

3-15-1987

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Recommended Citation

David L. Boren *Special Interest Money: A Threat to Democratic Government*, 14 Pepp. L. Rev. Iss. 3 (1987)
Available at: <https://digitalcommons.pepperdine.edu/plr/vol14/iss3/2>

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Special Interest Money: A Threat to Democratic Government

Senator David L. Boren*

In this 200th-anniversary year of the United States Constitution, we should renew our focus upon the problems facing our electoral process caused by the influence of money in politics and on the divisiveness this money promotes. The entire system is out of balance. Campaign spending has increased at an alarming rate: In 1976, the average cost to win a seat in the United States Senate was about \$600,000, while ten years later, that cost has risen to over \$3,000,000.¹ Such a startling statistic gives strength to the argument made by former Solicitor General Archibald Cox, one of the foremost constitutional lawyers in the nation, when he said, "Today the public sees a 'For Sale' sign tacked upon each congressional seat up for election."²

The 1986 congressional-election cycle illustrated the exploding cost of campaigns and the dubious sources of funds for those campaigns. The most disturbing aspect of those elections, and one that will be even more obvious in the 1988 elections, was the increased influence of special interest money through the proliferation of political action committees (PAC's).³ Ironically, PAC's originally grew out of cam-

* United States Senator from Seminole, Oklahoma; elected 1978 and re-elected 1984; Governor of Oklahoma from 1975-79; Oklahoma State House of Representatives from 1966-74; Chairman, Department of Government, Oklahoma Baptist University; Captain 6 years, Oklahoma National Guard; Lawyer, graduated from University of Oklahoma College of Law, 1968; received master's degree in government, with honors, from Oxford University (Rhodes Scholar), 1965; received bachelor's degree from Yale University, 1963; Phi Beta Kappa.

1. J. Cantor & T. Durbin, *Campaign Financing* 5 (Mar. 9, 1987) (issue brief available from Congressional Research Service, The Library of Congress); Weeks, *Bribes, Gratuities and the Congress: The Institutionalized Corruption of the Political Process, the Impotence of Criminal Law to Reach It, and a Proposal for Change*, 13 J. LEGIS. 123 (1986). During the 1983-84 election cycle, congressional candidates received 26 percent (\$105 million dollars) of their total contributions from political action committees. *Id.* at 126; see also 97 L.A. Daily J., Aug. 16, 1984, at 3, col. 4.

2. Statement by Archibald Cox, Solicitor General, Press Conference in the U.S. Senate Press Gallery (Oct. 25, 1985).

3. For a general discussion of PAC's and their effect upon the political system see

paign reform legislation of the post-Watergate era.⁴ Now PAC's have become a serious problem themselves.

The rising tide of special-interest money from PAC's contributes to the fundamental problem that there is simply too much money in the system. Without a structure by which we can reform the system through overall expenditure limits,⁵ we risk the legitimacy of our democratic political process.

As millions of dollars have rolled into the campaign coffers of members of Congress, the conduct of our elected officials has changed dramatically. Senator William Proxmire of Wisconsin, while debating the Boren-Goldwater amendment⁶ last year on the Senate floor, made the following comment:

... the payoff by public officials for the PAC contributions they receive ... may not come in a vote. It may come in a speech not delivered ... in a colleague not influenced. It may come in a witness not invited to testify before a committee. It may come in hiring a key staff member for a committee who is sympathetic to the PAC. Or it may come in laying off or transferring a staff member who is unsympathetic to the PAC.⁷

What is even more disturbing is that in scheduling time for votes in the Congress, consideration is given to the fund-raising schedule that night. Frequently, two- or three-hour "windows" are left open in the Senate's schedule to allow members to go to each other's fund-raiser that evening. It is clear that members of Congress are spending time raising money to fund outrageously expensive campaigns—time which they should be spending in working to solve the pressing problems facing our nation.

Another alarming issue is that this out-of-state money machine, coming from both business and labor groups, is discouraging new people with fresh ideas from getting involved in politics. Nearly eighty percent of PAC funds goes to incumbents rather than to challeng-

B. SHEPPARD, *RETHINKING CONGRESSIONAL REFORM* (1985) (discusses, among other things, the rise to power of PAC's); E. HANDLER & J. MULKERN, *BUSINESS IN POLITICS* (1982) (an analysis of PAC's and their effect on the political system).

4. Federal Election Campaign Act of 1971, Pub. L. No. 93-443 (codified as amended in scattered sections of 2, 5, 18, 23, and 47 U.S.C. (1974)) (defining PAC's as multi-candidate political committees).

5. Any expenditure limits that are developed must stay within the confines of the United States Supreme Court's decision in *Buckley v. Valeo*, 424 U.S. 1 (1976) (per curiam). In *Buckley*, the Court upheld establishment of the Federal Election Campaign Act of 1971, as amended in 1974. The Court held that the limitations imposed on contributions were constitutional. Further, the disclosure and record-keeping provisions of the Act were upheld as necessary for enforcement of the Act. Finally, the Court invalidated the Act's expenditure ceilings as a violation of the first amendment.

6. S. Amend. 1168, 99th Cong., 2d Sess. (1986). This amendment contained the same legislative language as S. 1806, 99th Cong., 1st Sess. (1985). S. 1806 amended the Federal Election Campaign Act of 1971 by changing certain contribution limits for congressional elections. In addition, it amended the Communications Act of 1934, 47 U.S.C. § 315 (1934), regarding the broadcasting of campaign material by or for candidates for federal elective office.

7. 132 CONG. REC. § 11,163 (daily ed. Aug. 11, 1986) (statement of Sen. Proxmire).

ers.⁸ The recipients of these funds are usually members of powerful committees in Washington to whom the lobbyists need to gain access. New candidates may be able to do well in their home states or districts, but they are often discouraged from running because they do not want to fight the large out-of-state PAC donations to the incumbents.

It is obvious to even casual observers that PAC's are further fragmenting an already destabilized Congress. PAC's do not rate members of Congress on their overall records, but only on the basis of a few votes that affect their economic interest. We face momentous decisions involving the future of our country—issues which demand a selfless commitment to the national interest. It is no surprise that it is difficult to form a national consensus when campaigns are increasingly being financed by special interest groups.

No one can expect PAC's to lead the fight for compromises or sacrifices for the good of the entire nation. Senate Minority Leader Robert Dole gave the public a candid and unsettling peek into the system by his comment that when PAC's contribute to a candidate "they expect something in return other than good government."⁹

Ever since I first voiced concern about this problem in 1978, I have heard the argument that PAC's are really broadening political participation. In truth, while the original base of contributors to PAC's may be broad, it is usually Washington lobbyists, not grassroots contributors, who decide how to distribute their funds. Nothing requires PAC's to conduct a vote of contributors to decide where the money goes. Even data collected from the 1980 elections, which was summarized in a report written by the University of Michigan's Center for Political Studies, indicated that the average contributor to a political action committee is much less informed and less politically active than those who contribute directly to a candidate.¹⁰

In response to this attack on our democratic process, I have introduced legislation that would put a limit on Senate general election spending through a voluntary system of partial public financing.¹¹

8. Report by the Democratic Study Group 3 (Oct. 22, 1985) (Richard Conlon, Executive Director; Hon. James L. Oberstar, Chairman).

9. Hunt, *Cash Politics, Special Interest Money Increasingly Influences What Congress Enacts*, Wall St. J., July 26, 1982, at 1, col. 6.

10. Prof. Frank Sorauf, University of Minnesota, *What Price PAC's?* (1984) study by the Twentieth Century Fund, New York.

11. S. 2 100th Cong., 1st Sess. (1987) seeks to amend the Federal Election Campaign Act of 1971 by providing for a voluntary system of spending limits and partial public financing of Senate general election campaigns. It also seeks to limit contribu-

This plan is similar to the current system for our Presidential elections.¹² It would also put an aggregate limit on PAC contributions to Congressional candidates, close various loopholes in the contribution limits, and put a check and balance on the increasing independent expenditures. While the Boren-Goldwater amendment of last year addressed the symptoms of this growing illness, the bill that Senate Majority Leader Robert C. Byrd and I introduced, S. 2, attempts to attack the illness directly. We now have over forty co-sponsors with the first hearings scheduled for March, 1988.

With looming budget deficits, a frightening trade imbalance, and grave concerns over foreign policy, now is the time when the need for national leadership and consensus is uniquely great. Congress must promote integrity within itself and unity among our citizens, rather than falling into the trap of division promoted by our system of having special economic interests or single-issue groups finance our campaigns.

We have some serious housecleaning to do. The problem becomes more serious with each passing election, and politicians become more and more addicted to special interest money. Congress is unaccustomed to voting against its own special interests, but in this case we should be able to see the depth of public concern and the threat to our democratic form of government.

tions by multicandidate political committees. As of July, 1987, S. 2 had the following senatorial support: Sen. Brock Adams, Washington; Sen. Max Baucus, Montana; Sen. Joe Biden, Delaware; Sen. Jeff Bingaman, New Mexico; Sen. David L. Boren, Oklahoma; Sen. Bill Bradley, New Jersey; Sen. Dale Bumpers, Arkansas; Sen. Quentin Burdick, North Dakota; Sen. Robert C. Byrd, West Virginia; Sen. John Chafee, Rhode Island; Sen. Lawton Chiles, Florida; Sen. Kent Conrad, North Dakota; Sen. Alan Cranston, California; Sen. Thomas Daschle, South Dakota; Sen. Dennis DeConcini, Arizona; Sen. Alan Dixon, Illinois; Sen. Wyche Fowler, Georgia; Sen. Albert Gore, Jr., Tennessee; Sen. Bob Graham, Florida; Sen. Tom Harkin, Iowa; Sen. Daniel Inouye, Hawaii; Sen. J. Bennett Johnston, Louisiana; Sen. Edward M. Kennedy, Massachusetts; Sen. John Kerry, Massachusetts; Sen. Patrick Leahy, Vermont; Sen. Carl Levin, Michigan; Sen. Frank Lovtenberg, New Jersey; Sen. Spark M. Matsunaga, Hawaii; Sen. John Melcher, Montana; Sen. Howard Metzenbaum, Ohio; Sen. Barbara Mikulski, Maryland; Sen. George Mitchell, Maine; Sen. Daniel Moynihan, New York; Sen. Sam Nunn, Georgia; Sen. Claiborne Pell, Rhode Island; Sen. William Proxmire, Wisconsin; Sen. David Pryor, Arkansas; Sen. Harry Reid, Nevada; Sen. Donald Riegle, Jr., Michigan; Sen. John Rockefeller, West Virginia; Sen. Terry Sanford, North Carolina; Sen. Paul Sarbanes, Maryland; Sen. Jim Sasser, Tennessee; Sen. Paul Simon, Illinois; Sen. Robert Stafford, Vermont; Sen. John Stennis, Mississippi; Sen. Timothy Wirth, Colorado.

At the date of publication, S.2 was being considered by the full Senate. Opponents of S.2 engaged in a filibuster of the Bill. On July 1, 1987, I presented a new compromise amendment which involved a system of voluntary spending limits with no direct public finance. I expect that S.2, together with my new compromise amendment, will be voted on in July, 1987.

12. See Presidential Election Campaign Fund Act, 26 U.S.C. §§ 9001-9013 (Supp. 1986); Presidential Primary Matching Payment Account Act, 26 U.S.C. §§ 9031-9042 (Supp. 1986).