How contribution limits stack the deck against the "little people" they are supposed to empower

Campaign Contribution Limits: Cure or Curse?

BY THOMAS L. GAIS

AT A RECENT MEETING SPONSORED BY A LARGE FOUNdation, an official from a public-interest advocacy organization asked to meet me to discuss some questions about analyzing campaign-finance data. We met a few days later, and he explained that he wanted to know whether it was possible to use data on campaign contributions to determine the effects of money on legislative outcomes.

The official's interest was not academic. He wanted to use the findings—which he was certain would show that campaign contributors do have considerable influence on state policymakers—in an effort to build public support for comprehensive campaign-finance reforms, including public financing and stricter limits on contributions. We discussed the scholarly literature on the subject and the problems plaguing those who try to find those connections—which are many and not easy to solve.

Near the end of the meeting I asked the official why he decided to research the influence of money on legislative outcomes. He said that a wealthy supporter of his organization had asked for the research and offered to underwrite the project, which the official and others at the organization thought a good fit with the group's mission.

The inconsistency between the official's organizational practices and policy aims is nothing new in American politics. Many of the good-government groups that have tried to reduce the role of large contributors in financing U.S. elections through contribution limits and other measures have themselves been supported by gifts and grants from foundations and wealthy individuals—political "patrons" in the late Jack Walker's words—not by masses of of small contributors. In fact, as Walker pointed out, much of the expansion of the American interest-group system since the 1960s—which has grown well beyond the traditional associations representing corporations and industries in the for-profit sector—has depended in large part on support from large donors or grants and contracts from a wide variety of public and private institutions. What is more, that pattern is by no means an accident. Relying on large numbers of small contributors to raise money is difficult and costly, and different groups or political interests have very different capacities to succeed at this task.

Thus, the very actions of good-government groups belie the notion that we can, through the right campaign-finance laws, establish a better—that is, more representative—campaign-finance system by forcing candidates, parties, and interest groups to rely on small contributors. That notion ignores the real problems of collective action and the

Thomas L. Gais is director of the Federalism Research Group at the Nelson A. Rockefeller Institute of Government of the State University of New York.

actual ways of mobilizing financial support for broad-based political interests.

COLLECTIVE ACTION AND THE ORGANIZATION OF INTEREST GROUPS

I AM NOT SAYING THAT RELYING ON LARGE CONTRIBUTORS does not raise enormous problems for democratic government. But simply quashing opportunities for large contributors does not solve many problems. It may in fact create an even less egalitarian system of campaign financing, as I argued in my book, *Improper Influence: Campaign Finance Laws, Political Interests, and the Problem of Equality*.

The argument is simple. First, small contributions are hard to mobilize. Second, most campaign-finance proposals center on contribution limits and other provisions aimed at forcing candidates, interest groups, and parties to raise most if not all of their political money from small contributors. Third, because some political interests have access to methods of mobilizing small contributions, while many do not, campaign-finance regulations often have the effect of exacerbating inequalities in the influence of interests.

Of course, that line of argument does not by itself mean that a deregulated system is preferable. Good arguments may be made that there is an undermobilization of small contributions even in an unregulated environment, and those arguments can lead to strong justifications for public financing or institutional measures that enable more citizens to support political campaigns. But restrictions—and especially limits—on private contributions may not have the consequences that their proponents had hoped for.

The Collective-Action Problem The problem created by limits on campaign contributions becomes clear in light of Mancur Olson's work on the problem of collective action, *The Logic of Collective Action*. Olson posed the question why anyone would voluntarily support an organization—perhaps by making a financial contribution—when the organization seeks to provide a collective good, a good that is provided even to those who do not make contributions to the political effort.

Some of the benefits that contributors or organizations might receive from campaign contributions have the collective quality that Olson wrote about. Influencing election outcomes and party fortunes are obviously collective goods. Some persons and organizations benefit from such changes, but they benefit whether or not they contributed to the efforts to bring about the changes. Of course, many benefits received from making campaign contributions may, at some level, be selective rather than collective. Having access to a specific legislator, or gaining support for a special tax benefit, may be highly particularized goods for specific corporations, industries, or their collective-action committees. But the collective-action problem still exists if the organization or industry or union must raise money from individuals, such as managers or members. Thus, the question of what kinds of political interests are likely to dominate the campaign-finance system can be answered in part by understanding what kinds of interests are able to overcome problems of collective action from the perspective of individual contributors.

Olson began with the claim that small contributors are hard to organize around their common interests, even if they fully agree with one another on public issues and believe that an electoral organization would advance their cause. The problem lies in the incentives for members of a group to withhold their contributions to the organization and act as free riders. If the success or failure of the group is little affected by a member's participation, and if the political goods that the group seeks cannot be feasibly withheld from those who do not participate, an individual is unlikely to contribute more than a trivial amount to the group's political effort. (Contribution ceilings can, of course, ensure that individual contributions have little effect on the group's success or failure.)

Olson posed the question why anyone would voluntarily support an organization when the organization seeks to provide a collective good, a good that is provided even to those who do not make contributions.

Exceptions to the Collective-Action Impasse There are circumstances in which it is possible to secure large individual contributions for political efforts. For example, it is reasonable for a person or firm with much at stake in a political outcome to make a large contribution to an organization if the contribution is large enough to have a significant marginal effect on the success of the political effort. In a concentrated industry—for example, automobile manufacturing—the failure of any one firm to support a political effort would mean a large reduction in the amount of resources available for political action.

The same logic suggests that a group with "large members"—members who would receive a very large share of the anticipated benefits of collective action—may be able to secure adequate support for effective political action, regardless of the size of the group. A very large corporation may stand to benefit so much from a change in the regulations affecting its industry that it would be willing to absorb all or most of the cost of an effective lobbying campaign, even if there are many firms in the industry. The smaller firms in

the industry may not even contribute, because they expect the larger firms to foot the bill.

As Olson pointed out, groups may also be mobilized for political action if contributions from members are induced by the manipulation of selective rewards or punishments and if the contributions are enough to defray the costs of those incentives and leave a surplus for political activities. Olson called that strategy the "by-product theory" of groups, wherein the political activities of an organization are incidental to the provision of private goods in exchange for individual contributions. In that case, the organization's political activities are a way of using its slack resources.

Derivative Strategies These solutions to the collective-action problem—especially the "large member" and "selective incentive" methods—form the basis of two derivative strategies for mobilizing political support. One such strategy is relying on a political "patron," a special supporter or financial guardian of the organization—a person, corporation, foundation, or government agency that assumes responsibility for underwriting a large share of an organization's costs, usually in exchange for special status or control of its activities. (For more on this point, see Jack Walker's *Mobilizing Interest Groups in America: Patrons Professions, and Social Movements* and Milton Friedman's *Capitalism and Freedom.*)

A patron may have a personal stake in a group's political goals, but unlike a "large member," the patron's stake is not sufficient to justify the sums provided by the patron. The patron's motivation also comes from gaining a privileged position within the organization—control of the organization's goals or tactics—or special recognition of the patron's role in supporting the organization and its mission. To entice patrons, group leaders distribute privileges and honors as selective benefits, for example, establishing special projects for a political organization or sleeping in the White House. But because such benefits lose value as they are shared more widely, the number of patrons for a particular organization can never be large.

A second derivative strategy for the mobilization of political interests is acquiring support from or affiliating with an institution—a firm, government agency, or nonprofit organization—that serves purposes other than political representation. Such institutions can foster mobilization in several ways. They can manipulate selective goods to generate financial support for collective goals. They can establish structures of interpersonal relationships—such as peer pressures and hierarchies—that may be used to elicit contributions to political causes and that may concentrate responsibility so as to create a "large member." And they can induce greater agreement or similarity among individuals' preferences, both collective and selective, thereby increasing the probability that the by-product theory will succeed. As Robert Salisbury argued in "Interest Representation: The Dominance of Institutions" (*American Poltical Science Review* 78): "Institutions possess more resources, which, combined with a greater sense of efficacy in political action, lead to a considerably increased probability of participation at any given level of intensity of interest or concern" (p. 69).

It is easier to mobilize small contributors—particularly around purposive benefits—if a patron or institution is able to absorb the considerable costs of finding and mobilizing like-minded contributors.

Mobilizing Small Contributors These rational-actor models do not mean that small contributors cannot be mobilized at all. Indeed they can be and often are, but it is costly and difficult when individual support does not depend on rational calculations.

Small contributors may be mobilized by purposive benefits, benefits that accrue to individuals who value participation in a political cause for its own sake. But it is not a simple task to find and motivate contributors who are responsive to the prospect of such benefits. As Lawrence Rothenberg explained in *Linking Citizens to Government*, demographic and other readily identifiable personal characteristics are only weakly related to a person's willingness to support a particular purpose; therefore, an interest group's leaders must usually spend a lot of time and money winnowing through a large number of potential contributors before they find a reasonably reliable group of supporters. And even when citizens motivated to support a group are found, there is no guarantee that their contributions will sustain an effective political effort. Small and infrequent expressions of support might satisfy desires for involvement just as well as large and recurrent contributions. Further, support for a cause might die away altogether in response to changes in the political system—even small changes—that make a collective good less salient or a collective bad less of an immediate threat.

Because of the great costs and uncertainties of mobilizing small contributors, an institutional affiliation can be critical to the ability to organize around a cause. It is easier to mobilize small contributors—particularly around purposive benefits—if a patron or institution is able to absorb the considerable costs of finding and mobilizing like-minded contributors.

Summary Effective collective action requires large members or patrons for primary financial support, or reliance

on one or more institutions to mobilize support among small contributors or members, or reliance on the power and resources of an institution for political purposes.

Conversely, because of the collective-action dilemma, it is hard for an interest group lacking an institutional base or affiliation to establish and maintain a strong and enduring political organization by securing all its support from small contributors.

PRACTICAL IMPLICATIONS

MY ARGUMENTS DIVERGE SHARPLY FROM THE IDEAS THAT underlie campaign-finance reforms and other regulations affecting interest-group involvement in U.S. elections. The reforms of the 1970s— particularly the 1974 amendments to the Federal Election and Campaign Act setting contribution limits—were in part an attempt to ensure that campaigns would be financed mainly by small, individual donations. Thus, interest groups, political parties, and candidates wanting to raise money (though with some big exceptions, especially in the case of parties) would have to raise their money in amounts too small to have a perceptible effect on the group, party, or candidate's success or failure. In fact, since the enactment of contribution limits, inflation has reduced their value considerably; for example, the $1,000 that an individual could contribute to a political campaign in 1974 is now worth only $330.

The Consequences of Contribution Limits Low limits on contributions, like those established in 1974, have three main effects:

First, they work in favor of groups that have the special qualities needed to raise small contributions by manipulating selective incentives. For-profit corporations and unions, for example, have infrastructures that can be used to motivate and communicate with large numbers of small contributors. On the other hand, groups lacking such infrastructures—as are many ideologically based groups or others that seek to represent broader citizen interests—and groups whose occupational base cannot be exploited for electoral purposes—nonprofits prohibited by tax laws from direct involvment in elections, for instance—will be unable to create strong and enduring electoral organizations.

Second, groups or organizations with even limited access to large contributors will reap enormous advantages from limits on individual contributions to campaigns. Such groups include political parties, which can raise soft money contributions, that is, contributions not subject to limits.

Third, contribution limits also favor organizations that can rely on patrons or other sources to pay the enormous initial costs of finding and mobilizing a base of small contributors.

In sum, there will be a general undermobilization of resources where limits on contributions are enforced. Even more important, there will be large inequalities in the capacity of various interests to raise money for election campaigns. Groups that are equipped to mobilize large numbers of small contributors and groups with access to patrons generally will do better than other groups.

Groups with even limited access to large contributors will reap enormous advantages from limits on individual contributions. Such groups include political parties, which can raise "soft money" contributions.

A Case Study We can understand the representational biases inherent in campaign-finance laws and regulations by comparing political action committees (PACs) with other forms of organized political activities at the federal level. PACs are nonparty organizations that try to influence elections through contributions or other means. Some PACs are affiliated with corporations, unions, or associations; others are independent organizations. With a few exceptions, federal law prohibits an individual from contributing more than $5,000 a year to a PAC, and a PAC may not give a candidate more than $5,000 per election.

Thus, in a two-year election cycle, a person may give a committee as much as $10,000, which seems like a lot of money to most of us. But as I argue in *Improper Influence*, $10,000 is not a "large" contribution in Olson's conceptual framework. Nor does $10,000 allow an individual to act as a patron and absorb the costs of mobilizing many small contributors—especially when a competitive House campaign (such as for an open seat) spends almost $1 million and the median Senate campaign spends more than $4 million.

In the book, I compared PACs with national membership associations—trade associations, labor unions, citizen groups, and other advocacy organizations with some sort of membership base. Here are the major findings:

Effects on Membership Associations Much of the money that flows to membership associations—particularly to citizen and interest groups in the growing nonprofit sector—cannot be used to support electoral activities. Citizen groups—typically, associations representing various political causes and ideological viewpoints—often rely on large contributions from individual donors and on foundation grants. The growing number of groups representing occupations or institutions in the nonprofit sector also tend to rely on support from patrons, especially in the form of grants and contracts from government agencies and foundations.

In contrast, many business groups raise a lot of their money directly from large numbers of individual members. Thus, to the extent that campaign-finance regulations seek to foster contributions from many individuals, those regulations seem to be a better fit with the usual revenue-raising practices of business groups (and, to a lesser extent, labor unions) than with the practices of other types of associations.

PACs in Perspective Although PACs often are thought of as an exponentially growing horde of large organizations, PACs involved in federal elections are relatively small. Such PACs control only a small part of the money raised and spent on federal campaigns. Further, the growth of PACs has lagged behind that of political parties—largely because of unregulated soft-money contributions to the political parties.

PACs also are small in comparison with major national membership associations. Such associations often are involved in a wide range of political activities, especially administrative and legislative lobbying. Lobbying organizations do not face any contribution limits. In fact, electoral activities of any sort—including but not limited to making campaign contributions or establishing PACs—are not among the most important or widespread political tactics.

Because PACs are one of the most regulated parts of the national interest-group system, their relative insignificance is consistent with the claim that campaign-finance regulations have a suppressive effect on PACs' organizational strength and size.

A Bias toward Business PACs are dominated by business interests, even more so than in other, less-regulated settings. PACs therefore underrepresent citizen groups and the nonprofit sector. Yet citizen groups and nonprofits are quite well represented in lobbying and in efforts to mobilize the public on issues they deem to be important—that is, in settings where they are not subject to so many restrictions on fund-raising.

The bias toward business interests illustrates the importance of being able to tap institutional resources to mobilize small contributors for electoral action. Citizen groups lack an institutional affiliation to help them mobilize large numbers of individual contributors. And groups representing the nonprofit sector face many legal and cultural restrictions in using their institutions for electoral purposes.

Importance of the Institutional Base PACs that lack a strong institutional base—as do many ideological and citizen groups—are not only less common and smaller than those with a corporate, labor, or other institutional and occupational base, they are also less effective and viable organizations. Such PACs often put most of the money they receive back into fund-raising activities, leaving little to give to candidates or to do other things that are likely to influence the outcome of elections. Such PACs also are less likely to survive because they are more likely to be in debt and to suffer boom-bust cycles in fund-raising.

Thus, contribution limits seem to impinge the most on PACs that lack an institutional base. Although business PACs are viewed by some reformers as more likely to be affected by contribution limits than are those that represent citizen interests, precisely the opposite is true. Even within the constraints of the laws, citizen-interest PACs are more likely to depend on relatively large contributors than are those that represent business interests. That dependence is especially strong among newly formed citizen PACs, which are much more likely to depend on large contributors, presumably to absorb the costs of finding and activating a new constitutuency of small contributors. By contrast, business and labor organizations, because of their institutional bases, have succeeded in raising a large proportion of their funds from small contributors.

> Rather than offer more elaborate ways of quashing electoral participation, reform proposals ought to offer ways of harnessing large contributors and institutional resources to expand the range of interests organized effectively for electoral action.

The Partisan Effects of the Biases Groups and institutions that lean toward the Republican Party, support relatively conservative positions, and emphasize economic issues are the most likely to be well represented by PACs. Groups or institutions that lean toward the Democratic Party, support relatively liberal positions on issues, and are concerned with social services, environmental issues, education, and other policies that are not exclusively economic are less likely to be well represented by PACs. Thus, PACs represent a relatively narrow range of political and policy viewpoints.

POLICY RECOMMENDATIONS

MY ARGUMENTS AND FINDINGS SUGGEST THAT WE OUGHT to take a very different approach to the regulation of campaign financing. Although many proposals are aimed at suppressing political activities by reducing the limits on campaign contributions, such restrictions would have the

greatest effect on groups lacking a strong institutional base that can be legally deployed for electoral purposes.

Thus, if one wants to create a more representative system of financing campaigns—one that expands the range of interests that can participate effectively—it cannot be done by imposing new restrictions on contributions. Rather, the challenge is to find ways to expand the base of campaign financing without sacrificing such other goals as preventing corruption (e.g., the provision of special benefits to large contributors). To that end, I offer several proposals:

Expand Access to Institutional Resources Now, only corporate and trade association PACs and labor unions can use their institutional resources to mobilize small contributors. To dilute the effect of those special privileges, employees could be offered the opportunity to elect automatic payroll contributions to their choice of political groups, parties, or other electorally active organizations—just as many employees can elect automatic contributions to charitable organizations.

This option would be particularly helpful to nonunion, nonmanagerial employees—most of the American workforce—who now have few opportunities to use payroll deductions to make electoral contributions. Public subsidies, such as matching programs, might also help make the larger base of potential contributors an attractive target for mobilization efforts by various interest groups, parties, and candidates.

Encourage Underwriting by Patrons Patrons, whether individuals or institutions, could be allowed a greater role in absorbing the costs of mobilizing small contributors. Contribution limits might be eliminated for the early stages of group development, for example, while an organization is expanding its contributor base but before it actually begins its overt political activities. These staged contribution limits—special limits for "seed" money—also have been proposed for candidates. (See *The Day After Reform: Sobering Campaign Lessons from the American States*, by Michael Malbin and me.) Such flexibility should enable a wider array of organizations to get started and to develop the capacity to reach small contributors.

Loosen, Raise, or Eliminate Limits Actions under this heading could range from the easing of restrictions on the involvment of nonprofit industries in political action to the lifting of ceilings on contributions by individuals.

Of course, deregulation poses a dilemma: it opens the door to greater involvement by large contributors, thus risking the corruption of the political system. Some large contributors seek narrow gains for their industries or themselves, while other large contributors seek to raise new issues and help to absorb the cost of mobilizing small contributors.

There is no obvious way of distinguishing, beforehand, a "good" big contribution from a "bad" big contribution, but there may be ways to deter "bad" contributions. Large contributors might be required to explain in some public manner *why* they made their contributions and *what*, if anything, they got out of them. The recipients of those contributions might be required to explain what they provided, if anything, in return for them. Large contributors and their recipients might, for example, be randomly selected to explain their contributions in public forums, or they might be subject to investigations and audits by a well-staffed and aggressive enforcement agency. Those prospects might be enough to discourage most large contributors with something to hide.

FINAL THOUGHTS

MY FINDINGS CONTRADICT THE COMMON ASSUMPTION that greater equality with respect to individual contributions is likely to produce greater equality in the representation of political interests. Strict ceilings on contributions may level the field for those who are able to enter the fray, but they effectively deter the entry of many interests—especially those that encompass large groups of persons without an institutional base, that is, widespread "citizen" interests. From that perspective, contribution limits might even be unconstitutional, because they may have a "dramatic adverse effect on the funding of campaigns and political associations" and thus may *not* be content-neutral, contrary to what the Supreme Court argued in *Buckley v. Valeo* (1976).

Thus, rather than offer more elaborate ways of quashing electoral participation, reform proposals ought to offer ways of harnessing large contributors and institutional resources to expand the range of interests organized effectively for electoral action.

READINGS

- Milton Friedman. *Capitalism and Freedom*. Chicago: University of Chicago Press, 1962.
- Thomas Gais. *Improper Influence: Campaign Finance Law, Political Interest Groups, the Problem of Equality*. Ann Arbor: University of Michigan Press, 1996.
- Michael J. Malbin and Thomas L. Gais. *The Day After Reform: Sobering Campaign Finance Lessons from the American States*. Albany, N.Y.: Rockefeller Institute Press, 1998.
- Mancur Olson Jr. *The Logic of Collective Action*. Cambridge, Mass.: Harvard University Press, 1965.
- Lawrence Rothenberg. *Linking Citizens to Government*. New York: Cambridge University Press, 1992.
- Robert H. Salisbury. "Interest Representation: The Dominance of Institutions." *American Political Science Review* 78 (1984): 64.
- Jack L. Walker Jr. *Mobilizing Interest Groups in America: Patrons, Professions, and Social Movements*. Ann Arbor: University of Michigan Press, 1991.