

## POLITICAL ACTION COMMITTEES—PRECINCTS OF THE '80's

Lee Ann Elliott\*

The United States Supreme Court has recognized not only the legitimacy of political action committees but also their necessity. In *Buckley v. Valeo*<sup>1</sup> the Court stated that “[i]n the free society ordained by our Constitution it is not the government but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.”<sup>2</sup>

Underlying support for government by the people is found in the first amendment wherein political association as well as political expression is protected. The constitutional right of political association and expression is based on the recognition that effective advocacy of both public and private points of view is enhanced by group association. In addition, the first and fourteenth amendments guarantee the freedom to associate with others in order to advance political beliefs and ideas.

Encouraging citizen participation in politics is not new. At the end of the nineteenth century, for example, the call to political action was most frequently issued by candidates and political parties.<sup>3</sup> Following World War II, these voices were joined by union and corporate leaders. In the 1970's, a growing number of political action committees [PAC's] continued and increased this call for political participation.

An examination of the PAC movement will demonstrate that PAC's are a natural and healthy addition to the American political process. First, this article will compare the development of political

---

\* Vice President, Bishop, Bryant & Associates.

1. 424 U.S. 1 (1976).

2. *Id.* at 57.

3. See Sorauf, *Political Parties and Political Action Committees: Two Life Cycles*, 22 ARIZ. L. REV. 445, 446-48 (1980).

action committees with other societal changes. Next, the growth of PAC's will be examined. In addition, the motivation to form PAC's and their classification according to their support patterns will be analyzed. PAC aggregate contributions will then be compared with claims that PAC's are dominating the political process. Also analyzed will be the special role of PAC money in the early stages of a campaign. Popular misconceptions about PAC contributions will then be scrutinized and opposition to PAC's will be shown to be based on some of these misconceptions. Finally, the future role of PAC's will be discussed.

### *Behavioral Evolution*

Political action committees are voluntary membership organizations composed of persons motivated by shared political views and attitudes. Broadly defined, PAC's have had a long history. Only recently, however, have PAC's become the focus of legal, legislative, and scholastic attention. This attention is due, in part, to the fact that PAC's are a potent reality in the current political world.<sup>4</sup> Political action committees are the expression of a concept whose time has come. They are a reflection of our changing world and entirely consistent with other social changes taking place around us.

One change in particular has had an enormous impact on our political behavior: mobility, both geographical and social. We no longer attend the nearest church, shop at the neighborhood store or go to the neighborhood school. Improved communication and transportation facilities have broadened our physical, economic, and social worlds. Years ago, for example, an individual's life was experienced within the confines of his particular neighborhood. The people who influenced him and to whom he turned for help the most were his neighbors. The neighborhood, however, is no longer the center of our sphere of activity, contact, or interest.<sup>5</sup>

This change has had a significant impact on political behavior. In recent years politicians have had to contend with or adapt to this changing social phenomenon. No longer, for example, does all political campaign activity revolve around local precincts. Precinct politics was based on the premise, true at the time, that the warm relationship between neighbors would make them receptive to the opinions of neighborhood political opinion leaders.<sup>6</sup> The demise of the neighborhood as the center of social or economic activity, however, has signaled the demise of neighborhood or precinct politics.

---

4. See Wertheimer, *The PAC Phenomenon in American Politics*, 22 ARIZ. L. REV. 603, 604-11 (1980).

5. H. COX, *THE SECULAR CITY* 35-36 (1966).

6. See Sorauf, *supra* note 3, at 446.

Today, we are not influenced by neighborhood leaders, but rather by particular occupational or socio-economic group leaders. Consequently, our politics are no longer neighborhood based, but directed toward particular occupational or socio-economic groups. In recent years, for example, professional fundraisers have found that fundraising within socio-economic groups is successful. Union, corporate, and trade association PAC's are also a response to these developing behavioral changes. Such PAC's have clearly substituted socio-economic or occupational groups for geographic or neighborhood associations.<sup>7</sup> Now, the ABC Corporation PAC is a socio-economic precinct along with Precinct 42, a geographic precinct.<sup>8</sup>

### *The Spurious Numbers Game*

Quite frequently references are made to the growth in the number of PAC's.<sup>9</sup> Both PAC critics<sup>10</sup> and supporters<sup>11</sup> refer to this growth as an indication of the strength of the political action committee movement. PAC critics in particular point to the numerical growth of PAC's as evidence of the deterioration of political parties or increased control by "special interests."<sup>12</sup> These conclusions, however, are inaccurate and misleading because they are based on spurious reasoning. Any type of "head count" of PAC's leads to comparisons of unequal entities. It is meaningless to compare the growth of union PAC's by counting the number of PAC's that have been formed. Such comparisons count equally the Committee on Political Education of the AFL-CIO [COPE] that raised \$1,443,385 during the 1977-1978 election cycle, with the Carpenters Political Action Fund, that raised \$508 during the same period.<sup>13</sup> Likewise, it is meaningless to compare the growth of corporate PAC's by counting the number of PAC's that have been formed. This comparison counts equally the Amoco Political Action Committee, which raised \$265,644 during the 1977-1978 election cycle, with Dillingham Employees Citizen Action Program, which raised \$98 dur-

---

7. Evidence of the rapid increase in such socio-economic PAC's is presented in Wertheimer, *supra* note 4, at 605-07.

8. In addition to changing socio-economic conditions bearing on political behavior, there were changes in the law. This legal development or change also influenced the development of PAC's. For a detailed discussion of legislative history, see Bolton, *Constitutional Limitations on Restricting Corporate and Union Political Speech*, 22 ARIZ. L. REV. 373, 375-86, 402-09 (1980).

9. See Adamany, *PAC's and the Democratic Financing of Politics*, 22 ARIZ. L. REV. 569, 588-89 (1980); Wertheimer, *supra* note 4, at 605-07.

10. See Wertheimer, *supra* note 4, *passim*.

11. See generally Malbin, *Of Mountains and Molehills: PACs, Campaigns, and Public Policy*, in PARTIES, INTEREST GROUPS, AND CAMPAIGN FINANCE LAWS 152 (M. Malbin ed. 1980).

12. Wertheimer, *supra* note 4, at 605.

13. FEDERAL ELECTION COMM'N, REPORTS ON FINANCIAL ACTIVITY 1977-78 (Interim Report No. 4, 1979). COPE was the largest labor PAC in terms of receipts and gross disbursements for the period, but was not the biggest in terms of total contributions to candidates. The Carpenters Political Action Fund was not the smallest of the labor PAC's. *Id.*

ing the same period.<sup>14</sup> An increase in the number of PAC's does not mean that the activity, influence, or potential of PAC's has increased proportionately.<sup>15</sup>

Most of the largest political action committees, based on total contribution to candidates, were organized before 1975.<sup>16</sup> Many of the PAC's organized since that time have not reached a stage of development comparable to older PAC's. For the most part, PAC's that are currently being organized are the separate segregated funds of smaller corporations, trade associations, and unions. Since political participation through a political action committee is more effective in many instances than individual involvement, more and more smaller trade associations and corporations will form PAC's.

Table 1 shows the percentage change from the previous year in the number of PAC's. These figures have been compiled by categories based on the sponsoring organization. This table shows that the total number of PAC's has increased every year by percentages ranging from eleven to fifty-eight percent.

By category, Table 1 shows that, while the number of corporate PAC's increased every year, the number of labor PAC's decreased between 1975 and 1976 and between 1977 and 1978. Further, the number of trade/membership/health PAC's also decreased between 1976 and 1977. This latter number may not have been a true decrease at all. Rather, it may reflect a reclassification by the Federal Election Commission [FEC] which began additional categories of classification in 1977. The Table also shows that the number of corporate PAC's in-

---

14. *Id.* The Amoco Political Action Committee was the largest corporate PAC in terms of receipts and gross disbursements for the period. It was not, however, the biggest in terms of total contributions to candidates. The Dillingham Employees Citizen Action Program was not the smallest of the corporate PAC's. *Id.*

15. *But see* Adamany, *supra* note 9, at 588-93.

16. The Federal Election Commission has not made a tabulation of the years in which PAC's were organized. Many PAC's predate the Federal Election Commission. Of the ten largest PAC's, based on total contributions to candidates, nine were organized before 1975. FEC News Release, May 10, 1979.

Table 1. Number and percent change from previous year or PAC's registered<sup>1</sup> with the Federal Election Commission on specific dates, by category of sponsors, 1974-1979.

	1974 <sup>2</sup>		1975 <sup>3</sup>		1976 <sup>4</sup>		1977 <sup>5</sup>		1978 <sup>6</sup>		1979 <sup>7</sup>	
	No.	% Chge. Pre. Yr.	No.	% Chge. Pre. Yr.	No.	% Chge. Pre. Yr.	No.	% Chge. Pre. Yr.	No.	% Chge. Pre. Yr.	No.	% Chge. Pre. Yr.
Corporations	89	+56.2	433	+211.5	550	+27.0	784	+42.5	884	+12.8		
Labor Organizations	201	+12.4	224	- 0.9	234	+ 4.5	217	- 7.3	226	+ 4.1		
Trade/Membership/ Health	318	+12.3	489	+ 25.7	438	-10.4	451	+ 3.0	481	+ 6.7		
Other	—	—	—	—	138	—	201	+45.7	249	+23.9		
Total	608	+18.8	722	+18.8	1,146	+58.7	1,360	+18.7	1,653	+21.5	1,840	+11.1

(1) These numbers count all PAC's whether or not they made contributions to federal candidates. In 1978, 1,459 made contributions to candidates in federal elections (FEC News Release, May 10, 1979).

Source: *PAC Growth, 1974 to Present*, FEC Press Office, Aug. 1979

(2) 12-31-74

(3) 11-24-75

(4) 12-31-76

(5) 12-31-77

(6) 12-31-78

(7) Aug. 1979

creased 211% between 1975 and 1976 but that this rate of increase had decreased to about thirteen percent between 1978 and 1979.

Table 1, by itself, does not tell a great deal about PAC's. It gives no indication of their size, contributions, or effectiveness. In short, unless PAC's are comparable in some meaningful way, a mere comparison of their number from year to year does not give a true picture of the growth of the PAC movement.

Table 2 shows the percentage of all PAC's registered with the FEC by category of the sponsoring organization. In 1974, for example, the predominate PAC group was sponsored by trade/membership/health organizations (fifty-two percent). The next largest group of PAC's was sponsored by labor organizations (thirty-three percent). Corporate PAC's comprised a little over fourteen percent of all PAC's in 1974.

Table 2 shows that the percentage of corporate PAC's of the total number of PAC's registered has increased every year. In 1979, for example, corporate PAC's comprised forty-eight percent of all extant PAC's. Labor organization PAC's as a percentage of all PAC's have decreased every year. In 1979, labor PAC's comprised about twelve percent of all PAC's. Trade/membership/health PAC's as a percentage of all PAC's have also decreased every year since 1974. In 1979, these PAC's comprised about twenty-six percent of all extant PAC's. Again, these statistics are based on aggregate totals and are a poor basis for determining PAC strength or activity. They do not provide any qualitative comparisons or evaluations.<sup>17</sup>

Evidence that a PAC analysis based solely on aggregate figures is inadequate can be found by examining the data regarding labor PAC's. Table 1 shows that the number of labor PAC's has increased minimally between 1974 and 1979. Table 2 shows that labor PAC's as a percent of all PAC's has decreased every year since 1974. These figures could lead one to conclude that labor PAC activity has diminished and is declining in the entire political spectrum. This conclusion would be incorrect. While the percent of all PAC's that are labor PAC's is declining, this does not mean that labor influence is declining. In fact, many labor PAC's are models of efficiency. Many commentators con-

---

17. A qualitative comparison or evaluation might be approached if the statistics on the number of contributions to PAC's were available. Another qualitative statistic would be the number of contributors to a PAC as a percent of possible contributors.

Table 2. Number and percent of PAC's registered<sup>1</sup> with the Federal Election Commission on specific dates, by categories of sponsors, 1974-1979.

	1974 <sup>2</sup>		1975 <sup>3</sup>		1976 <sup>4</sup>		1977 <sup>5</sup>		1978 <sup>6</sup>		1979 <sup>7</sup>	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Corporations	89	14.6	139	19.3	433	37.8	550	40.4	784	47.4	884	48.1
Labor Organizations	201	33.1	226	31.3	224	19.5	234	17.2	217	13.1	226	12.3
Trade/Membership/ Health	318	52.3	357	49.4	489	42.7	438	32.2	451	27.3	481	26.1
Other	—	—	—	—	—	—	138	10.2	201	12.2	249	13.5
Total	608	100.0	722	100.0	1,146	100.0	1,360	100.0	1,653	100.0	1,840	100.0

(1) These numbers count all PAC's whether or not they made contributions to federal candidates. In 1978, 1,459 made contributions to candidates in federal elections (FEC News Release, May 10, 1979).

Source: *PAC Growth, 1974 to Present*, FEC Press Office, Aug. 1979.

(2) 12-31-74

(3) 11-24-75

(4) 12-31-76

(5) 12-31-77

(6) 12-31-78

(7) Aug. 1979

sider labor PAC's the more forward thinking of all the groups sponsoring PAC's.<sup>18</sup> Although most labor PAC's were organized before 1974, their growth in activity, influence or potential may have just begun.

Aggregate figures do not measure the effectiveness of PAC's, nor do they measure the encouragement PAC's give to contributors and others to become politically active as individuals. It would be difficult to find statistical data that would accurately measure the effect of one PAC, or even a group of PAC's, on one federal race or on the two-party system. Unfortunately, statistics are not available that would give a truly meaningful comparison of PAC's.

However the aggregate totals are interpreted, it is clear that reliance on such cold statistics will not tell us all there is to know about PAC's. When some PAC's have few contributors and others have hundreds, we should be wary of making dubious comparisons of PAC's based on their raw numbers.

### *PAC Classification*

Political action committees may be classified according to a number of characteristics. It is possible, for example, to group PAC's on the basis of their motives or reasons for organizing. Alternately, PAC's can be classified according to their focus: PAC's may be grouped according to whether they direct their election efforts predominantly toward re-election of incumbents or support for challengers. While PAC's do not fall precisely into these groupings, the classifications show some degree of political acumen.

The motivations to form political action committees are as varied as PAC's. PAC's have been formed for specific legislative purposes as well as political purposes. Others have been formed for reasons having to do with neither legislation nor politics. The explicit motivation for the formation of PAC's is difficult to determine. The PAC movement might never have started, nor would it have been necessary, if the federal government had not begun to regulate virtually every form of business activity.<sup>19</sup> This explanation, of course, suggests that the number and activity of PAC's are in direct proportion to the regulatory impact of the government on a particular corporation or industry.

Stated reasons for forming PAC's seem to fall within six wide and overlapping groups. Group One includes PAC's that have been formed as the extension of the lobbying arm of the corporation, trade association, or union. PAC's in Group One are sometimes called "snack

---

18. See, e.g., Adamany, *supra* note 9, at 594-95.

19. See Wertheimer, *supra* note 4, at 605.

PAC's" because they are heavily involved in the support of incumbents at fundraising dinners, primarily in Washington, D.C.

Group Two PAC's have been formed to give relief to top corporation, trade association, or union executives. Big contributors are, of course, prime targets for solicitation. Since by law, their names and the amount of their contribution are on file with the FEC, they are frequently solicited.<sup>20</sup> With the formation of a PAC, the executive, who is often a large contributor, no longer needs to confront these frequent solicitations. Now he can merely indicate that the request has been referred to the political action committee. Big contributors can and do contribute individually, but they find relief if they can refer the decision of whether or not to contribute to little known candidates to a PAC.

Group Three includes those PAC's that have been formed to support a particular legislative measure or philosophic issue. PAC's in this group sometimes disband after the measure has passed or the issue is no longer timely or appealing. Others adopt another issue or another cause and continue their activity.

Group Four PAC's are formed for the prestige of the chief executive officer or the prestige of the corporation, trade association, or union. In corporate circles, it is felt that progressive, successful, sophisticated institutions know the necessity of a PAC. Some chief executive officers feel that the formation of a PAC is the mark of enlightened leadership. Even though these PAC's may not be given the resources, status, or attention necessary to be effective, their formation adds prestige to the institution.

Group Five includes PAC's that have been formed to effect a change in the general philosophy of the Congress. Most PAC's fall in this category. The underlying assumption shared by all Group Five PAC's is that it is extremely naive to believe that appeals to logic and reason will fall on receptive ears when legislators do not share the same philosophy as the petitioner. Electing to Congress a person who has the same general philosophic views is the first step in an effective legislative program.<sup>21</sup>

Group Six is composed of PAC's that are concerned about the

---

20. While the Federal Election Campaign Act [FECA] provides that "any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes," 2 U.S.C. § 438(a)(4) (Supp. III 1979), it is felt by many that the names included on these reports are sometimes used for solicitation purposes.

21. Making changes in Congress means more than simply defeating incumbents and replacing them with legislators more in line with the PAC's philosophy. It can also mean helping to reelect an incumbent who supports the PAC position, particularly if the incumbent narrowly won his last election.

electoral system and the lack of volunteer participation in politics. These PAC's have been formed to get people involved in the electoral process. The PAC mechanism is used to educate members about important issues of the day and about successful and effective methods of political participation.

Almost all PAC's could be classified in a number of these groups. Also, the emphasis of a PAC may change from year to year.

PAC's can also be classified according to their support focus. When grouped in this fashion, there are at least four recognizable categories of PAC's.

Category One PAC's concentrate on incumbents. These PAC's are often of the "snack PAC" variety. Their contributions go to congressional committee chairmen, members on committees that the PAC is substantively interested in, leadership of both political parties, and other prominent or well-known incumbents. Their contributions generally go to those incumbents who need them the least.

Category Two PAC's venture into open races—that is, races in which no incumbent is running. The goal of Category Two election efforts is obviously to elect to Congress someone whose basic philosophy is already in agreement with the PAC's philosophy.

Category Three PAC's support challengers, in addition to vulnerable incumbents and candidates in open races. Given the numerous advantages of incumbency,<sup>22</sup> PAC's in this category must have considerable political skills. Despite the difficulty of defeating an incumbent, successful Category Three PAC's are in a position to make effective changes in Congress. Helping elect a challenger is an effective way to change the philosophy of any legislative body.

Category Four PAC's concentrate on the support of challengers, open seats, and on protecting vulnerable pro-PAC incumbents. They sometimes support candidates who do not have a foreseeable chance of winning in the first election, but will have a much better chance when they run a second time. Also, Category Four PAC's sometimes support a challenger, knowing that this support will keep the incumbent at home in his own district. Opposition at home will discourage him from traveling to other districts to help elect like-minded candidates.

As with PAC motivation groupings, these categories are in no way

---

22. An incumbent already has name recognition. During his campaign, he remains on the government payroll and has a telephone and travel allowance, rent-free offices, office equipment, and franking privileges. He has the advantage of being known by his party, and will probably have priority standing for funds from party committees. Further, almost every press release he sends out is printed promptly by the papers in his district. The opportunity to offer services to constituents enhances his name recognition and his popularity in the district. In 1977, it was estimated by the Americans for Democratic Action that these advantages were worth \$557,131 a year. *Cleveland Plain Dealer*, Nov. 14, 1977.

mutually exclusive. PAC's overlap into one or more of these categories from time to time, as they should.

### *Money in Perspective*

PAC support of candidates necessitates a discussion of money and its relevance in politics. An effective function that money serves in a political campaign is to permit a candidate to purchase the media and means to communicate his views to his constituency. Candidates who have money or who can raise money can increase the number of communications to potential supporters or raise the quality of their communications.

Inflation has had an enormous impact on the cost of campaigns. While all campaign costs have risen substantially, campaigns that must rely on television or direct mail have felt the effects of inflation more than campaigns which rely on volunteer-intensive campaigning.

The FEC reported that during the 1977-1978 election cycle, all candidates for federal office spent \$194.8 million in their campaigns.<sup>23</sup> While this is a considerable amount, it is interesting to compare this figure with certain expenses for less-than-essential consumer items. For example, during the same two-year period, American consumers spent \$200 million for garden hoses, \$300 million for nail enamel, \$445 million for powdered lemonade, \$688 million for lipstick, and \$790 million for men's fragrances. With this perspective, the case could be made that not enough money is spent in congressional elections. Perhaps if more candidates could afford to communicate more frequently with their constituents, the level of interest and involvement in politics might increase.

During the same two-year period, all political action committees—corporate, union, trade association, ideological—spent \$34.1 million.<sup>24</sup> This amounts to only 17.5% of all that was spent during the two-year period by federal candidates.

Table 3 shows that of the \$194.8 million spent by all federal candidates during the 1977-1978 election period, only 4.9% came from corporate PAC's, 5.1% from labor organization PAC's, 5.7% from trade/membership/health PAC's, and 1.8% from other PAC's.

Those who would argue that PAC's are dominating or taking over the political process are overstating both the role and the impact of

---

23. FEC Press Release, June 29, 1979.

24. *Id.*

Table 3. Amount and percent of funds spent by political action committees during the 1977-1978 election cycle for federal candidates by categories of sponsors.

	Amount* (in millions)	Percent of Amt. Spent by PAC's	Percent of Total Spent by Federal Candidates (\$194.8 mil.)
Corporations	\$ 9.5	27.9%	4.9%
Labor Organization	9.9	29.0	5.1
Trade/Membership/Health	11.2	32.9	5.7
No-Connected Organization	2.5	7.3	1.3
Other	1.0	2.9	0.5
	<u>\$34.1</u>	<u>100.0%</u>	<u>17.5%</u>

\* FEC Press Release, June 29, 1979.

PAC's since only 17.5% of all funds spent by federal candidates in 1978 came from PAC's. In 1976, PAC's contributed \$22.6 million<sup>25</sup> to congressional candidates, or thirty-seven percent of all funds spent. From 1976 to 1978, then, the percentage of PAC contributions has diminished.

Most political action committees are composed of fairly small contributors.<sup>26</sup> Prior to 1980, anyone whose aggregate contribution totaled more than one hundred dollars to a political action committee had his name reported to the FEC.<sup>27</sup> The Commission's files, however, were not bulging with names. Large contributors apparently preferred to make modest or small contributions that were in the general range of other PAC contributions. It appears they made larger contributions directly to candidates.

Small contributions, however, also continue to be the basic unit of funds given directly to candidates. As with PAC report requirements, prior to 1980, candidates were required to report names of individual aggregate contributors in excess of \$100.<sup>28</sup> Commission files contain relatively few names.

The day of the huge contribution, apparently, is gone. Federal law now prohibits contributions of more than \$1,000 per candidate per election, or a total of \$2,000 during an election cycle.<sup>29</sup> Further, contributors are prohibited from making political contributions in excess of \$25,000 in any calendar year.<sup>30</sup>

25. 1 COMMON CAUSE, 1976 FEDERAL CAMPAIGN FINANCES, INTEREST GROUP AND POLITICAL PARTY CONTRIBUTIONS TO CONGRESSIONAL CANDIDATES (1977).

26. In the 1977-1978 election cycle, the American Medical Political Action Committee [AMPAC] reported total expenditures of \$1.8 million, of which about \$1.6 million went to candidate support. It is interesting to note that the average (mean) contribution to AMPAC during this period was \$11.73.

27. 2 U.S.C. § 434(b)(2)(1976) (amended 1979). As of January 8, 1980, aggregate contributions of \$200 or more to a PAC must be reported. 2 U.S.C. § 434(b)(3)(A) (Supp. III 1979).

28. *Id.* § 434(b)(2)(1976) (amended 1979).

29. *Id.* § 441a(a)(1)(A) (1976). This limit would be \$3,000 in those few races in which runoff elections occur. *See id.* § 431(1)(a) (Supp. III 1979).

30. *Id.* § 441a(a)(1)(B) (1976).

### *Special Role of PAC's*

It is a political maxim that early money, sometimes called up-front money, is the most effective money in any campaign. Given inflation and growing reliance on expensive media campaign techniques, it is becoming increasingly more expensive to successfully campaign for federal office. It can cost thousands of dollars to run for Congress, even if a candidate is unopposed.

A candidate may contribute to his own campaign without limit.<sup>31</sup> He can call on affluent friends for contributions up to \$1,000.<sup>32</sup> He can solicit funds from small contributors and he can solicit funds from PAC's. Since multi-candidate PAC's can contribute up to \$5,000 per candidate per election,<sup>33</sup> they have a special role in campaigns. Most PAC's are defined in the law as multi-candidate committees, meaning they have fulfilled the requirements to be able to contribute \$5,000 per candidate per election.<sup>34</sup> PAC's that do not meet multi-candidate criteria can contribute only \$1,000 per candidate per election.<sup>35</sup>

If a candidate aspires that his campaign have a broad financial base composed of donations from small givers, then he desperately needs PAC funds early in his campaign to help him reach small givers. PAC funds help pay for the brochures, stationary, envelopes, and stamps which must be paid for in advance, and later used to solicit small contributions. In addition, early funds from any source make it easier for the candidate to set up headquarters, hire a competent staff, install phones and plan his media campaign. The accumulation of early funds by one candidate can also discourage other candidates, particularly frivolous candidates, from contesting the election, thereby reducing the overall need for funds.

Furthermore, small contributions from individual givers are often encouraged by the fact that PAC's are contributing to the campaign. PAC contributions are a signal to some that the campaign is important and has a chance to succeed.

The PAC movement can, and hopefully will, be a greater source of early campaign financing in future years.

### *Popular Misconceptions about PAC's*

The PAC movement has grown and developed during years marked by political scandal. It is understandable that those who know

---

31. *Buckley v. Valeo*, 424 U.S. 1, 52-53 (1976).

32. See text & note 29 *supra*.

33. 2 U.S.C. § 441a(a)(2)(A) (1976).

34. *Id.* § 441a(a)(4).

35. *Id.* § 441a(a)(1)(A). "Person" is defined to include a "committee." *Id.* § 431(11) (Supp. III 1979).

only that PAC's contribute to political campaigns may harbor some misconceptions about the role of PAC's in politics. Some of the more serious misconceptions should be discussed.

It is a popular misconception that PAC's use philosophy as a sole criteria for candidate support decisions. That is, it is believed that a PAC will only support a candidate who shares its particular philosophical views on salient issues. As a general rule, PAC's use the criteria of electability. In other words, PAC's, particularly Group One PAC's,<sup>36</sup> are primarily interested in supporting a winning candidate. PAC's seldom support candidates whose philosophy is compatible with theirs, if they have no chance to win.

It is also a misconception that PAC's contribute to all pro-PAC incumbents. Many PAC's do not contribute to any candidate unless he or she needs campaign funds. Equally untrue is an assumption that PAC's require a promise of performance before they will contribute to candidates. Although it is mistakenly believed that access is the primary goal of PAC's,<sup>37</sup> an attempted *quid pro quo* is usually counterproductive, as well as illegal. Also untrue, or at least not confirmable with statistical data now available, is the assumption that candidates who receive funds from a PAC subsequently vote in agreement with the wishes of the PAC.<sup>38</sup> Underlying this misconception is the feeling that all money in campaigns is corrupting, whatever the source.<sup>39</sup> The implications are that no one makes a political contribution unless he expects something in return, that anyone who takes a campaign contribution is for sale. Both are untrue.

Another misconception about PAC's is that they weaken the political two-party system. Both political parties were showing signs of strain and were declining before the PAC movement developed momentum.<sup>40</sup> There is some evidence, however, that the PAC movement might revitalize the political party system. For example, in areas where PAC activity has been aggressive and effective, former PAC volunteers, because of their training, have added their expertise to party organizations and are making them effective again.

### *The PAC Program for the '80's*

Since PAC's are in the early stages of development, their principal

---

36. See pp. 546-47 *supra*.

37. Epstein, *The Business PAC Phenomenon: An Irony of Electoral Reform*, REG. 35 (May/June 1979).

38. See Wertheimer, *supra* note 4 at 611-16.

39. The Supreme Court in *Buckley* recognized as much when it declared the purpose of FECA to be "the prevention of actual and apparent corruption of the political process." 424 U.S. at 53.

40. See Sorauf, *supra* note 3, at 448-52.

efforts have concentrated on generating and increasing contributions to the PAC. They have also concentrated on spending these funds where they will be the most effective. There is no question that, thus far, PAC emphasis has been on money, either in the form of income or expenditures.

PAC members will not continue to contribute indefinitely, however, unless they have a role in PAC activities equal to their contributions. PAC's must realize that they have two audiences: candidates and potential contributors. In the 1980's, PAC's must address the problems of member participation and develop educational programs for their members. These educational programs must make PAC members an essential component of effective campaigns. PAC members must be taught campaign management and other specialized campaign skills so that they will be able to actively and effectively participate in campaign efforts. Since the tasks formerly done by rank and file volunteers are becoming specialized, training is needed to adapt to new techniques. Corporate, trade association, and union executives have seldom found campaign roles into which they comfortably fit. The PAC's of the 1980's will find and develop these roles.

In addition to making direct cash contributions to a particular campaign, or training PAC members to take an active part in support of a certain candidate, PAC's in the future must also be prepared to assume independent campaign roles and responsibilities. It can be anticipated, for example, that in future years political action committees will make independent expenditures<sup>41</sup> for candidates by using phone banks, direct mail projects, or advertising campaigns. Some PAC's may produce radio and television spots. The only limit on independent expenditures is the ingenuity of the PAC.

Independent expenditures were upheld by the Supreme Court in *Buckley v. Valeo*.<sup>42</sup> If PAC critics are successful in enacting legislation that eliminates or additionally restricts direct PAC contributions to

---

41. An "independent expenditure", according to the regulations, is an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate.

11 C.F.R. § 109.1(a) (1980). The regulations further explain that '[m]ade with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of a candidate' means—(i) Any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication.

11 C.F.R. § 109.1(b)(4)(1) (1980). If the communication is based on information about the candidate's plans, his projects, or needs, which have been furnished by the candidate or his agent or anyone who has been authorized by the candidate to raise funds or who is in the employ of the candidate, it is presumed that the expenditure is not independent. *Id.*

42. 424 U.S. at 45-48.

candidates, PAC's will continue to support candidates using the independent expenditure mechanism. While FECA limits direct PAC contributions to candidates to \$5,000 per election,<sup>43</sup> the *Buckley* Court decided that there could be no limitation on the amount spent on behalf of a candidate if the expenditure was independent.<sup>44</sup> Although it is not anticipated that legislation restricting direct PAC contributions to candidates will be enacted, some PAC's are currently making independent expenditures in order to determine those methods which can be used most effectively.

### CONCLUSION

Political action committees will continue to be an important political resource as long as they fulfill their function and the first amendment remains viable. As the Supreme Court in *Buckley* stated:

Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The First Amendment affords the broadest protection to such political expression in order "to assure (the) unfettered interchange of ideas for the bringing about of political and social changes desired by the people."<sup>45</sup>

The Court added, furthermore, that this "unfettered interchange of ideas" applies to all would-be political participants. In response to those who have called for the imposition of limitations on public speech, the Court added that

the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment, which was designed "to secure "the widest possible dissemination of information from diverse and antagonistic sources," and "to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people."<sup>46</sup>

The political action movement is an ideas whose time has come. PAC's are the political manifestation of social and behavioral changes taking place in America. Their potential is enormous and they will continue to be effective in proportion to their ability to motivate people to become politically active.

---

43. 2 U.S.C. § 441a(a)(2) (1976).

44. 424 U.S. at 45-48.

45. *Id.* at 14.

46. *Id.* at 48-49 (citation omitted).