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CAMPAIGN CONTRIBUTION LIMITS

HEARING

BEFORE THE

COMMITTEE ON RULES AND ADMINISTRATION UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

ON

CAMPAIGN CONTRIBUTION LIMITS

MARCH 24, 1999

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CAMPAIGN CONTRIBUTION LIMITS

WEDNESDAY, MARCH 24, 1999

U.S. SENATE,
COMMITTEE ON RULES AND ADMINISTRATION,
Washington, DC.

The committee met, pursuant to notice, at 9:35 a.m., in Room SR–301, Russell Senate Office Building, Hon. Mitch McConnell, chairman of the committee, presiding.

Present: Senators McConnell, Santorum, and Dodd.

The CHAIRMAN. This hearing will come to order.

We are beginning a series of campaign finance hearings that will go on, most of them, later in the spring. Today we focus on an issue upon which there is growing and widespread agreement, and that is the need to increase the Federal or hard money contribution limits. This is the one area where there seems to be wide bipartisan agreement. As I think almost everyone knows, I have not exactly been in a bipartisan mode over the years for a variety of good reasons, in my judgment. But this is the one area upon which there seems to be a good deal of uniformity of opinion.

I have advocated an increase in hard money limits for several years now, but I am encouraged by the recent signs that some of the more strident voices for reform of the sort that I think would be unconstitutional and inappropriate, are nevertheless acknowledging a need to increase the hard money limit.

President Clinton has called for an increase in the severely restrictive hard money limits that the parties currently live under. Senator John McCain has indicated support for an increase in hard money limits. Representative Chris Shays, who introduced the House version of Senator McCain's bill, said last week that a weakness in his bill is that it does not increase the party hard money limits.

My counterpart at the Democratic Senatorial Campaign Committee in a Rules Committee hearing 2 years ago, said that the individual limit should be increased. And two groups that are adopting a high profile in the campaign finance debate—the Committee for Economic Development and Jerome Kohlberg's Campaign for America—have recently come out in favor of increasing hard money limits. These groups are seriously misguided in other aspects, but their wisdom in this respect is refreshing.

I would like to welcome the witnesses who have taken time out of their schedules to be with us today. Their testimony promises to be edifying for those of us in the room and anyone who may be watching on television.

In the rancor over reform, precious little attention has been paid to the existing and seriously outdated regime of contribution limits which severely impact the ability of candidates to mount campaigns, parties to support their nominees, and private citizens to assist the candidates and parties of their choosing.

Soft money utilized by political parties and other entities, which is a subject for another day and another hearing, is to a great degree merely a symptom of the results of the 1974 contribution limits. These limits have been whittled away over the past quarter of a century by inflation, as reflected in the Consumer Price Index, but also factors peculiar to politics, including the growing difficulty of reaching an increasingly dispersed electorate. Those candidates, such as for the Senate, who must utilize television to communicate with our millions of constituents are struggling to cope with the demands placed on our campaigns by an increasingly complex and expensive medium in which some viewers have hundreds of channels to choose from. And, courtesy of their VCRs, can tape television shows and later fast-forward through our advertisements that our campaigns have paid for. Remote controls even give viewers the power to just snuff us out.

On top of all this, as we speak, the world in which political campaigns are waged is transforming even more dramatically with the advent of the Internet. The growth of this revolutionary medium is as stunning as it is exciting. We had better consider that all that time spent on the Internet is pulling voters away from other activities, namely, television viewing.

What effect that will have on the ability of our campaigns in the future to reach voters we cannot know for sure, but I will venture to predict that it will not make political campaigns any cheaper, causing candidates to work even harder to raise funds to communicate with voters.

Alternately, their campaigns will starve, their voices will be quieted, and our democracy will suffer for it. Unless contribution limits are adjusted to reflect the realities of campaigning in the 21st century.

On that note, I will see if my colleague, Senator Dodd, has any opening observations, and then we go to Senator Coats and Dr. Miller.

Senator DODD. Well, thank you very much, Mr. Chairman. Let me begin. This is our first formal hearing, I believe—well, we had one, I guess, sort of a business session, but it is the first oversight hearing in your term as Chair, and, again, we congratulate you publicly for taking on this responsibility. And it is appropriate, I guess, that we are beginning the first public hearing on a subject matter that is both near and dear to our hearts: the financing of Federal campaigns and Federal elections.

I want to also at the very outset of these brief remarks extend a very warm welcome to our former colleague, Dan Coats, whom we will hear from shortly, and I had the privilege and pleasure of serving with Dan on the Labor Committee for a number of years. I don't know how many, but it was quite a few, anyway—10 years—and we worked very closely on a number of issues together and cosponsored a number of pieces of legislation together. And I have read his testimony, and it is very thoughtful testimony. I look forward to his presentation before the committee.

I just would like to take a few minutes, Mr. Chairman, and share some thoughts. I am really here to listen myself this morning. I have sponsored or cosponsored campaign finance reform measures during almost all of my years in Congress, but I have never been directly involved in a committee other than this one in an indirect way on the FEC issues and so forth with the campaign finance reform questions. But I am hopeful—and you and I have had some very brief, informal conversations. My hope is that we may find some common ground on how best to deal with the issue of financing our Federal elections.

Where we may disagree is on how to stop what I call sort of the insanity of the money chase without infringing on the legitimate rights of individuals and organizations to have their voices heard. That is the quandary we find ourselves in. There are very legitimate questions on both sides.

So I welcome the hearing, and I am concerned about and I hope the committee will be sensitive to the fact that there are important cases moving through the courts that call into question key provisions of the Federal Election Campaign Act. I would respectfully suggest that it would be, I think, inappropriate for the courts to interpret our congeniality on this issue today on a question where I think there may be some consensus to mean that there is either total bipartisan or congressional support for overturning the decision of the Supreme Court in *Buckley* v. *Valeo,* nor is there yet a consensus that contribution limits should be raised.

So before I give the chairman my proxy on his reform efforts here—which I am sure he would love to have, but I will reserve that for a while—let me state for the record that I view the problem still as one of too much money in the system, not too little. There is a fundamental disagreement on that point.

Let me just share, if I can, for a second or so some examples of what I consider to be the ridiculous magnitude of the money chase.

The 1997–98 election cycle marked the first time in the history of the United States that congressional candidates in national parties raised and spent in excess of $1 billion in a Federal election. Now, included in this total is the explosion in independent expenditures and so-called issue ads. In Senate races, winning candidates raised a total of $161 million for an average cost of just under $5 million. In fact, our colleague Senator Coats goes into this a little bit and talks about the rise of these costs.

To raise that amount, a winning candidate on the average would have to raise approximately $12,000 a week per week, every week, for the entire 6 years of your Senate career. And that number doesn't seem to be abating in any way as we look down the road towards future campaigns.

One of our former colleagues, the former chairman, in fact, of this committee and ranking member of this committee, Senator Ford, retired from service rather than face the fact, as he described it, of the need to raise $100,000 per week during the last 2 years of his election cycle. And I know others of our colleagues have made similar statements about the problem here.

I know we will be hearing from witnesses today that will share with this committee their view that the answer to this problem is to raise hard money limits so that Senators and challengers do not have to spend as much time raising money. As someone who has been in seven races—eight races, actually, forgive me if I am a little bit skeptical about it in terms of putting limitations on ourselves in terms of how much we raise, knowing what can happen in campaigns and even in the last weeks of a campaign, always making sure we have enough in our arsenals to be able to handle the crises. The idea of sort of self-regulating in terms of how much we actually raise is something I am somewhat skeptical about.

There may be some very good reasons to raise hard money limits, and I wouldn't reject that out of hand at all. Doing so without other reforms will not end the money chase, nor will it substantially reduce the amount of time members spend raising money, in my view. It could just increase the overall amount of money in the system, and that in itself, of course, is not reform.

However, as I said at the outset, Mr. Chairman, I am very interested to sit and listen today and hear some of the comments and thoughts of our witnesses, particularly our former colleague, for whom I have the highest regard and respect.

So, with that, Mr. Chairman, I will just ask that these remarks be included in the record.

The CHAIRMAN. Thank you, Senator Dodd.

Senator Santorum, would you like to comment?

Senator SANTORUM. Just to congratulate you, Mr. Chairman, for holding this, and I, too, want to welcome my former colleague and dear friend, Senator Coats, from Indiana, and I look forward to his testimony. I have actually read his testimony, but I won't be able to stay for it. I have another meeting to go to, and I want to apologize in advance.

I just want to echo the chairman's thoughts on this issue. I have a very good basis of comparison, looking at my Governor and how he raises money versus how I raise money. Pennsylvania doesn't have any contribution limits. I know my Governor doesn't spend 10 percent of the time raising money that I spend. He just doesn't have to spend that kind of time because he is able to raise it in larger chunks and can raise the smaller money through direct mail.

For us to be saddled with a $1,000 limit on individual contributions that is worth pennies, almost pennies of what it was worth in media buying power in the 1970s creates the problem that we have seen. This growth in soft money is a direct result of the limitation of hard dollar contributions. I mean, let's just be honest about it. That is exactly what is going on here. And unless we raise the hard dollar contribution, that money that will flow to political campaigns will flow in other avenues. It just won't flow directly to the candidate.

I think if you are really concerned about integrity in elections, you want the money flowing to the candidate who is accountable for disclosure and for the kind of campaign they want to run, not flowing to somebody else for them to spend the way they see fit outside of the candidate's control.

So I think the greatest campaign reform we could have would be to increase the hard dollar contribution limits. It may not completely do away with soft money, depending on how much we raise the limit, but it will greatly limit the impact of soft money and the need for soft money, which I agree is not the best way to run a campaign, and certainly one that is a system based on disclosure.

So I congratulate you, Mr. Chairman. I hope, not just because I am up for election—and I don't care whether we do it for this time or next, I mean, it doesn't matter to me. Just we need to do it because it is the best way to reform the campaign system in a bipartisan way, at least to start. We should learn—you know, one of the things that is a hard lesson for me to learn as someone who wants to do everything yesterday, that we take sort of what you can get done and get it done, try to improve it incrementally if you can, and then, you know, if we want to fight the other battles some other way down the road, fine. But let's try to get what we can get done that is sensible and that can be done in a bipartisan way done, and I think this is one thing we can do. So I would encourage that tack.

Thank you.

The CHAIRMAN. Thank you, Senator Santorum. That is precisely what the hearing is about today, the inflation that has occurred and the business of campaigning over the last 25 years since the contribution limit was set.

We would like to welcome our former colleague and still friend, Senator Coats, to come up and, Dr. Miller, you may come up as well. We will hear first from our colleague, Dan Coats.

STATEMENTS OF HON. DAN COATS, VERNER, LIIPFERT, BERNHARD, McPHERSON HAND, WASHINGTON, DC; AND DEMARIS MILLER, McLEAN, VA

Senator COATS. Well, Mr. Chairman, thank you very much. It really is an honor to be back, really my first official time back in the United States Senate, a place where I served for 10 years, culminating 24 years of public service, and a place that holds great and fond memories.

People say, "What do you miss about the Senate?" I must say I miss my friends in the Senate more than I miss the process of the Senate. I couldn't help but tune in last evening on my way home from work to the debate going on on the Senate floor. The Senate was tied up in a procedural conundrum that was all too familiar at 6:30 p.m. on a Tuesday evening where the chairman of the Appropriations Committee was desperately trying to get to a vote on his supplemental bill and others wanted to move the Kosovo issue, and people had been hollering about standing and waiting for 3 hours to get their chance to talk. And I thought, yes, I miss my friends, but not so much the process.

The CHAIRMAN. You were reassured that nothing has changed, however.

Senator COATS. I was reassured that not much had changed.

It was an honor here to serve, and I think as I reflect back on my time of service, probably the frustration that rises to the top of the list is the frustration of the crush of campaign and elections and the almost insatiable need to raise a sufficient amount of money to be competitive in that race, and the time that it takes away from what I believe we are really elected to do.

I want to just share some summary thoughts with you. Having been on the other side of this table and implored witness after witness after witness not to read their full statement but to summarize their remarks, sometimes I am tempted to get even by coming and sitting and reading the whole statement.

The CHAIRMAN. Your full statement will be made a part of the record.

Senator COATS. Thank you, Mr. Chairman.

The CHAIRMAN. We look forward to your comments. [Laughter.]

Senator COATS. I will summarize it very briefly, if I could.

Since the passage of the campaign limits in 1974, five Presidents have occupied the White House. Four Senators have occupied the Senate seat that I occupied in the State of Indiana. Time moves quickly. In that time, much has changed.

I just came from the weekly Senate prayer breakfast. The price of breakfast has gone from $2 to $6.50 in just 10 years. I still get my haircuts downstairs. That price is now $20. I remember the days when people were complaining about Senators getting these free or virtually no-cost haircuts. Well, for the record, it is now 20 bucks for a trim. And I don't have all that much hair to trim. If they charged by the hair, I probably would do all right. But they don't do that.

Now, I make those points to say that prices have changed dramatically since 1974 in virtually every commodity that we purchase, except the ability to raise money to provide for the cost of campaigning.

If you index that for inflation, you come up with a figure that is more than three times the current hard money limit. If you add to that the growth in the population that we have to serve, which is about a 42 percent growth, you are over five times the limit of what is currently imposed, the $1,000 limit of contributions, the $5,000 on PACs, and the overall $25,000.

Now, I think all of us who have run for office understand that the costs of campaigning exceed the cost-of-living index. You will hear testimony later from media people and others about the cost of buying an ad, the cost of putting your message on the airwaves so you can reach people.

When I first ran for office, most communities had access to about, if they were fortunate, three TV stations on which to get their news and message, maybe four. Today we all sit there with our channel changer with up to 100, 150 channels. We have our favorites that we can pick and choose through. We are looking at commercial ads that are far more glitzy and attractive than what we are able to pay for, and the habit of people of switching channels on a whim.

So I think without question—and there are statistics to back this up—without question, the cost of purchasing the opportunity to provide our message has increased dramatically, and I would suggest quite a bit more than just the cost-of-living index.

And so as you look back and I look back to my first congressional race in 1980—and I did some charts showing what Senators spent for statewide races in 1980, and I was astounded to learn that not one single Senate candidate in 1980 spent more than $4 million. Today, $4 million for a statewide Senate campaign is considered an inexpensive campaign. The costs in Indiana for running a Senate campaign have increased from $1 million to $2 million to $4 million to the estimate provided to me by those that were advising my campaign for a race had I run in 1998 of approaching $10 million.

When you break that down, as you did, Mr. Chairman, into the amount of money that needs to be raised on a daily basis, it quickly becomes apparent that we no longer have the luxury as Senators of spending 4 years basically attending to the duties of the Senate and reserving those last 2 years of our term for preparing for our next election. That has been the historical pattern of how the Senate operated, and the Founders designed it that way so that we would have the opportunity to step back from the pressures of campaigning, of raising money, of doing all the things that are necessary to run a competitive campaign, and focus on the longer-term issues. That is what we come here for. That is why many want to move to the Senate, so that they have the luxury of taking the broader, longer view.

But when you break down now the average cost of a campaign, which, as I said, not one Senator, not even our former colleague Senator D'Amato from New York, probably the most expensive State, spent more than $4 million in 1980. And when you look at it today and you look at the number of Senators that have to spend that $4 million as a floor, not a ceiling, you realize the extent of the problem.

Now, I know the issue of the constitutionality of getting our message out, the limitations on that is an issue that I assume this committee will address. That is really not why I am here today. I am here today to state that at the very minimum, this committee and the Congress need to realistically look at the limitations that are imposed on the amounts that can be raised from individuals, from PACs, and from the total amount that any single individual can give for Federal campaigns, and make a reasonable adjustment for the increasing costs that have occurred since 1974.

As I said earlier, that cycle of 4 years of primary, almost total focus on the work of the Senate and then 2 years of a balance of work of the Senate and preparing for a campaign is no longer operative. The amount of money that has to be raised on a daily basis requires for many a 6-year continuous effort. Let's look at the quotes on this chart.

This is an all-too-common refrain. Senator Dodd referred to Wendell Ford's decision to leave. "I spent $425,000 to run for the Senate in 1974," he said. "If I ran for election next year, it would cost about $5 million." And this is a small State. This is your State, Mr. Chairman, Kentucky. "The money chase was the straw not to seek reelection. I have no doubt that I could have raised the money, but going across the country didn't sit well with me."

Our colleague Paul Simon, who served with Senator Dodd and me on the Labor Committee—and I thank you, Senator Dodd, for the chance to serve with you and your kind remarks and wish you success on that committee—"To run again would mean raising $10 million," Senator Simon said. "It means also taking at least one-third of my time the last 2 years in office to raise money. That is not a prudent use of time."

Senator DeConcini has a statement. Senator Lautenberg said: "The compelling factor was the searing reality that I would have had to spend half of every day between now and the next election fundraising."

Senator Kerry has a quote there also, and on and on it goes.

This is what we talk about in the cloakrooms. This is what we talk about at our lunches. This is what we talk about down in the gym and when we have private moments, about this ever escalating demand on our time to raise these funds.

So, clearly, I think the case can be made for increasing the limits to allow us to free up the time so that we don't have to use such a substantial portion of our time doing that.

Let me just state a couple of other points here, and then turn it over to Dr. Miller, and then be available for your questions.

Some have raised the question about raising the limits or increasing the amount that any one person can give as a corrupting influence. I just have two points to make on that. In all my years of service, 18 in the Congress and 24 in public service altogether, I have never come across or heard one instance in which one elected official used his position or her position as a way of extorting funds to run for public office. I have never heard of an instance in which an individual used his power to change a vote, to modify a position in return for a contribution. I just think that is a red herring that is raised by those who oppose any changes in the campaign financing laws and, in fact, want to tighten them even further.

I would also state to you in the second point that the notion that $1,000 or $5,000 or even $10,000 out of the total figure of $4, $5, $8, $10 million is a very small percentage of the total. Most of us couldn't even go through and identify exactly who gave what, we are so busy trying to do all that we need to do, both as elected office holders and as those campaigning for office, that at the end of the day pretty much say: What is our total? How much do we have? How much money do we have to put in the next campaign ad buy or whatever, without saying give me the list, I want to know who gave what?

But even with that, even if you did that, the percentage, usually amounts to one-tenth of 1 percent or less of the total contributions by any one single entity. It is so small compared to the total that it is ridiculous, I think to claim it has a corrupting influence.

The CHAIRMAN. Could I interrupt just for a second on that point?

Senator COATS. You sure may.

The CHAIRMAN. I chaired the Ethics Committee for 4 years and was ranking, vice chairman, as we called it, for 2 years before that. We never got a single complaint on that issue. Not one. And being a floor manager on this issue, the broader issue—not the issue we are talking about today specifically but the broader issue of campaign finance reform—I have repeatedly suggested to colleagues who would use the corruption argument to give me an example. Never got one in 10 years of handling that debate.

It is truly a red herring, it seems to me, based on my own personal experience and, listening to you, Senator Coats, apparently your experience as well. So I would just interject with that point.

Senator COATS. That is my experience, and let me just conclude by touching a little bit on this independent expenditure effort. You are going to hear later from Professor Lott, I think no relation to the majority leader, but Professor Lott will testify that expenditures are a much less accurate, much less desirable, and less efficient way of communicating support or opposition to a candidate than lawful direct contributions. I think all of us have been faced with a situation where we turn on the television or somebody brings our attention to an ad, running supposedly in our favor, supporting us, and saying, well, wait a minute, that is not the message I am trying to convey, that is not what we have chosen to be the themes of the campaign. An outside group has decided that is what the themes of the campaign ought to be. That places the candidate in a situation of saying: Do we have the money to clarify what our position is? And then being told by our financial people, no, we barely have enough money to run what we had planned to run, and now we are faced with this and are going to have to divert funds over here or change our message or whatever to either counter an issue ad or to clarify one even by those well-intended groups that are trying to support us.

Now, the point is here that it is impossible constitutionally, and rightfully so, to deny citizens the right to state their views about a candidate, or about an issue. I think any action that this committee or this Congress would do to limit that right would be immediately thrown out by the court as unconstitutional.

But the issue before us today is: How can we obtain more control of our own message? How can we garner the resources and the funds necessary to direct our own campaigns in a way that soft money isn't as influential, doesn't play such a large role, isn't so tempting? And how can independent expenditure groups or individuals better fund us to make sure that the reason why they are supporting us and the message that we are advocating is heard?

Some are frustrated by the fact that we are not able to convey the message that we are trying to get out. So my point on independent expenditures is that one of the ways—maybe not the complete way, but one of the ways that we can address that problem is to raise those hard money limits and give us more resources in which to make our own message, mitigating the need for independent expenditures.

Mr. Chairman, let me just conclude by saying that I think elected representatives spend too much time raising money for political campaigns, and the remedy for that problem that is achievable is, at a minimum, to raise contribution limits. It is not to limit free speech. I think that is a non-starter politically, and I think it is a non-starter constitutionally. I think it is a non-starter from our ability to enact good policy.

I agree with Senator Santorum. If we can't do the whole thing, let's at least do what we can do. A good way to start and the very foundation of whatever package comes together ought to be a very realistic reassessment of the hard money limits.

With that, Mr. Chairman, I want to thank you for the opportunity to come back and testify and be back in the Senate. I want to thank both you and Senator Dodd for your friendship and support over the years, and even though we are on different sides of the aisle, Senator Dodd said we found common ground on a number of issues and we did. It was a pleasure and a privilege to work with you, Senator Dodd, and, Mr. Chairman, with you.

[The prepared statement of Senator Coats follows:]

Testimony of

FORMER UNITED STATES SENATOR DAN COATS (R-IN)

before the

JNITED STATES SENATE COMMITTEE ON RULES AND ADMINISTRATION

May 24, 1999

CONCERNING CONTRIBUTION LIMITS
TO CANDIDATES IN FEDERAL ELECTIONS

I. INTRODUCTION

Good morning Mr. Chairman and Members of this Committee. My name is Dan Coats. As you know, the close of the 105th Congress marked the beginning of my transition from United States Senator to United States citizen. My retirement from the Senate marked the end of 24 years of public service: two in U.S. Army, four as a legislative assistant and district-director for then-Congressman Dan Quayle, and 18 years in the Congress, the last 10 of which I served here in this great Senate.

When I left the Senate, I reflected on how important and how noble elective office can be. After two decades in public service, I still believe in the job of United States Senator and its goals, and I am confident that the country will be well served by my many friends and colleagues who will serve in this great institution.

But I also remember that the pace of politics made my job, and can make your continued service, very difficult. I believe that by constitutional design, the measure of success in the Senate is different from other parts of the government. You are employed to take the longer view, insulated from the rush of hours and the crush of elections, to see to the needs of future years. I think that my greatest source of frustration during my years in this institution was that we did not spend nearly enough time dealing with the larger issues that faced us, things that will matter down the road, topics that will be chapters in American history, not just footnotes in the Congressional Record.

It is with this in mind that I return to the Senate today for the first time since leaving office: to start what I hope will be a series of visits to share my thoughts and reflections as a citizen and former public official on the important issues facing this country. And I can think of no better way to inaugurate my new role then to discuss with you the antiquated rules under which our elections are financed, and the threat they pose to our vibrant democracy.

Mr. Chairman, the issue goes beyond the increased costs of campaigns and the increased time we have all spent raising campaign contributions. Political campaigns -- literally the act of communicating our thoughts and ideals to America and taking time to listen to our constituents' views of the future -- will always cost money. And the time we take to ask for support, to seek out those who agree with us, keeps us in touch with America and prevents us from being isolated in this building and away from our constituents. Having said this, however, I am here today to impress on you the fact that the 25-year-old campaign finance law now makes fundraising so time consuming and running a modern campaign so difficult that the time has come to update the law.

In particular, the contribution limits date to a time of fifty cents a gallon gasoline and twenty-cent MacDonald's hamburgers. Continued refusal by Congress to update these 25-year-old limits will severely limit the ability of our elected representatives to attend to their primary duties of governing, and reduce the public's confidence in this body and its participation in this country's elections. Without the public's confidence and participation, our system of government cannot succeed.

That is why I am asking the Senate to fulfill its constitutional role of taking the long view, and give the public more, not fewer, ways to participate in choosing its elected officials. After all, nothing less than our cherished and core First Amendment rights are at stake: rights which I believe have their fullest application to speech uttered during a campaign for political office. Outdated contribution limits -- premised on a fear of corruption that does not exist and which work to keep challengers and the public away from our campaigns -- must be changed.

II. THE INCREASED COST OF SENATE CAMPAIGNS REQUIRES A HIGHER CONTRIBUTION LIMIT.

As public servants, we know well what every one of our constituents knows: Almost all goods and services are much more expensive today than they were 25 years ago when the Federal Election Campaign Act and the political contribution limits were first passed. Since passage of that Act, five presidents have occupied the White House, and four different people have occupied the Senate seat from which I recently retired, yet the campaign financing limits have remained fixed at 1974 rates.

The Bureau of Labor Statistics' Consumer Price Index in 1974 was 49.3; at the end of 1998, it was 163.0, an increase of 330.6%. As you know, Congress has provided for public funding of presidential campaigns and of national party nominating conventions. Each of those amounts has been adjusted for increases in the cost of living. If Congress had been foresightful enough in 1974 to index the contribution limits for inflation, the current legally allowable limit for individual contributions to candidates would be $3,306.

In my experience, the cost of campaigning has risen even faster than the average cost-of-living index. As you all know, political campaigns have become more and more media-driven. Political advertisements must compete for voter attention with other commercial advertisements, which have become more glitzy and much more expensive to produce. As a direct result, production costs for political advertisements have skyrocketed.

But in addition to production costs, the costs of airing political advertisements have escalated dramatically. In 1974, most voters in Indiana could watch three, four, or in some markets five television stations. With the dramatic penetration of cable television over the last 25 years, it is common for a voter to have his pick of 50, 100, or more viewing options at any one time. As viewership has become more fragmented, the cost of reaching the same number of viewers has correspondingly increased. Exhibit 1 is based on information from the Television Bureau of Advertising, Inc. It shows the cost of airing a television advertisement per 1,000 homes has escalated from just over $2.00 in 1974 to $11.00 in 1997, more than a fivefold increase in cost to reach the same number of viewers.

It is also worth noting that candidates must reach more voters today than they were trying to reach in 1974. According to the United States Census Bureau, voting-age population has increased from 141,299,000 in 1974 to 200,900,000 in 1998, an increase of over 42%. Again, as you know, the Federal Election Campaign Act adjusts the amount of money political parties can spend in support of their House and Senate candidates by the increase in voting-age population.

The points I am making are not merely hypothetical. In preparing this testimony, I have reviewed spending data collected by the Federal Election Commission for United States Senate candidates in the 1980 election cycle, and compared those data to the expenditures during the 1998 Senate races for the very same Senate seats. The results of that review of 1980 spending are shown on Exhibit 2. In 1980, not a single candidate -- not even Senator D'Amato in New York -- spent over $4 million. There were 13 races in which neither candidate spent $1 million, and many of those 13 races were hotly contested. Overall, 36 of the 67 candidates spent less than $1 million. (One race was uncontested.)

But as shown on Exhibit 3, which shows the just concluded 1998 election cycle, twenty-one -- let me say that again, twenty-one -- candidates spent more than $4 million, and five spent more than $10 million. In only three states -- Alaska, New Hampshire, and Vermont -- in which the incumbent faced only token opposition or none at all, did neither candidate spend $1 million, although in each of those three states the incumbent spent over $900,000. Only 19 of the 66 candidates spent less than $1 million.

Exhibit 4 compares the total expenditures on the 34 Senate seats from the 1980 election to the spending on those same seats during the 1998 election. Even though the hyperinflation years from 1974 to 1980 were over before this 18 year period of comparison, total spending from 1980 to 1998 on the very same Senate seats was up approximately 333%.

These data are consistent with my personal experience. Through my time working as an aide to then-Congressman Dan Quayle, and then as a candidate for the House and later the Senate, I experienced firsthand the difficulty of getting the candidate's message out to the voters through the free print and broadcast media. When I last ran for election in 1992, the media focused primarily on the three-way presidential contest among President Bush, Governor Clinton, and Ross Perot. In addition to the presidential contest, the media were required to cover four major state contests, including those for governor and lieutenant governor, the House races, and of course the Senate contest. The inescapable fact is that candidates cannot rely upon the media to communicate with the public; rather, they must rely upon campaign-generated resources to purchase paid media.

Many have raised the issue of the constitutionality of limiting individual contributions to political candidates or parties. They argue that a system of mandatory and prompt public disclosure of contributions and expenditures is alone sufficient to deter political corruption.

But even if we accept the premise that contribution limits are necessary and constitutional, the 1974 limits are antiquated and oppressive. If adjusted for both the 330.6% increase in the Consumer Price Index since 1974 and for the 42.1% increase in voting-age population, the 1974 limit on individual contributions would be increased to $4,698 from $1,000 set in 1974. Exhibit 5 shows this comparison.

Other limits in the Federal Election Campaign Act should be adjusted in the same way. The $5,000 contribution limit for political action committee contributions to candidates and the $25,000 limit on total individual contributions to all candidates and parties should also be adjusted to better reflect the impact of inflation over the past 25 years.

Controlling campaign spending is both economically and legally untenable. Adjusting the contribution limits is not.

III. THE CONTRIBUTION LIMIT IS NOW INTERFERING WITH THE ABILITY OF CANDIDATES TO CAMPAIGN.

In order to raise the amounts of money necessary to conduct a modern campaign, candidates must now spend a very substantial portion of their campaign time raising money. A Senate candidate who estimates that he or she will need $5 million to fund his or her race will be required to raise an average of over $16,000 each week beginning immediately after one election for the six years preceding the next election. If the candidate waits until two years before the election and needs $5 million, the amount needed jumps to $50,000 per week. The result is that few Senators can reserve fundraising for the two-year pre-election cycle. Senate fundraising has become a full-time business occupying the entire six-year term.

Mr. Chairman, there is nothing inappropriate in candidates, whether incumbents or challengers, asking supporters for financial contributions. To the contrary, in my experience the need for candidates to solicit financial support helps our political system achieve a number of goals. It requires candidates to stay in contact with their constituents. It requires candidates to state their positions in a persuasive way so that supporters will know where they stand. And it requires an individual to show some measure of core support as a candidate, and thus helps weed out marginal candidates. My friends who advocate public financing of political campaigns cannot make these same claims for their proposals.

But the contribution limits seriously divert the Senators' attention from their constitutionally prescribed duties, and also divert candidates' attention from promoting their candidacies and ideas, or engaging in useful political debate.

One of the most important reasons I decided against running for reelection in 1998 was the recognition that I would need to spend an immense amount of time raising money. It is truly unfortunate that so many of my colleagues have reached the same conclusion for the same reason. Exhibit 6 is a compilation of recent statements from a number of our colleagues making that very same point. Each of you knows from your own experience and from private discussions with your colleagues in these hallways that the chore of raising money under the current contribution limits is a strong deterrent to candidates on both sides of the aisle.

You also all know, as do I, that many of our most ardent supporters who currently can legally contribute the maximum limit of $1,000 would gladly increase their contributions if the limits were raised. While not all $1,000 contributors would give more, many would. They would do so not to buy political favors or even to gain access, but because they support our views and want to see us reelected.

Persons who advocate expenditure limits frequently claim that such limits are needed because candidates spend so much time raising money. The irony is that the advocates for expenditure limits also tend to be the most aggressive advocates for contribution limits, even though they publicly recognize that the low contribution limits are the very reason candidates have to spend so much time raising money. Surely a less restrictive means of reducing the amount of time candidates spend fundraising is to raise the contribution limits to levels that are reasonable, rather than imposing an unconstitutional layer of additional regulations on political campaigns.

IV. A HIGHER CONTRIBUTION LIMIT WOULD NOT INCREASE CORRUPTION.

As a lawyer, political contributor, former officeholder, and long-time observer of campaign finance law, I know that the primary purpose for limitations on campaign contributions is to prevent actual or apparent corruption. The courts have clearly defined corruption as a subversion of the political process: the selling of political favors in exchange for political contributions.

Advocates of greater restrictions on the campaign finance system often equate contact with officeholders with corruption. They have said it so often and with such conviction that many may assume that this proposition is based on settled law or undisputed fact. It is neither.

The First Amendment protects many rights -- religion, speech, the press -- but it also protects the right of citizens to petition their government. This right of petition by ordinary citizens is unique in our democracy, but guarantees citizens protection from recrimination for seeking to meet with or actually meeting with their representatives in government.

To equate contact with officeholders with corruption threatens to turn this constitutional guarantee on its head. We know that the most ardent proponents of reform would amend the First Amendment to allow restriction on free speech, for they have made such a proposal. Do they also wish to amend away the right to petition? Or do they genuinely believe that prohibiting or severely limiting political contributions will prevent major corporations from spending millions of dollars on lobbyists to present their views to the Legislative and Executive Branches? Access is not corruption; it is the hallmark of a healthy and functioning representative democracy.

Actually, the notion that members of the House or Senate sell access is, in my experience, unfounded. Many political supporters who contribute to officeholders never request a personal meeting, but some do request and receive meetings with legislators or their staffs. But political supporters who do not contribute are also granted meetings, as are constituents having problems with their Social Security, Veterans, or Medicare benefits, and experts on issues pending before the member's committees. Government cannot work without this interplay. A contribution is by no means necessary to obtain a meeting, and a meeting by no means guarantees results. I reject unequivocally the notion that access is sold, or that access is corrupting.

Never, not once, Mr. Chairman, have I witnessed or been informed of the exchange of dollars for political favors. Not by me or my supporters, not for any amount of money, and not by anyone I have known or served with.

Moreover, I do not see how even an appearance of corruption could be alleged with a $5,000 or $10,000 contribution to a campaign. My Senate race in 1992 cost approximately $3.8 million, and easily would have cost twice that had I chosen to run for re-election last year. I cannot imagine anyone seriously charging that a contribution which comprised a tenth of one percent, or a half of one percent, or even one full percent of my total receipts would have influenced me to change my vote on any issue.

Mr. Chairman, the reformers' unfounded allegations of corruption must end. Their charges are unhealthy and untrue. They are damaging the reputations of honest, hard working public servants and scaring the public out of participating in our elections. No matter how well-intentioned the 25 year old Federal Election Campaign Act may have been, I now believe the worst way to ferret out the corrupt is to pass a law premised on an assumption that everyone is.

V. THE CONTRIBUTION LIMIT FORCES MONEY OUTSIDE THE SYSTEM.

Mr. Chairman, I believe you should address the cause of the "problem" rather than hammer away at its symptoms. The cause of the problem is a 25 year old law that can't accommodate people's desires to communicate their views. In *Buckley*, the Supreme Court said that a $1,000 contribution limit in 1976 would still allow contributors to engage in meaningful expression and association. That may have been true then, but it is not true today. The costs of communicating our views on all these new issues and programs has risen dramatically. We all have had to turn away so-called "excessive" contributions that we needed to communicate our views. With nowhere else to go, these potential hard money contributors have turned their money into soft dollars that finance issue advertisements. If the hard dollar limits are set at a level that accommodates people's need to express their views, the money will stay within the campaign system and be reportable.

Independent expenditure efforts -- which expressly advocate a candidate's election or defeat -- are certainly a lawful exercise of a person or group's First Amendment rights. But I agree with Professor Lott's testimony on this subject: independent expenditures are a less accurate, less desirable, and less efficient way of communicating support or opposition to a candidate than lawful direct contributions. These expenditures may be well intended, but they are often confusing or inaccurate. I have even had to spend time and money responding to independent efforts that were supposed to help my campaign. The press often ridicules the "independence" of these expenditures, casting further doubts on everyone's credibility, even though the speaker was just trying to communicate a view.

And the increase in independent spending, I believe, is also an unintended byproduct of old campaign finance laws which prohibit these groups from becoming more closely associated with a party or campaign. Publicly-spirited people want to join our campaigns, but are prohibited from doing so in a meaningful way by outdated contribution limits. Even party committees have been forced to engage in independent expenditures to support their candidates.

If our goal is a better informed America that seeks real action on important issues by coalescing around and electing qualified candidates, then I urge you to take more responsibility for elections by allowing more support of your campaigns. We all have to take responsibility for what our own campaigns say and do, but we cannot embrace independent or issue advertising efforts. This diffuses the candidate's message and, frankly, reduces accountability for the content of the message as well. If you allow supporters to contribute more money to campaigns, contributors will have a stronger incentive to stay in the system rather than resort to independent expenditures or issue advertisements, and candidates will have more control over and accountability for their messages.

VI. CONCLUSION.

Mr. Chairman, elected representatives spend too much time raising money for their political campaigns. The remedy for that problem is to raise the contribution limits, not to limit free speech.

Having served in this body for ten years, and in the House for eight, I am quite confident that a higher contribution limit would not promote corruption. While I often disagreed with my colleagues about particular issues, I can say without qualification that I never saw a Senator or a Congressman change his or her vote based on a contribution. To the contrary, in my experience the overwhelming amount of contributions are given because the contributor already supports the candidate, rather than because the contributor believes a contribution can change the candidate's position.

When Congress set the contribution limit at $1,000 in 1974, it concluded that a $1,000 contribution would not corrupt a Congressman, a Senator, or a President. It is illogical and baseless to suggest that raising the contribution limit to reflect increases in costs and population over the intervening

25 years would create a risk, or even the appearance, of corruption. I strongly and respectfully urge you to raise these limits.

Thank you for your attention and for allowing me to appear before you today on this important matter. I would be delighted to answer your questions.

The CHAIRMAN. Thank you, Senator Coats. Will you be able to stick around for a little bit?

Senator COATS. Yes.

The CHAIRMAN. Dr. Miller, then we will hear from you, and then we will have questions for both of you. Go right ahead.

STATEMENT OF DEMARIS MILLER

Ms. MILLER. Thank you, Mr. Chairman, Senator Dodd. It is a pleasure to be here today. I am Demaris Miller. I am from McLean, Virginia, which is right across the Potomac River from here.

I would like to submit my remarks for the record, but I just want to briefly summarize them now.

The CHAIRMAN. Your full statement will be made a part of the record.

Ms. MILLER. Thank you.

I have been a public school teacher, I have been a registered nurse, I have been a research psychologist, I have been a wife, a mother and a grandmother, and last year I was a candidate for Congress from the 8th District of Virginia. I took great pleasure in that. I have never enjoyed anything more in my life. And I am not here today to rationalize my loss or to criticize my opponent. We ran a very clean campaign, and so did he. But I am here to use my experience as a challenger candidate against an incumbent to illustrate the hurdles that a challenger faces and to make one point very clear.

Despite the popular belief that campaign financing limits make elections more fair and more democratic, the opposite is true. Contribution limits increase the advantages of incumbents at the expense of challengers. Now, I know incumbents have natural and inescapable advantages. I am not trying to do away with those. Incumbents are better known. They can legitimately claim they have experience in the job, they have much better voter contact, they have better press contacts, they can hold public meetings, and they are invited to many speaking engagements. All of that is natural.

But there are also some advantages of incumbency that are artificial. They have free phones, they have Web sites, they have Internet access, they have the frank. And when I had to send out mail or put up a Web site or use the Internet, I had to pay for it. And for all of those public appearances that my incumbent opponent was able to achieve without cost, I had to buy my media coverage. My opponent was even a regular on a very popular CNBC talk show. And after the election, the host of that show said, “Wow. All of his regulars were re-elected,” and I thought, “Wow. What a surprise.”

All of this makes it even more important, if we really want to level the playing field, to make it possible for us to be unencumbered in raising and spending money because a limit on raising money is also a spending limit. Despite all of my efforts, cable advertising, targeted mailings, appearances at local candidate forums, Metro stops everywhere, and in spending almost half a million dollars on my campaign and getting full support from the National Republican Campaign Committee, there were an awful lot of voters who showed up at the polls on Election Day and said, “Who is this Miller fellow and what does he stand for?” [Laughter.]

It is true that political scientists generally agree that, to have a fair chance of winning, a challenger has to outspend an incumbent. So spending limits and campaign fund-raising limits are a much greater burden for challengers than for incumbents who already have the advantage.

I believe the 1974 law is an example of good intentions gone bad. Anything that makes raising money more difficult, particularly from individuals, puts challengers at a greater disadvantage.

In my campaign, I raised almost half a million dollars. I came out of a primary $24,000 in debt. My opponent, like many incumbents, did not have a primary, but at that time he already had $700,000 in the bank. This is a tremendous hurdle to overcome, and much of that is carryover. This is quite normal. But putting fund-raising limits on me did make a difference. Could I have raised more? Yes. I had a number of friends and supporters who were willing to give more. One man from Texas sent me $5,000, and I called him and said, "This is wonderful, except that I cannot accept $5,000," and we had to send money back, and that happened time and again.

I also had a good friend who wanted to contribute to my campaign and discovered he could not give me a dime because he had already reached his aggregate $25,000 limit. So here was someone who agreed with my stands on the issues, and he could not support me.

My major problem, though, was getting my message out. Even though we look at the inflation adjuster, I think Senator Coats was absolutely correct in pointing out that the cost of campaigning has gone up much faster than inflation. Candidates on congressional campaigns are spending more than ninefold more now than they were in 1974.

So if we were trying to increase it, we would have to increase it faster than the rate of inflation. The major reason is the information age, but the growth in the population is also a reason. My area was covered by three broadcast stations in 1974. It is now covered by four broadcast networks, three cable systems and the satellite. That is an awful lot of media to cover, and it means that every media purchase you make is, first, more expensive because it covers a broader area and, second, it covers fewer of your own constituents. So you have to make more buys to make up the difference.

I know that you are concerned about the constant grind of raising money. Part of that is because of the 1974 law. If I were limited to buying gasoline one gallon at a time, I would have to stop 15 times to fill my truck. And because you are limited to making individual contributions $1,000 or one gallon at a time, it takes a lot longer to raise the necessary funds than it did in 1974.

Also, Senator Coats mentioned the issue of influence buying and how much is too much for a campaign contribution. The inflation adjuster is certainly one way of looking at it, but I think it's the inappropriate way. I think we have to look more at the cost of campaigning, as opposed to inflation. Since the costs of campaigning appear to have increased for congressional campaigns at least ninefold, and possibly more for Senate campaigns, assuming the potential for corruption is a function of the percentage that each contribution represents of the total spending, that ninefold increase means that if a thousand dollars was not corrupting in 1974, then surely $9,000 would not be corrupting in 1999. And besides that, this is just not the way my supporters view elections. Like you, Senator McConnell, and like Senator Coats, I have never had anyone suggest that a contribution to my campaign was buying a vote for any particular issue.

I am urging you to put aside the popular myths about campaign finance and realize that campaign financing limits do help incumbents at the expense of challengers, and I admire what you are doing to address this issue because, after all, you are incumbents, and even though the fund-raising is a grind for you, these limits are an advantage for incumbents in office.

I believe that there is a democratic principle here that transcends just fairness to challengers. If we do not have fair rules for political contests, we risk the effectiveness and credibility of our political system. And if I, as a candidate from any party, am not able to get my message out, and I think that was very clear, if I could not get my gender across, surely they were not hearing my campaign message, then there is something seriously wrong with the system because I was seriously constrained by this 25-year-old spending limit.

Please give us real campaign reform. Ease the restrictions on fund-raising. Do not increase them. If you want to make political markets more competitive; that is, more fair and more democratic, at least raise the fund-raising limits. My personal preference would be to do away with contribution limits for individuals. But at the very least, individual contributions should be able to be at least as great as those of PACs. And there is a differential between incumbents and challengers and the ability to raise PAC money. Eighty-five percent of my funds came from individuals, almost half of his came from PACs, and this is normal. This is natural, and you can see why it happens. But it emphasizes the importance of individual contributions, especially for challenger candidates.

I look forward to your serious consideration of this issue, and I strongly urge you to seriously consider removing them altogether. But if not, please do raise the limits.

Thank you again for this opportunity to testify, and I would be more than happy to answer your questions.

[The prepared statement of Ms. Miller follows:]

Prepared Statement of
Demaris H. Miller
before the
Committee on Rules and Administration
United States Senate
March 24, 1999

Mr. Chairman and Members of the committee, my name is Demaris Miller. I am from Northern Virginia, and I live just across the Potomac River, in McLean. Like many American women, I have a breadth of experience in a variety of capacities. Mine includes being a public school teacher, a hospital-based registered nurse, a psychologist, and a wife, mother, and grandmother. I have a B.S. in Education, a B.S. in Nursing, and an M.S. and Ph.D. in Psychology.

Last year I was a candidate for Congress to represent Virginia's 8th District. Taking on a three-term incumbent, I ran an energetic and intelligent race. I worked hard, made many friends, and had the time of my life.[1]

Not only on my own behalf, but on behalf of other challengers who have found themselves in similar races, I want to thank you for holding this important hearing. I realize that it may not be in your political interest to consider revising the campaign finance laws in a way that may diminish the advantage they give to incumbents. After all, you are all incumbents!

But I am convinced there is a democratic principle here that transcends just fairness to challengers; and that is the effectiveness and credibility of our political system of representative government. For if we don't have fair rules for political contests, the electorate may not receive enough information or the best representation.

I want to offer my experience and observations to assist you in re-considering one important issue: contribution limits to federal candidates. In my opinion, it is appropriate for Congress to revisit legislation which may have been passed in good faith to address perceived problems in the financing of political campaigns. This may be a difficult subject for you as office holders, because it is about the rules under which individuals may compete with any one of you for the privilege of representing your various states. I appreciate your willingness to re-consider this important issue.

As you know, perceived problems are not always real problems, and even when real problems exist, the most obvious "solutions" may not be constructive or may even be counterproductive. I believe the Federal Election Campaign Act of 1974 is an example of a counterproductive solution. Its stated intent was to level the political playing field and reduce a supposed opportunity for corruption and influence peddling. Considerable research over the past 20 years has concluded that its major effect has been to help incumbents ward off challengers![2]

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[1]Although this was my first run for office, I was no novice to politics. My husband, Jim, has sought the Republican nomination for Senate in Virginia (1994 and 1996).

[2]Much of this research is summarized in my husband's book *Monopoly Politics* [Stanford: Hoover

I understand the 1974 Act placed limits on the amounts individuals could contribute to Congressional campaigns and placed limits on the amount a candidate for congress could spend. The spending limit was held unconstitutional by the Supreme Court in 1976 in *Buckley v. Valeo*, but the limits on campaign contributions were allowed to stand.[3] Unfortunately, empirical evidence indicates that those limits actually increase the advantage incumbents have over challengers, and actually act as an artificial spending limit.[4]

In my testimony I will address three themes associated with campaign financing limits: (1) the advantages inherent in incumbency; (2) my personal experience as a challenger candidate in the information age; (3) cultural myths about campaign contributions and the effects of contribution limits.

Advantages of Incumbency

Incumbents have certain advantages which are just natural and inescapable. For example, having won a previous race, incumbents are typically better known than challengers. And, they have actually held the job for which they are competing. They benefit from the ability to provide constituent service, or offer town meetings.

But there are other advantages which to a greater or lesser degree are <u>artificial</u>. Members of Congress benefit from free mail, telephones, Internet access, and web pages. Incumbent candidates are given frequent coverage by local press and access to public speaking opportunities not generally available to challengers.

Take, for example, the use of franked mail. The composition, printing, postage, and even photography and artwork for these mailings are paid for by taxpayers.[5] While this is neither illegal nor unusual, the high volume of franked mail in an election year puts challengers at a considerable disadvantage.[6] All my mailings, from design and production to postal delivery, were done with my campaign funds.

Incumbents also have a considerable advantage when it comes to so-called earned media. During my campaign, my opponent was often interviewed by the local press and even appeared regularly on a popular CNBC talk show. His regular appearances ended just 60 days before the election. I was rarely successful in getting an "opposing view" interview and I was unsuccessful in obtaining so much as a single interview on the weekly talk show.

Institution, in press].

[3]See *Buckley v. Valeo*, 424 U.S. 1 (1976).

[4]See footnote 2.

[5]In an effort to reduce this obvious advantage, the House of Representatives has forbidden mass mailings by members within 60 days of an election.

[6] Norman Ornstein, et. al., *Vital Statistics on Congress 1997-1998*, Washington: AEI, 1998.

Members of Congress are also entitled to taxpayer-paid web sites. Although a House rule forbids members from making changes to their web pages within the critical 60-day period before an election, these web sites remain available to voters through election day. Not having an official, taxpayer-funded web site, I created and maintained a web site using campaign funds.

Incumbents also have a considerable advantage in not needing as much paid media. Having high name recognition and access to frequent free media appearances, I believe my opponent did not find it necessary to purchase any radio or television air time during this campaign. My district is in the Washington, DC, media market where air time is expensive and coverage is spread over many states and Congressional districts. There are multiple cable systems which make judicious media purchases more difficult.

I could not raise enough money to afford broadcast TV time which I know would have been critical to enhancing my name identification and credibility as a candidate. I did, however, place ads on four cable systems which covered my district. All my adds were positive and issue-based and the response among viewers who saw them was quite complimentary, but they reached a very small percentage of registered voters in my district.

Despite my efforts of cable advertising, targeted mailings to registered voters, appearances at more than a dozen local candidate forums and debates, working morning and evening Metro stops, greeting voters outside grocery stores, and working neighborhoods door-to-door on election day, a remarkable number of voters turned up at the polls asking "Who is this Miller fellow and what does he stand for?"

I have used these examples of incumbent advantage, not to rationalize my loss, criticize my opponent or his campaign, or to complain about things that cannot be changed. I raise these points to illustrate how the 1974 law creates barriers for challengers. Although "perks of office" can be modified, I do not expect most to be changed in any fundamental way. However, they should be recognized as part of the advantage of incumbency that makes the political playing field legally uneven.

This uneven landscape makes it even more important that challengers have an opportunity to raise as much money as possible. For it is almost an article of faith among political scientists that a challenger must be able to <u>outspend</u> an incumbent to have a fair chance of winning. Anything that makes raising money more difficult, particularly from individuals, puts challengers at a great disadvantage.

Simply put, the 25 year old contribution limits enhance an incumbent's built in advantages, and prevented me from effectively communicating my campaign message.

My Own Experience

I began the general election campaign after winning a primary against a wealthy businessman who put more than $200,000 of his own money into his race. My general election opponent was an incumbent who was unopposed for his party's nomination. (Incumbents are more likely to be nominated without opposition than are challengers.) By the end of March, 1998, my opponent had over $600,000 in campaign funds, much of which consisted of "carryover" from previous election cycles. By the time I walked out of my primary $24,000 in debt, he had over $700,000 in the bank.

I conducted a vigorous, well-organized, frugal campaign. I loaned my campaign a total of $49,000 which was all that I could afford. I am not independently wealthy, and because the law required that I quit my federal job in order to run, I had no personal income during the campaign.[7] I received the full support allowed by law from the National Republican Campaign Committee, including coordinated expenditures.

The print media, who always seemed more interested in the "horse race" than in issues, reported that in the final weeks of the campaign, I was raising money faster than my opponent. But my total expenditures, including in-kind contributions, were $456,695; and only about $310,000 of that was spent on the general election. In the end, I believe my opponent spent $534,660 for the 1998 general election.

Higher Contributions are Available and Appropriate

Without contribution limits, I could have raised more money, and reached more people with my message. I had well over a hundred contributors who gave the maximum allowed under the so-called "current" law. One retired gentleman from Texas sent me a check for $5000, not because he wanted any special favor, but because he agreed with my stands on the issues. Many others inquired whether they could give more and were told they could not.

In the final week of the campaign, we literally revised our plan each day if we received a few dollars more than we had estimated. Every day supportive friends asked if they could give another $500 or $1000 so we could purchase a little more cable or radio time, but we could not accept their money because they had reached the legal limit.

And the $25,000 aggregate contribution limit also interfered with my fundraising. For example, one old friend was dismayed to discover that, although he had not given me a dime, he could not contribute because he would exceed his "aggregate" federal limit for the election year!

It is also important to note that while about half of my opponent's contributions came from PACs and other committees which the law permits to give up to $5000, 85 percent of my contributions came from individuals, who are limited to $1000. This means that, on average, I had to work harder for smaller dollars.

As senators, I am sure your own experiences have taught you that you must spend an increasing amount of time raising money for campaigns. Many conclude, incorrectly, that too much money is required and that more stringent limits would reduce the time needed for raising money. Actually, the opposite is true.

The 25-year-old contribution limits increase the amount of time that must be devoted to fundraising. <u>More</u> time is required because you are limited to asking for what has become such a small sum. Let's say because of rationing I was limited to purchasing gasoline one gallon at a time. I would have to make 15 separate purchases, spending 15 times as much time, to fill the gas

[7] Members of Congress, however, may still receive their full salary during the campaign season.

tank of my truck. A similar "rationing" phenomenon has occurred in American political fundraising. While campaign costs have risen dramatically since 1974, candidates are reduced to raising money in the same $1000 (or "one gallon") increments that were imposed in 1974. One result has been to assure that an ever increasing amount of time must be devoted to raising money.

How Much is too Much?

The major concern about the size of contributions has been that contributors would give enough to a candidate to "buy" influence. I submit that even contributions of as much as $9,000 are not large enough to be corrupting. Let me explain.

One way to measure the current value of a single $1000 contribution is a simple adjustment for inflation. Using this method, a 1974 contribution of $1000 would be worth about $307 dollars today. By this rubric, if $1000 was not corrupting in 1974, $3,258 should not be corrupting today.[8]

Unfortunately, actual campaign costs have risen faster than inflation for a variety of reasons. There have also been an increases in the actual number of potential voters, dramatic changes in the number and type of media outlets, and increases in the cost of specific campaign activities that have risen faster than the rate of inflation.

In 1974, candidates for the House of Representatives spent, on average, $53,384. In 1996, the average House candidate spent $516,852; more than a nine-fold increase. Assuming the potential corrupting influence of a single contribution is measured by the proportion of funds that contribution represents, then, if $1000 out of $53,384 was not corrupting in 1974; $9,500 out of $516,852 should not be corrupting today. And let me add that no one who contributed to my campaign conditioned the gift on my promise to vote a particular way or in any way tried to "corrupt" the political process. That just isn't the way my supporters behave.

Conclusion

For those willing to put aside popular myths, I think the evidence is clear. The 1974 limits on campaign fundraising help incumbents at the expense of challengers, and the limits have little, if anything, to do with preventing corruption. They make elections less fair, reduce information to voters, and actually inhibit citizens from participating in the political process. The antiquated contribution limits prevented me from reaching voters and limited my right to expend money to communicate my ideas in my campaign.

To be effective, campaign finance reform should ease restrictions on fundraising, not tighten them. Congress should make political markets more competitive, that is, more fair, by eliminating fundraising limits or at least dramatically raising the $1000 limit on individual contributions and the $25,000 limit on aggregate contributions to federal campaigns. At the very least, please raise the limit on individual contributions to the limit placed on PACs.

[8]These statements are based on a comparison of 1974 with 1996, the latest data I have. Since the inflation rate between 1996 and 1998 was small, these figures should be adequate

Again, I want to reiterate that any references to my opponent, either as an office holder or as a candidate, are not meant to be a criticism of him or his campaign. I am just recounting my experiences to illustrate the hurdles challengers face under current law.

I will be more than happy to respond to your questions.

The CHAIRMAN. Thank you, Dr. Miller. I am not here to testify, but I do want to make an observation, just listening to both of you about the distorting impact of the 1974 contribution limit. You mentioned, Dr. Miller, the impact on a House race. Senator Coats, you mentioned the impact on a Senate race.

Let us talk about the presidential contest for a minute. A candidate running for President of the United States can only raise a thousand dollars pre-convention from an individual. It has an enormously distorting effect on competition. In my party, we are all familiar with the Steve Forbes/Jack Kemp matter in 1996, they were the best of friends. Steve Forbes', apparently, first choice for President was Jack Kemp. If he wanted to help Jack Kemp, he could give him a thousand dollars. But if he ran himself, he could do anything he wanted to. So Steve Forbes ended up running for President, and Jack Kemp ended up not running for President.

Coming up to the current contest, Bill Bradley trying to take on a sitting Vice President. It is a difficult task. The thousand dollar contribution limit benefits the well known, like the Vice President, or the well off, like Steve Forbes. But the candidate who might be coming from behind or just have a regional base, because of the contribution limit, has a very difficult time pulling together enough resources to be competitive.

On our side, the well-known, favorite candidate, George W. Bush, he is probably okay with the contribution limit. Somebody trying to come from behind, with a regional base, like our colleague, Senator Bob Smith, who might have a corps of supporters who would help him pull together enough resources, is stuck there under the thousand dollar contribution limit.

In addition to the problems you have testified to about simply the cost of campaigning, it ends up having a big impact on who runs. It makes it less open for everyone. And in this country, we would like for anybody to feel like, if they could get enough supporters, they could get in the game.

So excuse me for testifying a bit on that, but I think the same kind of thing you are talking about impacts not only House and Senate races, but the race for the most important job in American politics.

On the corruption question, Senator Coats, I was pleased to hear you indicate your view of the corruption issue. It is the same as mine. And, Dr. Miller, you said the same thing. It simply is not connected with campaign contributions or, if it is, neither of us in all of these years we have been in politics, in my case 20/21 years, have experienced that.

I have detected a bit more caution on the part of some of the reform groups in regard to just sort of throwing out charges of corruption. Increasingly, I hear them stress that they are not saying anyone in Congress is corrupt, but there is a public perception of rampant corruption that should compel us to enact a host of restrictions on the ability of private citizens, candidates, groups and parties to participate in our democracy. Might one reasonably conclude that such a perception is driven not by fact, but by the incessant, cynical and inflammatory rhetoric which has been employed on both sides of the aisle to propel various reforms aimed at protecting America from these evil politicians.

Do you suppose that if people were told the truth, that members' votes are driven by ideology, party, and geography, they would be less cynical about elected officials?

Senator COATS. Well, there is always that tendency and propensity, I think, of opposition groups to characterize their target in an unfavorable way, and I think the tendency toward edging toward the allegation of less-than-a-full integrity, in terms of their public service, is too tempting, and groups go over the line. I do not find that coming from ordinary citizens. I do not find that coming from the people that I used to speak to in the Rotary Clubs or the county fairs or the candidate forums or the town meetings. I would only find it coming from, generally, organized groups that basically wanted to cast a negative light on the current system and sometimes from people who just had a fundamental misunderstanding of the whole nature of fund-raising.

If I could coin a phrase, I guess, which described that what we really needed to do was we need a bias toward hard money and hard disclosure. It seems to me that, if that is a problem, disclosure addresses that problem better than any other way. Let people have the facts. Let them know how much money we raised, and who we raised it from, make it a public record, make it a timely public record, and then I think people see it in its proper context, or at least it can be debated in its proper context. It is the innuendo, it is the story floating around, it is the rumor that cannot be immediately addressed by the facts that I think leads to the public cynicism.

And so hard money, hard disclosure, that is the direction I would go.

The CHAIRMAN. I have always been perplexed by the corruption argument. Did a campaign contribution ever influence your decision to vote on legislation?

Senator COATS. No, it certainly did not. Because it is just folly to think that one campaign contribution would change a decision. We make decisions on a number of reasons/bases. Obviously, we are looking to do what is best for the country as a whole. We are looking to do what is best and the most sound public judgment. But we are also conscious of the fact that we represent X number of million people in our States and that we are there to represent them. And we are also, frankly, conscious of the fact that we would like to be re-elected. We would like put ourselves in a position where the majority of the people we represent say that was a sensible thing to do. Nothing more jeopardizes a career, to change a fundamental core position, a conviction, a publicly stated position, to go against the wishes of the people that we represent than trading a vote for a contribution.

And as I said, the infinitesimal percentage of an individual contribution toward the total amount that you raise makes the whole question ludicrous.

The CHAIRMAN. And all fully disclosed anyway. So if anybody wants to make an issue of it—

Senator COATS. And all fully disclosed anyway.

The CHAIRMAN. Dr. Miller, I wanted to ask you about the Virginia law. You live in Virginia. They do not limit contributions at all. They just have full disclosure; is that correct?

Ms. MILLER. That is correct, and it is really a delightful situation. So much of what Senator Coats addressed, special interest money, did not come into the latest gubernatorial campaign because we had both candidates capable of raising money fully, without any restrictions, and everything was fully disclosed. So the public was aware of where the money was coming from, but at the same time the campaigns really focused on the issues, and you saw very, very little of the negative campaigning that is common in other places.

The CHAIRMAN. Is Virginia mired in corruption as a result of that?

Ms. MILLER. I think Virginia has far less corruption of any kind than most States. We have had very little indication of it in campaigns. And we have a very active group, based in Virginia, the Voting Integrity Project, that has not found major issues anywhere in Virginia that indicate corruption.

The CHAIRMAN. And the absence of a contribution limit in Virginia, does it have the effect of making it easier for a challenger to pull together enough resources to compete?

Ms. MILLER. Absolutely. I think we have excellent evidence of that just in our last three governors. Our current governor is the son of a butcher. He ran against a very, very wealthy businessman, but he was able to run a good race and raise enough money, and people voted for him for the issues. The previous governor was the son of a football coach, and the governor before that was only one generation removed from slavery, and all of this happened under a system where there were no restrictions on the amount of a contribution.

The CHAIRMAN. So if you are sort of an underdog in a Virginia race, if you have a few people who are for you, they can potentially pull together enough resources to give you a chance to compete against somebody that might have a broader array of support. Is that, essentially, the point?

Ms. MILLER. That is correct. And I think sometimes the lack of spending limits allows people to show the degree of their enthusiasm for a campaign, as opposed to just their general support of a campaign.

The CHAIRMAN. And then, presumably, with full disclosure, if a candidate has a large contribution from somebody that is controversial, it becomes an issue in the campaign and is hashed out by the voters; is that right?

Ms. MILLER. Well, absolutely. The law requires them to report it, and the press lets the public know, and the public responds accordingly.

The CHAIRMAN. Thank you. Senator Dodd?

Senator DODD. Well, thank you, Mr. Chairman. Let me thank our witnesses again for their comments and statements this morning.

Just a couple of observations. I think it is probably just a fundamental sort of difference of how you look at the situation. There is some question, in my view, as to whether or not, by raising the limits, we would actually free up members of Congress to spend more time on issues. I mean, there is an assumption, inherent in the argument, that this is going to happen because you will be raising the same amount of money. You will just need less time to do it because you can get it in larger chunks.

There is a former colleague of the United States who is since deceased, and it goes back to a different era before any of us were here in the Congress, but I remember talking to him before he passed away a number of years ago, and told me how he used to do his fund-raising and was very candid about the whole thing, a very fine member, I might add, by anyone's estimation, of this body. And, basically, he would have a friend of his held his dinner for—this is when a race would run the average of about $4- to $500,000 for a Senate seat in the country—and he would have a dinner. A friend would host it. They would invite ten friends. They would divide up the amount, and they would each write a check for it, and that was the entire level of his fund-raising activity.

Now, it saved him a lot of time, and he certainly had a lot more time to work on issues, I might argue. And I do not know anything that would suggest that this individual, by the way, would subscribe to the notion of the corruption piece, but I will come back to that in a second. So, in a sense, it is, I suppose, the ideal world. He was one individual with 10 or 15 people who each divided up the amount of money. He was free then to legislate freely.

There is something, I think, that is disturbing, however, in the notion today that the idea that, because you can do this with 10 people or 15 people or 20 people, that you are achieving a more pure environment in the sense of how we run our campaigns and how we function as legislators. There is something to be said for the notion of involving people in the political process through contributions, while the other is much more efficient and gives you, as I say, more time.

My second concern, in this sense, is something that, again, you may want to address. But my experience is, with incumbents and/or challengers, that people have a tendency to raise as much money as they can, not as much money as they think they are going to need. I mean, obviously, you have a goal in mind of what you think you can raise.

But we all know, having been in races where you come down, and you do not know what is going to happen in October of an election year; whether there is some event that occurs that you have no control over, happens on the outside, and it skewers the political environment and climate for you so that you have to be prepared to answer it, to respond to it, to deal with it. And so the tendency is to raise as much as you can to prepare for that.

Now, unless you know for weeks out that you have an incumbent that is so debilitated or incapacitated as a candidate that is not going to pose a difficulty. But in competitive races, it is why we see more and more people who are elected with treasuries, as was in your case, Dr. Miller, where your opponent was left with a previous campaign with excess.

Today, if you look over our colleagues in the Senate, you will find the vast majority come out of campaigns, and if they do not have an excess amount, they will quickly try to build one up.

So I am concerned that the notion somehow that by raising the individual amounts of hard money, that we are somehow going to simultaneously restrain the overall amounts that get spent in the campaigns. You did not say that directly, but there is an implied suggestion here that we will free up more time and there will be no more money that will have to be raised. I suspect it may be just the opposite. We will find the volume being raised in terms of total dollars.

Let me just say to my colleague, and the Chairman, too, when he talks about the presidential race, about how people who are not as well known, I remember when Gene McCarthy had a wonderful line, in talking about the Senate, but I think it also can apply to presidential candidates, he once said that the Senate ought to be a place where people of reputation come, not where you come to make a reputation. And in a sense, one might make the same suggestion about presidential candidates; in the sense where there ought to be people of reputation who are there, not where you come to seek a reputation as a presidential candidate.

But in a sense, the ability in the presidential race, I think one of the problems—maybe we can save this for another day—but it seems to me by front-loading the process here and requiring that people be in a position to spend a lot of money very quickly is probably going to have as much of an influence on how much money has to be raised, who can get involved in the race. In previous years, it was that stretching out of the process so that a candidate who did well in the front would have an ability to make a case that they could raise the dollars to face a California primary.

The CHAIRMAN. If you would yield, we are sort of testifying ourselves here. But you mentioned Gene McCarthy. You have probably heard—Gene has testified before our committee on this issue a number of times——

Senator DODD. I know he has.

The CHAIRMAN [continuing]. And has indicated that he could not have brought President Lyndon Johnson down in 1968 had there been a thousand dollar contribution limit. In fact, he has been one of the most vocal opponents of the 1974 law, under which we have been operating. And he tells the story about how eight or ten people put together the resources for him to go to New Hampshire and to take on a sitting President of the United States over an issue of deep conviction, the Vietnam War, and has testified before this committee passionately on a number of occasions.

Senator DODD. Oh, I know.

The CHAIRMAN. And had this law been in effect, he could not have carried his case to New Hampshire. So that is a classic example of the distorting effect that you all have been testifying to.

Senator DODD. I quoted Gene McCarthy for a different reason—[Laughter.]

But, also, I would disagree with him. I think, in fact, in 1968, there was an army of young people—a great trivia question, of course, is who won the New Hampshire primary, and Lyndon Johnson was a write-in candidate in New Hampshire and actually won the primary that year. But, nonetheless, I think he would have done very well in the absence of it because he did have a cause and an issue, and it was not the finances that made him a competitive candidate, it was an issue in which he attracted literally thousands and thousands of people who cared and decided they felt they wanted to give of their time.

I want to agree with you on the corruption comment that was made here. I never bought into the notion of—as we understand corruption that was a legitimate case. I think we ought to be careful how we confuse this, though, in a sense, what we perceive as corruption. There is a corrosive element to this, in a sense, and I do not think you can get away from that.

To the extent that people have to go to major sources of people who can write checks—I mean, there are not many people who can write a check for $2-, $3-, $4 thousand, working families and so forth out there who cannot participate at that level—and to the extent you are going to disregard the $100, and $50, and $25 contributor because it just is not worth your time to spend on them to ask them to get involved in this, because it is easier to go to that person who can, depending on what the proposal is here, to go to $2,000 or $4,000 or $5,000, then, clearly, we are awfully naive if we do not think the American public feel there is not some sense of obligation, just as we feel a sense of obligation to people who vote for us, organizations that support us and so forth.

As human beings, when the issue comes down, you have got three places you can be, and there is a group that opposed you, a group that supported you, a group that helped finance your campaign. We all know in a process of politics that your attention is drawn clearly to those who have been able to help you out, get you to where you are. I do not think that is corrupt. I think that is human nature, in a sense.

And I think to say and suggestion somehow that this is a good thing or it is not a bad thing worries me because I do think it is unhealthy. As more and more people—last election, a billion dollars spent in congressional races, the lowest participation and turnout in almost half a century. There is something more fundamentally going on in our process of politics in this country that needs to be addressed. Again, my concern is that what we are going to see is more money come into the process here. Eighty percent of the campaign dollar gets spent on TV. And I have still always questioned why it is not, with licenses and so forth—others have made this suggestion, some people do it voluntarily—but TV stations and networks that use the public airwaves that we allow them to, the privilege of doing so, why they do not have a greater sense of responsibility of providing the time so that candidates can be heard, other than at 2 a.m. in the morning, so that you, Dr. Miller, would have a chance to express your views to the voters of this area without having to go out and raise a fortune in order to compete effectively for that time.

I, again, appreciate your testimony here today. It is a pleasure always to see good friends like Dan Coats go back up and testify and think we need to look at this. There is a fundamental disagreement about whether or not we agree there is too much money in politics. And if you think there is not, then we have a different approach to this. Someone once described it as looking at sort of the Mississippi River and the delta. And if you just try and deal with the tributaries, then you are never—there will always be other tributaries, other ways for money to find its way into the process.

You have to go back and deal, it seems to me, with the overall question of flow coming in and ask yourself what is this doing to the political process in the country? Are people participating more? Are voters engaged more in the process? Is there some way in which we can get our message out better to encourage people to become candidates, to make it easier for people to challenge effectively?

And, again, I do not know, Ms. Miller, but it seems to me that even if you raise these limits, your incumbent is still going to have a tremendous advantage. I do not see how this gets closer to the incumbent, being able to challenge, in a sense, if the incumbent is able to take advantage of this hard-dollar question, which is always the advantage—and I do not disagree with you there—so you are going to have that continued disparity it seems. It may even be greater.

Ms. MILLER. May I respond to that?

Senator DODD. Certainly. I would like you to.

Ms. MILLER. It is true that the incumbent would always have much, much more money, especially starting with three-quarters of a million dollars, as he did. My point is that having the limits that I had, I never had enough money to reach that threshold to even get to the point that people knew I existed, let alone know who I was. There were young staff members on the staff of this committee living in my district, active in politics, and they did not know until they walked in on Election Day that there was a Republican running.

Senator DODD. What would make you think the TV stations would not raise the cost of your ad to go on television now that they know you can raise more money?

Ms. MILLER. As an inveterate capitalist, I am willing to take that chance that they will take my money if I have enough of it. [Laughter.]

Senator DODD. Well, I do not suggest they will not. I am sure they will. They love to do it. They also do editorials about campaign finance reform. But my point to you being is that if they continue to raise the amount it costs per unit, the fact that you could raise $100 before and not quite make it because the TV cost $200, you now raise $200, but they have raised the cost to $400. It seems to me, all we have done is bring more money into the process, but we have not increased your ability to communicate any more effectively with that voting population who, as you described, did not know who you were when they showed up at that polling booth on Election Day.

Do you understand my point?

Ms. MILLER. I can guarantee you I could have gotten my message out better if I had been able to raise more money from those individuals who were willing and ready to support me.

The CHAIRMAN. We have had, I must just say on that point, we have had witnesses before the committee, off and on, over the years, who have made the point that spending beyond a certain point for incumbents really does not make any difference. The real point is: Can the challenger get enough, as you put it, Dr. Miller, to meet the threshold of credibility and to convey an argument for change?

Senator COATS. Mr. Chairman, if I could on that point, just to reinforce you there. I think we have all witnessed, and I will not mention any names, several celebrated statewide campaigns in recent years, where there was a backlash against the incumbent for excess spending of personal money. There is a minimum-threshold, however, argument that I think Dr. Miller that is irrefutable, and that is, you have got to get in the game first before you have a chance to win. And to get in the game, there is a minimum threshold level that, in today's multifaceted way in which we communicate messages to the American people, it is an expensive proposition. And if you do not meet that minimum threshold and have the funds to address that, you are defeated before you ever start.

Senator DODD. Let me just finish, if I can, Mr. Chairman.

The CHAIRMAN. Sure.

Senator DODD. What we ought to be looking at, though, is how we increase participation of all people in this country. And by raising dollar limits, there is clearly one crowd that is going to have a larger voice and a bigger voice box in all of this, and that is the people who can write a check, not just for $1,000 or $2,000, but for $4,000 or $5,000 or $10,000. That is very few, small percentage, of the American public that can do that. I think that is discouraging to a lot of other people out there who cannot even come close to playing in that game, who want to contribute and want to support, who are going to be disregarded because it takes too much of our time to solicit their support. I think that is terribly unhealthy.

We have got to look at this thing in a far broader, more sophisticated way if we are going to reverse the trends of people not participating, getting cynical, watching all of the negative adds on television, people getting so turned off by politics in this country that they do think we are corrupt, and properly so, in my view, but it does not seem to be abating at all. And so we have got to look at this, in my view, in a far broader way.

If we are going to ultimately achieve, I think, the desired goals of increasing participating and making the political process accessible not just to candidates, but to the general public, if the general public feels they cannot access this, it is only about us; how much time we spend, how much money we raise, how much they can contribute, it seems to me we end up in a very deep hole in this country. So I am deeply worried about that.

Again, I am deeply grateful to both of you for sharing your views and thoughts here today. I am grateful to the Chairman, and he and I are going to work on this, and I respect him immensely for his care and conviction, and his courage. He has taken a lot of heat for positions he has taken, over the years, on this issue, but he has deep convictions about it, which I respect, and I am hopeful that we can find some common ground that Dan and I, and this gentleman and I have been able to find over the years, despite our political differences.

But I wanted to express that general concern I have about the crowd that feels left out in this country when it comes to politics, and we have got to be very careful they do not feel further disenfranchised.

Senator COATS. Senator Dodd, if I could just briefly respond to that.

Mr. Chairman, the Senator raises a legitimate question about the public's level of participation and about their perception of the political process. But I would suggest there are reasons well beyond the contribution limits that are responsible for that, and those need to be addressed.

But in terms of contribution limits, let us not forget that establishing a limit based on 1974 prices is no longer realistic in 1999. And there has to be a way of addressing that. I mean, that would be the same as me saying, "Well, I used to get my haircuts for $4. I am not going to pay $20, and so I will no longer get a haircut." [Laughter.]

I mean, that is just the realistic aspect of the way prices have increased over that 25-year period of time. And I think that, as a minimum, we ought to find common ground on that question because the statistics are there to support a common-ground solution. We all know that the cost of living and all of the aspects of providing and purchasing services has risen dramatically since 1974.

Senator DODD. Would you forgive me, by the way—you will appreciate this—and, Dr. Miller. The Banking Committee is calling, so I apologize. We have the chairman of the Securities and Exchange Commission before the committee today, so I have got to get over there, but I apologize to you, and I apologize to our other witnesses. But I have read your testimony and appreciate your presence very much.

Thank you.

The CHAIRMAN. One final observation, as Senator Dodd has to depart for another committee, Senator Dodd made several observations about the overall amount of money in politics. But the reform effort the last couple years really has not dealt with that issue at all. There have been no spending limits suggested for congressional campaigns. And one of the reasons I wanted to start off on this subject is we really are not talking about spending limits on campaigns any more. And so the question is how do we make it possible for people to get enough resources to compete? And it seems to me, listening to these witnesses, that the contribution limit stuck in the seventies, when a Mustang cost $2,700, is a major impediment.

With regard to turnout, it is quite interesting to note that turnout goes up when you have competitive races, and it goes down when you have sleepy races that nobody is hearing about. And so, clearly, there is no evidence of a correlation between vigorous campaigns and low turnout. There is plenty of evidence that in a sleepy race, in which you have an incumbent sailing to victory and a challenger with no chance that nobody has ever heard of, turnout goes down.

And the other thing that clearly has an impact on turnout is just how angry the voters are. We saw in 1992 the voters were mad as hell. Ross Perot tapped into that. Overall turnout in the presidential race went up 5 percent over 1988. By 1996, it was a content electorate out there. People were in a happier mood, and turnout went down somewhat.

So this whole issue of turnout is a quite interesting and complex subject. I want to thank my friend, Senator Dodd, for being here for the first part of the hearing. Thank you, Dan Coats, for coming back and joining with us and sharing your views on this issue, and, Dr. Miller, thank you so much for being here as well. We appreciate it.

Senator COATS. Mr. Chairman, thank you.

Ms. MILLER. Thank you.

The CHAIRMAN. Now, we would like to call our two witnesses for Panel 2. Karen Sheridan, who is a professional media buyer with SMY Media in Chicago, who has bought time for corporations, and for labor unions, and for party committees, and for candidates, and John Lott, who is an economics professor at the University of Chicago, who has testified in a number of instances on the subject of interest to us today.

Ms. Sheridan, why don't you lead off. We will make your full statement a part of the record and look forward to hearing from you.

STATEMENTS OF KAREN SHERIDAN, EXECUTIVE VICE PRESIDENT, SMY MEDIA, INC., CHICAGO, ILLINOIS; AND JOHN R. LOTT, JR., JOHN M. OLIN LAW AND ECONOMICS FELLOW, UNIVERSITY OF CHICAGO SCHOOL OF LAW, CHICAGO, ILLINOIS

Ms. SHERIDAN. Thank you, Mr. Chairman. Thank you for this opportunity to be able to participate on this very important issue and in this very important process today.

As you stated, our company has experience in both corporate or traditional commercial advertising, as well as associations, labor unions and political parties and committees, and I think that is important to note today, as I have been asked to give my opinion on the rising costs of television media, the changing face of that media environment, and I think what is very important is to point out some of the differences between the traditional commercial advertiser and the political advertiser, an area that we understand completely.

I am going to try and keep this as brief as I can and as unencumbered as I can. But, unfortunately, there are a lot of numbers that go into media.

The CHAIRMAN. Yes, I understand that. You go ahead. You cover the subject.

Ms. SHERIDAN. So bear with me on this.

Senator Coats already talked about how the population has increased over 40 percent since 1975 to today. But along with that, so has television viewership. In 1974, your average household viewed approximately 44 hours of television a week. Today, we are viewing over 50 hours of television each week. But what has happened in that environment is that it has been fragmented. We have seen a 70 percent growth in commercial stations in this country between 1975 and today, growing from 775 to almost 1,200 stations today.

We constantly see increased variety of cable networks being made available. We have seen brand new networks being born: the Fox Network, Warner, UPN, PAX Net. All of these have led to a decline in viewer loyalty to stations. Where in the mid-seventies the average household was viewing only 4.5 stations, an average of nine hours each per week, today, we are viewing 12 stations only four hours each per week. And that is even more dramatically shown when you take a look at what has happened with the three major networks in this country. ABC, CBS and NBC, in 1975, garnered 91 percent of all prime-time viewing. Last year, that dropped to less than 50 percent.

What this means for advertisers out there is that you have not just increases in the cost of living, but you have this fragmentation which makes it much more difficult and expensive to reach the viewing population. In your top 100 media markets in this country, your costs for prime time have increased over 300 percent from 1975 to today. And in late news, one of the key day parts that is utilized by campaigns, the costs have gone up over 400 percent.

On top of that, even though we, personally, do not get involved in all the ancillary services that campaigns require as polling and commercial production, we worked closely with these people, and we found that the cost of conducting polls has doubled in that period of time, and the cost of producing a 30-second spot has gone up over fivefold.

All of that aside, though, advertisers continue to recognize television as an important means of reaching the public, to get their messages out there and get them across. In 1998, it is estimated that over $46 billion will have been spent in television advertising. That is over 60 percent of all of the advertising dollars spent in the five major media. Back in 1975, that was only $5.2 billion spent in television.

Television has certain characteristics, intrinsic characteristics about it. There is sight, there is sound, there is motion, there is color. This makes for a very impactful medium in which to put out your message. Television continues to reach approximately 80/85 percent of the viewing public every day and almost 90 percent of viewing adults each week. That is very important, especially for the political advertiser who needs to reach his marketplace, to reach his constituency, in a very short period of time.

What I found very interesting was there was a Roper-Starch survey conducted recently that showed, as of March 1997, 69 percent of all adults in this country utilized television as the primary place to get information on what is happening in the world today. Forty-seven percent get this information only from TV, and 53 percent of all adults say that television is the most credible source for information.

There is also a study by the Center for Media Public Affairs that found that the major news properties out there carried 73 percent fewer election stories during the mid-term elections of 1998 than they did four years earlier. So while the public is looking to TV for this information, news is carrying less of it. This means it is all the more important for the political advertiser, the candidate, to continue utilizing television as a means of reaching their constituency.

The CHAIRMAN. Could I interject on that point?

Ms. SHERIDAN. You certainly may.

The CHAIRMAN. Admittedly anecdotal. But in my campaign in 1996, as compared to 1990, just in terms of earned media coverage, setting aside advertising, there was a dramatically less interest on the part of the local television stations around Kentucky in covering anything, either myself or my opponent, had to say at any point in the campaign prior to the last seven days. So we were almost totally dependent on having to advertise because there was little or no interest, in terms of the News Departments of the various local stations, in covering the campaign, putting even more pressure on us to advertise as the only way to break through to our voters.

Ms. SHERIDAN. Not only is it important for you to utilize television to break through to your voters, but it is even more important to recognize the other challenges that are out there with utilizing it.

You can no longer just buy a thousand rating points of time. A rating point is not just a rating point. Candidates no longer look to target just the mass voting-age population. There are specific issues which require you to address specific segments of the marketplace out there. If women are a key element or a key portion of your target market, you can no longer reach them by utilizing just daytime television, as 57 percent of all women are now working outside the house during the day.

Likewise, if your polls indicate that the persons most likely to vote are found in news vehicles or in news information programming, then it is important that you place your spot, your ad, in that environment. But what happens is that your news and your news information programming, as your 60 Minutes and prime time, are two of the most expensive day parts to utilize for television advertising.

Prime time alone, in the top 100 markets, and late news range from 44 percent to 198 percent higher than any other day part out there you could be using, whether it is daytime or early fringe or late night programming.

But along with these costs and how expensive it is to utilize television, there are other differences between your traditional advertiser, television advertiser, and your political advertiser. Your traditional advertiser has the luxury of planning, doing long-range strategic plans. They have the opportunity to place their media well in advance of when they need to be on the air. That gives them the opportunity to take advantage of negotiated rates, to take advantage of long-term media relationships, to run in the programs they want to run in when they need to be there.

Your political advertiser, on the other hand, is entering the market only every two, four or six years. You have a very small window of time in which you must tell your story to the public, when you must reacquaint them with you and with the issues or, in some cases, to introduce yourself for the very first time to them.

Political advertising has a tendency to be very, very volatile. It is much more reactive rather than proactive. It is constantly changing based upon what your competition is doing, what the current events are and what other third-party advertising might be doing often leaving you to have to place advertising time within 24 to 48 hours, which then forces you to oftentimes buy in more expensive programming on more expensive stations.

And that is all complicated further by the fact that the majority of your advertising, especially your committee advertising, takes place in the 60 days prior to the general election in November. That, unfortunately, is some of the most expensive media time to buy. From mid-September through December—we call this fourth quarter in the advertising industry—this is when your new season programs debut, this is when people are settling back in after the summer and viewership is going up, consequently raising prices on inventory, and when your traditional advertisers are out there building their sales during the key retail period for them.

Fourth quarter 1998 was 46 percent higher than ads that were placed in first quarter, which is January through March, and 10 to 11 percent higher than second and third quarters.

In addition to that, you also have a wealth of candidates all vying for the same time during that same 60-day window further making it difficult to purchase time and making it much more difficult to distinguish yourself with the public from everyone else.

Corporate advertisers have another very distinct advantage. They are not opponents, they are competitors. Taco Bell, McDonald's, Burger King, Kentucky Fried Chicken, can all exist in the same market. They can all share a piece of the fast-food industry. At the end of each advertising cycle for them, they do not go out of business because they do not own a 51-percent market share. Political candidates, on the other hand, are opponents. Only one of them is in business the day after election, and it is whoever gained more than a 50-percent market share.

There are also a number of geographic problems that are faced with running campaigns. Dr. Miller talked about the problems she had and the inability to utilize television. In the 8th Congressional District of Virginia in which Dr. Miller ran, that district is covered by your Washington, D.C., television stations. Those same stations also cover another 16 districts in 4 States. This means that of the 3.9 million adults that are reached by television out of Washington, D.C., only 11 percent of them reside in the 8th District. So 89 percent of all of Dr. Miller's advertising would have been wasted.

Kentucky is another prime example when you get into your State races. Media markets do not conform to congressional districts. They don't conform to State boundaries. In Kentucky, you need to utilize eight different media markets in six States to ensure 100 percent coverage of the State.

What happens with all this overlap in these markets means that the person, as Dr. Miller, who needs to buy time in news or on "60 Minutes" or whatever it is going to be paying the same price for that ad as someone else in that district.

Let's take the case of New Jersey. In New Jersey, you need to utilize New York television. You are running in New Jersey. If you want to buy a spot on "60 Minutes," it is going to cost you $25,000—the same price someone in New York City will be paying who can utilize a much larger portion of that target audience.

Finally, corporate advertisers are not bound by artificial, mandated limits. Yes, they have stockholders and boards of directors to report to, but they also have the luxury of doing investment advertising. When they are looking to build their brand, they can do what is known as investment spending. And as their revenues come in, as their profits rise, they are able to reinvest more of that money into advertising to continue building their product, to continue building their service. They are not limited by this $1,000 limit as your candidate advertisers have been.

Media costs have risen over 300 percent in the last 25 years, and I find that political campaigns are in jeopardy of not being able to utilize television, a vehicle that so many people in this country tune to every day to learn what is happening, that your candidates will not be able to afford it or to afford it at any significant level of presence.

In conclusion, I would like to state that I fully believe that the campaign limits need to be increased to be commensurate with the rising costs of television advertising if all candidates are going to have the opportunity to utilize this very effective medium.

I thank you for this opportunity today and welcome your questions.

[The prepared statement of Ms. Sheridan follows:]

Testimony of Karen Sheridan
Executive Vice President, SMY Media, inc.

Before the Senate Rules Committee
Wednesday, March 24, 1999

REGARDING INCREASED COSTS OF MEDIA OVER THE LAST 25 YEARS

Good morning Mr. Chairman and Members of the Committee. My name is Karen Sheridan and I am the executive vice president of SMY Media, inc. SMY is one of the oldest and largest media management companies in the Midwest. SMY is headquartered in Chicago, Illinois with a service office in Washington, DC. We offer complete research, planning, buying, billing and trafficking services for all media: including television (spot, network and cable), radio (spot and network), and print (consumer and trade magazine, newspapers). Our clients have included national and regional corporations, banks, labor unions, candidates and political committees. In a typical year, SMY places over 30 million dollars in media for our clients.

I have been asked to give my expert opinion about the growing costs of television media in the last 25 years and the trends in this industry. In summary, I can testify that (i) the costs and complexities of media have risen dramatically over the last 25 years; (ii) television advertising remains the best way to quickly reach targeted audiences and (iii) there are many inefficiencies in political advertising due to the given limitations on its financing, how and when it is purchased and the lack of symmetry between media markets and political geographies which are difficult to overcome.

1. The Increased Costs of Media Over the Last 25 Years

Just like all other forms of communication, the costs of media placement have risen dramatically over the last 25 years. Since 1975, television households in the U.S. have grown 42% from 69.6 million to 99.4 million in 1999. Likewise, the number of adults (persons age 18 years or older) in these households has increased from 140.7 million in 1975 to 195 million in '99. Television viewership has gone from 43.7 hours per household per week in 1974 to 50.4 hours in 1997 (see attachment).

This growing audience, however, is more difficult to reach due to the burgeoning number of media outlets now available. The increased numbers of independent stations, emergence of new networks (FOX, WB, UPN, PAX), ethnic networks and the many and diverse cable channels now available, has lead to a fragmentation of the viewing audience. Commercial television outlets have grown 70% from 706 in 1975 to 1,197 in 1998. Today, 68% of all households subscribe to cable, with approximately 43% subscribing to one or more pay-cable services. The average number of channels received by each household has increased dramatically from an average of 7.1 channels in the '70s to 50 channels per household in 1999. During the '70s, the average household watched 4.5 stations per week an average of 9.3 hours per channel. Today, the average household views 12 channels each week for an average of 4.2 hours each.

All of this diversification and specialization has led to a decline in viewer station loyalty that is best demonstrated by the decline in viewer shares for the 3 major networks over the last 25 years. In 1975, ABC/CBS/NBC garnered a 53% share of all viewing during the average week with a 91% share in primetime. By 1998, their combined share diminished to only 27% in the average week, 47% during primetime.

The result of these dramatic changes is the increased costs of placing advertising time. According to industry sources, in the top 100 media markets, the average CPM (cost per 1,000) households in primetime has increased from $3.65 in 1975 to $15.50 in 1998, an increase of 325%. During this same period, the local late news CPM has risen from $2.50 to $12.85, or 414%.

In addition, the costs of polling and production have increased. While these are not part of the services in which we specialize or offer, we are aware through industry sources that a 50- to 60-question survey of 300 to 400 people in the mid-1970s would have cost between $5,000 and $7,000. That same survey today would cost between $10,000 and $13,000. The average cost to film and produce a 30-second commercial in 1975 was between $4,000 and $6,000; today, that figure can be as high as $22,000 to $28,000. Even postage has dramatically increased over the last 25 years. According to the United States Postal Service, the cost of a first-class stamp in 1974 was 10 cents. Today, the cost is 33 cents, over 3 times the cost.

2. The Need for Media

Despite these rising costs, advertisers have recognized the need to utilize television to communicate their messages. Advertising dollars to this medium have increased from $5.2 billion in 1975 to an estimated $46 billion in 1998. This figure represents over 60% of the estimated $76 billion placed in the 5 primary media in '98 (television/cable, radio, newspapers, consumer magazines and out-of-home).

Television, with its inherent characteristics of sight, sound, motion and color, provides for a more impactful environment for an advertiser's message. Television also allows the advertiser to build audience reach quickly. Inclusive of cable, television reaches 75-85% of all adults each day, 90-95% each week. This is especially important to the political/candidate advertiser who must build brand identity and loyalty in a very short period of time. Further, according to a Roper/Starch survey, as of March '97, 69% of all adults say they get most of their news about what's happening in the world from TV; 47% from only TV and 53% rate TV as the most credible source. Further, a recent study by the Center for Media Public Affairs found that during the 1998 mid-term elections, the major television news programs carried 73% fewer stories about the election than they did in the 1994 mid-terms. Accordingly, it is my experienced opinion that television will continue to be utilized to promote the political candidate.

It is important, however, to be precise in buying television. Merely buying "1,000 gross rating points" in a particular media market does not necessarily mean you have reached your specific target audience, or that your message has been fully considered by its viewers. Attention must be paid to the individual characteristics of the market and the target. For example, if women are a key segment of the target, daytime alone can no longer be utilized to reach this population as 57% of women now work outside the home. Additionally, if "likely voters" is the target and polling indicates that "likely voters" are more inclined to view local news or news/informational-formatted programs, then you must focus your ads where this audience will be watching. The result of this, quite obviously, is that buying spots in or adjacent to local news and informational programs as "60 Minutes" are some of the most expensive commercial ad time in the local spot market. For example, in 1999, the average CPM households in the top 100 markets for late news is $12.85 and for primetime, the CPM is $15.50. These range from 44% to 198% higher than other spot market dayparts (daytime at $5.20, early evening at $7.15 and late evening at $8.90).

3. The Challenges of Political Media

In addition to the above, the political advertiser faces hurdles and challenges that the traditional commercial advertiser often does not. This makes political media more expensive and, quite frankly, less efficient. The goal of any advertising plan is to build brand awareness, product/service acceptance and, ultimately, consumer trial or purchase. Most commercial enterprises are able to have long-term media plans and strategies that allow them to schedule media placements and promotions in advance of the desired advertising period. They are better able to place their message in the programs they want, when they want and take advantage of negotiated discounts and long-term media relationships.

Political advertising, on the other hand, requires candidates to build an immediate brand identity in a short, and quite competitive, period of time. Political commercials are only aired every 2, 4 or 6 years requiring the viewing public to re-familiarize themselves or quickly learn about a new candidate or issue. At the same time, numerous other candidates are vying for this same audience and recognition (brand identity) for other offices – making it difficult for the viewer to differentiate among the many advertisers.

Political campaigns no longer target just the mass voting-age population. There are specific issues being targeted to specific market segments, for example, social security to adults 55+ or education issues to parents and educators. These issues require separate strategies and media placements to reach their respective targets. This is particularly challenging during the primaries when the target is further limited by party affiliations.

Additionally, candidate's media plans are very volatile, continually changing based on their opponents, other third-party advertising and in response to current events. They are reactive rather than proactive, often needing to add to or change their media schedules with little advance notice, *i.e.,* within 24 to 48 hours. This often requires placement in less cost-efficient programming, in programs or on stations with higher unit rates, in order to achieve the campaign rating point goals.

On top of all this, the lion's share of political advertising, especially for the political party committees, takes place the 60 days prior to the general election in November. This period (from mid-September through December) is one of the most expensive advertising periods of the year when new season programs debut, hopefully generating strong audience viewership, and there are heavy demands from traditional advertisers on commercial inventory as we move into the key retail season. This period, 4th Quarter, is generally the most expensive time to buy television for any advertiser. Average CPM households for 4th Quarter '98 were 46% higher than 1st Quarter '98 (January-March), 10% higher than 2nd Quarter (April-June) and 11% higher than 3rd Quarter (July-mid-September).

We have seen several other important differences between the more stable realm of commercial media buying and political buying, all of which make the latter more expensive or inflationary. Corporate advertisers are not "opponents" within their industry, merely competitors. For example, each car dealership or fast food restaurant in a particular area can be satisfied with just a share of the business in that market. While their advertising is designed to grow their market share, the success or failure of their business (or media plan) is not dependent on them reaching a 51% market share.

This is quite unlike political candidates who are not competitors but opponents. Unlike a business, only one of them will survive after Election Day and that depends on having a market share (consumer trial) of more than 50%. This can make the need for television advertising and proper buying all the more important and expensive.

The next complicating factor facing candidates today, especially in urban areas, is the tremendous geographic reach most television stations have compared with a compact or densely populated congressional district. Taking Mrs. Miller's race in the 8th Congressional District of Virginia as an example, we see that a commercial on WRC-TV Channel 4, a local NBC station, will not only cover her district, but will reach another 6 congressional districts in Virginia, 2 congressional districts in West Virginia, 7 congressional districts in Maryland and 1 in Pennsylvania. That one commercial will reach 1,956,000 television households and 3,919,000 adults – only 11% of which actually live in her district.

Large or rural states pose an equally vexing problem. In Kentucky for example, a statewide candidate must buy television time in 8 different media markets in 6 states to ensure his or her audience is completely reached. The overlap of a media market into 2 or 3 states also means that candidates from each of these states will be vying for the same advertising time and at the same costs regardless of the portion of the TV market they represent. For example, a candidate in New Jersey, which requires New York television to cover his area, would pay the same $25,000 for "60 Minutes" on CBS as the candidate from New York City.

And last, traditional corporate advertisers are not bound by some of the artificial limits imposed on candidates in financing their media production and placement. As a corporation's revenues, product prices and profits rise, so can its advertising budget, which, in turn, can generate additional sales and profits. The fact that candidates have been bound by a $1,000 limit for the last 25 years, while media costs have risen over 300%, has put political campaigns in jeopardy of not being able to finance the requisite number of rating points necessary to penetrate the brand and build that brand identity and loyalty.

This may be the reason that numerous polls around Election Day reveal that people do not know enough about the candidates or issues, and may not vote. When artificial limits on revenue or advertising budgets decrease advertising, it decreases awareness and reduces consumption, or in this case, participation.

4. Conclusion

Despite the challenges, inefficiencies and continually rising costs, television is still the most cost-effective way for candidates, political parties and issue groups to communicate their messages to the greatest possible audience in the shortest period of time. A vast majority of Americans have come to rely on television as their primary source for news and information. Television is a powerful medium, which can be used to lend credibility to nearly any event. It is no surprise that political parties, candidates and issue groups have to come to place a lot of emphasis on television advertising.

It is my professional opinion that the campaign contribution limits should be increased commensurate with the rising costs of television advertising to allow all candidates to compete effectively in this highly fragmented environment.

Mr. Chairman, I thank the Committee for this opportunity to testify on this important matter and would be happy to answer any questions.

Attachment to Testimony of Karen Sheridan
Executive Vice President, SMY Media, inc.

3/18/99

Before the Senate Rules Committee
Wednesday, March 24, 1999

MEDIA TRENDS

GROWTH IN TV HOUSEHOLDS

1975	69.6 million
1999	99.4 million

COMMERCIAL TV STATIONS

1975	706
1998	1,197

AVERAGE NUMBER OF CHANNELS RECEIVABLE PER TV HOUSEHOLD

1970s	7.1
1999	50.8

AVERAGE HOURS OF TV HOUSEHOLD VIEWING PER WEEK

1974	43:41
1997	50:24

TELEVISION ADVERTISING DOLLARS (IN MILLIONS)

1975	$5,263
1998	$46,060 (est.)

NATIONAL AD DOLLARS (IN MILLIONS)

1975	$11,076
1998	$75,935 (est.)

Includes TV, radio, consumer magazines, newspapers, out-of-home, business/trade press

CPM (COST PER 1,000) HOMES REACHED FOR SPOT TV :30 UNITS

Top 100 Markets	Prime	Late News
1975	$3.65	$2.50
1999	$15.50	$12.85

ESTIMATED SHARE OF TV HOUSEHOLD SET USAGE BY SOURCE

	Early 1970s	Late 1990s
Network affiliates	25%	13%
Independent stations	16%	14%
PBS stations	4%	3%
Pay cable	-	5%
Basic cable	1%	30%

ABC/CBS/NBC NETWORK SHARE OF HOUSEHOLD AUDIENCES

	1975	1998
Early AM	64	46
Daytime	84	33
Prime	92	47
Late Fringe	74	26
All Dayparts	53	27

CABLE AS % OF TOTAL TV VIEWING

1980	1.7%
1998	38.8%

INTERNET

Approximately 32% of all adults claim to have access to on-line services/the Internet.

About 23% report using on-line services/the Internet in the average month.

1998 advertising – $1.3 billion in first 9 months.

TIME SPENT WITH THE 4 MAJOR MEDIA

	TV	Radio	Magazines	Newspapers	Total Hours
Mid '70s	49%	39%	4%	8%	7.6
Late '90s	53%	36%	4%	6%	8.5

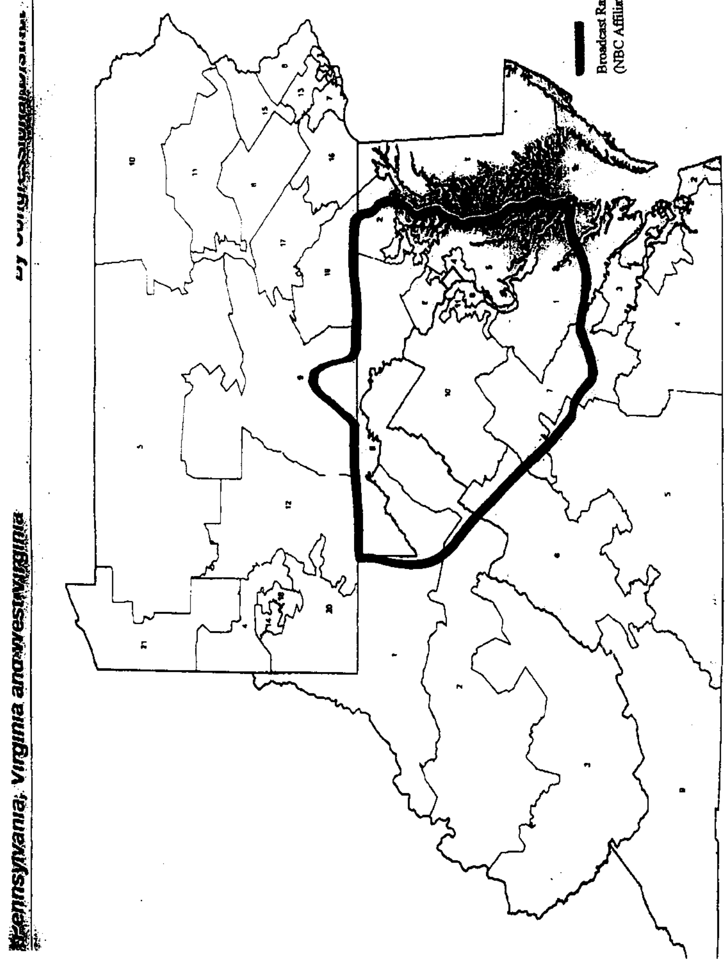
NUMBER OF AD EXPOSURES PER ADULT ON AVERAGE DAILY BASIS

		TV	Radio	Magazines/Newspaper	Total
Potential	1975	74	33	100	207
	1997	108	34	112	254

SOURCES: TV Dimensions '99
Nielsen Media Research-Television Audience 1997
Advertising Age

Attachment to Testimony of Karen Sheridan
Executive Vice President, SMY Media, Inc.

Before the Senate Rules Committee
Wednesday, March 24, 1999



The CHAIRMAN. Thank you, Ms. Sheridan.

We will hear from Mr. Lott, and then we will have some questions for both of you. Thank you.

STATEMENT OF JOHN R. LOTT, JR.

Mr. LOTT. Thank you very much for the opportunity to address the issue of campaign finance reform. My concern is that despite the best of intentions, many campaign finance regulations have actually accomplished the opposite of what was originally intended. In particular, limits on contributions have entrenched incumbents, given wealthy candidates an advantage, increased corruption in the political process, and led to more negative campaigns. Limits on contributions have also not been successful in limiting the total amount of resources devoted towards political campaigns.

Let me briefly go through the issues here.

First, the restrictions on the size of campaign contributions have had little effect on the total amount spent in campaigns. They result in higher levels of independent expenditures that balance off any declines in a candidate's resources. The rules attempt to treat the symptoms—the larger contributions and higher campaign expenditures—without addressing why those contributions or expenditures have been increasing. The closest analogy that I can give you with regard to policy is the implementation of price controls.

Gasoline price controls during the 1970s did not reduce consumer competition to obtain gasoline, for example, but merely changed the form that it took. Consumers may have paid less in terms of the dollar price at the pump, but they spent more in terms of waiting in line to get gasoline. Likewise, limits on campaign contributions may reduce the amount directly given to candidates, but if the benefits are there, potential beneficiaries and victims of Government actions will find other ways of trying to elect candidates who support their positions.

We have seen price controls producing many undesirable forms of competition. For example, anybody who has lived in areas with rent control know how you have under-the-table type payments to go and get apartments. We even have phrases that have entered into our language in terms of "key money" for getting apartments. And, similarly, for campaign finance rules, there are numerous examples in recent years of contributions made through "straw donors," for example, people who merely served as intermediaries to illegally funnel money to candidates.

As alternative forms of competition for elective office are foreclosed, our political system risks forcing more competition underground and producing the unintentional result of creating more corruption, not less. One problem with these circumventions is that voters will find it increasingly more difficult to determine who is really providing candidates with money.

The different forms that these contributions can take is essentially unlimited. For example, in the extreme case, someone could buy a television or radio station in order to try to produce news media coverage that is going to be more sympathetic to particular candidates. It is difficult to see how these types of in-kind contributions could be effectively regulated given that it would be infringing on issues involved free speech.

My research indicates that most of the increase in campaign contributions that we have observed over the last couple decades is simply due to one factor, and that is the increasing size of government. As more is at stake, people are willing to spend more in order to try to influence the political process.

I think it also deals with an issue that Senator Dodd was bringing up, and that is whether or not we can effectively reduce the level of contributions or expenditures by limiting things like the amount that can be spent on a race. And I have looked at data for State House and State Senate races across the United States as well as gubernatorial races, and restrictions on campaign contributions have absolutely no impact on the total amount that is spent on races. What the restrictions do is change the composition of those expenditures.

Because of donation limits, campaign expenditures also risk taking less desirable forms. Candidates will have even less responsibility over how expenditures will be spent as more money is spent by independent organizations. To the extent that these are truly independent organizations, the information that voters receive will not be as well coordinated as it would have previously. Even if the same amount of money is spent on campaigns after these reforms take place, voters will learn less about the candidates and their positions. We also risk even nastier campaigns, more negative campaigns as candidates can plausibly deny the accountability for the attacks conducted by surrogates.

A second major issue involves the frequently mentioned concern that campaign expenditures involve fears that campaign contributions will alter how a politician votes. In part, this is also related to a concern that Senator Dodd raised about the general public's views on whether politicians will be accountable to their interests, also, and not just those of the donors.

Academics regularly find that candidates who receive the most money tend to vote most in accordance with the interests of those donating the money. Yet the academics who have worked on this issue realize that there is an important problem, and that is one of causation. Is money being given to candidates who essentially value the same things that the donors believe? Is that the reason why we see this positive correlation? Or is the positive correlation due to the fact that the contributions are actually altering how the politicians are voting? This has been a very difficult question that economists and political scientists have looked at over many decades now.

My research, I think, provides a very simple method of disentangling those two different types of causation there. I have a paper that recently appeared in the Journal of Law and Economics, and what it looks at is how politicians vote in their last term when they no longer risk losing campaign contributions that they might be receiving.

If contributions are causing politicians to vote differently than they otherwise would have voted, then when they are in their last term and no longer risk losing those contributions, if those contributions were really causing them to vote in accordance with those donors' interests, then you should have seen systematic movements in terms of how politicians vote during their last term.

I looked at congressional voting from 1975 to 1990, and I am happy to talk about all the different factors that I controlled for. But there were two striking findings.

The first one is that politicians tend to vote extremely consistently over their entire political lives and that you can explain how they vote in terms of their constituents' interests.

The second is that there was essentially no relationship between how a politician voted in their last term when they no longer risk losing these campaign contributions and how they voted in the second to the last term. And you can measure exactly how much different politicians' campaign contributions fell between those two terms and try to see whether that is correlated, whether those who were getting the most money might have changed the most between those two terms. And, again, you essentially find no relationship there between the level of contributions, between the change in contributions between those periods, and how Congressmen voted.

Let me give you an example. The average Congressman who is receiving labor PAC contributions experienced a reduction in labor union contributions of $33,000 between his last two terms in office, and yet this did not result in fewer pro-union legislative votes.

You can look at politicians who received labor contributions and look at the distribution of that. Even those who were in the top 10 percent of the tail—whose labor contributions fell by over $100,000 between their second to the last term and their last term—did not change in terms of how they voted on union issues during that period of time.

A third area of concern is how limiting the size of contributions has differential effects on incumbents and challengers.

How well a candidate does in an election depends not only upon his current campaign expenditures, but also on the reputation that he has developed over time. This reputation is developed due to past expenditures on previous races, as well as news coverage, as well as franking and other ways that he can communicate with his voters.

Reducing the effectiveness of current campaign expenditures as I have talked about, for example, the rise of independent, uncoordinated expenditures, reduces the amount of information that both incumbent and challenger can produce. But the incumbent already has an advantage because he is much better known with the voters. Since each additional dollar spent by a challenger is much more valuable in informing voters of what his positions are on the issues and how strongly he holds those positions, reducing the overall effectiveness of campaign contributions has a greater detrimental effect on challengers than it has on incumbents.

There is an additional reason why these types of rules have a bigger detrimental effect on challenges than they have on incumbents, and that is, it is very costly, very difficult for candidates to raise money from many different small contributors. It takes a lot of time and effort to find out and identify all those small contributions that can be raised. An incumbent who has run for office in the past—and, in particular, for this office—has already spent many years trying to put together a list. He has a much larger list to start with in terms of potential contributions than challengers do. Anybody who has run initial campaigns can attest to the fact that many of the initial mailings that one makes out may have extremely low success rates that are going to be associated with that in terms of actually locating people who are willing to make contributions.

Contribution limits also increase the influence of those who make in-kind contributions. For example, favorable news coverage by television and radio stations or newspapers become more important. Candidates who are favored by the media will benefit from campaign restrictions. It is also impossible to regulate these in-kind contributions. In addition, in-kind contributions can take many other forms. For example, rock stars or other celebrities could attract an audience to either listen to or contribute to a candidate. It is not obvious why we should differentiate between an appearance that a rock star could make in terms of attracting 1,000 possible small donors and a rock star who may be able to go and make a large contribution themselves directly.

One consequence of campaign contributions has been to increase the number of wealthy candidates running for public office. The reason is obvious. They can use their own money, and they don't have to rely on trying to get money from a large number of small contributors.

The fourth reason that I would like to talk about—and it has been talked about by all the witnesses today, and I am sure all the Senators would understand—is that we have had inflation over time and that the types of effects that I am talking about and have listed out have all been magnified as the real value of those contributions has been reduced. Using the Consumer Price Index, the Federal Government's $2,000 contribution limit for individuals and $10,000 for PACs during an election cycle are now equivalent to over $6,600, or $33,000 in 1998 dollars. I won't go into that issue more because obviously the other people have spoken on that quite eloquently today.

Finally, I would like to address the issue of whether in some sense we are spending too much on campaigns, and I think there are several points that can be raised with regard to this issue.

The first issue is simply to note how much money is being spent on campaigns relative to the amount that is at stake. The last election cycle, for all candidates running for all offices in this country, we have over $2 billion being spent. Just looking at the money that is being spent by the Federal Government, you are talking about approximately $2 trillion. So you are talking about one-tenth of 1 percent of the amount there.

Given what is at stake, it is not obvious that by that too much is being spent. But I think another measure can also be brought up. For example, if you look at Apple Computer when they were launching the iMAC, they spent $120 million just launching that. Ford Motor Company, when they launched the Taurus automobile, the last model introduction they had, they spent $800 million advertising that. So, you know, just on one car model being introduced, we had approximately a third of what was spent on all elective offices in 1998.

In terms of the relative importance of the issues that are going to be affected, surely one would think that all the decisions that the Federal Government and State and local governments are going to be making over the 2 years after the election are probably at least three times greater in importance than the introduction of one single automobile by one automobile company over that period of time.

There are other issues I would be happy to get into in the question period about that. But, in conclusion, the point that I would like to raise is that economists have studied price controls for over many decades, and price controls have been attempted to be imposed over thousands of years. And this common desire is to try to deal with the symptoms of a problem—you observe the price going up, whether it is price controls involving health care, the types of issues we talked about 4 or 5 years ago in this country, or other products—rather than trying to get at what is causing the demand for a product and the prices to go up.

My concern is that trying to oversimplify it and trying to put this band-aid on the symptoms rather than exactly look at what is causing the prices or the expenditures to go up doesn't solve the problem. It merely changes the form of expenditures, the form of donations. It doesn't change the total amount of resources that are going to be spent on campaigns, and has other undesirable consequences in terms of how well voters are going to be informed.

Thank you.

[The prepared statement of Mr. Lott follows:]

Testimony of John R. Lott, Jr.
University of Chicago School of Law
Before the U.S. Senate Committee on Rules and Administration
March 24, 1999

Thank you Mr. Chairman for the opportunity to address the committee on issues relating to the financing of federal election campaigns. My concern is that despite the best of intentions, many campaign finance regulations have accomplished the opposite of what was intended. In particular, limits on contributions have entrenched incumbents, given wealthy candidates an advantage in winning elections, actually increased corruption of the political process, and led to more independent and "negative" campaigns. Limits on contributions have also not been successful in limiting the total amount of resources devoted towards political campaigns.

1) The restrictions on the size of campaign contributions have had little effect on the total amount spent in campaigns. They result in higher levels of independent expenditures that offset any declines in a candidate's campaign expenditures. Contribution limits attempt to treat the symptoms (larger donations and higher campaign expenditures) without addressing why those expenditures have been increasing. The closest policy analogy to this type of restriction is price controls. Gasoline price controls during the 1970's did not reduce consumer competition to obtain gasoline, but merely changed the form that it took -- customers may have paid a lower dollar price, but they spent more time waiting in line. Likewise, limits on campaign contributions may reduce the amount directly given to candidates, but if the benefits are there, potential beneficiaries of government actions will find additional ways of trying to elect candidates who support their positions.

Queuing is only one form that competition takes when price controls prevent prices from equating the quantity of goods supplied and demanded. Other less desirable forms of competition are also possible. For example, under-the-table-payments are frequently made to evade rent controls (e.g., they are even given special names, like "key money"). Similarly for campaign finance rules, there is accumulating evidence that many people who made campaign contributions during the 1996 campaign were "straw donors" -- people who merely served as intermediaries to illegally funnel money to candidates. States with their own contribution limit laws have also experienced such evasions.

As alternative forms of competition for elective office are foreclosed, our political system also risks forcing more of this competition "underground" and producing the unintentional result of creating more corruption. One problem that these circumventions create is that the voters will have more difficulty determining who is really providing a candidate with money.1

The different forms that these alternative routes can take is essentially infinite. For example, in the extreme case, it would be possible to buy television and radio stations or newspapers to support particular candidates. Thus "buying" favorable news coverage for desired candidates would certainly benefit their candidacy, but it is difficult to see how these types of "in-kind" donations could possibly be regulated without infringing on free speech.

My research indicates that most of the increase in campaign contributions over the last couple of decades is simply due to the government getting larger. The more favors the government has to give out, the more resources people spend to compete for those favors. These results were found for both federal and state legislative elections as well as gubernatorial elections. They continue to hold when the effects of a number of other factors are accounted for: these included limits on the number of terms, the length of terms, campaign contribution limits, the closeness of races, the number of candidates running, the size of the population, the presence of incumbents, and the changing costs of campaigning. The bottom line of my research is that attempting to restrict contributions without dealing with the underlying reason for why contributions have increased has not worked.

An additional comparison with price controls can be made. Price controls reduce consumer welfare because competition is forced to take less desirable forms. Only a few consumers (those who don't have many other uses for their time) appreciate paying for gasoline by waiting in line; and, obviously, gasoline stations gain nothing by this practice. Both groups gain on net by having goods allocated through prices, and when given a choice of how to allocate goods, that is the way customers and firms continually demonstrate that they prefer goods to be allocated.

Contribution limits mean campaign expenditures also undoubtedly risk taking less desirable forms. Candidates will have even less responsibility over how expenditures will be spent as more money is spent by independent organizations. To the extent that these are truly independent organizations, the information that voters receive will not be coordinated as well. Even if the same amount of money is spent, voters will learn less about the candidates. We also risk even nastier, more negative campaigns as candidates can plausibly deny accountability for the attacks conducted by surrogates.

Price controls and campaign contribution limits also share still another feature in common, certain groups benefit and other lose as the form of competition is changed by these restrictions. For example, with price controls -- when competition for gasoline takes the form of queuing -- some people with low time costs find that they have a relative advantage in waiting in line for long periods of time to get gasoline. But in general, as a group, customers will be made worse off by waiting in line to buy gasoline. And certain customers, the ones with the most hectic schedules, suffer more than others.

Likewise, not all political candidates are equally well adept at coping with campaign contribution restrictions. Rules that make dollar contributions less effective benefit those candidates who primarily rely on donations of volunteers' time (i.e. well-organized entities such as large membership organizations). Political causes with individuals that are good at running independent campaigns also benefit. There is no reason to believe that these rules will be neutral in their effects on which candidates will win races.

The difficulty in limiting campaign contributions can also be seen by examining limits on Political Action Committee (PAC) contributions. Restrictions on the amount of money that PACs can give to an individual candidate can also be circumvented by the formation of new PACs.

2) A frequently mentioned concern about campaign expenditures involves fears that campaign contributions alter how politicians vote. Depending upon what one classifies as an academic article, there are probably several hundred papers in economics and political science that document a positive relationship between campaign expenditures and how a politician votes on issues. Candidates who receive the most money tend to vote most in accord with interests of those who are donating the money. Yet, a widely recognized problem in this literature is that these papers are unable to deal with the central question of causation: are donors simply giving money to candidates who they agree with, or are donors

giving money to "bribe" how politicians vote?

My research has provided a simple method of disentangling these two alternative scenarios by examining how politicians vote during their last term in office. If contributions cause politicians to vote differently from what they truly would like to do, politicians should behave differently when they are in their last period and no longer face the risk of losing future contributions. By examining how all congressmen voted from 1975 to 1990, I tested whether politicians voted differently when they decided to retire from public office, and whether the change in voting behavior was in anyway related to the level of contributions that the politician had been receiving. Voting on labor issues was compared with contributions from unions and corporations, voting on ideological issues as measured by liberal groups (like the Americans for Democratic Action) and conservative groups (like the American Conservative Union) were compared with contributions from ideological PACs, and national defense related voting was related to contributions from pro strong national defense organizations. Other voting measures were also examined.

Two striking features stand out. First, politicians' voting remains extremely stable over their entire careers. Second, no statistically significant relationship was found between the reduction in campaign expenditures in a politician's last term and how they voted on legislation.

My research also examined whether these politicians were truly retiring in any meaningful sense from politics by accounting for whether these politicians engaged in lobbying or were appointed to government positions after they left office. The results remained unchanged -- politicians who were truly in their last period did not change their voting patterns. I also found that laws preventing congressmen from retaining unused campaign funds for personal use had no impact on voting congressional patterns, though these rules are the most obvious way of preventing campaign donations from directly bribing politicians.

These findings have implications for the current federal limits on contributions. For example, the average congressman who is receiving labor union PAC contributions experienced a reduction in labor union contributions of $33,200 between his last two terms in office. Yet, there is no evidence that even this large reduction in contributions was associated with fewer pro-union legislative votes. Retiring congressmen experience similar large declines from other types of PACs. For example, corporate PAC contributions to retiring congressmen decline by $30,600 and conservative PAC contributions by $4,920, but neither reduction provides evidence that contributions were "buying" political support. The results are the same whether one examines the impact of the total dollar amount of the contributions or these contributions as a percentage of the total contributions that the politician received.

3) Limiting the size of contributions that can be made to candidates has differential impacts on incumbents and challengers. Even if total campaign expenditures from all sources were to remain exactly the same, forcing the campaign expenditures to take less efficient forms benefits incumbents.

The explanation is fairly simple. How well a candidate does in an election depends not only upon his current campaign expenditures but also the reputation that he has acquired over time. This reputation is created from past campaign expenditures and news coverage. Phrased another way, reducing the efficiency of current campaign expenditures reduces the amount of information about both the incumbent and the challenger, but the incumbent has an advantage since he is already known to voters. Each additional dollar spent by the challenger is more crucial to his campaign than an additional dollar to the incumbent who already has established his reputation. The relative information available to voters would thus decidedly shift to the incumbent's advantage. My research also indicates that campaign contribution limits will greatly reduce the competitiveness of races. Developing campaign donor lists is very costly and becomes increasingly costly when candidates must raise money from more and more small donors. Incumbents have advantages here, as they start with a much larger list than their challenger, and these rules make it difficult for a challenger to catch up quickly.

Contribution limits also increase the influence of those who make in-kind contributions. For example, favorable news coverage by television and radio stations or newspapers become more important. Candidates who are favored by the media will benefit from contribution restrictions. It would be impossible to regulate these in-kind contributions. In addition, in-kind contributions can take many other forms. For example, rock star or a other celebrity could attract an audience to either listen to or contribute to a candidate.

One of the unintended consequences of campaign contribution limits has been to increase the number of wealthy candidates running for public office. Wealthy candidates can forego these large costs of fund raising and thus have an enormous advantage in running for office. In recent years, as this advantage has grown because federal contribution limits have not been indexed for inflation, we have witnessed many more cases where wealthy individuals would have preferred giving a large contribution to a particular candidate. For instance, Steve Forbes has stated that he would have preferred financing a presidential campaign by Jack Kemp. Instead, wealthy individuals may decide to run for federal office themselves to draw attention to the issues that they cared about. The irony is that while proponents of contribution limitations argue that they are motivated by a desire to limit the influence of wealthy individuals, the reforms actually work to ensure that more wealthy candidates are elected to office. The last couple of election cycles for federal offices have also seen much greater reliance on independent expenditures.

If the First Amendment means anything, it was meant to prevent majorities from passing regulation that stifle minority viewpoints. It is not particularly surprising that incumbents or political majorities would favor such restrictions. These campaign finance rules work to entrench the current majority and make it difficult for minority groups to field candidates who will articulate their concerns. It is not particularly surprising that the majority will support rules that will entrench their power.

4) A comparison with the limits approved by the Supreme Court in Buckley is also instructive. Using the Consumer Price Index, the federal government's $2,000 contribution limit for individuals and $10,000 for PACs that were passed in 1974 would have been the equivalent of $6,600 and $33,000 in 1998. Because of inflation a dollar simply isn't worth as much as it used to be. Yet, even this adjustment understates the size of the change, since the cost of running campaigns has increased even faster than the general price level. For example, the cost of a reaching a home through ads on evening network television rose 50 percent faster than the general price level. As these constraints become more restrictive over time, the advantages for wealthy candidates and incumbents will increase.

5) Comparing campaign expenditures to advertising expenditures makes it difficult to argue that too much money is being spent on campaigns. There are two reasons for this. First, consider the total level of campaign expenditures relative to the decisions that are being made by government. In the last election cycle, campaign expenditures were over $2 billion. But the annual cost of the federal government alone is almost $2 trillion. When you include the state and local expenditures, it is obviously much more. Given the importance of government expenditures, spending an amount equal to

only one-tenth of one percent of government expenditures to inform people of the issues involved does not seem particularly high.

The second point is a theoretical one, and that is something that economists refer to as "free riding." If I make a contribution to help out a candidate, presumably all the other people that also support that candidate benefit from my contribution. What people have an incentive to do is to hope that everybody else who supports a particular candidate will do and make a contribution to that person, and that they won't have to make that contribution. I can, essentially, free ride on the contributions that everybody else makes.

The problem is that everybody may hope that everybody else makes the contributions, but they won't because their own contribution will be such a small share of the total contributions that their own individual contribution will not appreciably alter the probability that their candidate will win. However, the overall impact of many different donors making this type of decision can be quite large. This type of free riding problem is widely recognized by economists and is believed to be important in a wide range of activities, such as charitable giving.

Conclusion

Price controls are a commonly proposed solution to many problems. Indeed, they appear to be the most direct method of limiting the amount that is paid for a product. Yet, despite the best of intentions, price controls have a long history of not working as intended and campaign finance regulations are no different. Unless one deals directly with why donors feel the need to contribute the money they do to campaigns, contributors will find ways around the rules just as buyers of products find ways around price controls. This not to say that the regulations have no consequences. Just as price controls produce shortages and effect the ability of the market to operate efficiently, campaign finance rules protect incumbents, encourage wealthy candidates to run for office, and reduce the information provided to voters.

Selected Papers by John R. Lott, Jr.

(1) "Brand Names and Barriers to Entry in Political Markets," Public Choice, Vol. 51, no. 1, 1986: 87-92.

(2) "Political Cheating," Public Choice, Vol. 52, no. 2, 1987: 169-186.

(3) "The Effect of Nontransferable Property Rights on the Efficiency of Political Markets: Some Evidence," Journal of Public Economics, Vol. 32, no. 2, March 1987: 231-246.

(4) "Explaining Challengers' Campaign Expenditures: The Importance of Sunk Nontransferable Brand Name," Public Finance Quarterly, Vol. 17, no. 1, January 1989: 108-118.

(5) "Shirking and Sorting in a Political Market with Finite-Lived Politicians," co-authored with W. Robert Reed, Public Choice, Vol. 61, no. 1, April 1989: 75-96.

(6) "Attendance Rates, Political Shirking, and the Effect of Post-Elective Office Employment,"

Economic Inquiry, Vol. 28, no. 1, January 1990: 133-150.

(7) "Does Additional Campaign Spending Really Hurt Incumbents?: The Theoretical Importance of Past Investments in Political Brand Name," Public Choice, Vol. 72, October 1991: 87-92.

(8) "A Critical Review and An Extension of the Political Shirking Literature," co-authored with Michael L. Davis, Public Choice, Vol. 74, no. 4, December 1992: 461-484.

(9) "Time Series Evidence on Shirking by Members of the U.S. House of Representatives," coauthored with Stephen G. Bronars, Public Choice, invited conference volume, Vol. 76, no. 1-2, June 1993: 125-149.

(10) "An Explanation for Why Senators from the Same State Vote Differently So Frequently," coauthored with Gi-Ryong Jung and Lawrence W. Kenny, Journal of Public Economics, Vol. 54, no. 1, May 1994: 65-96.

(11) "Legislator Voting and Shirking: A Critical Review of the Literature," co-authored with Bruce Bender, Public Choice, Vol. 87, nos. 1 and 2, April 1996: 67-100.

(12) "Do Campaign Donations Alter How a Politician Votes?," coauthored with Steve Bronars, Journal of Law and Economics, Vol. 40, no. 2, October 1997: 317-350.

(12) "An Explanation for Why Campaign Donations are Increasing: The Government is Getting Bigger," University of Chicago Working Paper.

The CHAIRMAN. Thank you, Professor Lott.

Are States that don't have contribution limits mired in corruption?

Mr. LOTT. No, I don't think there is any evidence of that. I primarily looked at data at the Federal level that I am happy to talk about, but I have done work looking at State legislators, in particular California, and trying to see whether the types of points I was making with regard to how Congressmen vote and the level of changes in contributions that they had received, whether you could explain State legislators' votes over time, and the same type of relationship applies exactly there.

In the case of California, when State representatives or Senators are in their last term, you don't see any changes in how they vote and their change in contributions that they receive between their second to last term and their last term also seem to have no impact.

The CHAIRMAN. I was fascinated by your observations about your study comparing the voting behavior of retiring members to their earlier voting behavior when they were not in a retirement mode. It certainly confirms my sort of observations. Having served in the Senate for 15 years, I don't recall any retiring members dramatically changing their philosophies or—you know, just anecdotally, I didn't observe that. It is nice to hear that you have actually studied this and found that there is, I gather, no change in voting behavior in the last 2 years simply because one is in a retirement mode as opposed to an active candidate mode.

Mr. LOTT. Right. I have written eight different papers on this topic, and other academics have looked at this issue, too, and it is remarkable how consistent politicians vote over time. A politician who tends to be the most conservative in his first term tends to be the most conservative in his last term when he leaves office.

There are basically two issues here: Do politicians vote the way they do solely about the concern of reelection that they have? Or are voters putting into office politicians who intrinsically value the same things that they do?

I think the evidence is very strong that voters care about having in office politicians who value the same solutions, the same views that they do. And one of the reasons why they care about that is, for example, when the politician is in his last term and he no longer faces the threats of reelection there, can we still trust him? And if it is somebody who has demonstrated to them over a long period of time that he really cares about the same policy concerns that they have, that is the type of politician which they can trust and will—if he were to vote differently, he would be making himself worse off in a sense because he wouldn't be accomplishing the goals that drove him to go into office to begin with.

The CHAIRMAN. Since you have found no evidence that contributions—that there is a correlation between contributions and corruption, I am wondering what your observations might be with regard to whether or not it might actually be possible that the contribution limit itself creates some problems in the corruption area?

Mr. LOTT. Well, I think it does. I think as with all types of price controls, since you are not really dealing with the underlying reason why people want to spend a certain amount on a product, that people will find alternative ways to try to obtain whatever good that they value there—in this case, trying to help out getting somebody elected who intrinsically value voters' positions on the issues.

And so, you know, people may try independent expenditures, they may try expenditures on issue ads, but surely one of the other—as you restrict more and more the types of legitimate needs that people can go and make expenditures, they are going to find, just like with rent controls and other types of price controls that you have there, ways around it in order to try to influence the election. We see over time an increasing number of corruption cases involving straw donors where people will funnel money through friends or other people to a candidate. And I think it is only a natural consequence of the fact that we are dealing with the symptoms again and not the underlying reasons which are generating the pressure for these expenditures and contributions.

The CHAIRMAN. Ms. Sheridan, given the need of candidates for office to reach an electorate, it is not likely, is it, that they are going to need to rely on television or new forms of communication like the Internet any less with a growing population and increasing costs, is there?

Ms. SHERIDAN. Oh, no, definitely not. As much as we see television viewing being fragmented, I mean, we see media in general being fragmented. I am not certain just what role the Internet will play in the next election cycle. I mean, right now we are only seeing approximately one-third of all adults who have access to online services and the Internet, and only about 23 percent of all adults actually say they have used those services in the last month. Certainly not as compelling a way to reach your constituency as television is, but very definitely there is still going to be the—you are going to have to rely on television to reach the mass market.

The CHAIRMAN. Even though we are not talking about spending limits here today, we are talking about contribution limits, I am still curious. Could a commercial advertiser succeed if a Federal rule limited the amount they could spend?

Ms. SHERIDAN. My opinion would be no, he could not; but in addition to that, we would see far fewer competitors enter the marketplace. If you were the very first person to be in the market with a fast-food chain and we enacted some regulation in terms of spending limits, that in itself prohibits other competitors from coming in and competing against or competing with that person. So we would see far fewer competitors out there to begin with, and more than likely we would see a lot more businesses that are failing.

Mr. LOTT. In fact, if I may add something, we have seen experience with this during the 1960s when certain types of advertising was forbidden to tobacco companies. One of the things that has been looked at is what has happened to the stock price of those companies. And at the time when those restrictions were put into place, the market value for those companies increased. That is because essentially they had already made these past investments and reputation for creating certain brand names for products that they had there and they no longer had to worry about the threat of new products entering in to the same extent because it was much more costly for people to enter in with new products.

You have seen that in other areas, but tobacco is—the companies benefited a lot from the types of restrictions that were imposed there.

The CHAIRMAN. Just hypothetically here, as we wrap up, could it be argued that a contribution limit established 25 years ago, as I said earlier, at a time when a Mustang cost $2,700, is effectively a spending limit?

Mr. LOTT. Well, I don't think it is in the sense that there seems to be other reasons that are driving why there is a certain amount of money spent on campaigns. What it does is it changes the composition of how the money is spent. It makes it so that people now turn to independent—

The CHAIRMAN. I mean a spending limit on the candidate. As a practical matter, a contribution limit, what you can give to a candidate stuck in 1974 dollars.

Mr. LOTT. Right.

The CHAIRMAN. Could it be argued that that, in effect, has become a spending limit on the candidate himself.

Mr. LOTT. Oh, right, on the individual candidate, that is right. I think it reduces the amount—

The CHAIRMAN. Because there are only so many people out there you could get that kind of money from.

Mr. LOTT. Right. I think everything else equal, it reduces the amount that a candidate is going to spend. But what it does is it causes more to be spent on issue ads or other independent—

The CHAIRMAN. Turning the playing field over to others.

Mr. LOTT. That is right. It makes it harder—

The CHAIRMAN. To fill the vacuum.

Mr. LOTT. That is right. It makes it harder to coordinate the message, and, you know, for a given amount of money that is spent, it makes it so that voters are less informed than they would have been otherwise.

The CHAIRMAN. And if I heard you correctly, it is not unreasonable to assume that a Government that spends $2 trillion a year is a Government that people are going to want to have some influence with by participating in the political process.

Mr. LOTT. Right. Not only influence, but we would also want people to be informed about the process. And surely just like advertising for any other type of product, advertising in political campaigns is one way to inform the voters. And as I have said, if you compare the amount of advertising that is in political markets to any other type of product that is there, it is a very trivial amount.

In fact, my basic concern is that too little probably is being spent on campaigns, and I think there is a very simple theoretical reason for that and it is something that economists call free-riding.

If you take charity, for example, you and I and everybody in this room may value a particular charitable group that would be doing good things. But my little amount that I am going to be giving to them is relatively trivial in terms of the total amount that they would be receiving. I would hope that everybody else in the room in some sense would make a donation. And I really wouldn't have to make the donation in that case. I could benefit from the expenditures that you are making, because if you make the expenditures and the charity goes out and does good work, I feel better knowing that they are out there doing their good cause.

But if everybody else is waiting for other people to go and make the donations to that charity, in some sense hoping to free-ride off the altruism of others there, the total amount that is going to be given to the charity is going to be less than what we would all really like to have the charity receive.

Well, you have the same type of problem that exists for campaigns. You have a large group of voters who would like to see a particular candidate win an election, but, you know, the other 99 of the 100 people who would like to see the person win give their share or the amount that they would like to give to the candidate, I mean, you could sit back and still have the candidate win the election and get the benefits from him winning. If all the potential donors or at least some share of the donors feel that way, we are not going to be giving the candidate as much money as each person, if they were honestly to turn over, tender the amount to the candidate he would receive then. And so the candidates will have less to send than what each of the voters would privately like to see him get to inform other people. It is just that we would like to have other people make the donations rather than ourselves.

The CHAIRMAN. As I recall the landmark case of *Buckley* v. *Valeo,* the Court's rationale in upholding the $1,000 contribution limit was corruption or the appearance of corruption. And I gather, Professor Lott, in your studies you found neither appearance not actual corruption.

Mr. LOTT. At least for the range of contributions that I have been able to look at, that is the case. And, you know, whether you can get past much larger levels, I can't say. But I can look at labor union contributions or corporate contributions or ideological group contributions for conservative or liberal PACs that can go up well over $100,000 in an election cycle, the change that can occur between a politician's second to the last term and his last term, and even those large amounts you don't observe being associated with changes with how the politician is voting in his last term.

So the types of limits in real terms that we are talking about in 1974 come nowhere even close to the amounts that we can study here and not see an impact on how politicians vote. And in States that you can look at like California during the periods of time when they don't have campaign contribution limits for State officers, for State House or State Senate, where there are some very large individual contributions that are made in those cases, you also don't observe changes in how politicians vote there, either.

The CHAIRMAN. Well, I thank you both very much. This has been a quite enlightening hearing, and I would like to here at the close ask that a statement from Senator Feinstein being included in the record.

[The prepared statement of Senator Feinstein follows:]

APPENDIX 1

OPENING STATEMENT FOR SENATOR DIANNE FEINSTEIN

RULES COMMITTEE

March 24, 1999

I want to thank the Chairman for holding a hearing on this very important issue. It is my hope that the debate on campaign finance will continue throughout the year and culminate in the passage of meaningful reform legislation.

I believe that we can all agree that our campaign finance system can be improved upon. I am one who believes that increasing hard money limits is a sound and simple way to make our system better. This should be included in a larger reform efforts that includes limiting soft money contributions to candidates.

Congressional campaign committees raised nearly five times as much soft money during the 1997-1998 as they did in 1993-1994 cycle, $92.1 million compared to $18.8 million. If changes are not made to the system, the amount of soft money flowing into the parties will continue to explode.

The contribution limits put in place in 1974 were designed to limit campaign spending and reduce the influence of interest groups. That has not occurred.

We know from the most recent elections that the cost of a campaign is soaring. According to the F.E.C.'s 1998 post-election reports:

- Senate and House candidates raised just over $660 million. In 1994, the last mid-term election, congressional candidates raised $607 million. That is nearly a 10% increase in just 4 years.
- In the Senate campaigns, spending increased from $221 million in 1996 to $244 million in 1998
- The average cost of a winning Senate race went from

$609,000 in 1976 to $4.6 million in 1998

- The average cost for a winning House candidate rose from $87,000 in 1976 to $665,000 in 1998

These numbers speak for themselves. Campaigns in 2000 are very different then they were in 1976. I believe that our campaign finance system must be reformed to adapt to these changes. Congress must take the necessary steps to limit and better regulate soft money. That reform should be accompanied by an increase in the hard money caps.

With the passing of every election, it becomes more and more clear that our campaign system desperately needs reform. I remain hopeful that this is the year that Congress can finally come together in support of legislation that brings about a real improvement in our campaign system. Let's make the first election of the twenty-first century one of which we can be proud.

The Chairman. I thank you both for your participation. This hearing is concluded.

Mr. Lott. Thank you very much.

Ms. Sheridan. Thank you.

[Whereupon, at 11:32 a.m., the committee was adjourned.]

APPENDIX 2

BEFORE THE UNITED STATES SENATE

RULES AND ADMINISTRATION COMMITTEE

EXHIBITS TO TESTIMONY

OF FORMER SENATOR DAN COATS

DATED: March 24, 1999

Exhibits to Testimony of Dan Coats
March 24, 1999

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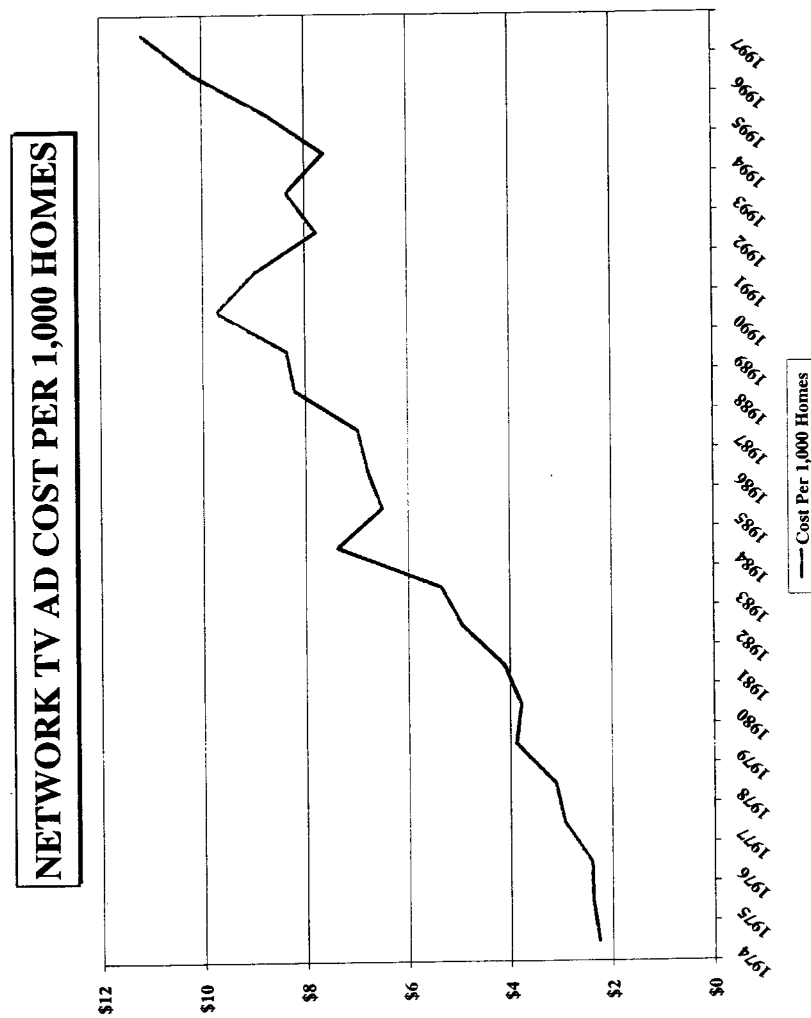

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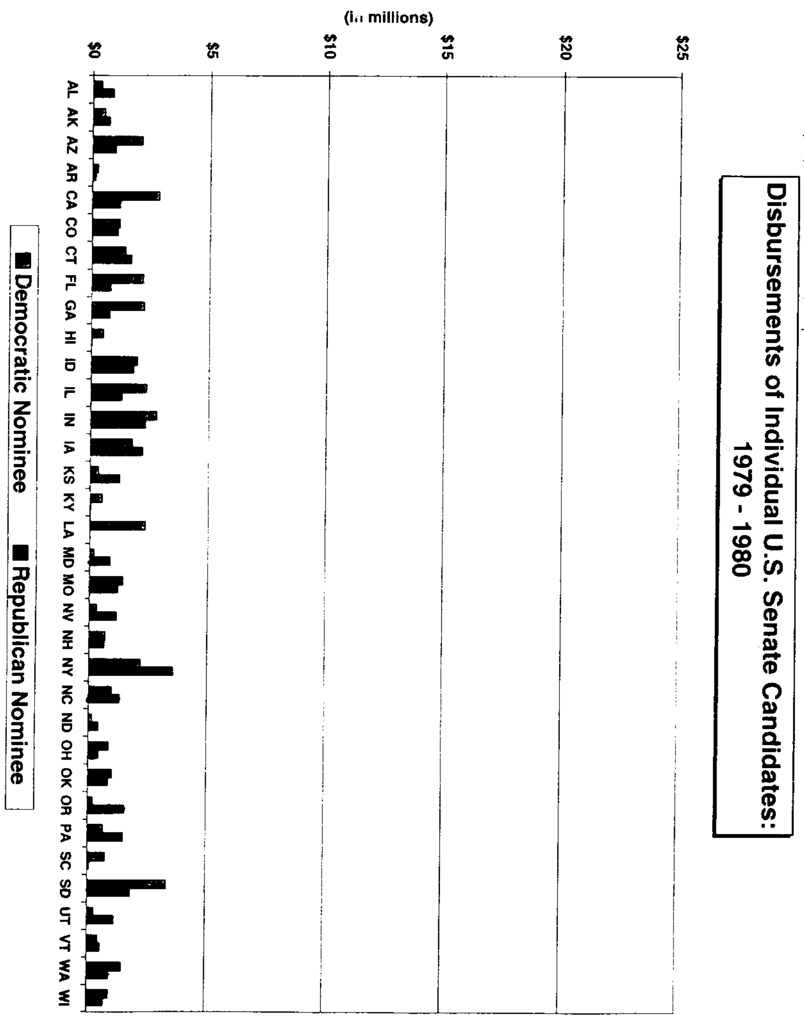
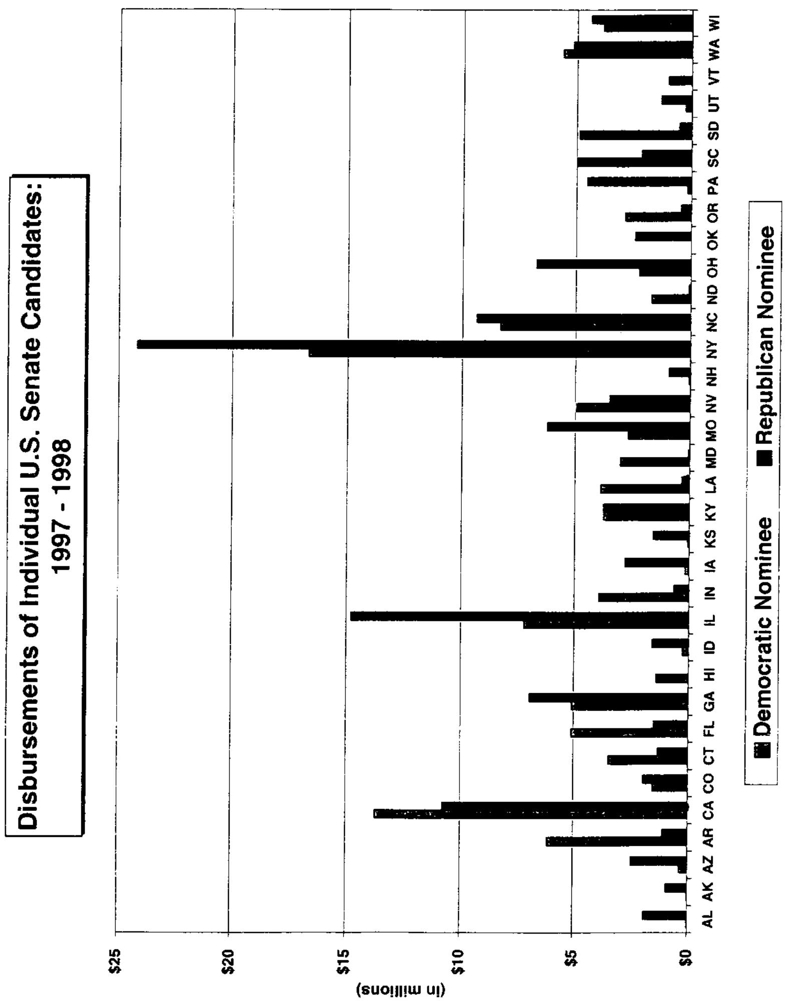


Disbursements of Individual U.S. Senate Candidates:
1979 - 1980
(in millions)
$0
$5
$10
$15
$20
$25
AL AK AZ AR CA CO CT FL GA HI ID IL IN IA KS KY LA MD MO NV NH NY NC ND OH OK OR PA SC SD UT VT WA WI
Democratic Nominee
Republican Nominee

Disbursements of Individual U.S. Senate Candidates: 1979 - 1980*

	AL	**AK**	**AZ**	**AR**	**CA**	**CO**	**CT**
Democratic Nominee	$356,647	$507,445	$2,085,242	$220,861	$2,823,607	$1,141,869	$1,405,674
Republican Nominee	$855,343	$697,387	$949,992	$119,196	$1,152,272	$1,085,205	$1,661,626
	FL	**GA**	**HI**	**ID**	**IL**	**IN**	**IA**
Democratic Nominee	$2,164,560	$2,213,289	$480,113	$1,931,487	$2,346,897	$2,765,254	$1,750,680
Republican Nominee	$795,968	$735,875	$16,882	$1,780,777	$1,293,991	$2,289,838	$2,183,028
	KS	**KY**	**LA**	**MD**	**MO**	**NV**	**NH**
Democratic Nominee	$339,987	$491,422	$2,309,206	$174,122	$1,390,560	$285,619	$675,844
Republican Nominee	$1,224,494	$7,262	$0	$841,446	$1,173,161	$1,123,651	$634,264
	NY	**NC**	**ND**	**OH**	**OK**	**OR**	**PA**
Democratic Nominee	$2,149,390	$957,038	$139,203	$838,202	$996,447	$195,035	$633,861
Republican Nominee	$3,549,643	$1,297,875	$402,129	$423,060	$828,346	$1,534,607	$1,488,588
	SC	**SD**	**UT**	**VT**	**WA**	**WI**	
Democratic Nominee	$723,427	$3,317,901	$263,558	$434,644	$1,429,513	$897,774	
Republican Nominee	$66,044	$1,801,653	$1,113,061	$532,904	$896,532	$686,758	

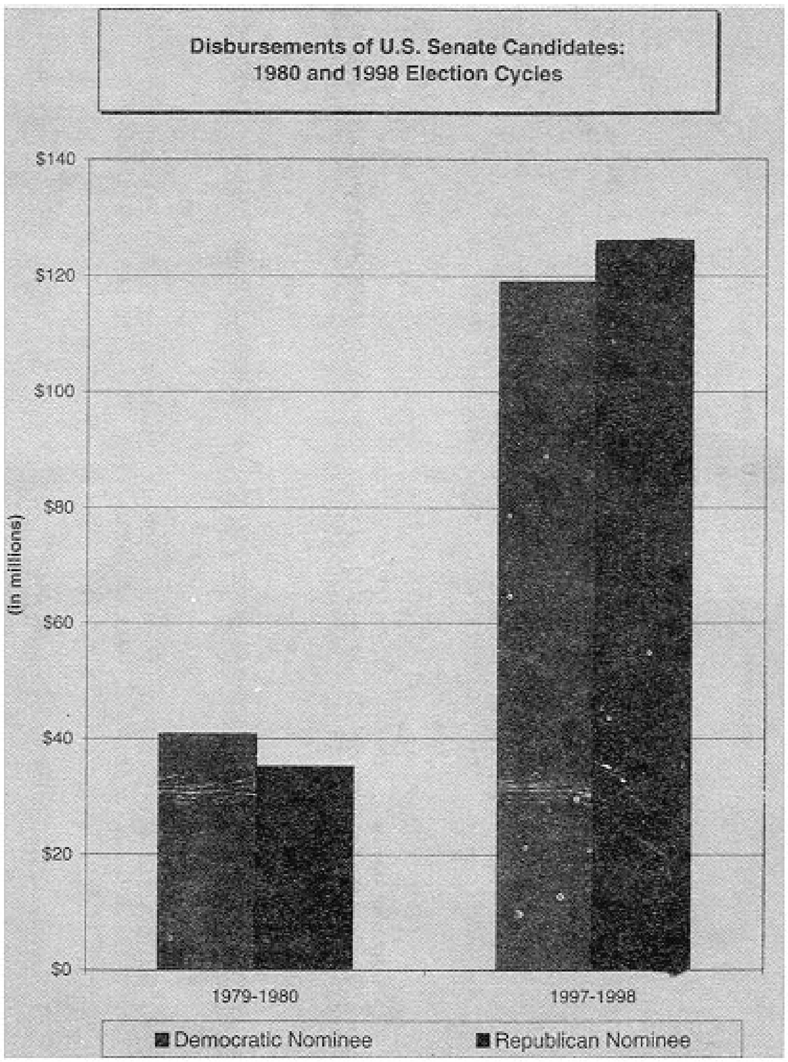
*Disbursement amounts were obtained from the Federal Election Commission.

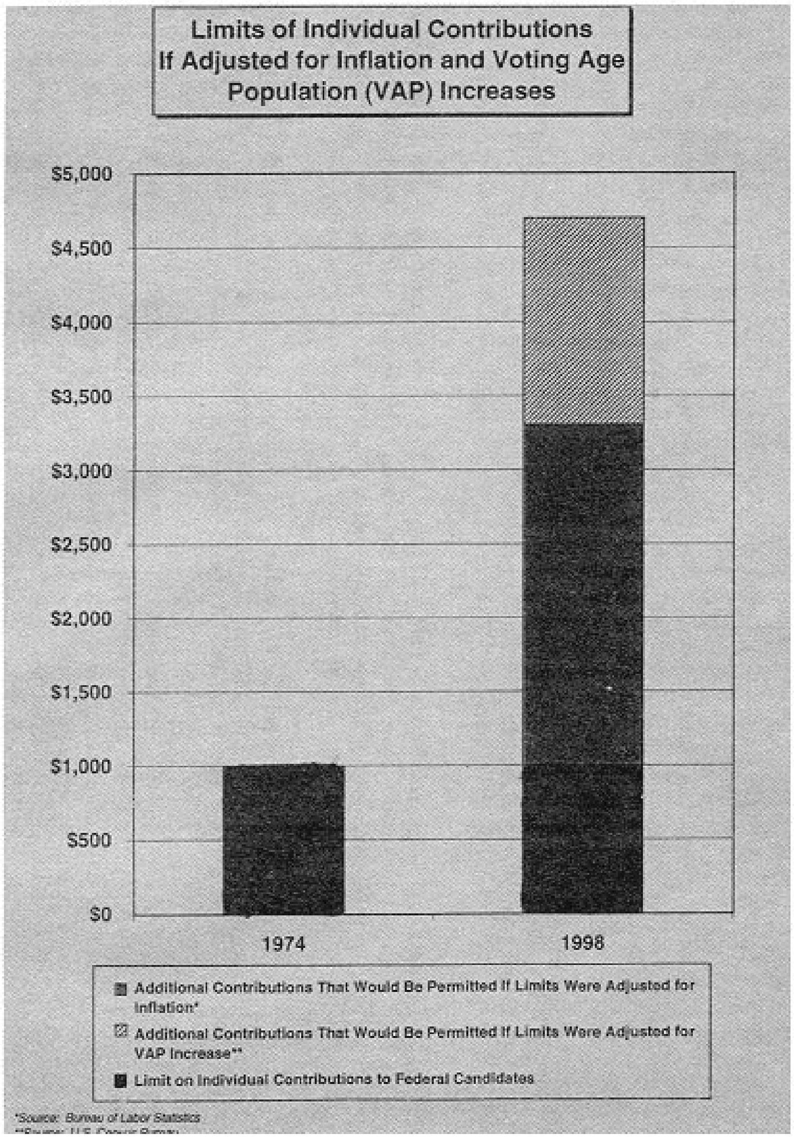

Disbursements of Individual U.S. Senate Candidates:
1997 - 1998
$25
$20
$15
$10
$5
$0
(in millions)
AL AK AZ AR CA CO CT FL GA HI ID IL IN IA KS KY LA MD MO NV NH NY NC ND OH OK OR PA SC SD UT VT WA WI
Democratic Nominee
Republican Nominee

Disbursements of Individual U.S. Senate Candidates: 1997 - 1998*

	AL	AK	AZ	AR	CA	CO	CT
Democratic Nominee	$15,723	$26,091	$367,389	$6,122,776	$13,731,060	$1,516,425	$3,450,853
Republican Nominee	$1,890.485	$921,927	$2,449,011	$1,093,007	$10,764,893	$1,934,845	$1,300,046
	FL	**GA**	**HI**	**ID**	**IL**	**IN**	**IA**
Democratic Nominee	$5,094,581	$5,079,670	$1,375,602	$241,443	$7,200,895	$3,914,376	$165,430
Republican Nominee	$1,487,498	$6,936,746	$0	$1,562,536	$14,777,698	$645,999	$2,781,941
	KS	**KY**	**LA**	**MD**	**MO**	**NV**	**NH**
Democratic Nominee	$39,500	$3,725,731	$3,858,472	$3,014,312	$2,668,821	$4,939,010	$28,548
Republican Nominee	$1,550,528	$3,744,581	$316,891	$55,413	$6,228,649	$3,490,257	$904,449
	NY	**NC**	**ND**	**OH**	**OK**	**OR**	**PA**
Democratic Nominee	$16,671,877	$8,331,037	$1,680,293	$2,232,988	$5,474	$2,855,444	$156,249
Republican Nominee	$24,195,288	$9,374,623	$82,371	$6,747,482	$2,415,565	$413,187	$4,535,888
	SC	**SD**	**UT**	**VT**	**WA**	**WI**	
Democratic Nominee	$4,968,457	$4,891,990	$265,104	$992,169	$5,600,592	$3,846,089	
Republican Nominee	$2,143,279	$489,855	$1,324,699	$0	$5,159,528	$4,373,954	

*Disbursement amounts were obtained from the Federal Election Commission.


Disbursements of U.S. Senate Candidates:
1980 and 1998 Election Cycles
$140
$120
$100
$80
$60
$40
$20
$0
(in millions)
1979-1980
1997-1998
Democratic Nominee
Republican Nominee


Limits of Individual Contributions
If Adjusted for Inflation and Voting Age
Population (VAP) Increases
$5,000
$4,500
$4,000
$3,500
$3,000
$2,500
$2,000
$1,500
$1,000
$500
$0
1974
1998
Additional Contributions That Would Be Permitted If Limits Were Adjusted for Inflation*
Additional Contributions That Would Be Permitted If Limits Were Adjusted for VAP Increase**
Limit on Individual Contributions to Federal Candidates
*Source: Bureau of Labor Statistics

THE CONTRIBUTION LIMIT IS SERIOUSLY UNDERMINING THE ABILITY OF CANDIDATES TO CONDUCT THEIR CAMPAIGNS

"My heart wants to talk about the issues I care about, but my head was telling me that the 10 months I have to raise a huge amount of money for the now-accelerated primary schedule is difficult."

-Sen. John Kerry (D-MA), declined to seek presidential nomination. *The Washington Post*, February 27, 1999, at A4.

"The compelling factor . . . was the searing reality that I would have had to spend half of every day between now and the next election fund-raising."

-Sen. Frank Lautenberg (D-NJ), declined to seek re-election. *Associated Press State & Local Wire*, February 18, 1999.

"I spent $425,000 to run for the Senate in 1974. If I ran for election next year, it would cost about $5 million. The money chase was the straw not to seek re-election. I have no doubt that I could have raised the money, but going around across the country didn't sit well with me."

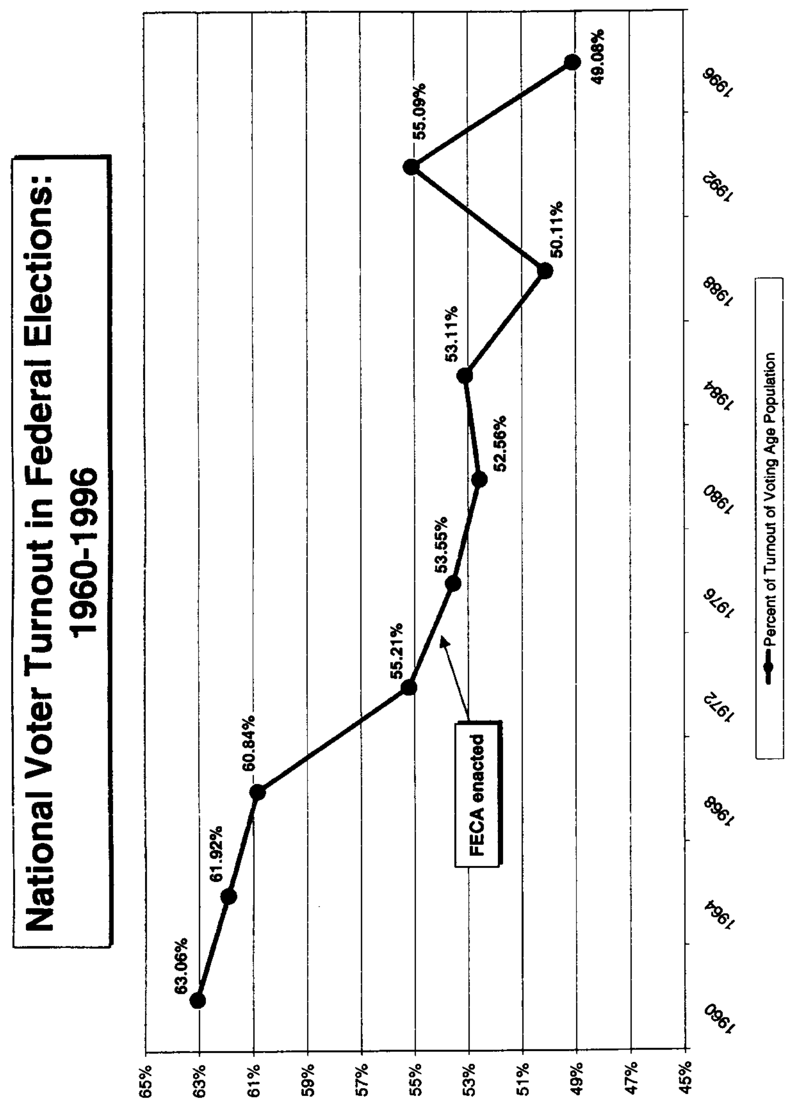
-Sen. Wendell Ford (D-KY), declined to seek re-election. *The Washington Times*, December 26, 1997, at A17.

"To run again would mean raising $10 million. It means also taking at least one-third of my time the last two years in office to raise money. That's not a prudent use of time."

-Sen. Paul Simon (D-IL), declined to seek re-election. *Federal News Service*, November 7, 1995.

"The worst thing about it is that members have to spend so much time in the pursuit of campaign finances that I think their ability to do really their best as legislators is jeapardized. And I'm a good example . . . You are constantly out there grazing [for money] – for six years, or at least two years. You are asking people all the time."

-Sen. Dennis DeConcini (D-AZ), declined to seek re-election. *Speaking Freely*, Center for Responsive Politics, 1995.


National Voter Turnout in Federal Elections:
1960-1996
65%
63%
61%
59%
57%
55%
53%
51%
49%
47%
45%
1960
1964
1968
1972
1976
1980
1984
1988
1992
1996
63.06%
61.92%
60.84%
55.21%
53.55%
52.56%
53.11%
50.11%
55.09%
49.08%
FECA enacted
Percent of Turnout of Voting Age Population