of Representative Markey

In the early 1980s, when the Reagan Administration's arms control policies and policies in Central America were the objects of intense debate, Representative Markey was one of the House's most prominent critics of the Administration.

Markey at the time strongly supported a nuclear arms freeze. Interestingly, he served on no House committee that provided him an obvious forum in which to promote these positions.[4] However, he served on the Energy and Commerce with Waxman and seems to have appreciated the usefulness of an MPAC.

According to FEC records, in June 1982 Markey formed an MPAC, the "U.S. Committee Against Nuclear War," whose stated objective was to raise and distribute money to congressional candidates who supported a nuclear freeze. Markey used a variety of sophisticated methods to capitalize the MPAC, including the mass mailing of an appeal that dramatized the dangers of nuclear war and need for a freeze.[5]

Markey's PAC was different from Waxman's. Unlike Waxman's, it was not promoted explicitly as a vehicle to advance a political career but rather liberal issues and causes. Later MPAC's would employ the same approach. Its issue-oriented approach notwithstanding, Markey's PAC had the practical effect of also advancing Markey's personal ambitions, a point that supports Fenno strongly.

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[4]Michael Barone and Grant Ujifusa, *The Almanac of American Politics, 1982* (Washington, D.C.: Barone and Company, 1981), pp. 504-505.

[5]In the early 1980s, conservatives perfected the art of direct mail to identify and raise political money from ideologically sympathetic people. The spectacular success the Republican party enjoyed in the 1980 election is often ascribed to direct mail. Direct mail appeals have been used by the biggest MPACs to establish large and dependable financial bases. See R. Kenneth Godwin, *One Billion Dollars of Influence: The Direct Marketing of Politics* (Chatam, New Jersey: Chatam House Publishers, 1988), pp. 112-114.

Thus USCANW was a multicandidate committee authorized by the FEC to raise money and distribute funds to candidates. Since Markey's PAC was not explicitly interested in advancing Markey's congressional career, the implication was that his PAC would support incumbent and challenger candidates alike, provided they endorsed the nuclear freeze. By the end of 1982, the MPAC had assembled $113,000. However, it had contributed less than $8,000 to political candidates -- approximately 7 percent of all receipts. This amount, though small, is not unusual for MPACs: their start up costs are high and overhead expensive.

As his PAC became better established and its funding sources increased, however, the PAC's disbursements to sympathetic candidates in fact declined, constituting only 3% of all receipts in 1984. Given that Markey unsuccessfully sought the Democratic senate nomination in 1984, it appears that Markey used the MPAC in 1982-1984 not so much to raise money for candidates but rather as a self-financing way to identify likely contributors to the senate race he expected to enter. If they were willing to support the USCANW, Markey's reasoning seems to have been, then they were also likely to support his Senate race. The cost of developing reliable mailing lists in the early 1980s, when direct mail was in its infant years, was extraordinary. Markey's PAC was an efficient way to meet this cost and develop a nation-wide stable of proven supporters well before the Senate campaign began.

Interestingly, Markey established a second MPAC in 1984 whose concerns focused on Central America. Markey's National Committee for Peace in Central America (NCPCA) distributed only 5 percent of its revenue in 1984 to candidates who shared Markey's opposition to the Reagan Administration's policies in Central America.

To whom did the majority of contributions go? FEC records show that most of the PAC's money went to the campaigns of Democrats on Markey's Energy and Commerce Committee who occupied safe seats and were not vocally opposed to policies in Central America. Indeed, NCPCA made a $5,000 contribution to Jamie Whitten (D-Miss), who was among the House's most conservative Democrats and a Sandinista opponent. Whitten also chaired the House Appropriations Committee whose Defense subcommittee steered lucrative business to Markey's congressional district, which was heavily dependent on the defense and high technology industries.

According to the *Washington Monthly* and Edward Zuckerman, several contributors to Markey's PACs did so in the belief that the PACs would support only candidates supporting the official objectives.[6] (Indeed, Zuckerman's single objection with MPACs is that "contributors are lied to" when MPACs do not use the money as they claim they will. He added, however, that this problem is not unique to MPACs because "contributors are misled when a candidate's campaign committee gives the contributor's $1,000 to another candidate's campaign that the contributor may actually oppose"[7]). They expressed consternation upon learning who really was receiving Markey's support.[8] "The thing is, (Markey's) PACs

[6]Steve Waldman, "The Hiroshima Hustle," *The Washington Monthly* 18 (October 1986): 35-40

[7]Edward Zuckerman, interview by author, 5 August 1994.

[8]Approximately 50,000 contributors supported Markey's PACs. The negative publicity Markey receieved prompted him to terminate the PACs in 1987.

said they would use the money to train and elect liberal Democrats, lobby Congress, and do polling, telephone informational work, and political canvassing ... so they pretty much lied (to contributors)"[9] The *Washington Monthly* piece quoted a former PAC official who was asked why the PAC contribution patterns seemed to contradict its stated objectives: "there was hope at every stage that the freeze could be turned into higher office for Markey, whether it was the Senate race or a presidential race."[10]

The operating styles of Markey's PACs and Waxman's PAC represent the styles used by most conventional MPACs that were formed during the 1980s. Supporters of Waxman's PAC, whose name was changed to the "24th District of California PAC" in 1980 and to the "29th District of California PAC" in 1991[11], were aware that their contributions would be used mostly to promote Waxman's own congressional career. Of course, this was part-and-parcel with promoting certain policy goals, because Waxman's unequivocal identification with progressive health and insurance causes was well known by the time he formed the PAC in 1978. By underwriting Waxman's career his supporters were also advancing certain discrete causes in which they believed, vivid testimony that Fenno's three goals are "ideal types" that cannot be easily separated in the real world of congressional politics. In the case of Markey's PACs, contributors were explicitly informed that their contributions would promote certain causes and candidates, not Markey's own career.

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[9]Edward Zuckerman, interview by author, 5 August 1994.
[10]Steve Waldman, "The Hiroshima Hustle," *The Washington Monthly* 18 (October 1986), p. 41.
[11]Redistricting accounts for the name change

The line separating personal ambition from good policy making, which seems clear in Fenno's treatment of them as ideal types, is thus very muddy. To realize certain policy goals dear to him and his supporters, Markey may have concluded that he had to advance in the congressional hierarchy or graduate to the Senate. Nevertheless, he employed disingenuous appeals to do this. Campaign America's Suzanne Niemela Hellmann echoes this in describing Senator Bob Dole's activities:

> You know, in politics, everything is connected. Right now, the senator is interested in winning a (Republican majority) this year, which is his slogan: "47 more in '94." Who knows how this will affect his (possible presidential race in 1996). He might well get a majority, which might help Clinton later on if it makes Clinton look like an underdog. You can't predict this stuff. You do hope all the things you want come to pass.[12]

In practice, the PACs shared almost identical patterns. Waxman's contributions sought to build support for his bid to become head of the Health subcommittee and Markey's to mount an efficient race for the Senate.

Following the unsuccessful Senate race, Markey's PAC activities suggest that he had resigned himself to a career in the House and was determined to rise as high as possible in the institution. Thus his PAC began giving money to colleagues on the Energy and Commerce Committee to expand his support in that body and reduce the chance that someone would challenge his goal of becoming head of the

[12]Suzanne Niemela Hellmann, interview by author, 9 August 1994.

Telecommunications and Finance Subcommittee when chairman Timothy Worth was elected to the Senate in 1986.

B. The 1986 Majority Whip Race

It seems that MPAC pioneers shared certain characteristics. First, they were all Democrats who did not conceal their enormous personal ambitions. Second, they were liberal Democrats (Burton, Waxman, and Markey) whose ADA ratings hovered around 95 percent. Interestingly, the earliest pioneers, Burton and Waxman, cut their political teeth in California, where the closest thing to MPACs existed (see Chapter Four). All three represented safe districts and assumed their party would be the majority for the forseeable future. Having achieved Fenno's first goal of reelection, these figures could afford to pursue ambitions and "good policy" with little risk.

Congressman Tony Coelho (D-CA) built on the early efforts of these three and made MPACs even more attractive and sophisticated congressional tools.

When Thomas Foley's (D-WA) became majority leader in 1986, Coelho entered the contest for the vacated post of majority whip. He had two advantages that help explain his eventual victory. First was his membership in the huge California Democratic delegation and its long experience with innovative fund raising. Second was Coleho's extraordinary success as the head of the Democratic Congressional Campaign Committee, a post he assumed in 1980 at a time when the committee was nearly bankrupt and which he rebuilt over the next several years: "he turned (DCCC) into a campaign money machine to which countless House Democrats were indebted."[13]

Moreover, as a result of Coelho's efforts, which may have been helped by the votes of grateful Democrats whom he had helped as DCCC chief, Coelho in 1986 engineered a revision in the Democratic Caucus rules that at last made the whip post elective.

Coelho's was challenged for the whip post by Charles B. Rangel (D-NY) and W.G. Heffner (D-NC).

Rangel should have been the obvious choice for whip. First, he was highly regarded by the House Democratic leadership and was reportedly the preferred choice of the new House speaker, James Wright (D-TX). Moreover, he had the certain support of the 24 members of the House Black Caucus. Finally, under traditional House norms, every effort was made to ensure that the House's top Democratic leadership represented different parts of the country. Thus when Sam Rayburn (D-TX) was Speaker of the House, the House majority leader was John C. McCormick (D-MA) and the majority whip was Carl Albert (D-OK). Since the new speaker hailed from Texas, and the new majority leader from Washington state, tradition dictated that the whip come from the Northeast.

Like Waxman in 1978, Coelho compensated for his several handicaps by establishing an MPAC, the Valley Education Fund, in anticipation of the race and tapped into contributors he had cultivated

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[13] Dan Bottorff, "California's Congressional Delegation Moves Center Stage," *California Journal*, August 1986, p. 379.

during his tenure at DCCC. Rangel, something of a House traditionalist who had served since 1970 when he defeated legendary member Adam Clayton Powel, delayed in imitating Coelho's move. As the race heated up Rangel claimed that an MPAC "was something that I personally and politically opposed. I told all of my people that I would go into any district, campaign for anybody ... But, for God's sake, don't throw me into the money raising market."[14]

The whip race was announced months before the election.[15] Up until the summer of 1986 Rangel continued to vow that he would not "out-Coelho Coelho."[16] He explained his antipathy for MPACs and member-to-member giving: "if I give somebody $1,000, have I really given him anything to get his attention? If I give $1,000 (colleagues), do I embarrass them; do they think they have some kind of obligation to vote for me?"[17]

Late in the race, when it became clear that fundraising skills would help determine the race's outcome, Rangel reluctantly decided to form an MPAC, the "Committee for the 100th Congress." Although Rangel's financial network made it easy for him to capitalize the PAC swiftly, Rangel seems to have missed the bigger lesson that became fully apparent two years later in the Senate Majority leader's race (see Chapter Six). The purpose of an MPAC is less to establish a straight quid pro quo between the

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[14]*Congressional Quarterly*, 2 August 1986, p. 1751.
[15]Speaker Tip O'Neill announced in 1984 that he would not stand for reelection in 1986. In effect, the campaign for the top House positions started over two years before the party caucus convened to distribute them.
[16]Ibid., p. 1751.
[17]Ibid., p. 1751.

MPAC legislator and the grateful recipient than it is to demonstrate to the entire party caucus that the would-be leader possess a huge and eager network of contributors into which he can easily tap should the party's financial needs ever require him to do so. Indeed, all Rangel accomplished by forming an MPAC was recognize that fundraising prowess was effectively a job requirement, a task that Coelho was indisputably the master of and had been performing brilliantly since 1980. According to MPAC critic Joshua Goldstein:

> If you can show your colleagues you can raise money for them, you get influence with your colleagues. Look at Vic Fazzio (D-CA), chair of the DCCC, look at Coelho before him, they had influence by merely showing they could raise huge amounts of money.[18]

FEC records show that in 1985-1986 Coelho's PAC contributed to 245 Democratic campaigns. Moreover, it gave to six Senate candidates.[19] His contributions ranged from $500 to $5,000 (in more than thirty races Coelho made $5,000 contributions). In contrast, Rangel raised only enough to contribute to 100 candidates, and in smaller amounts. When the 1986 election was over, Coelho's PAC had distributed almost $570,000 to House candidates. Rangel's had contributed only $225,000. By imitating Coelho in kind, all Rangel did was recognized that fundraising was a new requirement of the whip job and showed that he was not up to it. That Rangel's other qualifications for the position exceeded Coelho's --

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[18]In person interview, 8 August 1994.
[19]Do senators have influence over House members hailing from the same state? Perhaps Coelho thought so.

seniority, endorsements, and region -- underscores the importance that the rank-and-file attached to fundraising skills in the post reform House.

When the Democratic Caucus convened in December 1986 to select the whip, Coelho easily defeated Rangel.[20] At the time, several members expressed their disappointment that campaign contributions had influenced the outcome. In his remarks for Heffner, who never stood a chance and was eliminate on the first ballot, Representative Ed Jenkins (D-GA) reportedly contended that the best whip was not necessarily the best fund raiser. As the vote showed, this point was shared by only a tiny minority of caucus members.

After the whip race, the significance of MPACs and other forms of member-to-member giving was undeniable. They became one of the procedures employed by aspirants for House leadership posts and members determined to build support bases. By 1987, MPACs were commonplace. Still, no leadership aspirant had yet asked outside contributors for money with which to secure colleague support. This taboo was overcome in 1988, when Richard Gephardt (D-MO) surrendered the chair of the House Democratic Caucus.

[20]The final caucus vote was: Coelho, 167 votes; Rangel, 78 votes; and Hefner, 15 votes

C. The 1988 Democratic Caucus Race

Contributions of cash on hand rather than contributions from formal MPAC appear to have had an impact on William Gray's (D-PA) successful 1984 campaign against two colleagues for the chairmanship of the House Budget Committee. Records indicate that Gray's campaign treasury contributed approximately $27,000 to seventy five Democratic challengers and incumbents, forty six of whom won their races and went on to vote in the Democratic Caucus for the Budget chair. Since the Budget chairmanship is one of the most significant and visible posts in the House, Gray was able to parlay his new prestige and prominence into substantial increases in contributor support. From 1984 to 1986, contributions to Gray's campaign multiplied by more than three times, from $200,000 to $660,000. This increase, far more than he needed to secure his own reelection, allowed him to increase cash on hand contributions in 1986.

House rules restrict the Budget Committee heads to no more than two consecutive terms. When Gephardt announced the he would retire as chair of the Democratic Caucus in 1989, Gray entered the race to replace him, as did caucus vice chair Mary Rose Oaker (D-OH)[21] and Mike Synar (D-OK).[22]

The race was an unusually heated one, with candidates employing a range of tactics to build support for their candidacies. Gray's huge supply of money seems to have had a decisive impact on the outcome. In 1987 and

[21]Oaker formed a PAC that was dwarfed by Gray's fundraising skills.
[22]*National Journal*, "Moving up the Ladder," 10 December 1988, p. 2158.

in the first three months of 1988, Gray's campaign committee made cash on hand donations amounting to $35,750.

Later in 1988, Gray formed an MPAC, named the "Committee for Democratic Opportunity (CDO)." In capitalizing CDO, Gray "sent out a letter to a mailing list consisting of supporters of former Pennsylvania Democratic congressman Bob Edgar. Claiming the need for funds to "pursue this new challenge." Gray asked for "a check for $500 to $1,000 so that I can begin to build the active support within (sic) the Democratic members of Congress to win this key leadership position."[23]

As part of his strategy, Gray was also reported to have hosted a meeting in which he asked lobbyists to urge House Democrats with whom they did business and were friendly to support his bid for the chair. This was a significant departure in custom because it was the first time outsiders had been explicitly recruited by a member to influence other members on an internal House matter.

Gray's tactics were widely criticized at the time, as most pioneering ideas are. Demonstrating that the old way of rising in the House was futile against Gray's ultimately successful campaign, Synar boasted, "I'm not giving money away and I'm not using lobbyists. I'm going member-to-member because this is a very personal race."[24]

Gray shows, as does Senator George Mitchell (see Chapter Six), that members can "buy" support without necessarily establishing an MPAC.

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[23]Quoted from *Roll Call*, 22 May 1988
[24]*Roll Call*, 12 June 1988

Although Gray ultimately formed a PAC, many of his greatest successes occurred without one.

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While the MPACs registered with the FEC have never represented more than a tenth of the membership of the Senate and House, the dynamic identified with them conforms with what Senator Daniel Moynihan (D-NY) has called "the iron law of emulation." This law neatly describes the rational choice calculation that exists in Congress. The success of MPACs and similar activities "convince many more members that they must have their own PACs to be full fledged players in Congress." Yet as innovation has spawned emulation and thus has canceled out the competitive edge that MPACs once provided, new strategies have beed devised to help members stand out. Representative Newt Gingrich's GOPAC seems to be the newest and most effective one to date. Chapter Nine details GOPAC.

Chapter Eight

Summing Up the Impact of "Traditional" MPACs on American Politics

The central concerns that critics raise about MPACs in particular and PACs in general focus on whether they contribute to the "atomization of Congress"[1], undermine party cohesion and discipline, and corrupt the political process. Is campaign finance critic Joshua Goldstein correct when he observes that "leadership PACs are the political party, the political machine, if you will, of the individual ... they are definitely a danger to a strong party system and have helped weaken it."[2]

I. MPACs and Robust Congressional Parties: Are the Two Mutually Exclusive?

A. Party Leadership v. the Rank-and-File

Until Wayne Hays' became chairman of the Democratic Congressional Campaign Committee (DCCC) in 1974, the DCCC (and all the congressional campaign committees for that matter) was an important part of the congressional parties' leadership apparatus. To be sure, it is

[1]Characteristic of the view that the post-reform Congress is alarmingly fragmented is Allen D. Hertzke and Ronald W. Peters, Jr., "Introduction: Interpreting the Atomistic Congress," in Allen D. Hertzke and Ronald W. Peters, eds., *The Atomistic Congress: An Interpretation of Congressional Change* (Armonk, New York: M.E. Sharpe, Inc, 1992), p. 3: "We have entitled *The Atomistic Congress* to convey our impression that Congress is, in the final analysis, a group of individuals rather than a collective whole. Thus it is best understood as a product of the individual aspirations of its members, rather than a function of the collective public will."

[2]Joshua Goldstein, interview by author, 12 August 1994.

exceptionally unlikely that when Representative Lyndon Johnson and others supervised the DCCC, they were unaffected by the possibilities for personal advancement that came from furnishing support to needy colleagues. The same holds in the Senate. Senator George Mitchell's tenure at the Democratic Senate Campaign Committee (DSCC) in the mid-1980s allowed him to build a personal financial network that unquestionably helped him rise to majority leader in 1988.

Though their efforts plainly advanced their own political careers, the money these legislators raised occurred under the auspices of the official party organizations over which the congressional party leadership exercised at least some authority. In contrast, MPACs are independent of the party leadership. Worse perhaps, MPACs affiliated with *junior members* may undermine the authority of the party leadership, reducing the leadership's ability to discipline members and promote party cohesion and making junior members more influential than they have a right to be.

The belief shared by *all* the MPAC officials whom the author interviewed is that their activities only benefited the members' parties in Congress and around the country. These officials underscored that their MPACs neither "poached" on the parties' financial sources nor supported candidates whom the parties opposed. According to Campaign America's Hellmann:

> We work with all these groups (RNC, NRCC, NRSC), we coordinate with the Republican establishment. In races that the NRCC has

targeted, we make sure we're helping as well. If the Republican party asks us to give to a targeted race, we go to the targeted area.[3]

GOPAC's Rogers avows that "GOPAC complements the GOP committees by helping GOP challengers in races they don't have much of a chance of winning. They're the ones who are overlooked the most in an election because giving them money is considered (by the official Republican committees to be) sort of a waste."[4]

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These protestations notwithstanding, there is the sense in which the recipient's obligation ultimately goes not to the party's official leaders but to the member whose PAC made a contribution to his campaign: "It's pretty hard for a member to escape the gaze of a colleague who gave money to him. Money has a special cachet when it comes from a colleague."[5]

The FEC's Kent Cooper voiced his concern that MPACs were contributing to a fragmentation of the congressional party leadership:

> If only the party leaders had PACs, they wouldn't be as serious a concern, though I still think they're illegal (see Chapter Four, n. 6). The problem is that the new (rank-and-file) members also have them. This hurts the party structure and the reason for the leadership system. Congressmen create independent power bases

[3]Suzanne Niemela Hellmann, interview by author, 9 August 1994.
[4]Jana L. Rogers, interview by author, 3 August 1994.
[5]*Ibid.*

> with them when there's already too much diffusion of power in Congress.[6]

The FEC's Leta L. Holley expresses a similar concern:

> The (party) campaign committees are a chance for the leaders of the party to give money to candidates in a way that's in the best interests of the party. But when a senator starts a PAC just to curry favor with members so that he can get elected to something or get their vote for his bill or whatever, then things get a little complicated. What winds up happening is that parties within parties start growing.[7]

Not all campaign observers consider MPACs threatening to congressional parties, leadership, and discipline. In fact, they prefer not to give to the party campaign committees because, as the director of a large corporate PAC said:

> You spend an awful lot of time and money courting these leadership guys and you really get next to nothing because those guys are out of the legislative loop. Most of the things that lobbyists do are small, little things for your company or union or whatever. And the Speaker can't help you on that. And you're playing a suckers' game if you walk around town thinking Foley's you're best friend because you gave to his campaign or his PAC. He's playing on a higher field. You give to the guys at the subcommittee level who do that piddly little stuff that keeps you in business.[8]

From the PAC directors' perspective, a contribution's biggest impact occurs not when it is made to a congressional leader but to a junior

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[6]Kent Cooper, interview by author, 16 August 1994.
[7]Leta L. Holley, interview by author, 2 August 1994.
[8]interview by author, 2 July 1994.

member who toils on substantive matters that concern the contributors and seldom if ever the party's congressional agenda. This reasoning, however, does not lead potential contributors to conclude that party leaders' PACs should not receive contributions. It does encourage them to contribute to any MPAC established by a rank-and-file member whose duties coincide with the concerns of the contributor.

At least one representative of the PAC community believes phenomena like MPACs can undermine the congressional institutions: "if you care about the vitality of the party in Congress, the only contribution you ought to make is to the campaign committees and all the fund raising ought to be focused on that."[9]

The FEC's Leta L. Holley asks:

> If the control of money has shifted from the RNC, DNC, and the congressional (campaign) committees to (MPACs)? Do supporters give both to the RNC and (Dole's) Campaign America, the same amount, or none to the RNC and all of it to Campaign America? Had they given to the RNC before and stopped when Campaign America needed their help? If the (MPACs) balkanize party money, and I'm not saying they do though it wouldn't surprise me, and divert money from party organizations or leaders to junior people like (Henry) Waxman (in 1978), are the contributions of leaders and the parties and junior members somehow working at cross purposes, even if they don't on the surface seem that way?

One fear that MPAC critics have raised is unfounded. MPACs usually support the same candidates that party leaders and campaign

[9]interview bu author, 17 August 1994.

organizations do, FEC records reveal. Of the 85 MPACs that have existed since the late 1970s, only 12 have contributed money to candidates of the other party, and then only in isolated instances.[10] So far as appearances are concerned, MPACs seem to share the goals of party leaders: to elect as many of their party's candidates as possible and expand the party membership in the particular house.

B. Do MPACs Constitute a "Fifth Column"?

Contributing money to candidates via the MPACs rather than through formal party campaign committees is, at the very least, an inefficient way to promote party cohesion. To be sure, the party leaders, party organizations, and MPACs may overwhelmingly support the same candidates. However, exchange is, as Sorauf emphasizes, a "bilateral relationship."[11] Presumably the recipient's sense of gratitude and debt is directed to the specific contributor who aided his campaign, and is probably deeper when the contributor is a person rather than a party organization.

If a sense of gratitude is inextricably linked with exchange, is it better that the recipient feel this gratitude to party institutions, replete with a programmatic agenda he/she can help enact and for which he/she is

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[10]Kemp (R): 1981-1982, $1,000; Markey (D): 1983-1984, $250; Lent (R): 1991-1992, $2,000; Gingrich (R): 1991-1992, $82; 1987-1988 $2,589; Green (R): 1991-1992, $3,750; Glenn (D): 1983-1984, $66; Bonior (D): 1987-1988, $1,500; Coelho (D): 1985-1986, $1,000; Lautenberg (D): 1989-1990, $4500; Harkin (D): 1981-1982, $1,000; Symms (R): 1989-1990, $500; 1991-1992, $250; Weicker (R): 1985-1986, $1,000; Dornan (R): 1983-1984, $1750; 1985-1986, $1,250;
[11]Frank J. Sorauf, *Inside Campaign Finance* (New Haven, Conn.: Yale University Press, 1992), p.

partly accountable, or to a single individual, whose objectives may in some instances be bad for the national party? For better or worse, the contribution from an MPAC might have a greater impact on a needy candidate than a party contribution, since it is a personalized gesture toward a candidate which the party committees cannot replicate. Representative Coelho who, as a former DCCC head and MPAC member, was in a position to comment on this recognized that recipients of money from his Valley Education Fund were typically more impressed with that contribution than they were with money from DCCC: "The people you just give (DCCC) money to don't appreciate it because they think that's what you are supposed to do anyway."[12] From the recipient's perspective, the result could be a weaker feeling of gratitude to his or her party than to the MPAC legislator.

Indeed, as Chapter Nine reports, something akin to this came to pass in 1994. Where House Republican leader Robert Michel had used his MPAC and the party congressional committee to assist indiscriminately Republican candidates, Representative Newt Gingrich used his MPAC to furnish something that was more valuable and enduring to young and inexperienced Republicans than a check: ideological, fund-raising, and campaign training. GOPAC's impact was gradual, ushering into office over the span of several election cycles a few more Republicans who owed their elections more to GOPAC and Newt Gingrich than to the official party leadership and GOP apparatus. Moreover, GOPAC's success did not

[12]Brooks Jackson, *Honest Graft* (New York: Knopf, 1988), p. 288.

depend on money, but on intangibles, suggesting that money is not the only important resource in politics.

Critics charge that MPACs reduce the impact of leadership contributions and thus the influence party leaders must exercise over members to promote party cohesion and discipline. They add that MPACs are proof that the modern American party system is devoid of ideas and ideological programs and governed principally by personal ambition.[13] As Chapter Nine will argue, however, Gingrich's GOPAC seems to have proven the opposite by helping to create the very things that PACs and the present campaign finance regime have been blamed for damaging: a revitalized party, a comprehensive party agenda, and a reinvigorated party leadership. If a Democrat should appear in the next few years to do for his or her party what Gingrich did for the Republicans, he or she may use a PAC as part of a larger effort to restore the party, despite critics' claim that PACs have helped destroy it. PACs, like the fifty states, may become "laboratories for democracy." If PACs have been part of the problem in contemporary politics, then they may also form part of the solution.

An advantage enjoyed by the MPAC that contributes to a colleague's campaign is that the goals of the MPAC legislator are more obvious and typically more limited than the congressional party's official agenda.

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[13]For more on this see, Alan Ehrenhalt, *The United States of Ambition: Politicians, Power, and the Pursuit of Office* (New York: Times Books, 1991); William J. Grieder, *Who Will Tell the People* (); and H. Mark Roelofs, *The Poverty of American Politics* (Philadelphia: Temple University Press, 1992). These works are only the latest in a large and hugely influential literature that decries the absence of ideological alternatives in American politics. Louis Hartz's *The Liberal Tradition in America* (New York: Hartcourt, Brace, 1955) and Richard Hofstader's *The American Political Tradition and the Men Who Made It* (New York: Vintage Books, 1974) remain the most prominent works in this uniformly critical literature.

When a member receives a contribution from a colleague who wants support for a leadership post or for legislation, the obligation entered into can be satisfied with the one vote that concerns the MPAC legislator. In contrast, when party leaders contribute money, there may be a wider range of expectations that the recipient will be consistently in support of the party agenda. The obligation is thus more comprehensive, onerous, and difficult to satisfy.

C. The Incumbency Factor: Do MPACs Contribute to It?

The literature strongly suggests that traditional PACs contribute overwhelmingly to incumbents and neglect challengers. This pattern is thought to reduce competitive elections, slow the circulation of public officials, and injure the democratic character of American elections by depriving voters of real alternatives. Can the same charge be leveled against MPACs? In their efforts to "purchase" the gratitude of candidates, do MPACs also contribute to the "incumbency effect" and help preserve the status quo?

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As Table 8.1 shows, the pattern of contributions by traditional PAC reveals an overwhelming preference for incumbents.

Table 8.1: Conventional PAC Contributions to House (H), Senate (S), and Combined Races (HS)

Election Cycle	Incumbent			Challenger			Open Race		
	H	S	HS	H	S	HS	H	S	HS
1989-1990	79%	76%	78%	08%	17%	11%	13%	07%	11%
1987-1988	81%	63%	75%	10%	18%	12%	10%	20%	13%
1985-1986	76%	52%	68%	10%	23%	15%	14%	25%	18%
1983-1984	76%	61%	71%	15%	21%	17%	10%	18%	12%
1981-1982	67%	64 %	66%	18%	23%	19%	15%	13%	15%
1978-1979	66%	50%	61%	21%	38 %	26%	13%	12%	13%

This PAC preference for incumbents reflects part of an overall "pragmatic strategy (that) reflects the goal of pursuing and maintaining legislative access, of coordinating PAC contributions with the legislative goals of the parent organization ... and above all, of not offending powerful incumbents by supporting their opponents"[14]

To their credit, MPAC contribution patterns depart from those of traditional PACs. As Table 8.2 shows, MPACs contribute far more frequently to challengers than do traditional PACs.

[14]Frank J. Sorauf, *Money in American Elections* (Glenview, Ill.: Scott, Foresman, 1988), p. 103.

Table 8.2: Membership PAC Contributions to House (H), Senate (S), and Combined Races (HS)

Election Cycle	Incumbent			Challenger			Open Race		
	H	S	HS	H	S	HS	H	S	HS
1989-1990	45%	55%	48%	19%	34%	24%	37%	11%	28%
1987-1988	52%	44%	48%	23%	32%	27%	25%	25%	25%
1985-1986	43%	36%	40%	26%	33%	29%	31%	31%	31%
1983-1984	48%	49%	49%	35%	33%	34%	17%	18%	18%
1981-1982	n.a.	n.a.	43%	n.a.	n.a.	38%	n.a.	n.a.	19%
1978-1979	n.a.	n.a.	21%	n.a.	n.a.	55%	n.a.	n.a.	24%

Many studies reveal that traditional PACs most prefer House Democrats, largely because until 1994, the majority of House members were Democrats.

In 1984, 82 percent of all PAC contributions to House candidates went to Democratic incumbents. In contrast, Democratic MPACs contributed only 64.7 percent of their total contributions to Democratic House incumbents. In the 1985-1986 and 1987-1988 election cycles, traditional PACs contributed 75 percent and 87.5 percent of all House Democratic money to incumbents. In the same election cycles, MPACs gave only 48.5 percent and 55.4 percent, respectively, to Democratic incumbents.

The incumbents least favored by MPACs have been Senate Democrats. In the 1983-1984 and 1985-1986 election cycles, approximately 20 percent of all Senate MPAC money contributed to Democrat Senate candidates went to incumbents. In the 1987-1988 election cycle, during the majority leadership race, the MPACs of Inouye and Johnston sought to cultivate the support of Democratic incumbents, increasing the percentage that Democratic incumbents received in that election to 58 percent. High though this figure was, it was significantly less than the 76 percent of Senate Democratic contributions that traditional PACs gave to incumbents.

The rather high percentage of contributions to Senate Democratic challengers in the 1985-1986 election cycle reflects the party's determination to regain control of the Senate from the Republican party, which had controlled the body since 1981. Due in considerable part to Senator George Mitchell's fund raising talents at the DSG, the Democrats succeeded.

The Republican MPACs responded in the 1987-1988 election cycle, preferring candidates to incumbents by a ratio of three-to-two. Hewing to a "pro-incumbent" strategy now that they were the majority, Democratic MPACs deployed contributions to preserve the majority they had achieved two years before. Republican MPACs in the 1981-1982 and 1983-1984 election cycles had adopted a similar "pro-incumbency bias" to preserve the party's majority in the Senate.

Plainly MPACs contribute more money to challengers than do traditional PACs and promote the very competitiveness that critics of the modern campaign system insist FECA has reduced. MPACs are inclined to risk money on challengers that traditional PACs shun. MPAC contribution patterns in the House and Senate suggest that when an MPAC member's party is in the majority, his MPAC will tend to favor incumbent candidates in order to preserve the majority. When an MPAC member's party is in the minority, his MPAC will tend to prefer the challengers.

There are several explanations for the inclination of MPACs to give more generously to challengers than incumbents. Many are described in Chapter Five.

First, tactical considerations associated with campaigns for leadership posts seem to dictate this behavior. The votes of incumbent colleagues in most leadership contests are often announced well before the formal caucus vote is held. Indeed, one of the traditional campaign devices used by aspirants for party or committee leadership posts is to assemble the commitments of party colleagues even before announcing one's candidacy for a post. To be sure, these commitments are often flimsy. Nevertheless, if an aspirant can line up enough of them early on, these commitments can "scare away" potential rivals for a given post and make the race easier to wage.[15]

Moreover, incumbents tend to indicate their choice for a leadership post early, perhaps in order to preempt aspirants they do not plan to support and do not want to offend from putting them in the

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[15]*National Journal*, "Senate Democrats' Tight Race," 15 October 1988, p. 2605.

awkward position of having to declare a preference when the campaign is formally underway.

Given these factors, the number of undecided incumbents is usually small. Obviously this increases the importance of people who might get elected -- candidates for open seats and challengers -- and makes them attractive targets for contributions that might influence their vote should they win their races.

Second, the goals of most MPACs are only partly legislative. Traditional PACs' concerns almost always center on gaining access to specific (sub)committees.[16] Giving money to an incumbent whose (sub)committee duties and votes are a matter of public record is considerably less risky and more efficient than supporting a challenger who has not compiled a legislative "paper trail" and whose committee assignments are impossible to predict. MPACs, in contrast, know from the outset that every candidate they help elect will have one vote in the party's democratically governed caucus, in which committee chairs and party leadership posts are distributed.

Third, a large percentage of MPAC money goes to candidates in special elections because there is greater pressure to get money to candidates as swiftly as possible and thus the payoff can be greater when a caucus vote is held: "we love special races," CVF's Pearson explains,

> because it magnifies the importance of our contribution. A congressman dies and an election is scheduled in a month or two. Suddenly nobodies who had no plan to run and have no resources

[16] See Chapter Two.

> have to run a race on short notice. $5,000 can mean a lot more under this compressed schedule than if he had more time to get organized.[17]

MPACs are in a position to do help in short notice because all they need to know is which party a candidate belongs to, not determine what his ideological interests or even chances of winning are, concerns of traditional PACs.

Fourth, MPAC contributions are far more discretionary than are those of traditional PACs. Traditional PACs depend on networks of reliable contributors. Contributors, in turn, like to see their PACs support victorious candidates as proof that their money is not being wasted and incumbents tend to be the most victorious of all.

In contrast, the MPAC member is only partly concerned with supporting victorious candidates. Risky contributions are more likely by MPACs. Contributing available money to a challenger whose chances of victory are extremely uncertain can pay a handsome dividend in the form of a new colleague who feels a sense of gratitude even before assuming office: while other potential sources of funding dismissed the candidate as a sure loser and did not bother to give money to him or her, the MPAC showed an interest in his long-shot campaign. The effect is to make the contribution stand out, small though it might have been, by virtue of the fact that there were few others to "overshadow it."

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[17]Ronald W. Pearson, interview by author, 5 August 1994.

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Two categories of incumbent recipients appear to consistently received an increasing share of MPAC contributions.

The first is Senate Democratic incumbents, whose share of the chambers Democratic PAC money escalated from 20 percent if 1984 to more than 57 percent in 1988. The status of the senators who are scheduled for reelection affects these figures considerably. A senatorial class with a large number of members facing tight races will tend to precipitate a flood of colleague support. The race in 1988 to succeed Robert Byrd as majority leader also influenced this trend and made it difficult to separate short-run factors from long-term ones.

The second category of incumbents whose share of MPAC support has increased consists of House Republicans.

In sum, it seem that, although PACs give disproportionately to incumbent candidates and thus limit electoral choice and competition, MPACs are more generous and do the reverse.

D. MPAC Operating Costs

A criticism against MPACs is not that they contribute too generously to candidates but that, given their enormous incomes, they contribute too little of their income to needy candidates. "What are (MPACs) doing with all the money they aren't contributing to colleagues? Are they (legislators) using it to buy their wives 'good Republican cloth coats,' like Nixon (did)?"[18] MPAC supporters might well be concerned that money given to a MPAC in fact pays for personal travel expenses and expensive office space rather than to worthy candidates.

Table 8.3: MPAC Spending Habits: Contributions as Percentage of Net Receipts

Election Cycle	Receipts	Contributions	Cont./Rec.
1991-1992	$12,652,197	$2,373,740	18.75%
1989-1990	$12,519,449	$2,282,452	18.23%
1987-1988	$20,500,139	$4,209,967	18.95%
1985-1985	$39,652,106	$4,400,376	11.28%
1983-1984	$23,316,218	$2,507,270	12.20%
1981-1982	$17,044,275	$1,426,293	8.13%
1979-1980	$8,125,071	$546,841	6.73%

In fact, most MPACs spend no more on overhead than conventional PACs. About 15 percent of all MPAC receipts are given out in contributions to candidates. This figure, however, is deceptive. It is distorted by a few very large PACs that have enormous overhead

[18]Joshua Goldstein, interview by author, 12 August 1994. Goldstein is passionate about his politics and positions. He also is the master of the sound bite, which may explain why he frequently on behalf of the Center for Responsive Politics in newspaper articles on campaign finance. Twice during the author's 2 hour interview with Goldstein, Goldstein was interrupted by reporters. His reference is to Richard Nixon's 1952 "Checkers speech," in which Nixon made reference to his wife's modest outerwear to refute charges that he had misused a fund to finance political travels for personal needs. The Nixon travel fund bore a strong resemblance to MPACs that underwrite a legislators' presidential ambitions, which is why Goldstein mentioned it in his oral history of MPACs.

expenses. Among these are Senator Jesse Helms' Congressional Club, Bob Dole's Campaign America, and Newt Gingrich's GOPAC. When the "leaders of the MPACs" are excluded, contributions amount to 19 percent of receipts. Though this figure may also seem small, one must remember that raising money for MPACs costs a lot (in telephone and mail solicitation costs), that there are only a handful of candidates in any election cycle that a given MPAC is interested in helping, and that it is easy for MPACs to "max out" long before depleting their resources. "We run out of races before we run out of money," explains Campaign America's Hellmann.[19] The CVF's Pearson adds:

> CVF gives only to Republican candidates that meet our standards. If in an election year all the candidates failed our questionnaire, we just wouldn't give. We'd save our resources for the future. That's why we give only a fraction of our receipts each year ... Why help Republicans who will act like Democrats? It defeats the (CVF) purpose ... It would also upset the people who support us, who believe in the CVF's ideas.[20]

As Table 8.4 shows, when MPACs operated by legislators with explicit presidential objectives are removed, contributions rise to almost 30 percent of all receipts.

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[19]Suzanne Niemela Hellmann, interview by author, 9 August 1994.
[20]*Ibid.*

Table 8.4: MPAC Spending Habits: Contributions as Percentage of Net Receipts (Minus Presidential PACs)[21]

Election Cycle	Receipts	Contributions	Cont./Rec.
1991-1992	$12,652,197	$2,373,740	18.75%
1989-1990	$12,519,449	$2,282,452	18.23%
1987-1988	$6,550,084	$1,754,927	29.80%
1985-1985	$12,313,012	$2,837,149	23.00%
1983-1984	$4,236,724	$1,095,362	25.90%
1981-1982	$1,584,886	$669,593	42.20%
1979-1980	$208,130	$132,204	63.50%

Plainly MPACs formed by House and Senate members without presidential plans devote a higher percentage of their receipts to supporting candidates. Moreover, "non-presidential MPACs" contribute a higher percentage of their receipts to candidates than do a selected group of ten ideological PACs (Table 8.5).

[21]Presidential MPACs: Campaign America, Independent Action, Campaign for Prosperity, Citizens for a Competitive America, Democracy Fund, Effective Government Fund, Fund for '86, National Council on Public Policy. See Appendix 3 for more on "Presidential PACs"

Table 8.5: Conventional PAC Spending Habits: Contributions as Percentage of Net Receipts (Minus Presidential PACs)[22]

Election Cycle	Receipts	Contributions	Cont./Rec.
1991-1992	$12,652,197	$2,373,740	18.75%
1989-1990	$12,519,449	$2,282,452	18.23%
1987-1988	$16,603,193	$1,836,247	11.80%
1985-1985	$8,665,624	$1,772,426	20.50%
1983-1984	$12,549,767	$1,759,769	14.00%
1981-1982	$10,551,487	$1,541,285	14.62%
1979-1980	$6,980,769	$1,062,812	15.22%

Source: Federal Election Commission

These figures indicate that MPACs do not devote an excessive portion of their receipts to overhead. From 1983 to 1988, the golden age of MPACs, contributions ranged from 25 to 30 percent of receipts.

Reviewing the most obvious objections to MPACs, it is clear that the greatest danger they pose is not to the democratic process. If anything, MPACs are of a piece with the democratic process, as are all campaign contributions. The total amount of MPAC money has been small, certainly

[22]Americans for Democratic Action, Committee for America's Future, Conservative Victory Club, Democrats for the '80s, Free Congress PAC, Fund for a Conservative Majority, Hollywood Women's PAC, Republican Bossters Club, National Commitee for an Effective Congress.

in comparison to total spending by all PACs. If MPAC money disappeared from the funds available to candidates, little would change.

E. Do MPACs Mislead Their Supporters? Buyer Beware.

The problem of who is the ultimate recipient of a contribution to any PAC, MPAC or otherwise, is frequently raised by campaign finance critics.[23]

Representative Edward Markey's PACs, as Chapter Seven reports, encouraged contributors to think their money would support only a nuclear freeze and anti-contra causes and candidates. When their contributions went to members whose only apparent qualification for support was their membership on (sub)committees that affected Markey's own political and career objectives, contributors were deceived. True, contributors could have studied members' foreign policy votes to identify which ones supported their own views and made direct contributions in that way. The central attraction of Markey's PAC -- and all PACs for that matter which made them objects of praise in the early 1970s -- was that it purported to do this research for them.

Thus the ordinary citizen who contributes political money to promote a certain policy is probably unwise to give to most MPACs. Helping a candidate directly whose position on an issue clearly is the same as the contributor's is safer. However, since money is fungible, the problem is not eliminated. As Chapter Four reports, incumbents have

[23]Edward Zuckerman, interview by author, 2 August 1994.

long dipped into their own campaign treasuries to help needy colleagues. There is no guarantee that the contribution will not be used by the recipient to support as cash-on-hand other candidates whose views the contributor opposes. Even the strictest campaign finance law cannot obviate the contributor's need to stay informed about the candidates he/she thinks he/she supports and to be careful about the candidates to whom he/she gives money. Such is the price of an open, democratic system.

Most MPAC contributors seem unconcerned about the final destination of their contributions, according to Zuckerman:

> You'll find that Dwayne Andreas (Chairman of Archer Daniels Midland) probably gives to Campaign America not because he really cares about who his money ultimately helps. He gives because it makes Dole happy. If he really cared he would earmark his money to a certain candidate he liked. And he doesn't give to all the Democrats he also supports because he hopes the Democrats are in Congress forever, but because he wants to cover his bets and get on everybody's good side.[24]

Goldstein has a similar view:

> (MPACs) don't for the most part depend on the little guys for help. I mean, it's not like they're getting money from the granola crowd to start an environmental PAC and then ... use it to lobby for Exxon.[25]

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[24] *Ibid.*
[25] Joshua Goldstein, interview by author, 12 August 1994.

It seems that most interests that give to MPACs either do not care where the contribution ultimately goes or trust that the MPAC will not give to too many candidates who oppose their interests.

II. The Role of Outside Interests in Internal Congressional Affairs

Another perennial concern is that MPACs increase the influence that outsiders have on the selection of the congressional leadership and committee leadership.

Consistent with the "pluralist model," outside interests have long had an impact on substantive legislative decisions. Only when Congress amended the seniority rule in the 1970s, subjected more party positions to a democratic vote, and limited the number of elective posts one member can run for did interest groups of all stripes start to influence the choices of congressional leaders and committee members in the same manner they had traditionally influenced substantive legislation. This involvement has assumed many forms since the early 1970s. As Chapter Four reports, Ralph Nader's Congressional Group was among the first outside groups to get involved in this democratic process, using critical research reports in 1974 to argue for the removal of four senior Democrats from their committee chairs. Outside contributions to the PACs of legislators who run in particular leadership contest or committee post have also been used.

The more democratic selection methods also encouraged ambitious members to recruit the services of interest groups as part of an "outside campaign strategy" for winning a leadership post. Unlike the inside strategy of treating an election as a "family affair," the outside strategy includes appealing to the media and friendly lobbyists.

The contest between Representatives Waxman and Preyer in 1978 involved not only Waxman's use of an MPAC but also an outside strategy that included urging Waxman allies to ask friendly members to support Waxman's candidacy. Indeed, so effective was Waxman's outside campaign strategy that one observer thought he would have succeeded without the MPAC.[26] (the anger and surprise that erupted in the aftermath of Waxman's PAC donations to colleagues did not extend to his discreet enlistment of outsiders to lobby for his election in the Democratic Caucus. Yet when Representative William Gray employed a similar outside strategy in 1988, he was loudly criticized by the media. Presumably the public way in which Gray did this was what upset political observers.)

The participation of outside interest groups in leadership selection was common by the 1980s, given the new, more democratic procedures. Significantly, whether contributions to MPACs or personal campaign funds of members are involved, the very character of interest groups politics makes it highly probable that the resources of outsiders will be enlisted in all future contests for leadership and committee positions, *unless the straight seniority rule were readopted.*

There is no doubt that MPACs are an unseemly feature of American politics. Is unseemliness alone sufficient grounds for adopting a "better" campaign finance regime when, as this dissertation details, there is little

[26]Edward Zuckerman, interview by author, 2 August 1994.

evidence that MPACs pose the threat to good government that campaign finance critics often claim? As the next chapter argues, there is reason to believe that MPACs and the self-interest they express may in fact help restore the strong party system "without which democarcy is impossible."[27] If this is so, unseemliness may have its own virtues.

[27]E.E. Schattschneider, *Party Government*, p. 3.

Chapter Nine

Premonitions of A Seventh Party System[1]?

There's no question that they (membership PACs) are thriving in the wake of weak parties and (are) also contributing to their continued weakness.

Maybe in the past ... But don't you think it's possible (membership PACs) could actually help the parties in that they can act as sort of a testing place to develop alternative party platforms and ideas? I mean, where do party ideas come from? From out of the blue, or from some rank and file member with a vision that his colleagues decide is good? ... When all is said and done, what's the real difference between what (Representative Newt Gingrich's) GOPAC has done to the Republican Party and, say, Horace Greeley's[2] role in forming the Republican Party. In a sense both are just individuals with visions that they sold to their colleagues.

I've heard Gingrich and GOPAC called a lot of things, but what you just described definitely isn't one of them.[3]

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I. Introduction

A. Restating the Problem

[1]The author accepts Blumenthal's characterization of the post-1968 electoral system as the sixth electoral system, which he calls the "permanent campaign."
[2]Horace Greeley (1811-1872) was the founder and editor of the *New York Tribune* and one of the founders of the Republican Party in 1854.
[3]Exchange between Joshua Goldstein and the author, during which the author suggested that MPACs and strong parties were not necessarily mutually exclusive. Telephone interview, 6 October 1994.

Not a few campaign finance critics contend that FECA in general and MPACs in particular have contributed to the enervation of the two party system. As Chapter One reports, critics charge that FECA has sanctioned a campaign finance system that makes victorious candidates more beholden to the special interests that contribute money to their campaigns than to their congressional parties.[4] This in turn is said to have inclined victorious candidates to champion narrow and unrepresentative causes in Congress, to the detriment of broad party agendas on which the electorate has traditionally depended to simplify complex issues and make informed choices in the voting booth.

MPACs are seen as particularly pernicious to the two party system because, as Chapter Six's empirical findings report, they have provided private interests with yet another opportunity to bypass the campaign committees of the major parties and influence in an unmediated manner MPAC legislators. Thus MPACs increase the sense of obligation legislators feel to special interests and decrease their loyalty to the party program. Moreover, MPACs further weaken the already tenuous party loyalties of legislators who accept campaign money from them. In short, MPACs seem one step closer to the fulfillment of the dire prediction that in lieu of a

[4]According to Larry Makinson of the Center for Responsive Politics, in the 1987-1988 election cycle, incumbent House members seeking reelection collected 45.9% of their revenues from PACs and only 2.1% from party organizations. Incumbent Senate members seeking reelection collected 26.3% of their campaign revenues from PACs and only 4.9% from party organizations. Challenger House candidates who won their races raised 27.7% of their revenues from PACs and only 6.5% from party organizations. Challenger Senate candidates who won their races raised 26.3% of their revenues from PACs and only 4.9% from party organizations. In *Open Secrets: The Dollar Power of PACs in Congress* (Washington, D.C.: Congressional Quarterly, 1990), p. 3.

strong party system, "extremist parties ... each fanatically bent on imposing on the country its particular panacea"[5] will flourish.

As Chapter Five shows, MPACs do not evince a tendency to support candidates of the other party. Moreover, MPACs are more inclined to support challengers than are traditional PACs. Strictly on the basis of their financial contributions, MPACs do not undermine the objectives of the major parties. If anything, MPACs complement the parties.

As Chapter Six suggests, there are also decided limits to what MPAC money contributions can achieve for the sponsoring legislator. Senators Johnston and Inouye, and presumably Mitchell as well, were easily able to match and thus neutralize the contributions each made to Democratic Senate campaigns. It appears that by the late 1980s, the competitive edge an MPAC provided Representative Waxman back in 1977-1978 had been blunted by the proliferation of MPACs and their tendency to cancel one another out.

Still, the view endures that the MPAC is a kind of personal political party that can only hurt an already fragile party system. Where "parties are superior because they must consider the problems of government broadly,"[6] MPACs are inferior because they only consider the narrow interests of their sponsoring legislators and the private contributors who support them.

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[5]American Political Science Association, Committee on Political Parties, *Toward a More Responsible Party System: A Report* (New York: Rinehart, 1950), p. 14.
[6]E.E. Schattschneider, *Party Government* (New York: Farrar and Rinehart, 1942) p. 2.

B. Why the Problem Is Not

This easy indictment of MPACs is possible only when no account is made of the formidable institutional constraints that all legislators must reckon with as members of either the House or the Senate. The hyper-party system that critics fear is on the rise simply is not in a member's self-interest to stoke as long as the satisfaction of his own career objectives depends on his securing a leadership position or powerful (sub)committee chair, an aspiration that itself depends on his party's attaining or retaining a majority of seats in his branch of the legislature. As Cox and McCubbins persuasively argue, for a party to attain or retain a majority of legislative seats, it must evince a high degree of cohesion and solidarity when central elements of the party agenda are up for a vote.

The important -- and routinely ignored -- point, then, is that Fenno's three individual goals *depend* on the promotion of the party's collective goals. As long as this holds true, congressional parties must be far stronger and united than popular opinion often believes. Members of Congress appreciate this better than anyone, and have created "the legislative leviathan" to foster the high degree of party cohesion and discipline that would never materialize in its absence.

But cohesion for what?

Party cohesion is a means to secure a particular set of party ends that is expected to play well back in the member's district and thus help the congressional party on election day. "(P)arty records have at least a 'noticeable' impact on the reelection probabilities of their members ...

there is a common element in the electoral chances of members of the same party."[7]

Cox and McCubbins do not extend their study to include the content of the party record, preferring to analyze why it is in the members' self-interest to have it enacted. Nevertheless, they make two implicit points: (1) party ideas must matter, else the party would not adopt instruments of coercion to make sure they are enacted and (2) because they matter, party ideas must be attractive, else the electorate will oppose the reelection of the member who supported them during the previous congressional session.[8] If these points hold true, the ambitious member should be expected to take a personal interest in defining just what his party's ideas are. After all, his legislative future partly stands or falls on them.

In Cox and McCubbins' conception of congressional behavior, then, "the ends do not justify the means" -- the legislative leviathan is not created only to ensure that the party platform is enacted, end of story. That platform is itself a means to something else. What? The authors say a member's <u>re</u>election. Surely the platform is more than just an instrument for reelection? According to Fenno's legislative cosmology, reelection is desirable only if a legislator's party is already the majority, since power devolves on the majority party. If the party is not the majority, its platform must do more. It must secure the reelection of incumbents and also help challengers get elected.

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[7]Gary W. Cox and Mathew D. McCubbins, *Legislative Leviathan: Party Government in the House*, (Berkeley: University of California Press, 1993) pp. 120-121.
[8]See Chapter One, footnotes 40 and 50 for the details of this argument.

Thus the legislative leviathan's ends -- party ideas and support for them -- are also the *means* for the party to increase its membership in the legislature, not just to return incumbents to office and perpetuate the status quo. Increased far enough and the party will find itself the majority (or a stronger and more capable majority). As a member of the majority party, the ambitious legislator is able to concentrate his energy on leading it, and perforce the entire legislative branch (or at least one house of it). And to lead it, he must show that he helped make his party the majority in the first place. Otherwise his colleagues will have no reason to back his candidacy for a leadership post in the party caucus.

C. Helping Oneself by Making the Party More Attractive

How is the ambitious legislator to do this? In a campaign environment in which the one thing that is not in short supply is money, MPAC money contributions have become less important than they once were. Indeed, given the extent to which incumbent and challenger congressional candidates do not depend on party money to finance their races (see footnote 4), it is quite possible that MPAC legislators in the past have overstated the impact that their money contributions would have on party colleagues. Further, as fundraising in the past decade has become more and more part of the official job description of party leadership posts, caucus members have started to look for unique strengths in a leadership candidate that recommend him over his rivals. Where the question once asked of a candidate was, in effect, "How much money can he raise for my campaign?," the question now asked is "What else can he do for my campaign besides raise lots of money?"

With money no longer a sure way to build a majority, the ambitious member aspiring to lead his house has been left with no other choice except to improve the "voter appeal" of the party platform and provide congressional candidates with non-financial resources that are at least as effective for winning election as money is. The importance of ideas to party politics is thus revealed, and the self-interest an ambitious member has in offering them to his party colleagues crystal clear. Yet not every member has the talent or patience to offer them, and in a single member district system in which victory goes only to the candidate with more votes than anyone else, there simply is not enough "room" for too many competing party ideas.[9] Yet the need for them is there.

D. The Chicken-and-Egg Problem in Congressional Campaigns: Which Comes First, the Ideas or the Money?

The balance of this chapter is an in-depth examination of Representative Newt Gingrich's GOPAC.[10] Unlike the vast majority of MPACs, GOPAC has for the past 15 years furnished campaign training and party ideas to inexperienced Republican candidates running in local, state, and congressional races, *not* money.[11] "While the other members have

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[9]The single member district system is perhaps the most effective protection against the rise of a dangerously fragmented party system. Strong party advocates typically ignore this.
[10]Grand Old Party -PAC
[11]Of the $807,065 that GOPAC disbursed in 1991-1992, only $10,614 was in the form of contributions. In 1993-1994, GOPAC spent almost $2 million, only $100,000 went to House

used well endowed leadership PACs to help them move up in the congressional hierarchy, we (GOPAC) help recruit and train candidates, many of them at the state and local level, and we promote Newt's Republican vision."[12]

Gingrich's "Contract with America," which outlined what House Republican candidates would push for if they were elected in 1994, is only the best known example of GOPAC's emphasis on ideas, not money, to build the congressional majority Newt Gingrich recognized early in his career he would need to become a leader in Congress.

Gingrich has thus used ideas to advance his own self-interest. In doing so, he has, for better or worse, remade a substantial part of the Republican platform and increased the electorate's interest in politics by offering approximately one half the programmatic alternative party advocates assert is a requisite of a robust party system. That Gingrich has accomplished this principally through an MPAC raises the provocative question of where party advocate's think strong parties come from?

Oddly, the strong party literature, alarmed though it is by perceived party decline and committed to its rehabilitation, seldom ventures into technical questions of how parties might be resurrected. When it does, the literature often recommends that campaign finance laws be reformed to

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Republican challengers. As will be seen, most of GOPAC resources go to supporting a ten member full-time staff and running its various training programs.

[12]Cameron Shadron, interview with author, 5 August 1994. During his interviews with current and former GOPAC officials, the author was struck by the combination of awe and intimacy that officials expressed for Gingrich. They almost always referred to him by his first name and frequently spoke of his "vision", "charisma," and "revolutionary ideas." As early as last summer, they unhesitantly predicted that Gingrich would become House speaker in 1995, which the author must confess he thought absolute nonsense at the time.

permit bigger contributions *to* the parties and *by* the parties.[13] That way special interest money will be mediated by the party structure -- be "detoxified" -- and candidates will become more dependent on their party for campaign resources, and thus more loyal to it.

This proposed remedy still leaves unresolved the matter of where parties will find the ideas and programs that newly loyalist legislators are expected to faithfully support.[14] It does not answer, much less ask, the arch question: *party loyalty for what purpose?* It reduces ideas to money and perpetuates the belief that ideas really do not matter in congressional elections. It betrays its own mission to "put the program back into the party."

A related reform proposal is public financing of congressional campaigns. Although its supporters are divided over the particular form public financing should take, almost all of them subscribe to the prevailing theory in political science that challengers do not have to spend as much as incumbents to win, only enough to purchase the advertising

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[13]For example, see Larry J. Sabato, *Paying for Elections* (1989) pp. 48-57; David B. Magleby and Candice J. Nelson, *The Money Chase: Congressional Campaign Finance Reform* (Washington, D.C.: The Brookings Institution, 1990), pp. 150-151.
[14]It also assumes that that the parties are in a precarious financial state, which is by no means certain. A. James Reichley reports that in the 1985-1986 election cycle, "the three major Republican committees disbursed $212 million, of which only $2.6 million went for direct contributions and $14 million for coordinated expenditures. The three major Democratic committees spent $44 million, of which $1.2 million went for direct contributions and $7.9 million for coordinated expenditures." In *The Life of the Parties* (New York: The Free Press, 1992), p. 366. Undoubtedly the parties would have given more had they not been limited by contribution ceilings. It seems a stretch, however, to contend that party income is a problem. The parties are flush with money.

necessary to exceed a minimum threshold of communication with the voters.[15]

Again, the problem is reduced to money. The proposed solution leaves unanswered the arch question: *communication for what purpose?* Ignored are numerous congressional races in which extraordinarily well financed challengers who purchased prodigious amounts of advertising and saturated their political markets have lost to lesser financed incumbents, presumably because what they advertised did not sit well with voters.[16] Seduced perhaps by the catchy aphorism that "the medium is the message," candidates, consultants, and academics have avoided anomalies suggesting that the message sometimes really is the message and that the medium -- costly though it is to secure -- merely transmits it.

The proposed reform also has logical problems. Why would a victorious candidate who received his campaign money from the Federal Election Commission be any more inclined to support his party over his entrepreneurial instincts than the victorious candidate who was financed largely by PACs and other non-party interests? Under each scenario, the triumphant candidate's party has done very little to make him feel "indebted" to it. Indeed, public financing may only rupture whatever

[15]Gary C. Jacobson, *Money in Congressional Elections* (New Haven: Yale University Press, 1980). See also Jacobson's "Money and Votes Reconsidered: Congressional Elections, 1972-1982," *Public Choice* 47 (1985), pp. 7-62.
[16]The most recent example is the 1994 California Senate race, in which challenger Michael Huffington lost to incumbent Dianne Feinstein. Huffington spent approximately $26 million of his own money, compared to the $18 million that Feinstein spent. In the 1982 Minnesota Senate race, department store heir Mark Dayton spent more than $7 million in his losing bid against incumbent David Durenberger who "had to struggle to raise even a small part of that." In Michael Barone and Grant Ujifusa, *The Alamanac of American Politics, 1992* (Washington, D.C.: National Journal, 1991)p. 656. Durenberger won, 53%-47%.

remaining bonds the party now has with its members, and increase the very fragmentation and rampant entrepreneurship its advocates presumably do not want.[17]

Recent congressional developments strongly suggest the conventional wisdom about money and campaigns is plain wrong. Ideas still matter to parties. Until recently, however, few political actors have bothered to test whether this might be so. Most have accepted the conventional wisdom that because money is far more important to congressional campaigns than party programs are, emphasis should be placed on assembling the former.[18]

Can this conventional wisdom be implicated in party decline and the rise of the incumbency effect? Jacobson and Jacobson and Kernell suggest that it can be (see Chapter Five). Since challengers have historically had a difficult time raising sufficient amounts of money to run credible races, the most promising and talented potential challengers -- the ones

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[17]To be sure, there are some advocates who recognize this problem and propose that taxpayer dollars be channeled through the parties. For example, see Larry J. Sabato, *Paying for Elections,* p. 55 and *The Party's Just Begun: Shaping Political Parties for America's Future* (Glenview, IL: Scott, Forseman, 1988), pp. 216-218. However, this proposed solution is not without its own normative problems. Government subsidization of parties, which 12 states now provide, challenges the idea that parties most effectively promote democracy when they are independent organizations pursuing ends that they design for themselves. Government subsidization of parties at a minimum calls into question this independence. Is the tradeoff worth it? Perhaps. But critics and supporters should realize that such a provision is not strictly a campaign finance issue and should not be advertised as such. It touches on issues that go to the core of what a democratic system should be like.

[18]There is much anecdotal evidence to suggest that poorly financed challengers running against well-financed, uncontroversial, seemingly "safe" incumbents can succeed by campaigning on a comprehensive political program. The 1990 Minnesota race may be the most recent proof of this. Challenger Paul Wellstone ran on a clear liberal platform against two term Republican Rudy Boschwitz (whose had an MPAC). Though Boschwitz significantly outspent Wellstone ($6,221,133 to $1,338,708) Wellstone won (50% to 48%).

who are most likely to attract strong financial support -- have refrained from running for office. Consequently, the parties have had to field in far more instances than they would probably admit third-rate, "token opposition" challengers who do not draw money and who may be as responsible for the "incumbency effect" as the incumbent is.[19]

In the mid 1980s, GOPAC reframed the problems over which campaign finance and strong party theorists have long puzzled. Like these theorists, GOPAC was frustrated by the inability of challengers -- in GOPAC's case *Republican* challengers -- to assemble the quantity of money needed to run vigorous campaigns against well-heeled incumbents. Unlike these theorists, GOPAC suspected that Republican candidates were under financed not so much because challengers are a risky gamble but because typically they are so clumsy and unsure of what they stand for that potential financial supporters wisely decide not to waste money on their candidacies. GOPAC saw money as an intervening variable in a campaign puzzle whose actual cause was an absence of political content, party purpose, and campaign skills in challengers. "Strong candidates are made, not born."[20]

GOPAC's solution was to furnish otherwise third-rate candidates with content and ideas, and transform them into the confident, well-prepared Republicans who were part of something bigger and more

[19]In preparing this project, the author was struck by the extent to which the media lionize poorly financed challengers -- the political underdogs. There is no question that many competent, even outstanding, candidates lose owing to financial problems. This does not alter the fact that many incumbents are returned to office either because the voters are pleased with their performance and see no reason to switch or the voters just do not want the challenger to represent them.

[20]Cameron Shadron, interview by author, 5 August 1994.

important than the district-wide issues that Democratic incumbents monopolized. This in turn would attract the money to run robust campaigns, and specifically to purchase the media for which candidates already had a comprehensive message. "We're not about money. That's up to the others. We're about giving contributors a solid reason for helping Republican candidates."[21]

This chapter hypothesizes that GOPAC's approach to campaigns may help solve one of the most persistent and significant riddles bedeviling campaign finance theorists:

> Candidates are given money according to how well they are expected to do, but campaign expenditures have an independent effect on how well they actually do, because without them, the expectation would not be realized. The process is largely recursive because elite perceptions and strategies determine how much is spent in campaigns, and the level of campaign spending in turn determines how much is known about candidates and therefore how much support they actually receive from voters. Elite expectations about how the vote will go are only fulfilled if they do, in fact supply enough money to the candidate.[22]

The problem is expressed more economically by Benjamin Disraeli who, as much as anyone in the history of legislative politics, understood campaign issues: "As a rule, nobody has money who ought to have it."[23] Money matters in campaigns, particularly to challengers. Money's importance notwithstanding, challengers do not need to exceed, or even match, the amount their incumbent opponents can raise and spend in

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[21]Ibid.
[22]Jacobson, *Money in Congressional Politics,* p. 162.
[23]Lawrence J. Peter, *Peter's Quotations* (New York: Morrow, 1977)

order to wage energetic, visible campaigns. Nevertheless, challengers have enormous trouble raising money in the first place.

GOPAC traced the problem back to an absence of ideas, not a shortage of money. Whatever one thinks of its politics and sponsoring legislator, GOPAC offers provocative lessons about the role of parties and ideas in American politics.[24]

II. GOPAC

A. Gingrich's Motivations

Following the 1986 congressional election, most congressional observers, including members themselves, assumed that Democratic control of the House would endure at least into the next century and did little to challenge it. Senior House Republicans, inured after almost 40 years to being the minority, also subscribed to this view.[25] As Chapter Four reports, under the leadership of Robert Michel (R-IL), senior Republicans embarked on a strategy of working constructively with the Democratic majority rather than resisting it in the expectation that the Republicans would develop a responsible governing image. This in turn would increase the appeal of Republican candidates and gradually expand the party's representation in the House.

[24]The author must confess his disagreement with much of Gingrich's politics.
[25]Who could blame them? In the 100th Congress, House Democrats outnumbered Republicans 258 to 177. In the 101st Congress, Democrats outnumbered Republicans 260-175. In the 102d Congress, Democrats outnumbered Republicans 267 to 167. In the 103rd Congress, Democrats outnumbered Republicans 258 to 177. The distribution of seats seemed frozen.

Representative Newt Gingrich (R-GA) rejected this conventional wisdom. "He argued for years that ranking Republicans should fight Democratic bills, not try to compromise with them for a few crumbs in return."[26] Insisting that the Republicans would never have a substantial impact on legislative affairs until they became the majority, and would never become a majority until they offered voters a comprehensive and persuasive alternative to traditional Democratic policy, Gingrich endeavored to raise millions of dollars to develop this alternative and to nurture a dynamic new generation of Republican politicians who shared his political vision and were as committed to enacting it as he was. His plan was to create "a farm team of state and local GOP candidates groomed to one day run for Congress."[27]

To execute his plan Gingrich used an MPAC called GOPAC, the centerpiece of what has been dubbed by the news media as "Newt Inc.," an interlocking set of entities that in recent years has expanded to include a conservative think tank and college course transmitted around the country.[28] According to one GOPAC official,

> GOPAC is a Republican committee dedicated to replacing the welfare state and renewing American civilization by electing a new generation of Republican leaders to federal, state, and local office. We concentrate on training candidates at the grassroots level with aspirations of a Republican majority in the United States House of Representatives after the 1994 and 1996 election cycles.[29]

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[26]Michael Barone and Grant Ujifusa, *The Almanac of American Politics 1994* (Washington, D.C.: National Journal), p. 346.
[27]Jana L. Rogers, interview by author, 3 August 1994.
[28]Peter Applebome, "In Gingrich's College Course, Critics Find a Wealth of Ethical Concerns," *New York Times*, 20 February 1995, C7.
[29]Cameron Shadron, interview by author, 5 August 1994.

GOPAC has assisted many current House members. For example, according to 1994 FEC records, the organization has supported one Robert Wicker. As a young Republican lawyer with no previous political experience, Wicker was elected in 1987 to the Mississippi State Senate in a classically yellow dog Democratic district after receiving GOPAC's campaign and ideological training. Seven years later, Wicker was elected to a House seat that had been held continuously by Democrats since Reconstruction, making him part of "the historic Republican tide that captured the House for the first time in 40 years"[30] and precipitated Gingrich's rise to House speaker.

Gingrich has used GOPAC to raise money and propound a distinctive conservative ideology. To its admirers, GOPAC is principally responsible for the Republican takeover of the House and, to a lesser but considerable extent, for the Republican takeover of the Senate. There is much truth to their claim. GOPAC officials report that 40 candidates who ran for the House in 1994 at some point in the prior eight years had been members of the GOPAC farm team. 33 of them went on to win their races, out of a total of 73 freshman Republicans elected in 1994 (or 45% of all new Republicans). Most of the other winners, while not graduates of the farm team, participated in GOPAC's training seminars and received its campaign and ideological materials. This figure is on top of the assistance GOPAC has rendered to victorious Republican candidates in previous

[30]Howard Fineman, "Revolution of '94: Revenge of the Right," *Newsweek*, 21 November 1994, p. 38.

elections. During the 1991-1992 election cycle, for example, all but two of the 47 Republican freshmen received campaign and ideological training from GOPAC.[31]

At the same time, GOPAC helped expand Republican representation in the state legisatures. In 1994, the GOP won its largest number of new state legislative seats in 28 years. Republicans, who held the majority of both houses in only eight legislatures going into the election, now control 19 state legislatures. Democrats, who had controlled 24 legislatures, now control 19. Control is divided in the remaining 11 state legislatures. In the 1994 election, the GOP emerged with a net gain of 469 state legislative seats. According to GOPAC, almost all of the first-time winners participated in the organization's training seminars.[32]

Critics contend that GOPAC and related Gingrich enterprises have broken the spirit and intention of several campaign finance laws. They have brought a complaint before the House Ethics Committee alleging that Gingrich has illegally used hundreds of thousands of dollars of tax exempt dollars to finance a partisan college course. Notwithstanding the outcome of the ethics review, it is fair to report that no politician in recent history has commanded such an expansive political enterprise -- or anything so close to a party within a party.

In addition to GOPAC, Gingrich oversees the Progress and Freedom Foundation, a think tank directed by the representative's closest intellectual advisers. At the moment, it is preparing plans to revamp the

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[31]Cameron Shadron, interview with author, 5 August 1994. The two who refused GOPAC's assistance were from New York.

[32]Jana Rogers, interview by author, 27 December 1994.

Food and Drug Administration. The foundation also underwrites Mr. Gingrich's weekly call-in program on National Empowerment Television, a conservative cable network.

The Progress and Freedom Foundation also finances a college course taught by Gingrich called "Renewing American Civilization," which is transmitted by satellite to more than 130 classrooms across the country and is the subject of the ethics charges mentioned above. Gingrich protests that the course is strictly nonpartisan and thus within the pale of the law.[33] However, a Gingrich advisor circulated a fundraising letter in 1993 that said the course sought "to train, by April 1996, 200,000 citizens into a model of replacing the welfare state and reforming our government."[34]

Each enterprise -- GOPAC, the college course, and the foundation -- has raised its money from an overlapping pool of businessmen, investment bankers and other longtime supporters of Gingrich, most of whom are not listed in FEC reports or subject to federal campaign contributions limits because they contribute to the "non federal" branch of GOPAC (see Chapter 5 footnote 8 for an explanation).

[33]Gingrich lectures on many of the same topics he raised during the 1994 congressional election: that the nation is decaying and must adopt radical measures to restore individual opportunity and prepare for a new age based on information, not industry. The overall goal, he says, is to transform the welfare state into what he calls an opportunity society.

Ben Jones, Gingrich's opponent in the 1994 election, contends in the ethics complaint that the course, which is paid for by tax-deductible contributions, is partisan and therefore should not have been subsidized by taxpayers. He also charges that Gingrich improperly used his House office and employees to support the course.

Gingrich says that the lectures are academic and non-partisan, in that they do not advocate a particular political system but explore Gingrich's thinking about society and civilizations.

[34]Peter Applebome, "In Gingrich's College Course, Critics Find a Wealth of Ethical Concerns," *New York Times*, 20 February 1995, C7.

The Republicans won control of the House and Senate in 1994 for several reasons, not the least of which were the failings of Clinton and congressional Democrats. Important Republicans attribute much of their success to the efforts of GOPAC and Gingrich, its general chairman, who in 1994 campaigned in 127 congressional districts, in which Republicans won 47.

"Newt is clearly the visionary behind the (1994 Republican) revolution, and GOPAC is what brought it about," according to GOPAC's former training director. "Up to 80 percent of the new (Republican) members benefited from GOPAC activities -- tapes, seminars, meetings."[35]

B. GOPAC's Development

GOPAC's history deserves mention. Established in 1979 by former Delaware Governor Pierre "Pete" du Pont, GOPAC had already developed the farm team approach to local candidates when Gingrich inherited it in 1986 as Dupont was preparing to run for president in 1988. "GOPAC was established by Pete (Dupont) to develop and grow a Republican farm team on the state and local level that would acquire the experience to run one day for Congress. Until 1990, it had no federal component because it existed only to help state and local Republican candidates."[36] However, "under Pete Dupont, GOPAC threw around and wasted enormous amounts of money on GOP races around the country."[37]

[35]Jana L. Rogers, interview by author, 3 August 1994.
[36]June Weiss, interview by author, 26 August 1994.
[37]Jana L. Rogers, interview by author, 3 August 1994.

Central to GOPAC's strategy has been the generous financial support it has received from "people who ... are Republican ideologues."[38] Since Dupont's tenure they "have shared a genuine belief that control of the House is the only way for the party to make a difference and believe GOPAC is the best way to get there. We've won the presidency time and again, but lets face it, the House initiates all spending and taxing bills. That's where the power is, that's where the money is, and GOPAC has been the only one with a plan."[39]

Gingrich's commitment to build on and perfect the "farm team" approach that Dupont innovated accounts for why Dupont bequeathed it to him in 1986.

> To understand GOPAC's approach, you have to remember that Newt lost two races for the House (in 1974 and 1976) before he finally won in 1978. He was a college teacher with absolutely no political experience and with only a slight sense of what his politics were all about. He made a lot of dumb mistakes in his races, was caught off guard, sometimes had trouble explaining details ... He sometimes looked and sounded pretty bad. His experience taught him that campaign money was important, but only if you (the candidate) had something to present. His view was that the money would come if you sounded like a winner. That meant having a ready made, off-the-shelf plan that covered everything and (a) set of answers.[40]

Gingrich's first attempt to advance his own legislative career by helping conservative candidates occurred when he formed his own MPAC in 1983, the Conservative Opportunities Society. Gingrich did not have an

[38]June Weiss, interview by author, 26 August 1994.
[39]*Ibid.*
[40]Jana L. Rogers, interview by author, 3 August 1994.

easy time capitalizing it, no doubt because in 1983 he was a relatively junior member of the minority party who seemed too far to the right and too obstructionist ever to have an impact on legislation.[41] As this and other studies report, contributions tend to favor members with power and promise. In 1983 Gingrich seemed to have neither.

By inheriting GOPAC, which under Dupont's considerably less abrasive stewardship had developed a reliable base of financial support, Gingrich was given a second chance to try his approach. In 1987 he did so for the first time in the Mississippi State legislative races. Like the college professor he once was, Gingrich conducted a one day seminar in which he instructed inexperienced candidates on the art of running for office, according to Jana L. Rogers, GOPAC's political training coordinator from 1990-1993. GOPAC operatives recorded the lecture, edited it down to four hours, and started to distribute the film to other GOP candidates. So successful was this that GOPAC began producing shorter audio tapes that carried campaign instruction and topical information.

According to June Weiss, several members of the Mississippi farm team reported that the best advice they received was to deliver political literature to the same residence three weekends in a row and then distribute a sample ballot on the final weekend to those same homes.

Soon after the Mississippi state elections, GOPAC began distributing its tapes unsolicited to promising Republican candidates for state and local

[41]Gingrich's reputation as a conservative ideologue, congressional iconoclast, and "bomb thrower" was cemented in 1983 when he appeared on CSPAN's coverage of House special orders to excoriate House Democrats for their support of various polices. This led to a famous confrontation with then Speaker O'Neill.

races across the country. "Since 1987, GOPAC has provided training seminars for thousands of Republican activists in nearly every state of the union," according to Cameron Shadron. "GOPAC has given help to thousands of campaigns around the country: county commissioner candidates, candidates for state legislatures, etc."[42] One was Daniel Frisa, a New York State Assemblyman who said the tapes began arriving out of the blue a few years ago, at no cost to him. "I began to look forward to them," commented Frisa, who was elected in 1994 to Congress and is one of the 33 freshmen identified by GOPAC as a graduate of its farm team.[43]

C. Individual Goals and Collective Goals as Mutually Inclusive

By 1989, Gingrich's party activities began to yield significant personal dividends. His confrontational style, distinctive conservative program, and unwavering support of conservative candidates around the country made him the leader of a cadre of similarly minded House Republicans. In March 1989, following Minority Whip Dick Cheney's (R-WY) appointment to be Bush's Defense Secretary, Gingrich entered the race to succeed him against Edward Madigan (R-IL). As the ranking Republican on the House Agriculture Committee and the Health Subcommittee, Madigan had cooperated with the Democratic members in shaping policy. He personified as much as anyone the old-guard, conciliatory brand of Republicanism that Gingrich detested and had

[42] Cameron Shadron, interview by author, 5 August 1994.
[43] Telephone interview by author, 6 December 1994. The author thanks Jana Rogers for making this interview possible.

committed himself to overthrowing. A member with six years of seniority over Gingrich, Madigan was next in line on the leadership ladder and had the strong support of Minority Leader Robert Michel, and most of the older Republicans who were steeped in the same conciliatory approach to House politics.

The whip race was nothing so much as a generational faceoff between two starkly opposing views concerning the direction in which the congressional party ought to head. "A battle between the moderate old guard and the Republican Party's younger, more confrontational wing," Madigan's obituary noted in December 1994.[44]

As part of his leadership bid, Madigan had formed a conventional MPAC, "the 15th Congressional District PAC," that was no match for GOPAC. Gingrich won the race 87 to 85, "a narrow victory but a decisive one, for the ranks of his opponents started to thin, starting with Madigan himself who pulled strings to become secretary of agriculture, and the number of Gingrich's kind increased in Republican ranks."[45]

D. GOPAC in the 1990s

By the early 1990s, GOPAC's training videos had become more sophisticated. They offered case studies of successful campaigns -- how they were organized and financed, how they exploited opponents'

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[44]"Edward Madigan, Agriculture Chief and Lawmaker, 58," *New York Times*, 9 December 1994, A17.
[45]Barone and Ujifusa, *The Almanac of American Politics 1994*, p.346.

weaknesses, how they raised money from PACs, how they appealed to minority voters.[46]

> Republican candidates are eligible to receive these training tapes free of charge. These tapes provide candidates and their staffs campaign techniques and tips, current issue information, Republican vision, and the means with which to articulate the message to the voter. Candidates very much appreciate (the tape series). They can pop them in the (car's) tape deck while campaigning across the district. They get one heck of a good use from them.[47]

Besides audio and video tapes, GOPAC produces an enormous quantity of published material that details many of the issues on which the tapes can only touch. The centerpiece of this written material is *Flying Upside Down: What Flies, and What Doesn't in a Challenger Campaign.* "The manual aims to alleviate (campaign mistakes. It understands and realizes that challenger candidates make expensive mistakes that have been made before. It essentially documents these mistakes and suggests to candidates how to avoid them."[48] Furthermore, the manual furnishes a political vocabulary for the candidates. It suggests they use terms like

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[46]For example one tape, "Mayor Bret Schundler: Citizen, Activist, Candidate, Winner" features Jersey City Mayor Bret Schundler who, with GOPAC's training, became "the first Republican mayor to be elected in 75 years in the heavily Democratic Jersey City, NJ. He won in a special election with 19 candidates. Bret shares his winning grass-roots strategy with you." Shundler, a white Republican, ran in a city that is 72% minority. In the tape Schundler reports that "there are some specific ideas which I got off the GOPAC tapes, which I thought were great ideas, so I made them part of my pitch." Schundler is a classic product of the farm team. Prior to his mayoral campaign, Schundler had been a Manhattan investment banker without any political experience.
[47]Cameron Shadron, interview by author, 5 August 1994.
[48]*Ibid.*

greed, decay, liberal, devour, waste, and corruption to describe the Democrats and government.[49]

Most interesting, since the late 1980s, GOPAC has counseled candidates for the House to focus on national political trends, not local bread and butter issues that have long been the accepted way to run for the House. By nationalizing local races, GOPAC turned voters' attention away from the Democrats' proven record of "bringing home the bacon" and focused it on issues that Republicans are widely perceived "to own:" deficit reduction and fiscal restraint, crime control and prevention, workfare, and family values.[50]

GOPAC does not confine itself to videos and manuals to train candidates. "Newt's fervent belief in the 'technological revolution' to promote GOPAC's cause"[51] led to GOPAC's adoption of a variety of electronic means to conduct training.

i. The "Thursday Evening Teletraining Program": Process and Purpose as One and the Same

Most important is GOPAC's "Thursday Evening Teletraining Sessions" that in 1994 ran from May 5 to October 27. It is a Thursday evening one way conference call to Republican candidates in which

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[49]Joseph Gaylord, *Flying Upside Down: What Flies, and What Doesn't, in a Challenger Campaign* (Washington, D.C.: Gopac, Inc, 1991)pp. 39-40
[50]See John R. Petrocik for more on "issue ownership."
[51]Cameron Shadron, interview by author, 5 August 1994. Since becoming House Speaker, Gingrich's penchant for technology has become well known.

Gingrich and a guest discuss substantive issues facing Congress. According to GOPAC:

> GOPAC's teletraining service is the pioneer in technology to campaigning, and empowers candidates with the knowledge necessary to overcome the hurdles of a Congressional challenger campaign. Since 1991, GOPAC has used teletraining as an effective means of mass education. In 1992, GOPAC conference calls hosted hundreds of candidates and had over 40 speakers. Our instructors are some of the most respected trainers in politics, and are invaluable resources for all candidates and senior campaign staff. Participation in our course is open to candidates, spouses, campaign managers, finance chairman, press secretaries, volunteer coordinators and senior campaign staff ... *Through the teletraining program, GOPAC hopes to facilitate a national dialogue premised on vision and message, and generate a flow of information, experience and resources that encourages an unprecedented level of cooperation and competitive advantage among Republicans across the nation* (italics added).[52]

During the teleconference sessions, "Newt generally speaks for the first ten minutes, then turns the floor over to the featured speaker who (sic) he personally selects, who is recognized by the party as an expert on the policy and political dimensions of the given subject."[53]

The weekly guest is often selected on the basis of a prominent issue that is about to be voted on by the House so that Republican candidates participating in the teleconference session can receive instruction on the details of the issue and learn different ways to "discuss (it) in an informal, confident, and expert manner"[54] at the very time voters are most likely to

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52"Commitment to Candidates," GOPAC: The Education and Training Center for Renewing America.
53Jana L. Rogers, interview by author, 4 August 1994.
54*Ibid.*

know something about the issue and raise it during campaign question-and-answer sessions.

When Congress was in the midst of debating and ultimately defeating the Clinton Administration's health care reform package in the July and August 1994, the teleconference featured a series called "Winning the Healthcare Debate." Included in it were Republican health care experts -- physicians, policy analysts, and politicians -- who explained why Clinton's plan was flawed, how candidates could run against it without appearing insensitive to people without health insurance, and detailed how the Republicans would address the issue in Congress.[55] The series "clarified various (Republican) health policy proposals and recommended ways that candidates can highlight these revolutionary new approaches in clear, concise terms that convey the true merit of these initiatives versus the Clinton Health Plan."[56]

Other topical issues featured in the program, which in one form or another found their way into the "Contract with America," were "The Empowerment Agenda" in which former House and Urban Development Secretary Jack Kemp discussed "his pioneering work in breaking the cycle

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[55]The most prominent of these guests was former Representative Willis D. Gradison (R-OH), who was the ranking minority member on the Health subcommittee of the Ways and Means Committee and as such the Republicans' health expert. He retired in 1993 to become head of the Health Insurance Association of America and helped spearhead the opposition to Clinton's health reform proposals. Other featured guests were Dr. Gail Wilensky, an official at Project Hope, and Drs. John Goodman and Merill Matthews of the National Center for Policy Analysis, who briefed candidates on the technical and medical aspects of the health care system.

GOPAC's approach to health care was not unique. For every issue it covers in the teleconference sessions, GOPAC makes sure that political and technical experts are scheduled to discuss all the issue's details. It tapes all the sessions and provides them at no charge to candidates who could not participate.

[56]From "The GOPAC Teletraining Program: 1994 Course Catalogue," p. 8.

of poverty and welfare through such programs as urban enterprise zones, tenant management, and ownership , and other recent initiatives;"[57] "Workfare -- the Alternative to Welfare" which included "an analysis of current welfare programs and showed that we have created a system that encourages dependency, discourages work, and destroys families. The Republican solution, workfare, is favored 80:10 by virtually every voter group. Governors Tommy Thompson and John Engler review the policies and programs they have pioneered to re-establish basic American values as the driving principles behind our efforts to help those in need of temporary assistance."[58] Also included were "What Drives Economic Growth," "Framing the Tax Issue in Your Campaign," "The Deficit," "Education Reform: What It Means for Your Children," and "Retaking Control through Term Limitations."

Though Gingrich is fond of "subcontracting out" policy themes to party experts who have passed muster with him, he is a constant presence in the audio and visual tapes and in the teleconference sessions. This reinforces to candidates that GOPAC and the political program it espouses are Gingrich's creation, not the Republican Party's.[59] Thus Gingrich has lectured on such diverse topics as "Playing to Win: Core Strategies for the Closing Weeks" in which he exhorts candidates not to become

[57] *Ibid.*, p. 7.
[58] *Ibid.*, p. 8
[59] In the author's conversation with Campaign America's Suzanne Niemela Hellman, Hellman allowed that part of GOPACs effectiveness was almost certainly due to the fact that it is built around the vision of one person, not a national committee. The NRCC also runs a candidate school (as do all the party committees), but it mostly deals in campaign strategies and procedures, not content. It is also highly bureaucratized.

complacent, and "The Necessary Revolution: Replacing the Welfare States" in which he expounds on his vision of

> a peaceful political revolution ... to replace the welfare state, from the school boards up. We will fight for a revolutionary program that leads to the replacement of the welfare state with an opportunity society. We will be active, engaged citizens and insist on a revolutionary program.[60]

As the passage indicates, Gingrich frequently speaks in lofty, general terms. However, he is just as likely to lecture on the technical details of the issue at hand. GOPAC's published materials also provide technical instruction so that candidates

> can use letters to the editor, radio call-in shows and other opportunities to explain why the welfare state is so destructive and ... get (their) local Republican party to adopt a platform endorsing The Necessary Revolution and calling for the replacement of the welfare state.[61]

In effect, GOPAC has sought to reinvent the Republican party from the ground up.

On an average Thursday evening, anywhere from 200 to 300 candidates from across the county call GOPACs Washington headquarters to receive the call, which can last anywhere from 35 minutes to an hour. If the featured guest is unable to travel to GOPAC to broadcast his lecture he "can call in to GOPAC from anywhere he is traveling to serve as a guest.

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[60]"The Necessary Revolution: Replacing the Welfare" (GOPAC audio tape and pamphlet, 4 December 1991).
[61]*Ibid.*

Since many of GOPAC's guests have active political schedules, this allows them to 'appear' without being hampered."[62] One purpose of the program, according to Jana L. Rogers, is "to send out a strong message to both GOP candidates and the voters that the party is unified, organized, and absolutely supportive of its candidates ... It shows that we are united, organized, that we have a game plan we all stand behind and understand."[63]

The program is expensive to run. However, it is the cheapest and most practical way to keep in steady contact with candidates in 435 districts.

ii. Daily Training Session

Second, there is GOPAC's "Daily Training Session," conducted everyday except Monday. This is a teleconference in which GOPAC furnishes support to candidates around the country. The subjects of these sessions alternate between procedural matters and substantive matters. Among the procedural issues discussed are polling, media buying, and FEC legal compliance. It is tailored to the needs of particular races. "It discusses state-specific strategies, focusing on a state's strategies and issues."[64]

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[62]Cameron Shadron, interview by author, 5 August 1994.
[63]Interview by author, 7 August 1994.
[64]*Ibid.*

E. Conditional Empirical Findings

While it is next to impossible to prove that GOPAC's strategy of using campaign and ideological training to make Republican challengers more attractive to potential contributors has succeeded, recent campaign finance history indicates that it has not hurt.

As Table 9.1 shows, the campaign spending gap between the average Democratic incumbent and the average Republican challenger has narrowed considerably since the 1987-1988 election cycle. Yet FEC records indicate that the Republican Party in 1994 was no more successful in persuading traditional PACs to support challengers more generously than they had in previous elections. PACs continued to hew to a conservative strategy of supporting predominantly incumbent candidates.

Table 9.1: The Fundraising Gap Narrows

Election Cycle	Dem. Incumb.	Rep. Challenger	Ratio
1993-1994	$607,123	$235,437	2.57:1
1991-1992	$553,661	$182,129	3.40:1
1989-1990	$440,200	$107,463	4.10:1
1987-1988	$415,685	$96,185	4.32:1

Source: Federal Election Commission

To be sure, there were approximately 21 Republican challengers last year who spent or "loaned" to their committees at least $100,000 of their own money, suggesting that the narrowed gap has reflected the unusually large number of independently wealthy challengers.

Significant to this study, however, is that *only four* of these independently wealthy candidates were also among the 40 challengers who had graduated from GOPAC's farm team at some point in the last eight years. Three of these candidates won their races. This means that the remaining 30 farm team graduates won in November despite an inability to finance their campaigns out of their own pockets.

Part of their money seems to have come from pressure that Gingrich and Bill Paxon (R-NY), the 1993-1994 chairman of the Republican Congressional Campaign Committee, reportedly put on Republican incumbents to share their prodigious campaign resources with challengers (in a move reminiscent of the old southern Democratic system, see Chapter Four). A good deal of their money also seems to have come from sources they had depended on when they occupied state and local elective offices, offices that they won in large part because of the political training they received from GOPAC at the start of their political careers, when they were political novices. Still more money came in the form of small contributions.

Though more analysis is needed before any definitive conclusions can be reached, it can be tentatively suggested that GOPAC equipped inexperienced young candidates with qualities that helped elect them to lower, "less difficult" political offices. Once in office, they were able to develop a stable of local political contributors. This core financial group, buttressed by Gingrich and Paxon's "shakedown" of Republican incumbents and the stronger than usual financial support these candidates received from other sources during the 1994 election, allowed farm team graduates to purchase the threshold of communication they needed to wage a viable campaign. Equipped with GOPAC's training, and benefiting from mass disenchantment with the Democrats that Gingrich helped sew, they were able not only to communicate, but communicate a compelling vision. In the chicken and egg game of what comes first, money or ideas, GOPAC suggests that it is ideas.

III. Conclusion: Implications for the Party System

"GOPAC is important because it does give an ideological framework for a lot of candidates," said Ronald Pearson, the director of the Conservative Victory Fund. "The Party was never good at this, in fact shied away from this."[65]

This seems to be the crux of the problem facing the American party system. If Pearson's analysis is correct, and applies as much to the Democratic Party as it does to the GOP, the two parties have lost their appeal because they have focused on process rather than content.[66] They

[65]Interview by author, 3 August, 1994.

[66]This is a criticism also directed at the news media, which for several years have favored campaign stories dealing with strategies, staff, and so on, not the issues. Since the media cover the parties, and the parties have themselves preferred process to policy, perhaps this criticism of the media is unfair. Content will return to the media's coverage once it has been restored to the parties.

have embraced one popular definition of parties that says parties exist to win elections and have forgotten that to win they must have something to sell. "The evolution of a basically partyless electorate"[67] may be a consequence of this preoccupation.

This chapter argues that there may be limits to how empty American politics can become before the same entrepreneurship that drained it starting a generation ago sees a big payoff replenishing it in the next one. If this is so, one must ponder Burnham's observation that if "partisan decomposition continues ... democracy will be progressively emptied of any operational meaning as executive-bureaucratic imperatives come to dominate the political system"[68] and ask if the political market can tolerate partisan decomposition for only so long before the imperatives of winning elections demand that it be stanched and reversed with actual programs. The parties may be far more robust than the current system suggests.

The startling results of the 1994 election may indicate that the "sixth party system of dealignment" is about to make way for the seventh one in which the parties once again offer programmatic alternatives as a means to rally support and secure power. If this is so, GOPAC may have initiated the destruction of the current system by showing that ideas and campaign skills are central to winning.

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[67]William J. Crotty, *American Parties in Decline* (Boston: Little, Brown, 1984), p. 276.
[68]Walter Dean Burnham, "American Politics in the 1970s: Beyond Party?," In Loise Maisel and Paul M. Sacks, eds., *The Future of Political Parties* (Beverly Hills, Calif.: Sage Publications, 1975), pp. 272.

Democrats determined to regain control of the process will probably have to do for their party what Gingrich did for his: confront the complacency of the old guard with something that promises to be fresh and compelling to voters. They must also construct an alternative to the emerging Republican program, not echo it. For moderate Democrats believing the party's liberal wing is culpable for 1994's staggering losses and needs to be contained, this may prove unwelcome news. The party's electoral salvation may lie in the liberal issues it "owns," provided party theoriticians more skillfully define them than they have to date.

If Democrats respond programmatically before Gingrich and his lieutenants have managed to purge the House of moderate Republicans who do not feel indebted to him, consolidate their control over the House, and extend their influence to the Senate,[69] contributors whose own assumptions about incumbency were shattered last fall may be inclined to gamble money on challengers more than they have in the past. With a sharply increased fluidity of money replacing the ossified pro-incumbent pattern of the previous system, more competive congressional elections might occur. Should this happen, the current campaign finance regime may not be as bad as many have said.

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[69]Gingrich ignored seniority last January when he selected (sub)committee chairs, promoting members sympathetic to his goals over more senior moderates. Despite this, moderates are resisting specific elements of the Contract with America, even though farm team graduates have remained united in their support of it. Senate Majority Whip Trent Lott (R-MI) is an ally of Gingrich who defeated Alan Simpson last fall in the whip race, despite Majority Leader's Dole's endorsement of Simpson. At least one freshman senator, Rick Santorum (R-PA), is a farm team graduate who strongly supported Gingrich during his four years in the House (1991-1995).

Whether Democrats will use MPACs in a manner Gingrich did is unclear. What is clear is that GOPAC saw and exploited opportunities in the sixth party system no one else did.

Chapter Ten

The Limits of Campaign Finance Reform in a Democratic Environment

In brief, the only way to terminate outside involvement and campaign money in congressional leadership races is either to discontinue the use of democratic procedures in the party caucuses and restore the strict seniority rule, or lodge the selection power in a handful of party leaders. Axiomatic of any democratic procedure are campaign strategies that require money and other resources to be carried out. The best way to end the influence of money over elections is to eliminate not money but democratic elections.[1] How desirable would this be?

To be sure, outside interests' involvement in internal congressional matters raises questions of propriety and conflict of interests. Just as lobbyists and traditional PACs tend to support any incumbent with influence over legislation that concerns them, they are similarly inclined to support incumbents on track to a leadership position.

Much of the money Henry Waxman's PAC raised in 1979 came from PACs representing the health care industry with a profound commercial interest in who chaired the health subcommittee. The existence or non- existence of MPACs and member-to-member

[1]There is also public financing of campaigns. Government subsidization of parties, which 12 states now provide, challenges the idea that parties most effectively promote democracy when they are independent organizations pursuing ends that they design for themselves. Government subsidization of parties at a minimum calls into question this independence. Is the tradeoff worth it? Perhaps. But critics and supporters should realize that such a provision is not strictly a campaign finance issue and should not be advertised as such. It touches on issues that go to the core of what a democratic system should be like.

contributions would not have altered the fact that the health care industry had a material concern in who presided over the subcommittee. Provided the industry's concerns remained intact, it would have found other ways to influence the outcome, with or without Waxman's PAC.[2] Too much was at stake in this decision for the industry to accept passively the outcome.

Furthermore, Waxman aspired to the post. His ambition presumably would not have waned had FEC laws prohibited him from forming an MPAC. He would merely have pursued it in some other way, provided the selection methods remained essentially democratic.

There are limits to what a campaign finance regulatory regime can achieve in a culture in which politicians are ambitious, people have a constitutional right to protect and promote their interests, elections are democratic, and money is fungible. MPACs highlight this culture. However, neither MPACs nor the Federal Election Campaign Act and its amendments that formalized MPACs are responsible for this culture.

There is no question that MPACs soil the image that Congress displays to the public. They appear to promote the creation of personal power centers that act as rivals to the party leadership. MPAC contributions to colleagues, moreover, are not made merely to influence votes in leadership contests. At least in theory, they can be used to influence legislation, just as any PAC contribution cam. PAC money might decrease the independence of the recipient. Or it might not. As members who have MPACs increase the number of people they contribute

[2]Bribes to committee members? Why not?

money to, MPAC legislators seem to become increasingly independent of the leadership of Congress, making it harder for the leaders to set the agenda for Congress.

This dissertation has demonstrated that these concerns are largely unsupported by the evidence. First, there are decided limits to what straight money contributions can achieve for an ambitious political player. As the 1988 Senate majority leader's race suggested, MPAC contributions can cancel one another out. The alternative "brokered" contributions, unseemly though the are, will endure as long as the American political system remains largely open and free of repression.

Second, as long as legislators depend on a high degree of congressional party cohesion to advance their own careers, a feature that will likely endure as long as the single member district, "winner-take-all" system structures federal elections, legislators cannot afford to become too independent of their parties and leaders. Indeed as Gingrich's GOPAC shows, ambitious legislators might find it in their interest to remake the party in their own image and help candidates get elected.

****

MPACs are part of a larger image problem from which Congress suffers concerning how congressional campaigns are financed.

The abolition of MPACs alone would not restore the reputation of Congress. But as a larger package of reform -- including a new comprehensive campaign regime -- would Congress succeed in transmitting a more positive image? Appearances in politics are significant, and a citizen who sees a legislator or outside interests making contributions to member as part of a campaign for a post or to "buy" access might conclude that the donation was part of a *quid pro quo.*

Although party caucus votes on leadership positions are conducted by secret ballot, FEC mandated reports leave ample room for observers to make inferences about the motivations of members who contribute to other members. Perhaps this is the best that can be expected of a campaign regulatory system: making readily available to the public the financial records of all candidates for public office so that it can decide for itself whether a candidate has allowed campaign contributions to unduly affect his service to the public weal. Indeed, exposure is one of the central pillars of the current system. If it has not worked as well as its supporters anticipated, it is because most of the voting age population has not availed itself of the information to learn more about candidates. Plainly voters have a right to be ignorant of candidates in a democratic system. Yet if this is so, should the government adopt more elaborate measures to compensate for its ignorance? Democracy presumes an informed, engaged, and willful citizenry. Term limits, public financing of campaigns, outlawing PACs, and so on call into question this presumption.

While there is no evidence that MPACs purchase votes, it is difficult for the public to avoid concluding there is a *quid pro quo,* even if there is not one. But would prohibiting MPACs and adopting a stricter campaign finance regime than FECA reform behaviors that lead to unseemly appearances, or merely encourage them to assume a new guise?

As MPACs suggest, the price of democratic elections are campaigns, and campaigns cost money, whether they are conducted inside or outside Congress. Perhaps it is the duty of the electorate to learn that not everything that is "ugly" in American politics is perforce bad, and may in fact be an unavoidable symptom of a political or social value that is itself very dear.

Appendix 1
MPAC Growth

Year	# of MPACs
79-80	7
81-82	23
83-84	42
85-86	64
87-88	63
89-90	49
91-92	47

Appendix 2
MPAC Legislators, 1978-1995

* Affiliated with legislator who has run for president (or is running at the time of this writing)

@ Affiliated with legislator who once served in the California State Assembly, purportedly the first place where MPACs existed.

Affiliated with legislator who won a leadership position after forming an MPAC.

+ Affiliated with legislator who formed an MPAC after serving as chair of his party's congressional campaign committee.

****

Anthony, Rep. Berryl (D-AR)	Democrats for the Future +
Armey, Rep. Dick (R-TX)	Policy Innovation Committee #
Biden, Sen. Joseph (D-DE)	Fund for '86 *
Bond, Sen. Christopher (R-MO)	Heartland PAC
Bonior, Rep. David (D-MI)	PAX Americas #
Boschwitz, Sen. Rudy (R-MN)	Plaid PAC
Bradley, Bill (D-NJ)	Participation 2000
Brown, Rep. George (D-CA)	USA Committee @
Cambell, Rep. Carrol (R-SC)	Victory America
Cheney, Rep. Dick (R-WY)	Alliance America #

Clay, Rep. William (D-MO)	Congressional Black Caucus
Cochran, Sen. Thad (R-MS)	Senate Victory Fund #
Coleho, Rep. Tony (D-CA)	Valley Education Fund # +
Conyers, Rep. John (D-MI)	Parker/Coltrane PAC
Courter, Rep. Jim (R-NJ)	Fund for Repsonsible Leadership
Crane, Rep. Philip (R-IL)	America for Constitutional Congress *
Cranston, Sen. Alan (D-CA)	Committee for Democratic Consensus *
Danforth, Sen. John (R-MO)	Fund for the Future Committee
DeConcini, Sen. Dennis (D-AZ)	Arizona Leadership Fund
DeLay, Rep. Tom (R-TX)	American Republican Fund #
Denton, Sen. Jeremiah (R-Al)	National Forum
Dole, Sen Robert (R-KS)	Campaign America *
Dornan, Rep. Robert (R-CA)	American Space Frontier; American; Citizens for Political Action
Dreier, Rep. Dave (R-CA)	97th Club
Dymally, Rep. Mervyn (D-CA)	Carribbean PAC; Independent PAC @
Fazzio, Rep. Vic (D-CA)	Victory USA @ +
Flippo, Rep. Ronnie (D-AL)	Responsible Government Fund
Foley, Rep. Thomas (D-WA)	House Leadership Fund # +
Frost, Rep. Marvin (D-TX)	Lone Star Fund +
Gephardt, Rep. Richard (D-MO)	Effective Government Committee * #
Gingrich, Rep. Newt (R-GA)	GOPAC; #

	Conservative Opportunities Society; Conservatives for Hope
Glenn, Sen. John (D-OH)	National Council on Public Policy
Gramm, Sen. Phil (R-TX)	Leadership America * +
Gray, Rep. Bill (D-PA)	Committee for Democratic Opportunity #
Green, Rep. William (R-NY)	Modern PAC
Harkin, Sen. Tom (D-IA) and Rep. Morris Udall (D-AZ)	Independent PAC *
Hatch, Sen Orrin (R-UT)	Committee for Republican Leadership; Capitol Committee
Helms, Sen. Jesse (R-NC)	National Congressional Club
Hollings, Sen. Ernest (D-SC)	Citizens for a Competitive America *
Hoyer, Rep. Steny (D-MD)	Ameripac
Inouye, Sen. Daniel (D-HI)	Senate Majority Fund
Johnston, Sen. J. Bennett (D-LA)	Pelican PAC +
Kasten, Sen. Bob (R-WI)	Catch the Spirit
Kemp, Rep. Jack (R-NY)	Campaign for a New Majority *
Kennedy, Sen. Edward (D-MA)	Fund for a Democratic Majority *
Lautenberg, Sen. Frank (D-NJ)	Campaign for America
Leath, Rep. Marvin (D-TX)	Committee for a Democratic Congress
Lent, Rep. Norman (R-NY)	New Frontier Leadership
Lewis, Rep. Jerry (R-CA)	Future Leaders @
Lott, Sen. Trent (R-MS)	New Republican Fund #

Lowery, Rep. Bill (R-CA)	American Enterprise PAC
Lugar, Sen. Richard (R-IN)	Republican Majority Fund
Madigan, Rep Edward (R-IL)	15th District Committee
Markey, Rep. Edward (D-MA)	US Committee Against Nuclear War; National Committee for Peace in Central America
Matsui, Rep. Robert (D-CA)	Fund for Democratic Leadership
McCain, Sen. John (R-AZ)	McCain PAC
McClure, Sen. John (R-ID)	Leadership PAC
McCollum, Rep. Bill (R-FL)	Countdown to Majority
McConnell, Sen. Mitch (R-KY)	Blue Grass Committee
Metzenbaum, Sen. Howard (D-OH)	Committee for Democratic Action
Michel, Rep. Robert (R-IL)	Republican Leader's Fund
Moakely, Rep. Joseph (D-MA)	Democratic Congressional Fund
O'Neill, Rep. Thomas P. (D-MA)	Democratic Candidate Fund +
Oaker, Rep. Rose (D-OH)	Economic Security PAC
Obey, Rep. David (D-WI)	Committee for a Progressive Congress
Pepper, Rep. Claude (D-FL)	Senior PAC
Rangel, Rep. Charles (D-NY)	Committee for the 100th Congress
Rhodes, Rep. John (R-AZ)	Republican Majority PAC
Richardson, Rep. Bill (D-NM)	Committee for Deputy Whip
Rose, Rep. Charles (R-NC)	Leadership America

Rostenkowski, Rep. Dan (D-IL)	America's Leaders Fund #
Simon, Sen. Paul (D-IL)	Democracy Fund *
Solarz, Rep. Stephen (D-NY)	13th Congressional District PAC
Specter, Sen Arlen (R-PA)	Big Tent PAC *
Stenholm, Rep. Charles (D-TX)	Conservative Democratic PAC
Stevens, Sen. Ted (R-AK)	Fund for a Republican Majority
Symms, Sen. Steve (R-ID)	Conservative Victory Fund
Thomas, Rep. Bill (R-CA)	96th Club Campaign @
Thurmond, Sen. Strom (R-SC)	Americans for Good Government
Tower, Sen. John (R-TX)	Senate Defense and Economic PAC
Waters, Rep. Maxine (D-CA)	People Helping People @
Waxman, Rep. Henry (D-CA)	24th Congessional District PAC @ #
Weber, Rep. Vin (R-MN)	New Majority Fund; Salute America
Weicker, Sen. Pete (R-CA)	Californian's for America *
Wright, Rep. Jim (D-TX)	Majority Congress Committee #

43 Democratic legislators have formed MPACs: 30 House, 13 Senate
41 Republican legislators have formed MPACs: 21 House, 20 Senate

Appendix 3

Conservative Victory Fund

1994 Campaign Information Sheet and Candidate Questionnaire

Candidate Name: ______________________________

Campaign Manager: ______________________________

Committee Name & Address: ______________________________

____

Telephone: ______________ Fax: ______________

1) Office Sought (district if applicable): ______________

2) Present Incumbent: ______________

3) Campaign Consultants:

A) General: ______________ B) Media: ______________

C) Fundraising: ______________ D) Survey Research: ______________

E) Other: ______________

Defense and Foreign Policy

1) Will you vote for funding for research, development and deployment of the Strategic Defense Initiative?

Yes ________ No ________

2) U.S. defense spending in real terms should (accounting for inflation):

Remain the same_____ Increase ______ Be reduced ______

3) Do you support most-favored-nation (MFN) trade status for China?

Yes ________ No ________

4) U.S. contributions to the United Nations should:

Remain the same _____ Increase _____ Decrease _____

5) The U.S. should provide foreign aid to Russia?

Yes ________ No ________

6) Should NATO's membership be increased for former Eastern Bloc countries?

Yes ______ No ______

Economic and Social Issues

1) Will you vote for a constitutional amendment to balance the budget?

Yes _______ No _______

2) Will you vote to increase federal taxes to reduce the budget deficit?

Yes _______ No_______

3) What approach to health care reform do you favor?

Single Payer ______ Medi-Save Accounts _____ Managed Competition _____

4.) Check all of the following which you think should be included in health care reform:

_____Choice of Physicans, Treatment Facilities, & Medications	_____Employer Mandates
	_____Global Budgets
_____Government Determined Benefits Package	_____Health Alliances
	_____High Deductible Policies
_____Medical Savings Accounts	_____Malpractice Reform
_____Portability of Insurance	_____Single-Payer System
_____Pre-existing Condition Coverage	
_____Universal Access to Insurance	_____Universal Coverage

5) A) Do you support or oppose the Freedom of Choice Act (FOCA)?

Support _____ Oppose _____

B) Do you support or oppose federal funding of abortions?

Support _____ Oppose _____

6) Are you in favor of school choice initiatives such as providing vouchers to allow parents to send children to the public or private school of their choice ?

Yes ______ No _____

7) Do you support voluntary school prayer ?

Yes _____ No _____

8) Will you vote to impose additional limits on:

A) The amount of money which PACs (singly and collectively) can contribute to federal candidates?

Yes _____ No _____

B) The amount of money PACs can receive from individuals?

Yes _____ No _____

9) Do you support taxpayer funding of:

a) U.S. Senate elections? Yes _____ No _____

b) U.S. House of Representatives elections? Yes _____ No _____

10) Are you in favor of term limits legislation for both U.S. Representatives and Senators ?

Yes ______ No _____

11) Will you co-sponsor and vote for legislation to eliminate the Davis-Bacon Act?

Yes _____ No _____

12) Do you support 14-B of the Taft-Hartley Act (the right-to-work provision)?

Yes _____ No _____

13) If elected, would you vote for legislation to impose additional restrictions on the sale of semi-automatic weapons or magazines for these weapons?

Yes _____ No _____

14) Do you support a federally mandated waiting period between the purchase and delivery of firearms?

a) Yes, for all firearms
b) Yes, for all handguns
c) Yes, for some handguns
d) No

What three issues have highest priority in your campaign?

1) ____

2) ____

3) ____

What three issues will you be most active on in Congress?

1) ____

2) ____

3) ____

Candidate Signature ____________________________ Date ____________

Return to: Conservative Victory Fund
422 First Street, S.E. Suite 208
Washington, D.C. 20003
(202) 546-5833

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