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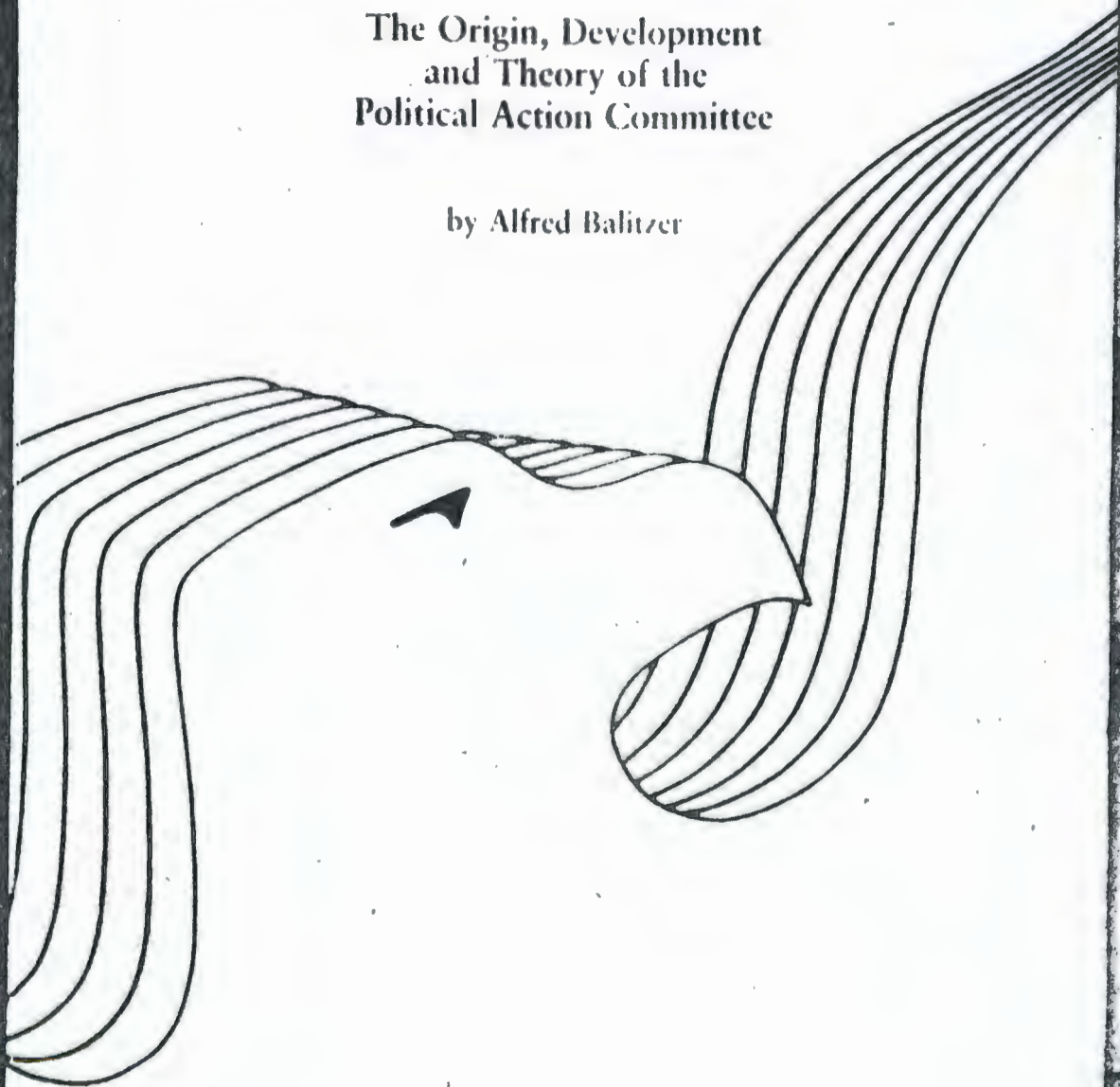
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# *of* A Nation Associations

file  
Election  
Law

The Origin, Development  
and Theory of the  
Political Action Committee

by Alfred Balitzer



## **Preface**

*"In Praise of PACs" by Rep. Newt Gingrich (R-GA)*

We are in a revolution in American politics. That revolution is being greatly undercovered by the press because the press is focusing on the wrong things.

With the campaign "reform" laws of the mid-seventies came profound changes in American politics. Wealthy people have been restricted in their direct contributions. There has been an explosive emergence of a whole new zone of activity, symbolized by the prevalence of political action committees. These PACs have brought a whole new generation of people into the world of campaign contributions, and they're tying political behavior in campaigns to political behavior in governing more tightly than has been the case in the last thirty years.

Political action committees are bringing informed interest groups out in the open, so that we can begin to see a real relationship among the way people behave in elections, the way people behave in contributions, and the way congressmen vote. PACs can move us away from what the Founding Fathers feared our democracy would drift toward: an *atomistic* society.

In the atomistic model of a free society, there is a general, vague "common good" which is normally given to us by a Ralph Nader or a John Gardner. It is communicated through television and then we, as 225

million individual atoms working in a plebiscitary system, say, "Yes. Do this. No, don't do that." That is precisely the Aristotelian vision of mob politics, which the Founding Fathers thought might be the end of this society.

The only workable alternative to that system is a *mediating institution* society, in which a great number of small sub-groups, acting separately, protect both the individual and the government. Mediating institutions prevent the government from crushing any individual and prevent individuals as groups from forming into a plebiscite which crushes the government and turns it into a tyranny.

Traditionally, we've had mediating institutions such as county courthouses and big-city machines. They are in decay. But a new mediating institution is emerging: the political action committee. It is not geographic but instead based on common interest. It's tied together by newsletters, mailgrams, and annual conventions. It's at least as accountable as was the big-city machine. After all, people don't have to contribute.

In order to attract contributions, the PAC has to in some way reflect the interests of the people who give to it. Because the PAC is organized, it allows the individual voter to know that somebody is watching out for his interest—and is probably doing a better job of it than is his congressman. That congressman, after all, has to represent 10,000 differing interests—or as many as will be found among his 500,000 constituents.

So the PAC is our new watchdog, legitimately looking out for the interests of its contributors. This pattern is as old as American politics. It's why Jefferson's farmers were opposed to Hamilton's shipowners and merchants. People who were elected by Jefferson's farmers tended to vote against the interests of Hamilton's shipowners and merchants. The idea behind PACs is nothing new. We are merely talking about a different structure, reflecting old patterns, that more openly relates campaign contributions to politicians' behavior in office.

People who say that PACs are bad are, in effect, saying that voters ought to elect people on one set of campaign promises who should then be allowed to do anything they want to in between campaigns. That's the bottom line: The campaign promises, and the contributions they encourage, should have no relationship to the actions of the people that the money and the promises elevate to Congress.

But that is rampant nonsense. To say that "special interests govern the Congress" assumes special interests are a monolith. I know from experience that they're not. For example, I found myself siding with Georgia Power and the rural electric co-ops by voting for coal slurry pipeline legislation—which was a vote against the railroads. A few weeks later I op-

posed the Eckhardt amendment to the rail deregulation bill, which was a vote for the railroads and against the interests of Georgia Power and the rural electric co-ops.

Which PAC is now supposed to own me as a congressman? Am I under the sway of the PACs who backed the pipeline or the PACs who favor the railroads? In each vote, I was on the side I thought correct for America's technological expansion. That was the only constant, and to talk of all-pervasive "special interests" is to assume constancy where there is little: the PACs will line up differently on different issues.

If Common Cause really wanted more people involved in politics, that organization would favor increasing the number of PACs as rapidly as possible—whether the new PACs reflected quality-of-life interest groups like the Sierra Club, age-based interest groups like the senior citizens associations, geographic interest groups like the neighborhood and regional organizations, or newly-emerging economic interest groups.

Once you get to 30,000 PACs, any congressman or candidate who is reasonably intelligent and articulate can knit together a coalition which will then have a contractual relationship with that congressman or candidate. The coalition will say: "We support you, we help you stay in politics, we expect you to represent us. If you're not going to represent us, tell us that and we'll find somebody else to support."

In the long run, the best defense against political action committees is more political action committees. The more of them there are, the harder it will be for any one, five, or ten to have any exaggerated impact. Al Smith said, "The only cure for the dangers of political action committees is more political action committees."

And to those who fear money in politics, let me say that we need more, not less, money in politics. PACs are not disgracing American politics. The disgrace, to cite a specific case, comes when Jay Rockefeller spends \$31 per vote out of his own pocket to buy a governorship. And the disgrace, to cite a general reality, is the overwhelming power of incumbent congressmen to get re-elected. There's something fundamentally wrong when, even in a bad year for incumbents, 93 percent of House members seeking re-election get re-elected.

Our real purpose should not be to view politics as a gladiatorial contest between two ambitious people. Politics should be the process by which the country talks to itself about its future, a politics powered by a public that is reasonably informed about the candidates on the levels at which it decides to vote. Measured against that standard, we have a pitifully discouraging system because, in part, we are starving it to death.

Compare the amount of money we spend on politics with what Coca-

Cola or General Motors spends on advertising. We spend more of our national income telling ourselves what to drink and what to drive than we do on deciding our political destiny. Politics is, after all, the zone in which we discuss the management of a free society. And there's a tendency to confuse what's spent on government with what's spent on politics. But money spent on government goes for bureaucracy, while money spent on politics determines what kind of political management this society will have. Any corporation which spent, as a percentage of its total economic activity, the same portion on management as our society does on politics would go bankrupt.

A free society needs a free competitive system. I have far more faith in private dollars freely given by free citizens to the PACs that will be their watchdogs than I do in any kind of public financing of congressional campaigns. If the congressman whom you distrust because he will be "corrupted" by PACs would be in charge of a public financing system, why would you trust that public financing system?

The challenge for the eighties is to steadily increase the relationship between a person's vote and the behavior of the government. PACs are a strong and healthy step in that direction. We need more not fewer.

It's a tribute to the American Medical Association and the American Society of Association Executives that they have produced a publication which puts political action committees in their proper historical perspective. The title—"A Nation of Associations"—sums it up well.

**TAXATION**

**IRS Memos May Shut Some PACs**

Two technical advice memorandums issued by the Internal Revenue Service could eventually close down some political action committees, observers say. The rulings (8202019 and 8202021), which say certain PAC expenses are nondeductible, could "drive the little guy out of business," according to Russell Lockwood, manager of governmental affairs at Standard Oil Co. (Indiana).

Washington lawyer Robert Statham agrees. "For some of these corporations, in a depressed economy, it will be quite a jolt," said Statham, who edits *Tax Monthly for Associations*, "especially when they hadn't anticipated that they'd have to come up with the extra money."

Both memorandums, while not setting precedent, "pretty much settle the matter" that expenses of setting up and operating a PAC are not deductible, according to Statham.

In one of them, the IRS ruled nondeductible a company's costs in putting out a manual to help certain management employees "understand the American political process." The agency said a program referred to in the manual "is an attempt to influence the public, or a segment thereof, with regard to legislative matters," for which deductions are specifically denied in the code.

The program was designed by the company to outline its position on certain proposed legislation. In addition, the IRS determined that the costs constituted expenditures for "grass roots" lobbying, for which deductions also are specifically prohibited.

The IRS, in both rulings, said that costs to organize and run the PAC were "grass roots" lobbying expenditures and nondeductible. Other nondeductible expenses, according to the agency, are letter writing materials and postage supplied to employees and that portion of salaries that covers employees' time spent on "grass roots" lobbying.

Because of ambiguity in regulations,

the subject of deducting PAC expenses "does merit some attention to be rectified once and for all," according to Craig Brightub of the U.S. Chamber of Commerce in Washington. He said IRS policy that would "restrict PAC growth would be wholly inconsistent with the demand for funds for political candidates." —Martha Middleton

**ENVIRONMENTAL LAW**

**New EPA Air Rules Aim at Overall Compliance**

Some people call them "licenses to pollute." Others say the new air pollution emission standards proposed by the U.S. Environmental Protection Agency will make it easier for industry to comply. And EPA lawyers say that compliance will mean less litigation, so time and tax dollars will be saved.

The proposed regulations include the "bubble concept" and the "offset policy," designed to let older industries meet the federal clean air standards in the most economical way possible, said Mary Ryan, a lawyer in EPA's Chicago office. Under the bubble concept, a plant with several emission points would no longer have to meet clean air standards for each one. Instead, the entire factory would be considered to be under a single "bubble" with one overall allowable emission level. If the plant exceeded that level, it wouldn't necessarily have to install expensive anti-pollution equipment, but could use the most economical means available to control the problem. Said Ryan: "As long as they meet their limit, we don't care how they do it."

The offset policy would put several industries under an expanded bubble. An increase in the emissions by one company could be offset by a decrease in a neighboring company, said Timothy Henderson of the Environmental Law Institute in Washington, a nonprofit research group. "As long as the level of pollution does not exceed the EPA standards in the bubble, one plant could be allowed to pollute heavily and not face any legal suit," he said. "It all depends on whether neighboring plants are pollut-

ing as well. That's why many environmentalists say the EPA is giving industry a license to pollute."

Environmentalists generally support the bubble concept and offset policy as ways to get industries to meet clean air levels, but they are worried that some companies may abuse the proposed regulations, said Kenneth Kamlet, director of legal affairs in Washington for the National Wildlife Federation. To ensure enforceability, Kamlet says EPA should assign emission limits to each pollution source within an industrial complex.

Meanwhile, banks and brokerage firms are considering new services to help industry comply. "Industry is looking for someone to arrange offset agreements," said Mary Beth Steffens, an officer in the pollution abatement financing division of the First Wisconsin National Bank in Milwaukee, which has been working with the EPA to set up a brokerage system in the distant future. "With a good computer system, you could match a company that has pollution control equipment to one that pollutes within the same bubble and work out a trade-off agreement," Steffens said. —Vicki Quade

**A Little Respect**

A lesson in legal respect was reported recently in *Savvy* magazine: A legal assistant driving from western New York to Virginia stopped at a gas station when one headlight grew dim in a heavy rain. An attendant looked at the light, asked where the woman was headed and then left for a moment. He returned with three men who inspected the car and suggested she needed a new battery, alternator and regulator. She was suspicious, but didn't know what to do. One man casually asked what she did for a living. "I'm a lawyer," she lied. The three looked at each other and then at the attendant, who said quickly, "I guess there really ain't no reason you couldn't make it to Virginia all right. A new headlight ought to do the trick."

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Director of Congressional Relations

*file  
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Dear Colleague:

**HELP STOP OBEY-GLICKMAN-LEACH (H.R. 2490) ASSAULT AGAINST FREE POLITICAL EXPRESSION. STOP PUBLIC FINANCING OF CONGRESSTIONAL ELECTIONS IN ITS TRACKS!!**

**HELP SUPPORT LAXALT/FRENZEL COUNTER OFFENSIVE (H.R. 3081, S. 1350) TO UNSHACKLE POLITICAL PARTY CONTRIBUTIONS/EXPENDITURES.**

**REQUEST COSPONSORS TODAY FOR H.R. 3081/S.1350. FOR FURTHER INFORMATION CALL ME AT 544-5833.**

THANK YOU.

*Lawrence R. Herman*

CONTRIBUTION LIMITATIONS

HR. 3081

Party Committees

1. Increases party committee contribution from \$5,000 per election to \$15,000 per election.
2. Increases contribution limitation for U. S. Senate candidates from the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party or any combination of such committees from \$17,500 to \$30,000.

EXPENDITURE LIMITATIONS

House and Senate

1. Deletes the expenditure limitation on the amount party committees can spend on behalf of House and Senate candidates.

Presidential

1. Deletes the state-by-state limitation for the primaries.
2. Increases the base presidential primary expenditure limitation from \$10,000,000 to \$18,000,000.
3. Increases the base general election limitation from \$20,000,000 to \$30,000,000.
4. Increases the amount the national party committee can spend on behalf of the Presidential candidate from 2¢ x VAP to 3¢ x VAP.

Party Building Provisions

1. Exempts from the definition of contribution and expenditure donations to party committees which are used solely to defray establishment, administration and solicitation costs. Such donations would be reported to the FEC.
2. Extends the current exemption for costs of campaign materials such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs to the national committee of a political party.
3. Extends the current exemption for costs of voter registration and get-out-the-vote drives. Additionally, the class of candidates has been expanded to include all federal candidates.

Political Action Committees

1. Eliminates the annual corporate authorization requirement for trade association PACs. The corporate authorization would stand until revoked.
2. Permits membership organizations, cooperatives or corporations without capitol stock or their separate segregated funds to solicit the families

CLEAN CAMPAIGN ACT OF 1983

Fact Sheet

OBEY, LEACH  
GLICKMAN

H.R. 2490

PAC LIMITATION:

- Limits the amount of money a candidate for the House of Representatives may accept from political action committees to \$90,000 per election cycle.

CAMPAIGN SPENDING LIMITS:

- Limits the amount of personal and immediate family campaign expenditures to \$20,000 per candidate.
- Limits total campaign spending for general elections to \$200,000.

PUBLIC FINANCING:

- Contributions of only \$100 or less from individuals can be matched, and 75% of these contributions must be provided by residents of the state in which the election is held.
- A maximum of \$100,000 in such contributions may be matched.
- If both candidates agree to abide by the limits contained in the bill, a one-to-one match of their \$100 or less contributions would take place. For every \$100 in contributions, the candidate receives \$100 in public financing.
- If one candidate agrees to abide by the limits and his or her opponent does not, then two things happen. The first candidate is released from the limits included in the bill. That candidate also receives a 2-1 match in public financing rather than a 1-1 match. (This is similar to a plan now in effect in Wisconsin for gubernatorial candidates)

INDEPENDENT EXPENDITURES:

- Radio or television advertising candidates are guaranteed the choice of either free time to respond to (a) an independent group's attack on them or (b) that group's support for the candidates' opponent OR additional public financing equal to the amount of independent expenditures for such a broadcast. Expenditures by the independent group in either case would have to equal \$5,000 or more.
- Other independent expenditures - once such expenditures aggregate \$5,000, the candidate against whom they are used will qualify for additional public financing equal to these expenditures.
- Additional public financing provided to candidates as necessary under this section would not be counted against the total campaign spending limit.

# Congress of the United States

House of Representatives

Washington, D.C. 20515

S. 1350

H.R. 3081

June 7, 1983

Dear Colleague:

You have recently been solicited by letter to co-sponsor the Obey-Glickman-Leach Bill (H.R. 2490). This bill is a combination of a restriction on the total amount of money a House candidate can receive from political action committees and a taxpayer financing scheme for House campaigns.

We respectfully request that you look at their proposal carefully. When you do, we believe that you will neither co-sponsor, nor endorse, it.

Following are a number of reasons why we oppose it:

1. It penalizes challengers who need to spend heavily to gain identity equal to incumbents. With a limit on PAC money and the low expenditure limitation of \$200,000, it will be impossible to unseat an incumbent.

2. It assumes, there is something evil about PAC money. PAC dollars are subject to exactly the same disclosure laws that apply to our campaigns. Every PAC dollar given to a candidate comes from a voluntary, individual contribution.

3. The taxpayers don't want to pay for our elections. The most who have ever checked off for the Presidential elections was 28% in 1977. The most recent poll done by Civic Service Inc. shows 65% disapproval, and only 24% approval.

4. It will force special interest money into independent expenditures. H.R. 2490 purports to correct this by giving additional public money to the victims of independent expenditures. Unfortunately, it would be too late and too little to make a difference.

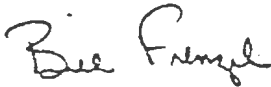
We have recently introduced and co-sponsored H.R. 3081, the Laxalt/Frenzel bill. We believe it is a viable, thoughtful and positive approach to the inequities of our campaign financing system.

Specifically, the Laxalt/Frenzel bill will encourage increased citizen participation and will strengthen the responsibility of our political parties. The media and Common Cause have expressed alarm about the rise in PAC contributions to candidates. Actually PAC contributions to candidates has remained around 23% since 1980. The most truly alarming statistic is that party support of candidates fell from 17% of receipts in 1972 to only 2% in 1982.

Page two  
June 7, 1983

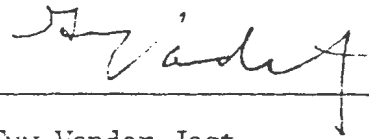
Our election laws have undergone many changes in the last decade and while reasonable folks might disagree about the results, there has been a clear consensus developing among political scientists and professional political practitioners that we must take steps to correct the weakening of our political parties. Some of the most prominent and respected political scientists like Nelson Polsby, Michael Malbin, Herbert Alexander and Christopher Arterton have recognized the need for strengthening the parties under our present campaign law.

Enclosed is a short fact sheet on H.R. 3081. If you or your staff have any questions or if you would like to co-sponsor our bill, please call Kathee McCright at extension 5-8281.



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Bill Frenzel  
Ranking Minority Member  
Committee on House Administration



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Guy Vander Jagt  
Chairman  
National Republican Congressional  
Committee



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William M. Thomas  
Ranking Minority Member  
Task Force on Elections