

THE OBEY-RAILSBACK BILL: ITS GENESIS AND EARLY HISTORY

Herbert E. Alexander*

The relocation of political power has been a major purpose of political financing reforms of the 1970's. Among other goals, election reformers have sought to reduce the perceived influence and power of monied interests, whether they are large individual contributors or corporations, labor unions, or other so-called "special interest" groups in American society.

Reform, however, does not always achieve the purposes intended by reformers. The 1974 Amendments¹ to the Federal Election Campaign Act of 1971 [FECA]² effectively reduced the role of large contributors by limiting to \$1,000 the amount an individual may contribute to any federal candidate in one primary or election.³ But the same Amendments served to increase—or at least make more visible—the roles played by corporations, labor unions, and other interest groups by encouraging the establishment by those organizations of political action committees [PAC's].

A PAC is normally organized by a business, labor, professional, agrarian, ideological, or issue group, to raise funds on a voluntary basis from members, stockholders or employees, for the purpose of aggregating numerous smaller contributions into larger, more meaningful amounts that may then be contributed to favored candidates or political party committees. According to the 1974 Amendments, a PAC can contribute up to \$5,000 per candidate per election,⁴ that is, \$5,000 in a

* Director, Citizens' Research Foundation; Professor of Political Science, University of Southern California. B.S., 1949, University of North Carolina; M.A., 1951, University of Connecticut; Ph.D., 1958, Yale University.

1. Pub. L. No. 93-443, 88 Stat. 1272 (codified in scattered sections of 2, 5, 18, 26, 47 U.S.C.).

2. Pub. L. No. 92-225, 86 Stat. 3 (1972) (current version codified at 2 U.S.C. § 431-455 (1976 & Supp. III 1979)).

3. 2 U.S.C. § 441a(a)(1)(A) (1976).

4. *Id.* § 441a(a)(2); *id.* § 431(1) (Supp. III 1979).

primary and another \$5,000 in the general election, provided the committee has been registered with the Federal Election Commission [FEC] for at least six months,⁵ has more than 50 contributors,⁶ and has supported five or more candidates for federal office.⁷

Elsewhere I have described the political and legal antecedents of the emergence of PAC's.⁸ For the purposes of this Article, it will suffice to consider briefly the growth of PAC's, particularly of corporate and business-related PAC's, since their establishment was encouraged by the 1974 Amendments.

THE GROWTH OF PAC'S

Since 1972, the number of PAC's has multiplied to the point that most trade and professional associations, many corporations, and most labor unions now sponsor them. Since these special interests can no longer contribute to presidential candidates in the general election period⁹ because full public funding is provided, many have turned their excess dollars to senatorial and congressional contests. At the same time, the \$1,000 limit imposed on individual contributors has had the effect of diminishing the individual gift component while increasing the group gift component as a percentage of the total contributions in many campaigns.¹⁰

For business and industry, the potential of the PAC movement is the most important result of the campaign finance reform legislation of the 1970's. With each passing election, recognition of that potential has grown significantly. Contributions by corporate and business-related PAC's increased dramatically in 1976, almost tripling 1974 totals.¹¹ FEC records indicate that the 450 corporate-related PAC's that registered for the 1976 campaign reported receiving \$6,782,322 and spending \$5,803,415 during 1975 and 1976. Most of the corporate PAC direct contributions went to candidates for the Senate and the House. Corporate and business-related trade association PAC's together spent a total of \$12,587,000 during the 1975-76 election cycle, more than \$7 million of it in direct contributions to congressional campaigns.¹²

In contrast, labor committees spent \$17,489,000 during the same

5. 2 U.S.C. § 441a(a)(4).

6. *Id.*

7. *Id.*

8. See H. ALEXANDER, FINANCING THE 1976 ELECTION 544-66 (1979) [hereinafter cited as H. ALEXANDER I]. See also H. ALEXANDER, FINANCING POLITICS: MONEY, ELECTIONS AND POLITICAL REFORM 81-90 (2d ed. 1980).

9. See 2 U.S.C. § 441b (1976 & Supp. III 1979).

10. See text & notes 11-14 *infra*.

11. All receipt, expenditure, and contribution figures for the 1975-76 election cycle are derived from H. ALEXANDER I, *supra* note 8.

12. *Id.* at 545.

period. Of that amount, \$8.6 million was contributed directly to candidates and an additional two million dollars or more was spent in communication costs on behalf of federal candidates.¹³ Like corporate and business money, labor money was focused on the Senate and House. Nearly ninety-five percent of labor's money, however, went to Democratic candidates, while corporate committees split their spending about 57%-43% between Republican and Democratic candidates.¹⁴

According to FEC reports, 1,938 PAC's were active during the 1977-78 election cycle.¹⁵ Of that number, 821 were corporate PAC's, almost twice the number operating during the 1975-76 cycle. Labor union PAC's, however, decreased from 303 in 1975-76 to 281 in 1977-78. Most of the remaining PAC's were classified by the FEC as trade/membership/health PAC's or no-connected PAC's—ideological, issue-oriented, or functional groups.

During the 1977-78 cycle, PAC's raised \$80.5 million and spent \$77.8 million. Of the total amount spent by PAC's, \$35.1 million went to federal candidates. According to Common Cause, a national citizens' lobbying organization, that figure represents an increase of more than fifty percent over the \$22.6 million PAC's gave House and Senate candidates in 1976 and is almost triple the \$12.5 million they gave in 1974.¹⁶

For the 1978 elections, House candidates received more than \$24.9 million from PAC's and Senate candidates more than \$10.1 million.¹⁷ Trade/membership/health PAC's received \$25.2 million and spent \$24.2 million, \$11.5 million in direct contributions to federal candidates. Labor PAC's received \$19.8 million and spent \$18.9 million, \$10.3 million in contributions to federal candidates. Corporate PAC's received \$17.7 million and spent \$15.3 million, contributing \$9.8 million to federal candidates. For the 1977-78 period, more than sixty percent of corporate PAC money went to Republican candidates. In contrast, ninety-five percent of labor money went to Democrats.

According to some observers, the reality of corporate PAC growth pales in comparison with the potential. Edwin M. Epstein has written: "Surely by 1982, there could be 1,000 corporate PACs spending a total of some \$50 million (an average of \$50,000 apiece) and distributing \$25-30 million directly to congressional candidates (assuming the pres-

13. *Id.* at 548.

14. *Id.* at 549.

15. FEC News Release (May 10, 1979). All 1977-78 receipt, expenditure, and contribution figures are taken from this release.

16. Cook, *Political Action Committee Spending Soared in 1978*, 37 CONG. Q. WEEKLY REP. 1043, 1043 (1979).

17. FEC News Release (May 10, 1979).

ent disbursement ratios do not change)."¹⁸ In addition, according to Epstein, "[b]usiness-related (but noncorporate) associations are likely to increase both the size and vigor of their PAC operations."¹⁹

EVALUATING PAC GROWTH

The rapid growth in the number of PAC's and in the total amount contributed to House and Senate candidates by PAC's has been variously interpreted. As might be expected, representatives of business and industry have interpreted this growth as a positive development.²⁰ Though corporate and other business-related PAC's and labor union PAC's have both steadily increased the amounts of money they have raised and spent on behalf of favored candidates, the percentage increase by corporate and other business-related groups far outstrips that of labor groups. Thus, John Mercer, political-affairs manager for the United States Chamber of Commerce's Western Region, recently defended the growth of PAC's against legislation that would restrict such committees, calling political action committee activity "nothing more than individual citizens becoming politically active," and maintaining that such organized political activity "is a healthy sign that at least some people truly care about what is happening in Congress."²¹

Equally to be expected, the growth of corporate and other business-related PAC's, as well as their potential for continued growth, has galvanized labor union opposition to corporate and business-related PAC influence in the electoral process. Labor unions have been in the forefront of efforts to extend public financing to congressional campaigns.²² Labor officials see public funding as a means of forestalling the perceived threat of financial dominance of election campaigns by corporate and business interests. So far, however, their efforts have not been successful. Though both houses of Congress have considered public funding several times in recent years, public funding proposals have never mustered the joint support needed for approval.²³

Alternatively, some labor union representatives have proposed that contribution limits on PAC's be reduced from \$5,000 to \$2,500 per

18. Epstein, *An Irony of Electoral Reform*, 3 REG. 39 (MAY/JUNE 1979).

19. *Id.* For Richard Wirthlin's views on PAC potential, see Farney, *Harnessing the PAC Bomb*, Wall St. J., Dec. 4, 1978, at 26, col. 4.

20. See, e.g., *Congress Sees Business PACs Upsetting Traditional Money*, Pub. Affairs Rep., May, 1979, at 1-2.

21. Mercer, *Political-Action Committees: A Good Cause*, L.A. Times, Oct. 5, 1979, § II, at 7, col. C.

22. See, e.g., Townsend, *AFL-CIO Seeks to Head Off PACs Campaign Spending*, Christian Science Monitor, May 22, 1979, at 9, col. 3.

23. For a discussion of congressional public financing legislative history, see H. ALEXANDER I, *supra* note 4, at 654-60; Cohen, *Public Financing for House Races—Will It Make a Difference?*, 11 NAT'L J. 783, 783-87 (1979); Cook, *Public Financing Loses in Committee Again*, 37 CONG. Q. WEEKLY REP. 1000, 1000 (1979).

election, and that partial public funding of House general election campaigns be enacted.²⁴ Though labor PAC's gave more \$2,500-and-over contributions in 1976 than did business or corporate PAC's,²⁵ labor representatives who support this proposal are apparently looking to the future when business and corporate PAC's might well surpass them in the category.

Some reform groups also have expressed concern—even alarm—at the growth in the number and perceived influence of PAC's. For example, in a report on the contributions of PAC's to House newcomers elected in 1978, Fred Wertheimer, Senior Vice President of Common Cause, one of the reform groups instrumental in getting the reform legislation of the 1970's enacted, stated: "Our study shows that newcomers to the House are becoming heavily indebted to interest group PAC's even before they are sworn into office."²⁶ Wertheimer noted: "The new FEC figures [the FEC's year-end 1978 report released May 10, 1979] and our study show a continuation of a dangerous trend toward PAC domination of our elected officials in Congress. We are facing government of, by and for the PAC's of America, unless this fundamental flaw in our political system is corrected."²⁷

Other observers have steered a middle course in their evaluation of the emergence of PAC's. For example, according to Michael J. Malbin of the American Enterprise Institute, "[t]he PAC's, and the connection between their gifts and Congressional policy, are a good deal less significant than we have been led to believe."²⁸ While acknowledging the growth in numbers of PAC's and in total PAC contributions, Malbin maintains that PAC's are only a small chapter in the campaign finance story. "PAC's may have given 50 percent more to Congressional candidates in 1978 than in 1976," he observes, "but so did everyone else."²⁹ According to Malbin, PAC's "were responsible for about the same percentage of all Congressional-campaign contributions in 1978 as in 1976."³⁰ Malbin's figures indicate that in 1978 PAC's accounted for twenty-six percent of all funds received by House general election candidates for their primary and general election campaigns compared with twenty-two percent in 1976. Senate candidates received fourteen percent of their funds from PAC's in 1978 compared with fifteen per-

24. See Epstein, *supra* note 18, at 40.

25. H. ALEXANDER I, *supra* note 8, at 558-59.

26. *Interest Group PACs Contributed Heavily to House Newcomers*, Common Cause News Release 1 (May 15, 1979).

27. *Id.* at 3.

28. Malbin, *Campaign Financing and the 'Special Interests'*, PUB. INTEREST 21, 21 (Summer 1979).

29. *Id.* at 26.

30. *Id.*

cent in 1976. According to Malbin, PAC contributions were proportionately more important in 1976 than in 1974. He maintains, however, that this is due in large part to changes in the law enacted in 1974 that removed a ban on federal contractor PAC contributions. According to Malbin, what happened between 1976 and 1978 "was not that any one source of funds became more important but that campaigns became more expensive."³¹

Malbin also has suggested that the increased amounts of money given to candidates by corporate and business-related PAC's do not wholly represent an influx of new money into the political process: "The real question is whether business PAC's and individuals in business together now give a greater combined total than the unreported combined total of what used to be given legally by individuals in business and illegally by corporations."³² For his part, Malbin doubts that is so.

THE GENESIS OF THE OBEY-RAILSBACK BILL

A number of approaches to reduce the perceived special-interest influence on congressional elections have been proposed. One approach supports extension of public funding to congressional campaigns.³³ In May, 1979, for the fourth time in five years, however, the House Administration Committee voted against a proposal to provide public funding for congressional campaigns, and further efforts on the House floor failed.³⁴ A major purpose of the supporters of the public funding proposal was to reduce reliance of House candidates on contributions from perceived special-interest groups. Since it had become apparent that efforts to extend public financing to congressional campaigns had reached an impasse, opponents of the growing influence of PAC's chose another approach to curbing that influence. On July 26, 1979, a bipartisan coalition led by Representatives David R. Obey, D-Wis., and Tom Railsback, R-Ill., filed a bill that would reduce the amount of money PAC's could give candidates for the House of Representatives and would impose a ceiling on the total funds House candidates could receive from PAC's.

As introduced, the Campaign Contribution Reform Act of 1979, also known as H.R. 4970 or the Obey-Railsback bill, would:

- Reduce the maximum PAC contribution to a House candidate

31. *Id.* at 27.

32. Malbin, *Neither a Mountain nor a Molehill*, 3 REG. 42 (May/June 1979).

33. See authorities cited note 23 *supra*.

34. Cook, *supra* note 23, at 1000.

from \$5,000 to \$2,500 per election (primary, runoff, or general election);

- Impose a \$50,000 ceiling on contributions a House candidate could receive in a two-year election cycle from all PAC's; and
- Prohibit PAC's, media advertising, or direct mail fundraising consultants from extending to House candidates credit in excess of \$1,000 for more than 30 days.

In a letter to their colleagues explaining their proposed legislation, Representatives Obey and Railsback acknowledged the legitimate role played by PAC's. But that role, they said, "must be kept in balance to preserve the integrity of the Congressional process."³⁵ The representatives expressed their concern that unless some limits were imposed on the size and numbers of PAC contributions, "special interests will soon dominate the legislative process."³⁶

Though the Carter administration did not take part in the debate on the Obey-Railsback bill, the proposed legislation did elicit strong responses from legislators and other interested parties. Support for the bill was coordinated by the Democratic Study Group [DSG], an organization of House liberals chaired by Representative Obey. Earlier in the year, the DSG had played a major role in support of H.R. 1, which would provide public funding to House general election candidates. Much of the data on PAC contributions and influence gathered by the DSG and other supporters of that bill, which died in the House Administration Committee, was refined and used in the campaign in favor of H.R. 4970.

Obey-Railsback also attracted more than twenty Republican co-sponsors, as well as the support of the AFL-CIO, Common Cause, and other reform advocates. Common Cause Vice President Fred Wertheimer contended that "[u]nless there are some new controls on the PAC movement, we will see no controls for some time, if at all."³⁷

Among the opponents of H.R. 4970 was the Republican Policy Committee which maintained that the bill "restricts full participation in our election process."³⁸ According to a policy committee statement, the Obey-Railsback bill "leaves candidates no defense against rich competitors. It raises the cost of political fund raising . . . and penalizes challengers who need to spend heavily to gain identity equal to

35. Quoted in Weaver, *Bill to Seek Limit on Political Gifts*, N.Y. Times, July 16, 1979, § IV, at 7, col. 2.

36. *Id.*

37. Quoted in Cook, *Curbs Sought on PAC Role in House Contests*, 37 CONG. Q. WEEKLY REP. 1955, 1955 (1979).

38. Quoted in Russell, *Democrats Push Bill to Cut Special Interest Election Gifts*, Wash. Post, Sept. 13, 1979, § A, at 2, col. 3.

incumbents."³⁹

Also opposing H.R. 4970 were many of those organizations which interpreted the emergence of PAC's as a positive development in American politics, including the National Association of Manufacturers, the American Medical Association, and the Business-Industry Political Action Committee. *Public Affairs Report*, a publication of the United States Chamber of Commerce, noted: "PAC contributions in 1978 were only 16% of the \$199.4 million given to all House and Senate candidates. Corporate PACs gave only 4%."⁴⁰ The publication observed that "[o]pponents of the bill cite these figures when asking just how much influence or access can be obtained with only 16% of the contributions candidates receive."⁴¹

As with any controversial legislation, a good deal of scrimmaging took place among supporters and opponents. In an effort to gain more support for the bill and to hold on to wavering supporters, the bill's sponsors agreed to make a number of changes in the original bill. The changes raised the amount a PAC can contribute to a House candidate from \$2,500 to \$3,000 per election. They increased the total amount a House candidate can receive from all PAC's from \$50,000 to \$70,000 per election cycle. The sponsors also agreed to increase the time limit for the extension of credit to a House candidate by a consultant or vendor for mass media political advertising from thirty to sixty days and to drop the original \$1,000 limit. The changes agreed to, however, prohibited any extension of credit by a supplier of direct mail services. Finally, the sponsors agreed to add a requirement that House candidates use no more than \$35,000 from political contributions to repay themselves for personal expenditures in their campaigns.

In addition, realizing that the House Administration Committee had failed to report out many pieces of campaign legislation in the past, sponsors of H.R. 4970 sought a waiver from the House Rules Committee that would allow them to bypass the Administration Committee and bring the bill up on the floor as a nongermane amendment to the FEC appropriations bill (S. 832). On September 19, the Rules Committee voted to permit the bill to be offered directly on the floor.

Opponents of the bill stepped up their opposition both within and outside the House. In a contribution to the *New York Times*, Representative Bill Frenzel, R-Minn., one of the bill's most vocal critics, wrote in favor of the emergence of PAC's: "In the last 20 years, as political parties have become less popular and confidence in govern-

39. *Id.*

40. *Obey-Railsback Bill Action Expected in September*, PUB. AFF. REP. 1 (Aug. 1979).

41. *Id.*

ment has fallen, PACs have been the greatest—in fact the only—institution in our society that has encouraged and expanded political participation by the public.”⁴² Frenzel went on to list a number of negative effects he was convinced the proposed legislation would have, including leaving most candidates defenseless against wealthy candidates whose self-contributions would no longer be balanced by PAC contributions, penalizing challengers who needed to spend heavily to gain identification equal to incumbents, and discriminating against Republicans. Frenzel explained that fourteen of the sixteen Republican challengers who defeated incumbent Democrats in 1978 received more contributions from PAC's than would be allowed under H.R. 4970. He suggested that under the Obey-Railsback bill, many of those Republicans may not have won.⁴³

Within the House, opponents made moves that appeared to threaten the bill's future. In late September, Obey-Railsback supporters maintained they had enough votes to pass the bill, which was scheduled for consideration at the end of the week of September 24. Events on the House floor, however, upset that schedule. A week earlier House members had defeated the budget bill for fiscal 1980, which would begin on October 1. Since the Columbus Day recess was fast approaching, it was imperative that the budget resolution be passed to avoid disruption of the budget process. On the morning of September 27, Representative Mendel J. Davis, D-S.C., a long-time opponent of public financing, told House Budget Committee Chairman Robert N. Giaimo, D-Conn., that a postponement of consideration of H.R. 4970 until after the recess would gain eleven votes for the budget bill. Representative Giaimo took that Davis proposal to House Speaker Thomas O'Neill, Jr., D-Mass., who promptly agreed. The budget bill passed 212 to 206.

Representative Davis explained his action: “When you are in a tight [situation], you use every tool at your disposal that is ethically correct.”⁴⁴ His intent was not to block the budget proposal, but to postpone action on Obey-Railsback on which “not one day of hearings has been held.”⁴⁵ Davis acknowledged that he intended to buy time which H.R. 4970's opponents could use to lobby against the bill.

Obey-Railsback supporters, predictably, were concerned. “PACs and their in-house allies have been engaged in a desperate effort to delay the vote until after the Columbus Day recess,” said Congressman

42. Frenzel, *On the Bill Curbing Interests' Gifts*, N.Y. Times, Sept. 27, 1979, at 19, col. 1.

43. *Id.*

44. Quoted in Berry & Russell, *Budget Plan Voted After Bill Tradeoff*, Wash. Post, Sept. 28, 1979, § A, at 1, col. 2.

45. *Id.*

Obey in a press statement, "to give them additional time to pressure and arm-twist members into breaking their commitments to support the bill."⁴⁶ Representative Davis' action, Obey charged, amounted to "legislative blackmail."⁴⁷ Many of the bill's co-sponsors, including Representative Obey, were pessimistic about the bill's chances.

The cosponsors' concern about lobbying against the bill during the recess proved justified. For example, a Democratic congressman from Pennsylvania who had solicited a campaign contribution from INN-PAC, a Holiday Inn Political action committee, was turned down because of his support for Obey-Railsback. In a letter the congressman made available to the press on the condition that he not be named, Reuben Pomerantz, INN-PAC chairman, wrote that the bill "would further limit our freedom to participate in the political and electoral process."⁴⁸ The letter suggested that if the congressman would reconsider his position on Obey-Railsback, INN-PAC officials "may reconsider our support"⁴⁹ for the legislator's reelection campaign.

The pessimism of Obey-Railsback cosponsors regarding the bill's chances, however, proved unnecessary. After two weeks of intense lobbying on both sides, the House reconvened on October 9, and on October 17, H.R. 4970 came to the floor for a vote.

Floor debate was long—the better part of the six hours devoted to the FEC authorization bill—and often heated. House Speaker O'Neill argued: "We cannot allow special interest groups through excessive and unchecked influence, to destroy our two-party system."⁵⁰ When his remarks were met with jeering laughter, O'Neill retorted, "You with the smiles on your faces, do you want to get up and tell me how much you got from the special interests?"⁵¹

House Majority Leader Jim Wright, D-Tex., told his colleagues: "A seat in the House of Representatives ought not to be like a seat on the New York Stock Exchange, up for sale to the highest bidder."⁵² The Republican side responded with a chorus of boos.

The bill's co-sponsor, Representatives Obey, likened campaign financing to the arms race: "We have a new arms race on our hands. . . , only the arms, instead of missiles, are campaign dollars.

46. *Quoted in Backers of Obey-Railsback Bill Pessimistic As House Delays Bill Until After Recess*, CAMPAIGN PRAC. REP., Oct. 1, 1979, at 2.

47. *Quoted in Berry & Russell, supra* note 44.

48. Russell, *House Votes Campaign Donation Curb*, Wash. Post, Oct. 18, 1979, § A, at 4, col. 1.

49. *Id.*

50. *After Extensive Debate, House Passes Bill to Limit Special Interests*, CAMPAIGN PRAC. REP., Oct. 29, 1979, at 1-2.

51. *Three Jeers for Ethics*, L.A. Times, Oct. 19, 1979, § II, at 10, col. 1E.

52. *New Limits on PAC Contributions Advanced*, 37 CONG. Q. WEEKLY REP. 2337 (1979) [hereinafter cited as *New Limits*].

Whatever business does one year, labor does the next."⁵³

In opposition to the bill, House Minority Leader John J. Rhodes, R-Ariz., argued that H.R. 4970 "would reduce the ability of the challengers to raise funds in the early stages of a campaign, and reduce the ability of PACs to participate in the political process."⁵⁴ He called Obey-Railsback "an incumbent protection" device.⁵⁵

Representative Frenzel repeated arguments against the bill that he had made publicly elsewhere. He also argued that the provision prohibiting individuals from repaying themselves for more than \$35,000 in personal loans to their own campaigns "won't last five minutes in the Supreme Court."⁵⁶

Representative Robert K. Dornan, R-Calif., called PAC growth "healthy." He explained: "It energizes more Americans to get involved in the political system."⁵⁷

Representative Henry Hyde, R-Ill., compared contributing to PAC's with voting in a referendum. In that sense, he argued, the Obey-Railsback proposal was "an inhibition of free speech."⁵⁸

In the end, supporters of the bill prevailed. The vote to adopt H.R. 4970 was 217-198, with 29 Republicans joining 188 Democrats in favor and 74 Democrats and 124 Republicans opposed. Among the bill's supporters were 22 incumbents who had received more than \$70,000 in contributions from PAC's.⁵⁹

THE FUTURE OF OBEY-RAILSBACK

Despite the adoption of the Obey-Railsback bill, the story is far from over. Although the legislation applies only to House elections, it requires Senate approval. Customarily such approval would be considered a routine matter. However, the implications of Obey-Railsback go beyond the ordinary. The bill would enact a new order of limitations, different in kind and form from the contribution limits sanctioned by, and from the expenditure limits conditioned by, the Supreme Court in *Buckley v. Valeo*.⁶⁰ PAC receipt limits are a new category of limits and would apply only to candidates for the House of Representatives. If the Senate voted in favor of Obey-Railsback, pressure certainly would

53. *Id.*

54. *Id.*

55. Quoted in Russell, *supra* note 38, § A, at 2, col. 3.

56. *New Limits*, *supra* note 52, at 2337.

57. Quoted in Roberts, *House Stiffens Curb on Campaign Funds for Its Own Races*, N.Y. Times, Oct. 18, 1979, at 1, col. 6.

58. *Id.*

59. *New Limits*, *supra* note 52, at 2338. The House floor debate is recorded in 125 CONG. REC. H9261-H9305 (daily ed. Oct. 17, 1979).

60. 424 U.S. 1 (1976).

build for passage of similar legislation applicable to Senate campaigns.⁶¹ Alternatively, if the Senate permitted the House bill to become law, but failed to enact legislation applicable to itself, then campaigns for the two Houses of Congress would be conducted under different rules.

Immediately after the bill's passage in the House, many Republicans who interpreted the bill as a threat to future GOP congressional strength redoubled their opposition to it. House opponents of the bill as well as a number of PAC's asked senators to refer the bill to committee, in the hope that it would be amended or killed.⁶² As an alternative, opponents urged senators to filibuster any efforts either to send the bill to a House-Senate conference or to seek its passage on the Senate floor.⁶³

The interest groups which opposed action in the House regrouped to assist a filibuster if one developed.⁶⁴ They saw the passage of the bill as an opening wedge to advance the cause of congressional public financing, because inflation and rising campaign costs would continue to create demand for alternative sources of funds. Thus, the opponents' resistance was heightened by their discerning linkages between Obey-Railsback and the reformers' desire for congressional public funding—in the bill's inception deriving from data gathered to support H.R. 1, and in the bill's perceived result as helping to bring on public funding if enacted.

The DSG leadership wrote to all Democratic senators soliciting their support. The DSG also asked those House members who had supported H.R. 4970 to discuss the proposal with their senators and, in particular, to emphasize that it had nothing to do with the Senate. Representative Railsback and other Republican House members who supported the proposal wrote to Republican senators asking for help.

For a time it appeared that one of the casualties of the battle over Obey-Railsback would be H.R. 5010. This noncontroversial reform bill amending the Federal Election Campaign Act had passed the House September 10. Although the Senate had been considering its own bill (S. 1757) to amend FECA, the Senate Rules Committee and the House Administration Committee decided to proceed with the House bill in order to avoid the delay that passage of S. 1757 would have caused. In that case, a House-Senate conference would have been

61. S. 1700, 96 Cong. 1st Session (1979), a bill cosponsored by Senators Kennedy, Stafford, and Tsongas was introduced on August 3, 1979, but no action was taken on it in the 1st Session. The bill changed the PAC contribution limit but had no PAC aggregate receipts limit as in the House bill.

62. *On Capitol Hill*, Wash. Post, Oct. 25, 1979, § A, at 4, col. 1.

63. *Id.*

64. *Id.*

required to resolve the differences between the two bills. By consulting with the House Administration Committee on amendments to the House bill, the Senate Rules Committee hoped to assure quick final passage of the bill. Once Obey-Railsback passed the House, however, work on H.R. 5010 came to a halt.

By November, 1979, it became clear that Obey-Railsback would not be acted upon by the Senate until 1980. Backers of the bill expected a long, drawn-out fight on the Senate floor. Since several major items remained on the 1979 agenda, they preferred to hold off on the bill until the next session. Opponents of the bill expressed confidence that it would be killed in the Senate Rules Committee or by filibuster on the Senate floor. Senators Gordon Humphrey, R-N.H., Mark Hatfield, R-Ore., and Paul Laxalt, R-Nev. were in the forefront of opposition to the bill. Senator Humphrey counted 33 to 35 Republicans who would join in a filibuster if the House proposal made it out of the Rules Committee.⁶⁵ Senate Minority Leader Howard Baker declared: "If it comes up, there will be a filibuster."⁶⁶ He added, "I would be in the forefront of the filibuster."⁶⁷ It was clear that the proponents did not have sufficient votes for cloture to stop a filibuster.

Once the controversial Obey-Railsback bill was side-tracked, Senate attention was returned to H.R. 5010. The Senate, in consultation with the bill's principal House sponsors, added a number of amendments. On December 18 the bill passed the Senate, and on December 20 the Senate's amended version passed the House without objection. It was signed into law by President Carter on January 8, 1980.⁶⁸

Meanwhile, the Obey-Railsback bill remained stalled, and with it the hopes of its supporters to curtail perceived PAC influence in congressional election campaigns. The Congress can act on the bill in the second session of the 96th Congress, but since 1980 is an election year, the bill surely would not apply immediately. There is every indication, then, that PAC's will continue to bring their influence to bear upon 1980 election campaigns.

65. *PAC Bill Dead Issue Until Next Year*, POL. ACT. REP. 6, 6 (Nov. 1979).

66. *Quoted in Ehrenhalt, Senators to Fight House PAC Limits*, Wash. Star, Oct. 26, 1979.

67. *Id.*

68. Federal Election Campaign Act Amendments of 1979, Pub. L. No. 96-187, 93 Stat. 1339 (codified in scattered sections of 2 U.S.C.).

