

beneficiaries and it does not address the flaws of the current pay-as-you-go finance mechanism. Without fundamental reform, using the general revenue to pay for Social Security equals a stealth payroll tax increase on American workers. I believe using part of the budget surpluses to build real assets by changing the system from pay-go to pre-funded is the right way to go.

The President is maintaining that not one penny of the surplus would be used for spending increases or tax cuts. To that, I must say Mr. Clinton is not being at all truthful to the American people. In his FY 1997 budget, he proposes \$150 billion in new spending, which is well above the spending caps he agreed on last year. In the next five years, he will raid over \$400 billion from the Social Security trust funds to pay for his Government programs. If Mr. Clinton is serious about saving Social Security, he should stop looting the Social Security surplus to fund general government programs, return the borrowed surplus to the trust funds, and withdraw his new spending initiatives—only then will he be qualified to talk about saving Social Security.

Wrapping up, Republicans should not allow Mr. Clinton to hold any budget surplus hostage. We should continue pursuing our "taxpayers' agenda" and do what is right for working Americans. It is clear to me that returning part of the budget surplus to the taxpayers in the form of tax relief is the right thing to do. But how should we do it? In my view, the best way is to have an across-the-board marginal tax rate cut and eliminate the capital gains and estate taxes. This will help to improve American competitiveness in the global economy and increase national savings.

However, tax cuts will not solve the problems once and for all. The origin of this evil is the tax code itself. We must end the tax code as we know it and replace it with a simpler, fairer and more taxpayer-friendly tax system.

By creating a tax system that is more friendly to working Americans and more conducive to economic growth—one based on pro-family, pro-growth tax relief—Congress and the President can make our economy more dynamic, our businesses more competitive, and our families more prosperous as we approach the 21st century.

Again, to omit tax cuts from this year's budget resolution is totally unacceptable to Republicans seeking to deliver on our commitment to return money to the taxpayers. I will not walk away from our obligation to the American taxpayers to pursue a Federal Government that serves with accountability and leaves working families a little more of their own money at the end of the day. I intend to make good on my promise to the taxpayers, and I urge my fellow Republicans, especially our leadership, in the strongest terms possible, to honor your commitment as well by considering meaningful tax relief in the budget resolution.

I yield the floor.

# RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15.

Thereupon, at 12:52 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PAYCHECK PROTECTION ACT

The Senate continued with the consideration of the bill.

Mr. FEINGOLD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The time is occurring equally divided on the bill until 4 p.m.

Mr. FEINGOLD. Mr. President, I ask to yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator has that right. The Senator from Rhode Island.

Mr. REED. Thank you, Mr. President.

Mr. President, today I rise in strong support of the bipartisan compromise amendment offered by Senators MCCAIN and FEINGOLD. This would be reasonable but limited reform of our campaign finance system, reform that is long overdue.

This legislation would effectively change two very important issues with respect to campaign finance reform. First, it would ban soft money, those unlimited, unregulated gifts by corporations, wealthy individuals, and unions to political parties. The soft money issue has created a great crisis within the electoral system of the United States.

Second, the bill would require those who run broadcasts which expressly advocate the election or defeat of a candidate within a certain window, 30 days of a primary or 60 days of a general election, to play by the same rules applying to candidates and others who participate in political campaigns. Thus, organizations funding such broadcasts would have to disclose the individuals and political action committees which fund their advertisements.

This would curtail what has become an explosion throughout our American political system. Phony issue advertisements are unconstrained, cropping up suddenly, without attribution, to strike at candidates.

These are two very important reforms which must be implemented to

preserve the integrity of our political system by inspiring within the American people confidence that we, in fact, are conducting elections and not auctions for public offices. I believe these provisions are very, very important.

Again, I commend both Senators MCCAIN and FEINGOLD for their efforts. I also commend my colleagues from the States of Vermont and Maine. Senator JEFFORDS and Senator SNOWE are proposing another amendment which would help break the current gridlock we have on this legislation. The Snowe-Jeffords proposal also addresses the issue of phony advertising through better disclosure of those who are participating in campaigns. I think their efforts are commendable.

Frankly I prefer a much more robust form of campaign finance reform. I believe that at the heart of our problem is the Supreme Court decision of *Buckley v. Valeo*, which more than 20 years ago held that political campaign expenditures could not be limited. Frankly, I think the decision is wrong. Justice White, who dissented from that opinion and, by the way, was the only Member of that Court with any practical political experience, declared quite clearly that Congress has not only the ability but the obligation to protect the Republic from two great enemies—open violence and insidious corruption.

Indeed, the Court in *Buckley* did accept part of that reasoning by outlawing unlimited contributions to political campaigns, but they maintained that unlimited expenditures were constitutionally permissible.

I believe that we should go further than this bill proposes today. Indeed, we have practical examples within the United States of systems that do constrain contributions and expenditures in political campaigns.

I was interested to note that in Albuquerque, NM, since 1974, the mayor's campaign has been limited to an expenditure of \$80,000, equivalent to the salary of the mayor. I know as I go around my home State of Rhode Island, people often ask why a candidate would spend more money in a campaign than he or she would receive in salary to hold that office. In Albuquerque, they took the rather interesting step of capping expenditures to the pay of the mayor.

It turns out that for the last 23 years, the Albuquerque system worked well. Unfortunately, last year the Albuquerque law was challenged in court under the *Buckley v. Valeo* theory. Up until last year, the municipal law was a model of not only good campaign finance practice but of also good electoral politics. A former mayor, who held the position during the challenge said, "No one's speech was curtailed, no candidates were excluded, the system worked well."

I hope we can adopt on another day robust campaign finance reform that would begin to revise the *Buckley v. Valeo* decision. But today we are here

to support McCain-Feingold, to take a limited step forward to ensure that we go after the two most pressing problems currently facing our political system: the prevalence of soft money and the explosion of issue advertising by third parties. These unaccountable groups surreptitiously enter the race, deal their blow and leave.

I believe if we support today the McCain-Feingold formula, we can, in fact, take a step forward to ensure that our political system is recognized by people as legitimate and positive. I yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I yield 5 minutes to the senior Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you very much, Mr. President. I thank both the Senator from Arizona and the distinguished Senator from Wisconsin for their yeoman's work, their perseverance and their energy on behalf of this cause.

I am one who, in a very short period of time, has had to raise very large amounts of money for political campaigns. And I am one who has watched and seen the evolution of soft money and what that soft money has wrought upon the American political system.

So I rise today to join with my colleagues in very staunchly supporting the McCain-Feingold legislation.

Since the 1996 election, Members of Congress and the public have repeatedly called for reform of what is, without question, a broken system.

Congress had ample opportunity to pass this bill last October, but, shamefully, after so much talk, there was still no action to back it up. It should be no source of pride for this body to know that the public believes that Congress is all talk and no action on an issue that has dominated the Washington agenda for the last year and a half.

Now we have an opportunity to put our votes where our mouths are when it comes to campaign spending reform and, if nothing else, vote to ban soft money.

It is interesting to read the newspapers where Member of Congress after Member of Congress admits to the vicissitudes and the problems of soft money. For the first 6 months of 1997, the Republican Party raised \$21.7 million and the Democrats \$13.7 million. Both of these figures are increases over the 1995-1996 cycle, and both are sure to rise in the coming months.

While many in this body would like to see stronger legislation, and some would like to see no legislation at all, it is important to note that McCain-Feingold is essentially a stripped-down bill, pared to address a number of the most pressing issues. The most important aspect is soft money.

Last fall, we had a healthy debate about the amounts of soft money flowing in and out of party coffers, so I am not going to speak at length about that. But without reform, we can expect soft money expenditures to rocket up with no brakes.

The Court's decision in the Colorado case opens the door to unlimited independent party spending on behalf of candidates running for office as long as those expenditures are not coordinated with the candidates.

Prior to the Colorado decision, parties long supported their candidates with hard money. Those were the regulated dollars. In our case, limited to \$1,000 contribution per election.

Increasingly, though, candidate advocacy has fallen to soft money, and that is money contributed in unlimited, unregulated amounts from seldom-disclosed sources.

Increasingly, the form that soft money takes is in scurrilous, vituperate ads that are often far different than reality. I believe that goes for both sides of the aisle. I think it is a scourge on our American political system.

We have an opportunity today to say we ban soft money and to limit express advocacy to a certain length of time prior to the election so that the opportunity for untrue, false and often defamatory ads is greatly reduced. If this bill were to do nothing else, I think that would be an enormous contribution to the political culture of a campaign.

One of the reasons, Mr. President, I did not cast my hat in the California gubernatorial campaign is because of the specific nature of campaigns today. There is very little that is uplifting about them.

The McCain-Feingold bill bans soft money and prohibits parties from funneling money to outside groups and would prohibit party officials from raising money for such groups.

Instead, these groups—and there are similar advocacy groups on both sides—would have to raise money from individual contributors or from PACs to raise money.

There is nothing in the bill barring these groups from continuing to participate in campaigns, but the bill does prohibit these outside groups from serving as de facto party adjuncts funded by the parties.

Also, this bill does nothing to prevent individuals from making unlimited contributions to advocacy groups, it merely requires them to report their contributions.

#### UNREGULATED SPENDING

This brings me to the critical issue of unregulated spending. This is, essentially, unlimited and undisclosed soft money spent outside the party system.

A study released last fall by the Annenberg Public Policy Center estimated that over two dozen independent groups spent between \$135 million to \$150 million on so-called issue advertising during the 1996 election cycle.

Of the ads that were reviewed, 87 percent mentioned clearly identified can-

didates and a majority of those ads were negative.

Most of the time we don't know where these ads come from or who pays for them. All we see are vicious personal attack ads which pop up on television during a campaign and, occasionally, a follow-up newspaper article or report claiming credit and detailing the particulars of the attack.

Let me give you some examples of what I am talking about:

This is an issue ad that ran in the last Virginia Senate election. It was placed by a group called Americans for Term Limits:

Announcer: It's a four letter word. It's a terrible thing. It's really a shame it's so widespread. It's here in Virginia. The home of Washington and Jefferson . . . of all places. The word is D-E-F-Y. Defy. That's what Senator X is doing. He's defying the will of the people of Virginia and America. By a five to one margin, the people who pay Warner's salary support Congressional term limits. Yet Warner is defying the people's will on term limits—on important and needed reform. Senator X has refused to sign the U.S. Term Limits Pledge and has promised to fight against enactment of Congressional term limits. An 18-year Congressional incumbent, Senator X, is defying the clearly expressed wishes of the people he's supposed to represent. Call Senator X and ask him to stop defying the will of the people on term limits. Your action can make a difference. Tell Senator X to sign the U.S. Term Limits Pledge.

The AFL-CIO ran the following ad in its much publicized campaign:

Announcer: Working families are struggling. But Congressman X voted with Newt Gingrich to cut college loans, while giving tax breaks to the wealthy. He even wants to eliminate the Department of Education. Congress will vote again on the budget. Tell Congressman X, don't write off our children's future.

Both of these ads are clearly designed to get voters to support one candidate—or in both of these to oppose a specific candidate—and both mention candidates by name.

Yet, both are artfully crafted to elude campaign disclosure laws because neither use the "magic words" that would make them express advocacy and subject to campaign finance laws. The "magic words" outlined in a footnote on the Buckley case are "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," and "reject."

McCain-Feingold modernizes the definition of express advocacy and adds to its current definition the criterion of using a candidate's name in advertisements within 60 days of an election.

What this means is that campaign advertisements that use a candidate's name within 60 days of the election would be considered express advocacy and could not be funded with unregulated and undisclosed money.

Instead, groups wanting to expressly advocate the election or defeat of an identified candidate would have to abide by federal campaign finance laws, raise hard money to fund their attacks and disclose the donors.

Will this have a dramatic impact? The answer is unequivocally yes.

Candidate ads that name names and run within 60 days of the election will be recognized for the express advocacy they are and would be subject to funding limits and reporting requirements. Issue ads meant to educate voters on the issues will still be permitted as long as they do not cross the line.

Last month, a Wisconsin court looked at exactly this issue: if the state can crack down on advertisements clearly designed at influencing the election, but that stop short of requesting voters to support or oppose candidates.

The debate in the Court mirrors exactly what the issue is here. Wisconsin Attorney General James Doyle said in a Washington Post article:

The heart of this issue is if you run an ad that any reasonable person who looks at it recognizes to be a political ad, just before an election, in which you call a particular person names, and use phrases like "send a message" to that person but do not use the magic words "vote for" or "vote against," whether you can then avoid all the basic campaign finance laws that we have in the state.

That is what we're looking at here and that is exactly the issue we have before us.

#### OTHER NOTEWORTHY AREAS IN THE BILL

There are some other areas of the bill which, I believe, enhance accountability for how campaign money is spent.

Requiring candidates to attest to the content of ads they fund. I would like to see this go one step further and require candidates to attest to the veracity of independent ads that are run on their behalf. The problem lies not with the candidates, but with these anonymous attack ads.

Leveling the playing field between self-financed candidates and candidates who rely on contributions. This bill prohibits parties from making coordinated expenditures on behalf of candidates who spend more than \$50,000 of their own money. I would like to see a mechanism whereby we would raise individual contribution limits for candidates running against self-financed candidates.

Lowering the disclosure requirement for contributions to candidates from \$200 to \$50.

Requiring that any person (including political committees, i.e. unions, corporations, and banks) making independent expenditures over \$10,000 (aggregate) prior to 20 days before an election, file a report with the FEC within 48 hours.

Requiring that any person (including political committees, i.e. unions, corporations, and banks) making independent expenditures over \$1,000 within 20 days of an election report that expenditure to the FEC within 24 hours.

Requiring individuals making disbursements of over \$50,000 annually (aggregate) file with the FEC on a monthly basis.

#### CONCLUSION

It is important to note that nothing in this bill prohibits any type of

speech. We are all aware of the Court's guarantee in Buckley that spending is the equivalent of speech. With the exception of banning parties receiving soft money, nothing in this bill limits how much can be spent on campaigns.

This legislation seeks to hold candidates accountable for what they say, how they say it and, most importantly, how far unregulated special interests are allowed to go in paying to impact elections.

This bill gives Congress the opportunity to make a real difference. I hope we will have that chance.

The PRESIDING OFFICER. The 5 minutes allocated to the Senator have expired.

Mrs. FEINSTEIN. I thank the Chair. Mr. MCCONNELL. Mr. President, I yield 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank my colleague for yielding to me. Let me, again, tell him how grateful I am for the work he has done on the issue of campaign finance reform and the clarity which he has brought into the debate which I think the American people now understand.

I say that in the context now of the discussion that goes on in this Chamber, and I also look at the news of the day. The media, I think, has really attempted to work up a bit of a feeding frenzy, showing all kinds of angles as to how this issue might have divided Congress, that it has divided the members of the same party, that there is a cry of outrage across the land as people stand up ready to storm the Capitol in protest over this issue. But despite the media's efforts and despite their hype, the public really does not care about this issue. In the most recent Gallup poll, where people were asked about the most important problems facing the country, campaign finance reform did not appear in the top five items on the list. In fact, in all honesty, Mr. President, it did not appear at all.

The same stands true for the latest CBS News poll and the latest Time/CNN poll, and even the latest Battleground poll by Ed Goaes and Celinda Lake, which is a bipartisan effort to balance out the issues so you cannot question that it might be distorted one way or the other. After extensive research of all of the major polling groups, the issue of campaign finance reform did not show up as a concern amongst almost every American.

What is important to the American people are issues like crime, economic health, health care, education, Social Security and the moral decline of our country. What people really care about is whether their kid will get to school and back safely and whether the schooling they are going to get once they get there is good and of high quality.

They care about keeping their jobs and trying to make ends meet while they watch a good portion of their

hard-earned money go to Washington to support what they think is a wasteful Federal bureaucracy.

They care about their future, whether they can save enough money to someday retire and whether they have affordable health care. What they do not care about is campaign finance reform. It isn't a real issue at all. It is an issue created here inside the beltway to try to divide and in some instances to conquer.

Let us just suppose for a minute that people really did care about campaign finance reform, that they sat around the dinner table at night and said, "Well, dear, how was your day at the office? And, oh, by the way, shouldn't we reform campaign finance?" I doubt that that question has been asked at any dinner table in America since the last election—after hundreds of millions of dollars were spent by some interests only to generate a passing question about how the system works.

What Americans really do need to know are the details of the campaign laws that are currently on the books. You know, once you begin to explain the laws that are out there today, their eyes glaze over and they say, "Well, isn't that enough?" And I think they need to know about some appalling campaign practices that were used by this administration in their reelection.

Now, we had a committee spend millions of dollars here searching out these allegations. I use the word "allegations." My guess is the only result from it was that it diverted our attention away from other scandals besetting this administration for some period of time.

They need to know what Congress wants to do to reform campaign finance laws and to level the playing field so that neither political party has an unfair advantage over the other. They need to know what we are going to do to make all political contributions voluntary so that no person, union or nonunion worker, is forced to pony up their money for political purposes without their expressed consent or permission.

Is it possible that today in America people are forced to contribute money that goes to political purposes they do not want? Oh, yes, Mr. President, you bet it is. And that is the issue in an amendment before us. I do not care how the other side tries to whitewash it, the bottom line is hundreds of thousands of American working men and women who are members of unions, when given the opportunity to give voluntarily, walk away from the forced contribution that goes on currently within their unions.

Americans need to know what we are going to do to give them complete and immediate access to campaign contribution records about who gives and to whom. This prompt and full disclosure of so-called "soft money" campaign donations will make the names of the donors immediately public and allow voters to decide if the candidate is looking after their best interests.

So I have suggested to you today what I think Americans want to know and, most importantly, what Americans do not want to know or do not care to know or sense no urgency in knowing.

However, under the McCain-Feingold plan, there would be an across-the-board ban of soft money for any Federal election activity, Mr. President. I feel this is a grave mistake for the political process. Report it? You bet. Report it promptly? You bet. Let the American people know they have a right to know. To ban it? Well, let us talk about that for a moment.

Let me first recognize my colleagues who have worked hard on this issue, and let me also recognize that I think they are people with a deep concern. I have great respect for them. I have respect for their tenacity and their diligence as they brought this issue to the floor. But I just flat disagree with them. And I think a good many other of my colleagues disagree with them. And I think there is a substantial basis for that disagreement.

As for the ban on soft money, I have several major reservations on how this measure would ultimately impact the current campaign finance system, not improving it, but creating such a hardship on this country's State and local political parties that it would force them to spend more time concentrating on raising money in order to exist.

Under the McCain-Feingold proposal, the ban on soft money, any State and local party committees would be prohibited from spending soft money for any Federal election activity.

Right now, State and local parties receive so-called "soft money" from their national political parties. Here in Washington, both the Republican National Committee and the Democrat National Committee receive money from donors. Some of that money is then distributed to the respective political parties in counties and locales around this country. There are thousands of State, county and local party officials who receive this financial aid.

Then, under certain conditions—and they are clear within the law—the money is used for activities such as purchasing buttons and bumper stickers and posters and yard signs on behalf of a candidate. The money is also used for voter registration activities on behalf of the party's Presidential and vice Presidential nominees. The money is also used for multiple candidate brochures and even sample ballots.

Let us talk about election day. You go down to the local polling site. Maybe it is a school or a church or an American Legion hall. Sometimes there is a person standing out there who hands you a sample ballot listing all of the candidates running for office in your party and the other party. And it is quite obvious some people at that point are not yet informed. They tend to vote their party. This is an assistance. No subterfuge about it. It is very

up front. It is very clear and it is what informing the public and the electorate is all about.

But under the McCain-Feingold proposal, it would be against the law to use soft money to pay for a sample ballot with the name of any candidate who is running for Congress on the same ballot that the State and local candidates were on.

Under McCain-Feingold, it would be against the law to use soft money to pay for buttons, posters, yard signs, and brochures that include the name or the picture of a candidate for Federal office on the same item that has the name or the picture of a State or a local candidate office on it. What you are talking about is setting up a morass of laws to be implemented and to be enforced that becomes nearly impossible to do.

I ask unanimous consent for an additional 5 minutes.

Mrs. BOXER. Reserving the right to object.

The PRESIDING OFFICER. Does the Senator from Kentucky yield the Senator from Idaho the additional 5 minutes?

Mr. McCONNELL. Yes.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Under McCain-Feingold, it would be against the law to use soft money to conduct a local voter registration drive for 120 days before the election. These get-out-the-vote drives, which have proven to be effective tools for increasing all of our parties' interests and the public's interests, would simply be banned.

Why would we want to ban all that I have mentioned? Because under these new laws in McCain-Feingold's plan State and local officials would have to use hard money instead of soft money. And already by what I have said, the public is confused. What is hard money? What is soft money? How does it get applied? We have the FEC that is out there now trying to make rulings on something that happened 3, 4, 5 years ago. What we are talking about is timely reporting, not creating greater obstacles for the process.

Most importantly, what we are talking about, Mr. President, is free speech. It is what the majority leader has called very clearly the greatest scandal in America. Well, the greatest scandal in America is not campaign financing. The greatest scandal in America is trying to suggest that there is a scandal when it does not exist, a scandal that under anyone's measurement just does not meet the muster.

Poll America. I have mentioned that polling. And it does not work. Back home in my State, when I suggested at town meetings that campaign finance is an issue, they scratch their heads and say, "Why?" Most importantly, today, now they are coming out and saying, "No. And, Senator CRAIG, let me tell you why it wouldn't work. Because I, as an individual, am a member of a small group, and I can contribute

collectively and that small group's voice can become louder. And if I am able to make my voice louder, then I can affect, under the first amendment of the Constitution, my constitutional right as a free citizen of this country by the amplification of my voice, my ideas, and my issues in the election process."

Of course, our colleague and leader on this issue, Mitch McCONNELL, has made it so very clear by repeating constantly what the courts of our country have so clearly said—that the right to participate in the political process, the right to extend one's voice through contribution is the right of free speech.

So no matter how you look at what is going on here on the floor, no matter how pleading the cries are that major reform is at hand, let me suggest a few simple rules. Abide by the laws we have—and 99 percent of those who enter the political process do—abide by those laws, and you do not walk on the Constitution and you guarantee the right of every citizen in this country, whether by individual power or by the collective power of individuals coming together, the insurance of free speech.

Why has the Senate rejected this issue in the past? And why will they reject it Thursday when we finally vote on this once again? Because we will not trample on free speech. We recognize what Americans across the board have said to us: Provide limited instruction, which we already have in major campaign finance reform over the last several decades, and then we trust that we will be able to extend our voice in the political process, and through that our freedoms, our constitutional freedoms, will be guaranteed, and the political process will not be obstructed by the bureaucracy that is trying to be created here today by McCain-Feingold.

Let us look at the reality of this situation. Because of these new restrictions, local party officials—say like the Republican party chairman in Custer County, ID,—will be forced to seek out hard money donations from local businesses and individuals to fund these political activities.

In a county of a little better than 4,000 people, this party official—who is more than likely a volunteer—now has to spend more of his or her time fundraising, not to mention the fact that those with more money stand a better chance of winning an election.

Party affiliation will become insignificant.

In other words, raising hard money will become a bigger concern for these State and local officials than ever before. And, whomever raises the most money can then fund more political activities.

Mr. President, what kind of campaign finance reform is this? What are we trying to accomplish? We've just added more laws to a system that is already heavily burdened with regulations, forced thousands of State and local party officials to go out and raise money, and created more confusion for the voters. If the point of the McCain-

Feingold plan is to reform the campaign finance system, the last thing you want to do is ban soft money.

Instead, full and immediate public disclosure of campaign donations would be a much more logical approach.

With the help of the latest technology, we could post this information on the Internet within 24-hours. Let us open the records for everyone to see.

Anyone interested in researching the integrity of a campaign, or in finding out the identity of the donors, or in looking for signs of undue influence or corruption would only have to have access to a computer. They could track a campaign—dollar for dollar—to see first hand where the money is coming from.

But Mr. President, what bothers me the most about the McCain-Feingold proposal is not what is in the bill, but what has been left out.

As I said, it is—what the majority leader once called—“the great scandal in American politics \* \* \* and the worst campaign abuse of all.” That is the forced collection and expenditure of union dues for political purposes.

Mr. President, this is nothing short of extortion.

Let me make myself clear, I fully support the right of unions and union workers to participate in the political process. Union workers should and must be encouraged to become involved and active in the electoral process. It is not only their right but their civic responsibility.

Back in my home state of Idaho, I meet with union workers in union halls, on the streets, and in their homes. And I hear their complaints, their anger and their outrage over how their dues are being spent and mis-handled by national union officers.

They say to me “Senator CRAIG, every month I am forced to pay dues that are used for political purposes I don't agree with. But what can I do? If I speak out, they'll call me a trouble maker!”

During the 1996 elections alone, union bosses tacked on an extra surcharge on dues to their members in order to raise \$35 million to defeat Republican candidates around the country. It is likely they used much more of the worker's money than they reported, but I am sure we will never find out the truth.

But under the Paycheck Protection Act, union workers will have new and expanded rights and the final say on how their money is being spent. The legislation not only protects the rights of union workers, but also makes it clear that corporations adhere to the same measure.

Unions and corporations would have to get the permission in writing from each employee prior to using any portion of dues or fees to support political activities. And, workers will have the right to revoke their authorization at any time.

Finally, employees would be guaranteed the protection that if their money

was used for purposes against their will, it would be a violation of Federal campaign law. Mr. President, this is commonsense legislation and it is the right thing to do.

Mr. President, I thank my colleague from Kentucky for his leadership on this issue.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. Just briefly, I thank the Senator from Idaho for his outstanding contribution to this debate. We are grateful for his knowledgeable presentation. I thank him very much. I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I yield 10 minutes, the first 5 minutes to the Senator from California and the following 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mrs. BOXER. Thank you very much, Mr. President.

Others have spoken to the merits of the McCain-Feingold bill. They have done so quite eloquently. And I want to share in that praise. Reining in special-interest money is absolutely necessary. Why do I say that? Because this is a Government of, by, and for the people. We learned that in school. It is one of the first things we learned, that Government is of, by, and for the people—not a Government of, by, and for the special interests and the people who are very wealthy and the people who could put on pin-striped suits and come up here and lobby us. It is a Government of, by and for the people. It is not for sale. It must not be for sale. We have an obligation to make sure that it is not. We have an obligation to make sure that there isn't even a perception that it is for sale.

Now, for those who say they don't see the difference between a \$5 check, a \$25 check, even a \$1,000 check versus a \$50,000 corporate check or a \$100,000 check and even a \$1 million check which is allowed under the current system, for those who don't see the difference, I say to them that to me, to this Senator, you are simply not credible. You are not credible. Even if there isn't one bit of a desire on the part of someone giving a \$1 million check, it sure looks that way. So we have to have rules in place so that we are not perceived as being a Government that is for sale. That is the soft money. Those are the huge dollars that Senators MCCAIN and FEINGOLD are trying to stop.

By the way, those are the huge dollars that play a big role in campaigns today. Right now in Santa Barbara, CA, there is a very important race going on. Congressman Walter Capps died while in office and there is a spirited race to replace him, two good candidates fighting it out on the issues. Mr. President, money is flowing in from outside California into this race.

Money is flowing in from people outside my State to influence an election in my State and it is flowing in huge amounts, and it is flowing into negative advertising. Mr. President, that does not lift the debate.

We heard from the senior Senator from California, Mrs. FEINSTEIN, about the need to raise enormous sums of money. She talked about her own decision not to run for Governor because of that. Let me tell you something I have said on this floor before. To raise the amount of money that she would have needed, or I need today to run for the U.S. Senate, would come to \$10,000 a day for 6 years including Saturday and Sunday. Now, for 3 years when I got here I couldn't bear to ask anyone for a penny because I had just come from a very tough race and I didn't want to ask anybody for any money, so I didn't get started for 3 years. That means I have to raise \$20,000 a day for 3 years to make this budget. It takes time. It takes effort. It is hard. It takes you away from the things you want to do, not to mention the time to think about creative ways to solve the problems that matter to real people.

Now I agree with Senator CRAIG that when you ask people what they care about the most, they don't list campaign finance reform. They list education, crime, sensible gun control, Social Security, the environment, HMO bill of rights, pensions. But if you ask them, do you want your Senator to be free of conflicts or potential conflicts when he or she votes on the economy, votes on HMO reform, votes on the minimum wage, votes on sensible gun control, they will say, of course, I want my Senator to do what is in his or her heart; I don't want my Senator to be conflicted in this either in fact or in perception.

We have a job here to do. My constituents do care. My constituents do write me about this. My constituents do show up at my community meetings and they want me to be strong for campaign finance reform. I get sick, Mr. President, when I hear people come on this floor or on television and say huge money in politics is the American way. They have actually said that—it is the American way. I don't think that is the American way. I don't think it is right to say that huge money in politics is the American way. I think our founders would roll over in their graves. They didn't write a Constitution so that the privileged few could get access or the perception of access. They founded this Nation based on a Government of, by and for the people. I feel sick when I hear free speech equated with money. Yes, I know the Supreme Court said that. But I disagree vehemently with that decision. If someone wealthy has more free speech than someone who is of modest income or poor, there is something wrong.

So I want to say to my friend, RUSS FEINGOLD, and my friend, JOHN MCCAIN, thank you for your persistence. I say to Senators SNOWE, JEFFORDS, and CHAFEE, thank you for

working with us. I think we will have a victory here.

The PRESIDING OFFICER. Under the previous agreement, 5 minutes was yielded to the Senator from Michigan.

It is the understanding of the Chair that the time was yielded to the Senator from Massachusetts.

Mr. KERRY. The time was yielded to the Senator from Michigan, but the Senator from Massachusetts wanted to inquire if we could lock in a sequence if possible. Would it be possible to ask unanimous consent that I be permitted to proceed for 5 minutes following the Senator from Michigan?

The PRESIDING OFFICER. Is there objection? The Senator from Massachusetts sought consent to follow the 5 minutes allocated to the Senator from Michigan.

Mr. McCONNELL. Reserving the right to object, this is off the other side's time?

Mr. KERRY. Unless the Senator wants to be good enough to give it to me.

The PRESIDING OFFICER. It appears that is the case.

Mr. McCONNELL. We are under divided time from now until the vote?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCONNELL. I have no problem, provided it is coming off Senator FEINGOLD's time.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The time will be so charged.

The Senator from Michigan.

Mr. LEVIN. McCain-Feingold takes direct aim at closing the loopholes that swallowed up the election laws. In particular, it takes aim at closing the soft money loophole which is the 800-pound gorilla in this debate.

As much as some want to point the finger of blame at those who took advantage of the campaign finance laws during the last election, there is no one to blame but ourselves for the sorry state of the law. The soft money loophole exists because we in Congress allow it to exist. The issue advocacy loophole exists because we in Congress allow it to exist. Tax-exempt organizations spend millions televising candidate attack ads before an election without disclosing who they are or where they got their funds because we in Congress allow it.

It is time to stop pointing fingers at others and take responsibility for our share of the blame. We alone write the laws. We alone can shut down the loopholes and reinvigorate the Federal election laws.

When we enacted the Federal Election Campaign Act 20 years ago in response to campaign abuses in connection with the Watergate scandal, we had a comprehensive set of limits on campaign contributions. Individuals aren't supposed to give more than \$1,000 to a candidate per election or \$20,000 to a political party. Corporations and unions are barred from contributing to any candidate without

going through a political action committee.

At the time that they were enacted, many people fought against those laws, claiming that those laws—the \$1,000, the \$2,000 restrictions and the other ones—were an unconstitutional restriction of the first amendment rights to free speech and free association. The people who opposed the current limits on laws which are supposed to be there but which have been evaded through the loopholes, the people who opposed the law's limits, took their case to the Supreme Court. The Supreme Court ruled in Buckley that the campaign contribution limits were constitutional. I repeat that, because there has been a lot of talk on the floor about limits on campaign contributions being violations of free speech. The Supreme Court in Buckley specifically held that limits on campaign contributions were constitutional.

It is unnecessary to look beyond the act's primary purpose—to limit the actuality and appearance of corruption resulting from large individual, financial contributions—in order to find a constitutionally sufficient justification for the \$1,000 contribution limitation. Under a system of private financing of elections, a candidate lacking immense personal or family wealth must depend on financial contributions from others to provide the resources necessary to conduct a successful campaign . . . To the extent that large contributions are given to security political quid pro quo's from current and potential office holders, the integrity of our system of representative democracy is undermined . . . Of almost equal concern is . . . the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions. . .

That is the Supreme Court speaking on limiting contributions and saying that Congress has a right to stem the appearance of corruption which results from the opportunities for abuse which are inherent in a regime of large individual financial contributions.

Then the court said:

Congress could legitimately conclude that the avoidance of the appearance of improper influence "is also critical . . . if confidence in the system of representative government is not to be eroded to a disastrous extent."

Now the question is, what are we going to do about it? What are we going to do about the unlimited money? Now the test is us. It is time to quit shedding the crocodile tears, quit pointing the fingers. It is time for us to act. It is our responsibility legislatively and it is a civic responsibility.

I thank the Chair and I thank the Senator from Wisconsin for his leadership, along with Senator MCCAIN.

The PRESIDING OFFICER. Under the previous agreement the Senator from Massachusetts is recognized for 5 minutes.

Mr. KERRY. Mr. President, the rising cost of seeking political office is nothing less than outrageous. Last year (1996), House and Senate candidates spent more than \$765 million—a 76 percent increase since 1990 and a six-fold increase since 1976. In the same time

frame, the more telling figure for our purposes, the average cost for a winning Senate race went from a little more than \$600,000 to \$3.3 million. And some of us involved in 1996 races raised and spent a great deal more.

And over the last 3 election cycles "soft money," which is money not regulated by federal election contribution laws, and which largely fuels the barrage of negative attack ads, has increased exponentially. In the 1988 cycle, the major parties alone raised a combined \$45 million in soft money. In 1992 that amount doubled—and in the 1995-96 cycle that figure tripled again, to a staggering \$262 million. Initial FEC reports show this sorry trend continues in the current cycle.

And if Congressional Quarterly and other sources are correct, the Majority's draft of the campaign fundraising investigation of the Governmental Affairs Committee report, due out later this week, will bluntly declare that in 1996 the federal campaign finance system "collapsed."

The draft of the Minority's portion of that report, according to the same sources, apparently continues that theme, stating that our dependence on large contributions from wealthy persons and organizations is so great that "the democratic principles underlying our government are at risk." It goes on to state, as reported by Congressional Quarterly:

"We face the danger of becoming a government not of the people, but of the rich, by the rich, and for the rich. . . . Activities surrounding the 1996 election exposed the dark side of our political system and the critical need for campaign finance reform."

Is it any wonder, Mr. President, that Americans believe that their government has been hijacked by special interests—that the political system responds to the needs of the wealthy, not the needs of ordinary, hard-working citizens—and that those of us elected may be more accountable to those who financed our campaigns than to average Americans? Many of them sense that Congress no longer belongs to the people. We are witnessing a growing sense of powerlessness, a corrosive cynicism. The reasons for this cynicism and disconnect are clear. More than anything, Mr. President, they are the exorbitant cost of campaigns and the power of special interest money in politics—the special interest money used to campaign for elective office. Special interest money is moving and dictating and governing the process of American politics, and most Americans understand that.

An NBC/Wall Street Journal poll finds that by a margin of 77 percent to 18 percent the public wants campaign finance reform, because "there is too much money being spent on political campaigns, which leads to excessive influence by special interests and wealthy individuals at the expense of average people." Last spring a New York Times poll found that an astonishing 91 percent favor a fundamental



transformation of the existing system. The evidence of public discontent could not be more compelling.

In the 1996 Presidential and Congressional elections we witnessed an appalling no-holds-barred pursuit of stunning amounts of money by both parties and their candidates. And I must admit that in my own re-election campaign, despite an agreement between my opponent and me to limit expenditures, the amounts raised and spent were staggering.

The American people believe—with considerable justification—that the scores of millions of dollars flowing from the well-to-do and from special interest organizations are not donated out of disinterested patriotism, admiration for the candidates, or support for our electoral system. They have seen repeatedly that public policy decisions made by the Congress and the Executive Branch appear to be influenced by those who make the contributions.

Who can blame them, Mr. President, for believing either that those contributions directly affect the decision-making process, or, at the least, purchase the kind of access for large donors that enables them to make their case in ways ordinary Americans seldom can?

It is no surprise that those who profit from the current system—special interests who know how to play the game and politicians who know how to game the system—continue to try to block genuine reform. If we want to regain the respect and confidence of the American people, if we want to reconnect people to their democracy, we must get special interest money out of politics. That process begins here with the bill before us.

One reason the results of the Governmental Affairs Committee's work may have less impact than it should is the perhaps unavoidable need of each party to highlight the sins of the other. But I am not interested today in assigning blame, Mr. President. As our distinguished colleague, the ranking minority Member of the Committee, Senator GLENN has said, "There is wrong on both sides." Indeed, the minority draft, again as reported by Congressional Quarterly, says the investigation showed that:

Both parties have become slaves to the raising of soft money. Both parties have been lax in screening out illegal and improper contributions. Both parties have openly sold access for contributions.

Mr. President, the creative minds of campaign managers and candidates alike have found ways to undermine every reform over the years. To attack the problem by a piecemeal approach will not work. One man who knew all about abuse of the campaign finance system, Richard Nixon, once said that campaign finance reform cannot work if it "plugs only one hole in a sieve."

Thanks to a unanimous consent agreement last fall, we are here today, finally, to have the first real debate and meaningful action in this Congress

on a proposal for campaign finance reform advanced by my good friends, Senators JOHN MCCAIN of Arizona and RUSSELL FEINGOLD of Wisconsin. I supported their original bill, because it assembled a package of meaningful reforms that seemed to Bridge the party divide that has too often poisoned this debate and prevented any real change. And, although its scope is now reduced, I continue to support this version of the bill, because it does move us forward. Throughout my years in this body my goal has been the same as JOHN MCCAIN's and RUSS FEINGOLD's: to get special interest money and special interest access out of politics.

As we begin this debate, most of the pundits tell us that true reform again has no chance. My friend, the junior Senator from Kentucky (Mr. McCONNELL) has assured us all repeatedly that McCain-Feingold is dead. Yesterday, however, *The Washington Post*, said that "the success of this venture depends on the stubbornness of the advocates." I am proud to count myself among this group which is determined to see that real reform begins now. And that means continuing to work in the coming days with all those on both sides of the aisle with the fortitude to keep reform alive.

In a recent speech, Bill Moyers quoted a distinguished Republican, former Senator Barry Goldwater, who said some ten years ago that the Founding Fathers knew that "liberty depended on honest elections," and that "corruption destroyed the prime requisite of constitutional liberty, an independent legislature free from any influence other than that of the people." The Senator continued:

To be successful, representative government assumes that elections will be controlled by the citizenry at large, not by those who give the most money. Electors must believe their vote counts. Elected officials must owe their allegiance to the people, not to their own wealth or to the wealth of interest groups who speak only for the selfish fringes of the whole community.

Those who join JOHN MCCAIN and his hardy band could do no better than to follow Barry Goldwater's advice today.

Today's version of McCain/Feingold still correctly identifies a number of glaring deficiencies in the current campaign finance system and seeks to remedy them. This bill should pass, Mr. President. The American people want these reforms.

Mr. President, because it so fascinates those on the other side of this issue, I'd like to take a moment to explain briefly why the so-called First Amendment objections to a soft money ban do not hold water. Simply put, as a distinguished group of 124 law professors from across the country has pointed out, there is nothing in *Buckley v. Valeo* that even suggests a problem in restricting, or even banning, soft money contributions. Last September, those distinguished constitutional scholars, led by New York University Law School Professors Ronald Dworkin and Burt Neuborne, joined in a letter to the sponsors of this amendment.

We need to remember that this 1976 Supreme Court decision expressly reaffirmed the right to ban all hard money, corporate and union political contributions in federal elections, stating that Congress had a basis for finding a "primary governmental interest in the prevention of actual corruption or the appearance of corruption in the political process." And the Court recognized the potential for corruption inherent in the large campaign contributions that corporations and labor organizations could generate.

These esteemed scholars point out that the most vital statement of the Supreme Court came in 1990, in *Austin vs. Michigan Chamber of Commerce*. The scholars tell us, and I quote, the Court found that corporations can be walled off from the electoral process by forbidding both contributions and independent expenditures from general corporate treasuries. Surely the law can not be that Congress has the power to prevent corporations from giving money directly to a candidate, or from expending money on behalf of a candidate, but lacks the power to prevent them from pouring unlimited funds into a candidate's political party in order to buy preferred access to him after the election.

Accordingly, these professors continue—and again, I am quoting—"closing the loophole for soft money contributions is in line with the longstanding and constitutional ban on corporate and union contributions in federal elections and with limits on the size of individual's contributions that are not corrupting."

There have also been a number of references in this debate to the 1996 Supreme Court case of *Colorado Republican Federal Campaign Committee vs. FEC*. These same scholars have said that

any suggestion that [the Colorado Republican case] cast doubt on the constitutionality of a soft money ban is flatly wrong. [The Colorado Republican case] did not address the constitutionality of banning soft money contributions, but rather expenditures by political parties of hard money, that is, money raised in accordance with FECA's limits. Indeed, the Court noted that it "could understand how Congress, were it to conclude that the potential for evasion of the individual contribution limits was a serious matter, might decide to change the statute's limitations on contributions to political parties."

Mr. President, I suggest to you that these definitive findings on the First Amendment issue have settled the argument. We can now move forward to a healthy and productive debate within the boundaries our Constitution sets before us.

I will acknowledge that, in my judgment, this amendment does not go far enough. Its useful reforms are by no means all we need. That is why, Mr. President, I, along with Senators WELLSTONE, GLENN, BIDEN and LEAHY, introduced S. 918, the "Clean Money, Clean Elections Act" last June.

Like the bill before us, S. 918 also bans soft money and takes steps—stronger steps than we can take today—truly to rein in those phony issue ads that are only thinly veiled,

election-oriented advocacy ads, many of which are purely negative attacks. It would also strengthen the Federal Election Commission, reduce the costs of campaigning in many ways, such as by requiring free air time for candidates—and it would effectively reduce the length of campaigns. Our bill contains nearly all the other solid reforms included in the original McCain-Feingold bill.

But fundamentally, the Clean Money bill creates a totally new, voluntary, alternative campaign finance system that removes virtually all private money—and all large private contributions—from federal election campaigns for those who choose to participate.

Let me briefly summarize our proposal: Any Senate candidate who demonstrates sufficient citizen support by collecting a set number of \$5 qualifying contributions from voters in his or her state is eligible for a fixed amount of campaign funding from a Senate "Clean Election Fund." To receive public funds, a Clean Money candidate must forego all private contributions (including self-financing) except for a small amount of "seed money" (to be used to secure the qualifying contributions raised in amounts of \$100 or less), and he or she must limit campaign spending to the allotted amount of "clean money" funds. Additional matching funds, up to a certain limit, will be provided if a participating candidate is outspent by a private money candidate or is the target of independent expenditures.

"By placing a premium on organizing rather than fundraising," as Ellen Miller of Public Campaign has pointed out, Clean Money Campaign Reform shifts "the priorities of electoral work back toward those that ought to matter most in a representative democracy: issue development and advocacy, canvassing, and get-out-the-vote drives."

And most important, once elected, Clean Money office holders are free to spend full-time on the jobs they were elected to do. The days of dialing for dollars would truly be over.

This reform effort began in the State of Maine where in November 1996, a statewide Clean Money, Clean Elections initiative passed by a margin of 56 to 44 percent. Last June Vermont's state legislature adopted a similar measure by a two-thirds margin in the Senate and by better than six to one in the House. Other efforts are underway across the nation. In my home State of Massachusetts, 2,000 volunteers collected 100,000 signatures for a Clean Money initiative—well over the number needed to place it on the ballot this fall. In thirteen other states, from JOHN MCCAIN's Arizona to Connecticut, from Georgia to Oregon, coalitions of effective grassroots advocates are all working hard for Clean Money reform.

I believe the day is coming, Mr. President, when the Congress will have no choice but to approve this fundamentally simple reform. It will finally put an end to the senseless

money chase and totally eliminate the influence of private money in our campaigns—and thereby let the people buy back their politicians.

That day is not yet here. I am a realist. Although the grassroots work in the vineyards of state legislatures and state initiative campaigns is on the march, we are not close enough to reach that goal in this chamber today. But today we can make a down payment on the debt we owe the people who sent us here by supporting McCain-Feingold. I support it without reservation.

I congratulate and thank both sponsors of this bill for their efforts in putting together this bill and fighting for it. It is good legislation. It is needed legislation. It heads us in the right direction.

I commend Senator FEINGOLD for his hard work, his determined bipartisanship, and his commitment to making our political process a cleaner, better and more democratic system. The junior Senator from Wisconsin, who joined this body after a race in which he was outspent three to one, has worked tirelessly to make real progress possible.

And I especially commend the work of Senator MCCAIN. All of us understand the stamina it takes to assume a mission of this kind, and to stick with one's convictions despite opposition from friends. JOHN MCCAIN has always excelled as a patriot, and with this legislation, he has done so again. He courageously pursues a just cause. I am proud, once again, to stand with JOHN MCCAIN and support his amendment.

Mr. President, one reason the naysayers are again predicting defeat for reform is their reliance on smoke-screens like the so-called "paycheck protection" proposal that is clearly designed as a poison pill to sink this reform. We cannot let that effort deter us. Nor can we ignore the plain fact that it is being pressed by the big business lobbyists whom my friend RUSS FEINGOLD has called "the Washington Gatekeepers," the ones who in many cases decide who get the largest contributions. These folks, as the Senator points out, are the ones "who transfer the money to the politicians and produce the legislative votes that go with it."

The American people must not—and I believe they will not—be fooled by these attempts at sabotage. This is not a complex issue. All of us face a stark, but simple choice—a choice between the disgraceful status quo and an important step forward. Despite the efforts to muddy the waters, we can and should prevail—especially if all those hearing and reading about this debate will let their voices be heard now by contacting their own Senators.

Mr. President, I want to strongly emphasize one point—the single most important point today, in fact the only important point today—as we approach this vote on this amendment. Do not be deceived by this complicated explanation or that complex rationale. Do

not be misled by diversions and red herrings. Understand this vote for what it is. This is the most important vote the 105th Congress will have cast to date on campaign finance.

It is, in essence, stunningly simple. Because this vote will show which Senators are for real campaign finance reform and which Senators are against real campaign finance reform.

There is no place to run, and no place to hide. If a Senator is for real campaign finance reform—for reducing the influence of special interest money on the key decisions of our democracy—he or she will vote for the McCain-Feingold amendment. If a Senator votes against this amendment, no one will need further evidence that, despite all the lofty rhetoric about constitutionality, about freedom of speech, about personal rights, and all the rest, that Senator is not committed to real campaign finance reform. If McCain-Feingold prevails on this vote, the effort goes on. If the opponents of reform defeat this amendment, they have prevailed for the 105th Congress.

Perhaps yesterday's New York Times said it best:

It is too early to predict how this fight will turn out. But when it ends, Americans will know where each Senator stands on protecting his or her own integrity and the integrity of government decision-making from money delivered with the intention to corrupt.

I urge all my colleagues to support the McCain-Feingold amendment.

Mr. President, this is without any question the most important vote we will have had in this Congress and no one should mistake that this vote is about the First Amendment or that this vote is about one genuine alternative versus another. It is really a choice between those who want to keep campaign finance reform alive, those who really want to vote for campaign finance reform, and those who don't.

Every conversation on the Hill reflects that. There are countless quotes that have appeared from individuals on the other side of the aisle in the House or Senate, talking to their colleagues about how this is really a vote about institutional power and the capacity to stay in power and be elected. The simple reality is that all Americans are coming to understand is that Republicans have a stronger finance base, they have raised more money, more easily, they pour more money into campaigns, and money is what is deciding who represents people in the United States of America.

Last year, the House and Senate candidates spent \$765 million, a 76 percent increase over 1990 and a sixfold increase from 1976. We have seen voting in America go down from 63 percent in 1960 to 49 percent in the last election because increasingly Americans are separated from a Government that they know is controlled by the money.

The fact is that in the Commonwealth of Massachusetts where I ran for re-election last year I spent \$12 million to run for the U.S. Senate. I had



never spent more than \$2.5 or \$3 million on media alone in a previous race. That is a measure of the escalating costs of campaigning under the system in place today.

In a recent speech, Bill Moyers quoted Barry Goldwater, a leader of the conservative movement in this country, who reminded us 10 years ago that the Founding Fathers knew that "liberty depended on honest elections" and that "corruption destroyed the prime requisite of constitutional liberty, an independent legislature free from any influence other than that of the people" to be successful.

Senator Goldwater also said "... Representative government assumes that elections will be controlled by the citizenry at large, not by those who give the most money. Electors must believe their vote counts. Elected officials must owe their allegiance to the people, not to their own wealth or to the wealth of interest groups who speak only for the selfish fringes of the whole community."

So that is what this vote is about today.

Mr. President, to those who hide behind the First Amendment, let me make it clear that there is nothing in the First Amendment that prohibits a ban on soft money or prohibits what we seek to do in this legislation.

Simply put, a very distinguished group of 124 law professors from across the country has pointed out that there is nothing in the 1976 Supreme Court decision of *Buckley v. Valeo* that even suggests a problem in restricting or banning soft money contributions. Last September, those distinguished constitutional scholars sent a letter to the sponsors of this amendment and they said we need to remember that the *Buckley* decision expressly reaffirmed the right to ban all hard money, corporate and union political contributions in Federal elections. And it stated that Congress specifically has a basis for finding a "primary governmental interest in the prevention of actual corruption or the appearance of corruption in the political process." More than twenty years ago, Mr. President, the High Court recognized the potential for corruption inherent in the large campaign contributions that corporations and labor organizations could generate.

In the more recent 1990 Supreme Court case of *Austin v. Michigan Chamber of Commerce*, these scholars pointed out, "the Court found that corporations can be walled off from the electoral process by forbidding both contributions and independent expenditures from general corporate treasuries."

Mr. President, it is clear not only in that language, but in the language of *Colorado Republican Federal Campaign Committee v. FEC*—which the other side often tries to cite to the contrary—there is a certainly a legitimate basis for banning soft money consistent with the other restraints that the Court has

already found permissible with respect to hard money. The Supreme Court said there that it could indeed understand how Congress might "conclude that the potential for evasion of the individual contribution limits was a serious matter," and might indeed "decide to change the statute's limitations on contributions to political parties." And it's absolutely inconsistent that we should be allowed to set limits on campaign contributions, which we are allowed to—that we are allowed to have Federal limits on the total amount of contributions somebody can make—\$25,000—and not be able to restrict in the context of soft money, the same kinds of contributions.

So, Mr. President, this is about power and money. And most people in America understand precisely what is going on here. Our colleagues have an opportunity to vote for reform, and I hope they will embrace that today. If they don't, it will be clear who stands in the way of that reform.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, I yield 10 minutes to the distinguished Senator from Alabama.

Mr. SESSIONS. Mr. President, this has been a great debate. I think about the abilities of those of us in this body to participate in unlimited debate, and I think it is a great thing. Great and free debate is a characteristic of American society. Unfortunately, people use the freedom and the money they raise sometimes to run negative ads. I certainly see nothing in McCain-Feingold that would stop that kind of activity from happening. But this is an important vote. As a matter of fact, I consider it a very fundamental and crucial vote for America.

In my 1996 campaign, just over a year ago, in the primary, I faced seven Republican candidates. Two of them were multimillionaires, and two of those individuals spent \$1 million-plus out of their own pockets to further their dream of being elected to this great body. They used most of it to attack me. I was attorney general, I was leading in the polls, and I took most of the brunt of that. Two other individuals in that race raised or spent themselves over a half-million dollars to attempt to put their message out to the Alabama people. I spent approximately a million dollars during that primary. I was outspent \$5 million to \$1 million in that primary. And then in the general election, there was also a very vigorous and contested general election. My opponent spent approximately \$3 million, as I recall, in that race.

One of the key parts of that race and one of the things that was most interesting and painful to me was that I was attacked and received a volume of attack ads from money that really was raised by the Alabama Trial Lawyers Association. You see, in Alabama, there is a contested, bitter fight over the attempt by many in the Alabama legislature to reduce the aberrationally

high verdicts in plaintiff litigation in the State. It embarrassed the State and there was a bitter fight over it.

The Trial Lawyers Association, which wanted to continue to file those lawsuits and receive those big verdicts opposed that legislation. It was bitterly fought over. Tort reform passed the house of representatives twice but twice it failed in the Alabama State Senate. My opponent was the chairman of the senate judiciary committee, where most of those bills died. He was also, himself personally, a plaintiff trial lawyer. He had a plaintiff trial lawyer lawsuit filed during the election. He was suing somebody for fraud during the election. That was an important issue. It was an issue that the people of Alabama needed to discuss and know about. The Trial Lawyers Association raised, I guess, what you would call "soft money" in the amount of around a million dollars to express their views and to oppose me because I took a different view.

Earlier today, I saw somebody with a chart that had an ad similar to the ad that was run against me. It complained about an attorney general—obviously, in a different State—and it said, "if you don't like what he did, call his office and complain." This was their attempt to get around some of the campaign expenditure rules and laws that existed in our country. We faced those ads and were frustrated by them.

When I came here to this body, I was prepared to consider what we could do to fix that situation. Frankly, I was not happy with having such a sum of money being raised and used against me in my campaign. I have given it a lot of thought. I talked to the manager, the distinguished Senator from Kentucky, Senator MCCONNELL, and others. I have done some research. I have considered the Constitution and what I believe is fair and just and consistent with the great American democracy of which we are a part. Based on that, I have concluded that we must fundamentally recognize the primacy of the first amendment, which provides to all Americans the right of free speech. That includes the right to spend money to project your views, as the Supreme Court has said. To limit that is a historic event and an unhealthy event, in my opinion.

They say, "Jeff, we are not trying to limit people's free speech; we just want to limit your speech during a campaign, just during an election cycle." When do people want to speak out most if it is not during a campaign? Isn't it then that people are most focused on the issues and have the greatest opportunity to change the direction of their country? Isn't that when they want to speak out? It certainly is. If you want to limit free speech, I say to you that the last place you want to limit it, is during a campaign cycle. That would be terribly disruptive of freedom in America.

Now, they say, "Well, it really doesn't interfere with the first amendment." But I was on this floor, Mr. President, early last year—in March of last year, as I recall—when the Democratic leader and other Members of this body proposed—and people have forgotten this—a constitutional amendment to amend the first amendment to the U.S. Constitution, to justify their attempt to control free debate in America during an election cycle. It was an attempt to reduce the expenditures during that election cycle and give this Congress, incumbent politicians, the right to restrict their opponents' ability to campaign against them. I thought that was a thunderous event.

I said at the time that I considered that a retreat from the principles of the great democracy of which we are a part—as a matter of fact, the largest retreat in my lifetime, maybe the largest retreat in the history of this country. And, amazingly, 38 Senators voted for it. You have to have two-thirds, and that was not nearly enough to pass this body. But I was astounded that we would have that. But at least those people who favored the amending of the first amendment were honest about it. They knew what they were attempting to do with election campaign finance reform, and that is to affect the ability of people to raise money to articulate their views during an election cycle and that a constitutional change was needed to effect such a change.

So, Mr. President, I have a lot of issues that could be discussed here. I am not going to go into any others. I simply say that I believe this is a historic vote. I think it does, in fact, reflect our contemporary view of the importance of the right of free speech. We have had the American Civil Liberties Union and other free speech groups opposing McCain-Feingold because they are principled in that regard. But others who have, in the past, been champions of free speech curiously are now attempting to pass this legislation, which I think would restrict the ability of Americans to speak out aggressively and criticize incumbent officeholders and attempt to remove them from office and express their views in a way they feel is important.

So, Mr. President, those are my thoughts on the matter. I will be opposing this legislation. As to the question of union contributions, dues being used against the will of the members, against their own views on political issues, I think that is something we could legislate on. Somebody said such a change would be a "poison pill" for campaign finance reform. Well, it is a poison pill to me. I am not going to support any campaign reform that is going to allow somebody's money to be taken and spent on political issues they may oppose.

Mr. MCCONNELL. Mr. President, I thank the Senator from Alabama for his important contribution. It seems to me that it shows real principle. When you have been through a campaign and

you have had independent expenditures or issue advocacy—either one—used against you and you didn't like it, but you fully recognize that it is constitutionally protected speech, that is commendable. So I thank the Senator from Alabama for his important contribution to this debate.

Mr. FEINGOLD. Mr. President, I yield 5 minutes to the senior Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank my colleague from Wisconsin. Mr. President, I think the previous speakers have demonstrated—speaking of the Senator from Alabama—that this debate is more than just about money. It really is about our core values and what kind of people we are in this country.

The argument made on this floor that money is equal to speech is to suggest then that the poor can't speak as loudly as the rich. The reality check is that money magnifies speech, particularly in these times when money can buy technology and access to the mass media in ways that were not available, of course, when the Constitution was written. To suggest that money is equal to speech is the same thing as saying that the rich and the poor have equal rights to sleep under bridges. We have heard that analogy before. We know that is abject nonsense. So it is, in my opinion, abject nonsense to suggest that in a context in which money buys elections the poor have the same rights as the rich. That does not comport with reality.

The reality check is—and the people know that to be the case; they know that right now—money plays such a role as to buy elections and that elections dictate the direction of our democracy. And so this debate really is about a crisis of inestimable proportion going to the core of what kind of democracy we are going to enjoy in this country.

I am very pleased that the Senate is again turning its attention to S. 25. It is certainly not a perfect bill. It does not solve all of the problems created by the current state of the law. However, it at least brings us a little bit closer to the sort of comprehensive campaign finance reform that I believe we all desperately need. We have, in my opinion, a responsibility to restore the faith of the American people in the political process that our democracy is as equally open to the poor as it is to the wealthy, that every citizen has the same and equal right to participate in the process of elections and, therefore, the same and equal rights to dictate the direction of our Government.

At the present time, too many people feel removed from the decisions that affect them in their lives. Many do not believe they are capable of influencing their Government's policies. A League of Women Voters' study found that one of the top three reasons that people fail to vote is the belief that their vote will not make a difference. We saw an expression of the cynicism during the

1994 elections when just 38 percent of all registered voters cast their ballots. We saw it again in 1996 when only 49 percent of the voting age population turned out to vote—the lowest proportion in some 72 years.

I have noticed in my own State of Illinois a falloff in voter participation and turnout. In 1992, Mr. President, I won my election for the Senate with 2.6 million votes, which represented 53 percent of the total vote. By 1996, when Senator DURBIN ran, he won with 2.3 million votes, which was 55 percent of the total votes. Senator DURBIN, in other words, won by a greater margin but with fewer votes cast. And if our citizens continue to participate in the electoral process in fewer and fewer numbers, the United States runs the risk of jeopardizing its standing as the greatest democracy on Earth.

Now, campaign finance is diminishing our democracy. Consider for a moment the fact that 59 percent of the respondents in the Gallup/USA Today poll agreed with the statement "Elections are for sale to whoever can raise the most money" while only 37 percent agreed with the statement "Elections are won on the basis of who's the best candidate." What is causing this perception? The people are aware that we are spending more on congressional campaigns than we ever have before. The Federal Election Commission has reported that congressional candidates spent a record-setting total of \$765.3 million in the 1996 elections. That represents an incredible 71 percent increase over the 1990 level of \$446.3 million. And those numbers do not even take into account the massive expenditures of "soft money" by political parties on behalf of House and Senate candidates.

The average winning campaign for the House cost over \$673,000 in 1996. That's a 30 percent increase over 1994, when the average House seat cost its occupant \$516,000. In 1996, 94 candidates for the House spent more than a million dollars to get elected. Winning Senate candidates spent an average of \$4.7 million in 1996. In that year, 92 percent of House races and 88 percent of Senate races were won by the candidate who spent the most money. Forty-three of the 53 open-seat House races and 12 of the 14 open-seat Senate races were won by the candidate who spent the most money.

One of the major factors responsible for these huge costs increases in the avalanche of negative advertising that has muddied the political landscape in recent years. Political figures have come to rightly expect that they will be attacked from every imaginable angle come election time and are raising more and more money to fend off charges that often have nothing to do with the people's business. Moreover, politics has become so vicious and negative over the last few years that able public officials are leaving public service and potentially outstanding candidates are choosing not to run at all.

These individuals know that politicians today have to spend a large portion of their time raising money, and that is simply not an attractive job description for many people capable of making outstanding contributions to our government. For example, in explaining his retirement from government service, former Senator Paul Simon, one of the most able individuals ever to sit in this chamber, cited fundraising responsibilities as a burden that he no longer wished to bear.

All of the problems associated with the immense role that money plays in the electoral system have been exacerbated in recent years by an increase in the number of wealthy candidates contributing outlandish sums to their own campaigns. In 1994, for example, one candidate for the Senate spent a record \$29 million, 94 percent of which was his own money. During the 1996 election cycle, candidates for federal office contributed \$161 million to their own campaigns. One presidential candidate helped finance his campaign with \$37.4 million of his own money. Fifty-four Senate candidates and 91 House candidates put \$100,000 or more of their own money into their campaigns, either through contributions or loans. It is true that in 1996 only 19 of those candidates won their elections, but the fact remains that the current system allows such candidates to drive up the costs of campaigns and make it more difficult for average citizens to contend for political office. If we allow this trend to continue, it won't be long before only the wealthiest Americans will be able to fully participate in the political process.

The time has come to reduce the role that money plays in our electoral system. Besides providing elected officials with more time to tend to the people's business, doing so will result in fewer negative ads, for if a candidate has less money to spend or faces a spending limit, he or she will have to be more careful about how expenditures are made. The capacity to run fewer ads would help ensure that candidates focus on establishing a connection with the voters by using television and radio time to discuss their stands on the issues, instead of running negative ads.

S. 25 and an amendment to the bill that I understand its distinguished authors plan to introduce takes significant steps in the right direction. The bill would ban "soft money" contributions to national political parties and would bar political parties from making "coordinated expenditures" on behalf of Senate candidates who do not agree to limit their personal spending to \$50,000 per election. The proposed amendment would create a voluntary system to provide Senate candidates with a 50 percent discount on television costs if they agree to raise a majority of their campaign funds from their home states, to accept no more than 25 percent of their campaign funds in aggregate PAC contributions, and to limit their personal spending to \$50,000 per election.

Ideally, S. 25 would place an absolute limit on the ability of candidates to fund their own campaigns. In *Buckley v. Valeo*, the Supreme Court ruled that limitations on candidate expenditures from personal funds place direct and substantial restrictions on their ability to exercise their First Amendment rights. It may be time to revisit the *Buckley* decision by passing legislation tailored closely around what the Court said. Putting the issue back in front of the Court would give it the opportunity to clarify how the position it took in 1976 is supposed to govern campaign finance law in the very different era in which we now live.

In *Buckley*, the Court struck down a provision of the 1971 Federal Election Campaign Act that barred presidential candidates from spending more than \$50,000 out of personal resources. As three distinguished law professors at the University of Chicago have stated, it is possible that, with a *new set of legislative findings*, the Court might uphold a statute that imposed significantly more generous limits. . . . [T]he Court might find that with a much more generous (though not unlimited) opportunity for candidates to spend their own money, the infringement of individual freedom is less severe—perhaps not "substantial," in the Court's language.

One argument for such a provision is that an important element of the democratic process is requiring that candidates demonstrate support from a broad range of individuals. Legislation of this type would be similar in intent to laws requiring candidates to obtain a minimum number of petition signatures in order to secure a place on the ballot. Such legislation would arguably be consistent with *Buckley*, for in that case the Court recognized that the government has "important interests in limiting places on the ballot to those candidates who demonstrate substantial popular support." Given the crucial role that money plays in today's elections, it is not unreasonable to ask the Court to extend its interpretation of what constitutes "substantial popular support" into the realm of campaign financing.

The most effective approach to comprehensive campaign finance reform would be legislation establishing overall campaign spending limits. If the Supreme Court's decision in *Buckley* is regarded as prohibiting the enactment of mandatory caps on overall campaign spending, then we should at least create a system that offers candidates cost-reducing benefits in exchange for their voluntary compliance with such caps. The Court has made clear that such a voluntary system would be constitutional. Overall spending limits would not only open up our system to greater competition, they would help to shift the focus of elections from advertising to issues. Until we cap runaway campaign spending, we will only be working at the margins of a problem that is turning our electoral system—

one of the pillars of our cherished democracy—into a grotesque circus of saturation (and frequently negative) advertising and round-the-clock fundraising.

S. 25 may not effect the type of far-reaching reforms that I would like to see, but I strongly approve of its goals and spirit. The time has come for us to send a signal that we share our fellow citizens' concerns regarding the enormous role that money has come to play in our political system. Passing S. 25 would send that signal and would place us on the road toward creating a system in which the people's priorities would be our own. I therefore urge my colleagues to support the bill.

I commend my colleagues, the Senator from Wisconsin and the Senator from Arizona, for their perseverance in this important area and say to the Senator from Wisconsin and the Senator from Arizona, this may be one stage in the battle. But it seems to me that we have an absolute responsibility to cure this corrupt system. And it is a corrupt system. It is full of mousetraps. It favors people who are wealthy over people who are working class, ordinary citizens, and it is having a diminishing effect on our democracy and the people's faith in it.

I yield the floor.

Mr. FEINGOLD. I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, for the last 5 years we have been debating the issue of campaign finance reform and for the last 5 years we have failed to fix the system that most Americans agree is broken. I have voted for campaign reform legislation several times now, and each time it has been killed off by filibuster. Today we are once again presented with the opportunity to do what is right and stop the rising tide of special interest money that is drowning the democratic process.

We last debated the McCain-Feingold campaign finance reform bill in October. Since that time the bipartisan group of Senators committed to reform has continued to work together to build a coalition and to craft a measure that is fair and offers meaningful change. I have been proud to support that effort.

Changing the status quo has been an uphill battle. The opponents of reform cleverly disguise their argument. They wrap themselves in the flag and posture as protectors of "free speech." They make complicated and convoluted arguments about "threats to the Constitution," but here's what they are really saying: *if you have more money, you are entitled to more influence over campaigns and elections*. People out there find this argument to be a cynical charade and it's time to stop playing games.

The opponents of reform are just not listening. The American people have been calling for reform for years, and now the call is louder than ever.

Eighty-nine percent of the American people believe fundamental changes are needed in the way campaigns are funded. We were elected to represent the American people. We cannot continue to ignore their wishes.

The campaign system is clogged with money, and there is no room left for the average voter. The last time we debated reform, I told a story of a woman who sent my campaign a small contribution of fifteen dollars. With her check she enclosed a note that said, "please make sure my voice means as much as those who give thousands." With all due respect, this woman is typical of the people who deserve our best representation. Sadly, under the current campaign system, they rarely do.

In 1996, \$2.4 billion was raised by parties and candidates. Let me say that again: \$2.4 billion flowed into campaigns all across the country and dictated the terms of our elections. And as if that weren't enough, hundreds of millions more were spent on so-called "issue advocacy". Nobody knows exactly how much more because these ads, even though they are political, are unregulated.

Currently there is no disclosure requirement for these expenditures, there is no ban on corporate or union money, and there is no limit on how much can be spent. "Issue ads" frequently take the form of negative attacks made against candidates by groups that no one has ever heard of. Because of the current weak laws, the American people don't know who are making these charges, what their agenda is and who is paying for it. The bill we are considering today would change that by strengthening the definition of political advertising to include these sorts of expenditures. We need more accountability, not less.

My first Senate campaign was a grassroots effort. I was out spent nearly three-to-one by a congressional incumbent. But because I had a strong, people-based effort, I was able to win. I am proud of the contributions I have received for my campaign.

And I am willing to put my money where my mouth is. I hope to offer an amendment to implement full disclosure of campaign contributions. Under current law, the names and addresses of contributors who give more than \$50 at a time or \$200 in aggregate must be disclosed. My amendment would drop those numbers down to zero. Under my amendment *every* contribution to a PAC or a campaign must be disclosed.

Having full disclosure for campaign contributions is like listing the nutritional facts on a candy bar: the public deserves to know what it's made of.

But I also want to make a pledge. Whether or not my amendment passes, I still intend to tell my constituents everything about who is contributing to my campaign. I will make full disclosure of all my contributions, no matter how big or how small. This is my commitment, this is my pledge. I

challenge all of my colleagues to do the same.

Mr. President, the opponents of reform miss the point. In America, money does not equal speech. More money does not entitle one to more speech. The powerful are not entitled to a greater voice in politics than average people. In America, everyone has an equal say in our Government. That is why our Declaration of Independence starts with, "We, the people."

Mr. President, I believe we have made this debate way too complicated. This issue boils down to one basic question: Are you for reform, or against it? Are you with the people, or against them on the need for a more healthy democracy? The votes we are taking today will show the answers to these questions.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Kentucky has 27 minutes remaining.

Mr. MCCONNELL. I yield 10 minutes to the distinguished Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, I thank Senator MCCONNELL for his leadership on this issue. I also thank Senator FEINGOLD and Senator MCCAIN.

I would like to point out to the American people, this is not a debate between good people and bad people. I note, however, that many who are for this bill have stated that those who are against it are hiding behind the first amendment. I don't propose to hide behind it. I propose to stand up today and defend it. Let me read to you, for the RECORD, what the first amendment to the Constitution says:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

We are talking about the whole second half of this amendment, about how people petition Government for the redress of grievances, how they speak about Government. It is amazing to me that some of those who are for this bill point out how money is buying offices. My friend, the Senator from Washington, pointed out how she was outspent 3 to 1, but she is here! I notice Senator FEINSTEIN is here. She had an opponent who spent, I think, nearly \$30 million of his own money! I do not yet know of a President Ross Perot, though he's one of the biggest advocates of this and spent millions of his own trying to make his case.

The point is, this is a legitimate issue for the people to decide. Then the attack is made on soft money, and PACs have become a very bad word. Do people remember that PACs were cre-

ated as an outgrowth of Watergate, to clean up campaign finance? This is a product of Watergate. If you break down what it is a PAC is—some of them I don't really like because they stand for things I don't like. But some of them I do like; for example, the National Right to Life PAC. They talk about wealthy people? I look at that organization and I see humble folks who are defending a principle that is sacred to them. These are not wealthy people, but they are enjoying their right to speak.

I want to make one other candid admission to the American people. Republicans spend an awful lot of time attacking the Democrat use of union money, compulsory union dues that are used in attacks on Republicans. We attack their major asset. The Democrats attack the Republicans' major asset, which is in some cases the use of PACs, or soft money. Any campaign finance reform that does not include both of these elements will disserve the American people and I will not vote for those things, because at the end of the day what will happen to America is what happened to Oregon in a recent election cycle.

We had a well-meaning public interest group that, through our initiative system, instituted a campaign finance law not unlike McCain-Feingold. It applied to State candidates. Let me tell you what happened. Contributions to candidates directly, were severely restricted and, in a nutshell, candidates could not raise enough money to communicate with the people whose attention they were trying to get. But the money wasn't taken out of politics; it simply left direct democracy, which is disclosable to the public, and it went back into the smoke-filled rooms. Then various groups colluded and figured out how they could influence elections, not with a candidate, but about a candidate. And they did it with the luxury of knowing that they were not accountable to the American people, they could not be held accountable, so they could say or do anything they wanted.

So what we went through in Oregon, before our State supreme court declared it all a violation of the first amendment, was a cycle whereby candidates, were terribly frustrated, and so were our citizens. In the end, I have to say, what we should be encouraging is not a return to the smoke-filled rooms; we should be encouraging people to contribute directly to candidates and to fully disclose it.

I have to say that I have experienced this also on a personal level; I have run for the U.S. Senate twice. The first time I ran, I put a lot of my own money into the race. And, folks, I didn't win. And then I ran again, and I did win, and I won with the contributions of perhaps more individual contributions than have ever been raised by an Oregon candidate for Federal office in our history. So you cannot buy elections.

During my first election I had one conservative PAC director tell me that

during January of 1996 it was the best time he could remember in Washington because there were no liberals here. They were all in Oregon, beating the stuffings out of me. They said horrible things about me. I didn't like it. It wasn't fun. But you know what, I am standing here today defending their right to say it. But don't tie my hands and say I can't respond to it, because you, the people of this country, will then be the ones disserved by all of this.

So, if you really have concluded that we have too much political speech in this country, insist that this Chamber disenfranchise soft money and unions, and then you are talking about something. But before you do that, ask yourself the question, do we talk too much about politics in this country? Is it a bad thing that we are doing? I believe the answer to that is no. And if you want the proof of it, open up *Newsweek* or *Time* or *U.S. News & World Report* on any given day in any week and you will see the bodies of people in other countries in the gutters of their streets, because they have not learned how to fight with words and not with bullets.

So, let's be careful as we talk about amending the most important document that we have. Don't fall for the easy way out, that somehow we are not affecting speech. We are. I have seen it in Oregon and we will see it in this country if this passes in this form. So I stand today proudly, not to hide behind the first amendment but to defend it, and thank the leader for this time, and I urge my colleagues to vote against this amendment in its current form.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Kentucky.

Mr. McCONNELL. I thank the Senator from Oregon for his extremely valuable contribution to this debate. He understands this issue very well and has experienced both the heartbreak of defeat and the exhilaration of victory. I certainly share his view that we do not suffer from too little political discussion in this country. We ought to be encouraging more of it, not less. I thank the Senator from Oregon.

The PRESIDING OFFICER. Who yields time? The Senator from Kentucky.

Mr. McCONNELL. I yield 10 minutes to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. Thank you, Mr. President.

Let me start by recognizing the amount of work and effort that Senator McCONNELL, the Senator from Kentucky, has done on this issue. At a time early on, I can recall in this debate when it seemed like this thing may take off across America, and Senator McCONNELL, even in the face of his own tough reelection, stood firm and

led us, all of us in this body, on this issue. He is knowledgeable, to say the least, and has been a great leader not only leading us on this issue but, more important, leading the fight to protect and defend the first amendment to the Constitution of the United States.

I say with great respect for my friend—I know I embarrass him a little bit—this has been one of the major debates in this Congress since I have been here, with the possible exception perhaps of the Persian Gulf war in 1991, but this goes to the heart of the first amendment. And the Senator from Kentucky stood strong day after day, sometimes by himself, I remember, leading a filibuster. I remember being here at 5 o'clock in the morning, to the marching orders of my leader to be out here in a filibuster. The Senator was right, and history will prove that he was right. So there is a great debt of gratitude that I think—he may not realize it at the moment, but it will come his way.

I want to add a few remarks to the debate. Much has been said and there is not too much more to add. I was somewhat taken by some of the remarks of my colleagues on the other side about special interests. We hear a lot about that. I think you can pretty well come to the conclusion that if you don't like somebody's views, they are special interests. But if you do like their views, they are probably responsible policy advocates.

This is where the whole debate gets kinds of silly. There are a lot of people who have special interests. The Breast Cancer Institute is a special interest. Social Security recipients are special interests. But I don't get the impression that some of our folks over there would be labeling them special interests in the context of what has been defined.

There are many reasons why McCain-Feingold is the wrong approach, but I just want to focus on a couple and specifically title II.

Under title II of McCain-Feingold, it purports to draw a new bright line between issue ads and independent expenditures. As so many have said before, I had expenditures against me. I would have loved to have seen them off the air, but I had the opportunity to respond to them. As many have said before me, however close, I made it back because I did have the opportunity to respond, thanks to thousands of people who were there to help me with contributions so that I could respond.

Many citizen organizations have expressed strong opposition to these issue-advocacy provisions. The Christian Coalition, for example, in a letter dated January 28 of this year urged the Senate to defeat McCain-Feingold because "this legislation essentially requires that if a citizen or group plans to advocate a position or report on votes candidates have cast, they must operate a PAC and comply with all the regulatory burdens that go with it. More Government control over what is

said and how it is said is not what campaign finance reform should be about."

They are correct in that assessment. The National Right to Life Committee sent letters to Senators on February 17 of this year saying:

Title II of McCain-Feingold would radically expand the definition of the key legal terms expenditure, contribution and coordination, so as to effectively ban citizen groups from engaging in many constitutionally protected issue advocacy activities.

Let's you think I am singling out groups that may be more inclined to be Republican, we can also take a letter dated February 19 from the American Civil Liberties Union—certainly one of the leading organizations, I would say, not exactly ideologically with the right—they characterize title II as "a 2-month blackout on all radio and television advertising before primary and general elections."

The ACLU continues by noting:

Under McCain-Feingold, the only individuals and groups that will be able to characterize a candidate's record on radio and TV during the 60-day period would be the candidate, the PACs and the media.

That last point made by the ACLU is very interesting, Mr. President, because by limiting what issue groups can say during the 60 days before an election, McCain-Feingold would increase the power of the media, which may be the reason why they have been so silent in this debate.

We are picking and choosing what part of the first amendment we want to protect, and of all people, the media should understand that. I think they do understand it and they are being very silent. I was particularly taken by the Senator from California a few moments ago when she said more money by candidates who have access to more money is not fair. I think that is pretty much what she said. I think I characterized it correctly. It is not fair or it is not right to have people with more money or access to more money.

What about newspapers that have more money than other newspapers, is that fair? Should we restrict the *New York Times* and the *Washington Post* 60 days out so that they can be as fair as some small paper in Louisville, KY, or Wolfeboro, NH? Maybe we ought to even that out. There seems to be a lot of silence in regard to that. It is ironic that so much of the media supports these restrictions on free speech of political candidates and groups, and even more ironic is the silence. It is deafening.

I can just imagine the cry if the Government tried to restrict the freedom of the press or say how many words, as the Senator said this morning, that Dan Rather can speak. I hear him speak so much I get sick of it, but it is his right to speak, and I would certainly protect that right, as we are doing today with our votes on the Senate floor. I hope Mr. Rather is taking note that we are protecting his rights to speak. But I hope that they will speak to protect our rights and to protect the rights of others to participate

in the political process who don't have access to the national media to speak every day to the listeners. There are thousands of people out there, and they do it by contributing to a political campaign.

Beyond the very serious issues raised by the specific issue-advocacy provisions in title II of McCain-Feingold, I have a more general concern, and this is something, Mr. President, that I think has not really been stated firmly in this debate.

There is a premise, and I think it is an erroneous premise, and I say this to the Senator from Kentucky because I think this is something that may not have been brought out quite as much, that money is the corrupting factor here, that money in and of itself corrupts. I say to the Senator, does money corrupt when we do research for cancer? Does money corrupt when we give to charity and help millions of people? Does money corrupt when we ask for more money for education, indeed, higher education to allow kids to go to college, does that corrupt? I don't think so.

Let me say it in another way. If I am in a store or any American citizen is in a store somewhere, and as I am walking down the aisle looking for something to purchase, I see a wallet on the floor. I reach down and pick up the wallet and there is \$5,000 in the wallet and a name. I have two options: I can put the wallet in my pocket and walk out of the store, or I can take the wallet up to the counter and give it back to the clerk and say, "Somebody lost their wallet. Here is the name. There is \$5,000 in it and you can return it."

If you use the logic that money corrupts, everybody keeps the wallet. But everybody doesn't keep the wallet, and the majority of Americans don't keep the wallet. That is the issue here. If the shoe fits, wear it; if money corrupts you, maybe you shouldn't be here. I have never been asked for anything for the money. Nobody has ever asked me for a vote, and I wouldn't give it to them and I would be insulted if somebody thought I would, and if somebody thought I would then they ought not elect me and vote for me. That is how strongly I feel about it.

Fundamentally, McCain-Feingold is unconstitutional. That is the bottom line, as the Supreme Court said in Buckley versus Valeo, 9 to 0, liberals and conservatives on the Court.

We also hear a lot about how we give special access to those who give us money. It is never reported in any of the stories, but yes, sure, people give money and they might see me or Senator McCONNELL or Senator KEMPTHORNE or Senator FEINGOLD, sure. But how about the other people who we help get their Social Security checks, who we meet with every day or we speak to from this group or that group who we never ask for anything, they never give us anything; we just help them every day, day in and day out, hundreds of letters we answer, hun-

dreds of people we help in our constituent offices in our States. Nobody talks about them. Nobody asks them for money. They can't give money, in most cases. They just want good Government and some help. We don't hear about that. If you put it out there and balance it out, you find there is heck of a lot more people with access to us who don't have money than people who do.

Mr. McCONNELL. Will the Senator yield for an observation? I say to my friend, you know who has the most access to us is the press.

Mr. SMITH of New Hampshire. That is exactly right.

Mr. McCONNELL. The most access to us. I never heard of an editorial writer complain about access of the press. Have you heard that?

Mr. SMITH of New Hampshire. I have not. As I promised you I would speak on this at 2:15 today, it took me until 2:30 to get here because I had four minipress conferences coming over on a number of issues, from Iraq to this and a couple of other issues as well.

I, again, commend my leader and proudly, as the Senator from Oregon said a few moments ago, proudly support the first amendment. Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. Let me take a moment and thank the Senator from New Hampshire for his contribution to this debate. He has very skillfully presented the analogy. The wallet story, I think, is a very, very important addition to the debate and really says a lot about what this is all about. In fact, as the Senator from New Hampshire pointed out, if you are going to have much of an impact on the political dialog in a country of 270 million people, you have to be able to amplify your voice, you have to be able to project your voice to large numbers of citizens or your voice isn't very much.

Of course, as the Senator from New Hampshire pointed out, Dan Rather, Tom Brokaw and the rest certainly have more speech than we do. Nobody is suggesting that we rein them in. But there are many of us who think their speech is not very helpful, occasionally, to the political process. So I thank the Senator from New Hampshire for a very important speech.

Mr. SMITH of New Hampshire. If I can respond, on election night, Dan Rather called my election the other way, and he was wrong. I would not have minded restricting his speech that night, but I still support his right to say it and glad he was wrong.

Mr. McCONNELL. I thank the Senator for his answer. How much time remaining do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. McCONNELL. I reserve the remainder of my time.

Mr. FORD. Mr. President, once again, I rise to discuss an issue that in the recent past has generated lots of talk and not much action—campaign finance reform. But thanks to the hard work of

my colleagues—on both sides of the aisle—we are once again at the brink of doing something to address the many problems we have with our system for financing election campaigns.

Thanks to the tireless efforts of our colleagues, Senators MCCAIN and FEINGOLD, we now know that the question is not whether a bill will come to the floor, but whether we will pass the bill that they have brought us. Keeping that in mind, I want to speak a bit today on why I support the measure before us.

As an original co-sponsor of McCain-Feingold, I agree that what is necessary is a comprehensive overhaul of the way we conduct our campaign business. If we have learned anything from our experiences in the last few elections, it is that money has become *too important* in our campaigns. Mr. President, in the last election federal candidates and their allies spent over \$2 billion—\$2 billion—in support of their campaigns. The McCain-Feingold bill currently before us, I believe, is the sort of sweeping reform that we must pass if we are to restore public trust and return a measure of sanity to the way we finance elections.

Now each of us has his or her own perspective on what's wrong with the system. For me, Mr. President, it's the explosive cost of campaigning. When I announced in March 1997 that I would not seek reelection, I said: "Democracy as we know it will be lost if we continue to allow government to become one bought by the highest bidder, for the highest bidder. Candidates will simply become bit players and pawns in a campaign managed and manipulated by paid consultants and hired guns." The problem becomes clearer when you look at specifics. In my case, when I first was elected to the Senate, I spent less than \$450,000—actually, \$437,482—on my campaign. Back then, I thought that was a lot of money. If only I'd known. Mr. President, if I hadn't decided to retire, for next year's election I would have had to raise \$4.5 million. Now, I know all about inflation but that's not inflation—that's madness. What's worse, I understand that if we continue on this path, by the year 2025 it will cost \$145 million to run for a single Senate seat. Can any of us imagine what our country will look like when the only people who can afford public service are people who have—or can raise—tens of millions of dollars for their campaigns? I can't imagine such a future, Mr. President—and the time is now to make sure things never get that bad. McCain-Feingold won't cure everything that ails the current system, but I support it because it represents a real, meaningful first step toward restoring a sense of balance in our campaigns by ensuring that people and ideas—not money—are what matters. Specifically, I support McCain-Feingold because it deals with a series of disturbing issues that have grown in importance in recent years.



I also agree that a primary problem with the current system is the flood of "soft money." But when I speak of soft money, Mr. President, I want to make it clear that we are talking about more than just the fundraising of the national parties. True—in 1996, the parties raised over a quarter billion dollars in soft money, which they then used in various ways to support their candidates at every level of the ballot. That's a lot of money, but it's only a small part of the total so-called "soft money" picture. That's because soft money is any money that is not regulated by the Federal Election Campaign Act. That includes national party money, of course, but it also includes millions of dollars raised and spent by independent groups on so-called "issue ads." Thanks to the excellent work of our colleagues on the Government Affairs Committee, we now know that many of these so-called independent organizations, many claiming tax-exempt status, are established, operated, and financed by parties and candidates themselves—and their finances are totally unregulated. Therefore, McCain-Feingold is meaningful reform because it recognizes that the problem is not just "soft" money, it is "unregulated" money.

The McCain-Feingold bill is also valuable because it recognizes that closing the party soft money loophole is not enough. The bill also addresses the problem of so-called "issue advocacy" advertising. These so-called issue ads have developed as a new—and sometimes devious—way that unregulated money is issued to affect elections. Lawyers might call it "issue advocacy", but I'm not a lawyer so I call it what it really is, "handoff funding". "Handoff funding" is where a candidate "hands off" spending, usually on hard-hitting negative ads, to a supposedly neutral third party whose finances are completely unregulated and not disclosed. Now I know there are those who call these ads free speech. But this isn't free speech, it's paid speech. Of course we need to respect the Constitution, but we can't let people hide behind the Constitution for their own personal or partisan gain. McCain-Feingold draws this paid speech into the light where not the lawyers but the jury—the American people—can decide which issues and which candidates they will support.

Mr. President, I want to respond just a moment to the claim of many of my Republican colleagues that McCain-Feingold's issue advocacy reform somehow limits free speech. That simply is not true. When this bill passes, not one ad that ran in the last election—not one, not even the worst attack ad—will be illegal. What McCain-Feingold would do is say to those candidates and groups who have been using "handoff funding" to puff themselves up or tear down their opponents—all the while claiming that they were simply, quote, "advocating issues"—is that within 60 days of the election they must take

credit for their work, dirty or otherwise. The only people whose speech will be prevented by this law are people who are afraid to step into the light and be seen for who they are. That, Mr. President, is what I call reform—and I think the American people would agree.

Another critical issue addressed in McCain-Feingold—and this is one area, I think, where we all are in nearly unanimous agreement—is the question of disclosure. Currently there is too much campaign activity—contributions and spending—that is not disclosed to the public on a regular, timely basis. We must commit ourselves, as does McCain-Feingold, to providing the American people with timely and full disclosure to information about political spending, and the means by which they can access that information. Like many colleagues, I believe that the Internet and electronic filing is the way to make this happen; but I hope we will make it clear that *all* campaign finances—including third-party issue advocacy—are to be disclosed before we get too worried about how such disclosure would take place.

Mr. President, all these reforms will be meaningless unless we are willing to do right by the Federal Election Commission. If the FEC really is the toothless tiger that many people said it is, we must take at least some of the blame for removing its teeth. Any bill that makes changes to the campaign finance laws without restoring the FEC's funding and improving its ability to publicize, investigate, and punish violations cannot truly claim the title of "reform."

In conclusion, Mr. President, I know that we will not have an easy road to passage of campaign finance reform legislation. In this body there are a number of colleagues who are opposed to reform and aren't afraid to speak their minds about the quote, "danger," of reform. Mr. President, I can't blame them. If I had the advantage of millions of dollars from wealthy folks and millions more from corporations and special interests, I would think reform was dangerous, too, and I would have to think twice before supporting a bill that took away that advantage. Their opposition—whether in the public interest or their self-interest—means that the debate on this issue will get more than a few of us into a real lather. I'll take that challenge, Mr. President. Just because campaign finance reform will be difficult, and might require each party to give up things it cares about or simply has gotten used to, is no reason not to pass McCain-Feingold, and soon.

All we need to do is to roll up our sleeves and remember the wisdom of that great Kentuckian Henry Clay, who called compromise "mutual sacrifice." Our way is clear, if not easy, but I have confidence that we will do what is right to restore public confidence in the way we fund our campaigns. I look forward to the con-

tinuing debate, and to demonstrate to the American people that we are serious about cleaning up the system by voting for comprehensive campaign finance reform.

Mr. KOHL. Mr. President, I rise today to voice my support for the McCain-Feingold campaign finance reform bill. This debate is one of the most important that the Senate will conduct in this session of Congress, and I desperately hope it will result in passage of meaningful campaign finance reform.

We are beginning another mid-term election year, and the American public is again bracing for the barrage of money, special interest TV ads, and rhetorical hyperbole that accompany modern campaigns. There is near universal belief in this nation that Congress should do something about our campaign finance laws. We hold weeks of hearings on abuses in recent elections; we document loophole after loophole in the fabric of our laws whereby special interest influence campaigns to the detriment of our national interests; and we see meaningful, genuine reform proposals twisted and maligned by those same groups who are terrified at their potential loss of power.

This is an old-fashioned debate in Washington, because it's about who has the power and how that power will be used. The McCain-Feingold bill seeks to diffuse that power; to level the playing field a little bit in federal campaigns and reduce the amount of special interest money in elections. Senators MCCAIN and FEINGOLD have developed a genuine compromise plan. It is not exactly as I would have drafted—or any of us, if we had that chance. It is, however, the best chance we have to repair the broken campaign finance system.

The modified version of the bill addresses one of the fundamental problems in the system—soft money contributions. By banning these huge sums from federal campaigns, we correct many of the problems which were exposed last year in hearings before the Senate Government Affairs Committee.

The bill also tries to deal with the growing and disturbing impact of independent expenditures. I believe the sponsors of the bill have achieved a delicate balance in this area—curtailing the use of this practice, while still conforming to constitutional boundaries.

Mr. President, there is an extraordinary need for reform of our election laws. Despite the apparent problems—problems that have gotten worse with every election—Congress has not passed reform. Our failure to act has contributed to a loss of confidence, not only in our electoral system, but in our democracy.

The American public has lost faith in government and its institutions. Americans feel they don't control government because they believe they don't control elections.

If you ask people who runs Washington, most will say "special interests." People watch state officials, Members of Congress, and presidential candidates chase money, and believe that's the only way to get your voice heard in Washington. They see televised campaign finance hearings, allegations of trading contributions for access, and they think, "how could my voice be heard over all that cash."

Certainly, Congress is not alone to blame for the current system. Voters themselves share some responsibility. People routinely decry the use of negative political ads, yet continually respond to the content of those ads. The media, especially television stations and networks, have failed to adequately inform the public of important policy questions. Instead of covering significant issues, broadcasters often fall back on covering the "horserace" aspect of the campaign, or "sideshow" disagreements among candidates.

But the ultimate responsibility rests in this chamber, with Congress. For more than 30 years the growing crisis has been ignored. Year after year, speeches are given, bills are introduced, but no action is taken.

We now have a rare opportunity, with public attention focused on this debate and this bill, to pass real campaign finance reform.

Mr. President, we have never had a time in our nation's history when such a pervasive problem went unanswered by the Congress. America has met challenges such as this before, and adopted policies which strengthened our democracy. We have that opportunity with the bill before us.

The McCain-Feingold bill will help restore the American public's faith in this institution and in all the institutions of government.

As some of my colleagues know, Senator BROWNBACK and I have introduced legislation to establish an independent commission to reform our campaign finance laws. This commission would be similar to the Base Closure Commission, which proposed a series of recommendations to Congress for an up-or-down vote of approval.

But I do not believe that we should take such an approach at this time. It would be much better if Congress acted on its own, without the help of an outside body, to reform our election laws. It would demonstrate to the American public that Congress is serious about changing the way our democracy functions.

Mr. President, before I conclude, I just want to take a moment to once again commend my colleague from Wisconsin, Senator FEINGOLD. Last year, when we debated this bill, I said that Senator FEINGOLD truly follows in the tradition of the great progressive movement in Wisconsin. That's more even true today than it was last year. I'm proud to serve with him, and I urge my colleagues to support our efforts to pass this vital legislation.

Mr. FAIRCLOTH. Mr. President, I believe we need campaign finance reform,

but the McCain-Feingold amendment is not the right approach at this time. I will say that I am disappointed that many of the people advocating reform are defending people who couldn't live under the laws we already have. Perhaps the best reform that we can make immediately would be for candidates to live within the laws we have now. Clearly this Administration did not do this in 1996.

I am disturbed by two provisions. First, the naked attempt to muzzle the free speech of citizens who want to advocate on behalf of a candidate. This "reform" would limit the free speech of all American citizens. I hardly see that as being "reform." We put too many limits on our citizens now, we cannot restrict their right to participate in the political process.

Second, this bill does nothing to stop the loophole that unions have exploited for years to advocate their political positions. It does nothing to stop the practice of labor unions taking the dues from hard working citizens and spending millions of dollars on ads to defeat candidates. Why is it that the people who advocate reform will not permit union members to keep their well-earned money and spend it as they wish? Why do they oppose a separate, voluntary means for using the dues of union members? Regrettably, the answer is that the so-called reform advocates want to keep the liberal ads coming in waves, and cut off the political speech of others. I cannot support that under any circumstances.

And what happens when we make reforms? Look at the results of the 1974 law. The reforms limited personal contributions from individuals, yet it spawned PAC's and soft money. On public financing, the taxpayers were to pay for the campaigns of those running for President—so that they would be beyond reproach. Yet by 1996, the President and the Vice President spent untold hours raising soft money by the millions. From appearing at Buddhist Temples to renting out the Lincoln Bedroom, to making phone calls from the Oval Office, the 1974 reforms became a mockery at the hands of this Administration. For them to be calling for campaign finance reform is like a horse thief galloping down the street warning citizens to lock their barns. It simply doesn't pass the straight face test.

III conceived, reforms can make the system worse and that is why I cannot support McCain-Feingold. If we want real reforms, we will do the following: limit soft money; equalize PAC and individual contribution at \$2500; speed disclosure to the public; tighten the ban on contributions by non-citizens; and, stop the abuses by unions taking dues for political purposes. Finally, we should pass the ultimate reform: term limits.

These kinds of reforms would improve the system, empower the individual, stop some of the most flagrant abuses taking place now and expand

more opportunities for citizen legislators to serve. This is the kind of approach we need.

Mr. KERREY. Mr. President, I rise today in support of the McCain-Feingold bill, which will provide this country with much needed campaign finance reform.

The Constitution lays out the requirements for someone wanting to run for office. In order to run for Senate, the Constitution tells us that there are 3 requirements: First, you need to be a U.S. Citizen for 9 years. Second, you need to be at least 30 years old. Third, you need to live in the state whose office you're running for.

Three simple requirements, right? Wrong.

What the Constitution doesn't tell you is that there is a fourth requirement. You must have an awful lot of money, or at least know how to raise a lot of money.

The Constitution doesn't tell you this because when the framers sat down to draft the Constitution, they could not possibly have imagined the ridiculously large amounts of time and money one must spend today if a person wants to be elected to office.

For example, if you want to run for Senate in my home state of Nebraska, population 1.6 million, it will cost you several million dollars. This means that candidates must raise over \$10,000 every week for 6 years to cover the cost of the average Senate campaign.

We need to stop using partisan procedural stalling tactics and get serious about fixing our campaign financing laws. We need to change the law to give power back to working families, restore their faith in the process, and make democracy work again. That's why I rise in support of the bipartisan bill offered by Senators MCCAIN and FEINGOLD.

This bill would be a strong first step toward making democracy work. It seeks to solve the problem of soft money (money raised in an election, but is outside of federal campaign finance rules), not just with the political parties, but with the special interest groups who run attack ads, who are completely unregulated by the system, and whose contributors are undisclosed. It would require better disclosure, and give more power to the F.E.C. It would create incentives to keep wealthy individuals from trying to buy a Senate seat.

This is not a perfect bill, especially in the stripped-down form in which it has ultimately reached the floor. I feel that it could be improved in ways which would make it easier for average Americans to run, win and serve, and which would make incumbent senators a lot less comfortable. I feel especially strong about the need to toughen our system of election law enforcement, so that the politicians who break the law end up paying the price.

But my colleagues and I can't make an effort to improve this bill if the

other party continues with their stalling tactics and prevent us from debating it.

Mr. President, Americans are frustrated. It is time to get serious about this debate. I know it, you know it, and the American people want it.

As I've said before, in a Harris Poll last March, 83 percent of Americans said they thought that special interest groups had more power than the voters. Seventy-six percent said that Congress is largely owned by special interest groups.

Our lack of action on this issue reinforces the view that Americans have of their Government.

The American people are frustrated by our delay. They are frustrated with the political process that appears to respond to those with economic power and which, all too often, ignores the needs of working men and women.

They are frustrated with the rising cost of campaigns, with a political system which closes the door to people of average means who also want to serve their country in the U.S. Congress.

They are frustrated with the millions of dollars they see go into our campaigns. They are frustrated with our tendency to talk instead of act.

Mr. President, it is time for us to show the American people, not with words but with action. With a single vote today, Senators can act to allow this issue to move front and center on the political stage. With this bipartisan bill, we can show the American people that we mean what we say when we talk.

Last week in the Omaha World Herald, there was an op-ed piece written by Deanna Frisk, the President of Nebraska's League of Women Voters. In laying out her reasons why all Americans would benefit from fixing our campaign finance laws, Ms. Frisk said:

Campaign finance reform is about creating the kind of democracy we want to have: a democracy where citizens come first, a democracy that is open to new faces, a democracy that can respond with fresh ideas to the problems confronting our country.

Mr. President, I couldn't agree more. As members of the Senate, we are in a unique position to make our government work better for the American people.

Let's give every 30 year old, U.S. Citizen who wants to serve his state as a Member of the Senate a fighting chance. Let's get rid of that unofficial requirement that says don't bother running for office if you don't have lots of time and money to invest. Let's make the wealthy candidate who can afford to dump loads of his own money into a campaign the exception, not the norm like it is today.

Let's give the American people what they want. Let's end this partisan bickering and pass the McCain-Feingold bill.

Mr. BAUCUS. Mr. President, I rise in support of the important campaign finance reform legislation that is before us today.

Today very wealthy special interest groups can pump unlimited amounts of money into a political campaign. In fact, one individual or group can attempt to buy an election. After this bill passes, that will not longer be true. This is the one reform that will do the most to give an ordinary person an equal say in who they send to Congress.

I support this legislation because I believe it represents the right kind of change. While not a perfect solution, it will help put our political process back where it belongs: with the people. And it will take power away from the wealthy special interests that all too often call the shots in our political system.

Let's be clear of our goal today: we must ensure that political campaigns are a contest of ideas, not a contest of money. We need to return elections to the citizens of states like Montana and allow them to make their own decisions, rather than letting rich Washington, DC groups run attack campaigns designed to do nothing but drag down a candidate.

Yet, ironically, by failing to act; by failing to pass this legislation; we will also be opening the door to change—the wrong kind of change. Our political system will continue to drift in the dangerous direction of special interests.

Since the 1970s, when Congress last enacted campaign finance reform, special interest groups supporting both political parties have found creative new ways, some of questionable legality, to get around the intent of our campaign finance laws. Things like soft money, independent expenditures, and political action committees all came about as a consequence of well-intended campaign finance reforms.

#### MONTANANS WANT REFORM

During my last campaign, I walked across Montana—over 800 miles across the Big Sky State. One of the benefits to walking across Montana, in addition to the beautiful scenery, is that I hear what real people in Montana think. Average folks who don't get paid to fly to Washington and tell elected officials what they think. Folks who work hard, play by the rules, and are still struggling to get by.

People are becoming more and more cynical about government. Over and over, people tell me they think that Congress cares more about "fat cat special interests in Washington" than the concerns of middle class families like theirs. Or they tell me that they think the political system is corrupt.

#### EFFECT ON WORKING MONTANANS

Middle-class families are working longer and harder for less. They have seen jobs go overseas. Health care expenses rise. The possibility of a college education for their kids diminished. Their hope for a secure retirement evaporate.

Today, many believe that to make the American Dream a reality, you have to be born rich or win the lottery. Part of restoring that dream is restoring

confidence that the political system works on their behalf, not just on behalf of wealthy special interests.

Now it is time for use to take a real step to win-back the public trust—it is time for us to pass a tough, fair, and comprehensive Campaign Finance Reform bill. That bill must accomplish three things.

First, it must be strong enough to encourage the majority if not all candidates for federal office to participate.

Second, it must contain the spiraling cost of campaign spending in this country. Finally, and most importantly, it must control the increasing flow of undisclosed and unreported "soft-money" that is polluting our electoral system.

#### REFORM MUST REDUCE COSTS OF CAMPAIGNS

Under the current campaign system, the average cost of running for a Senate seat in this country is \$4 million. I had to raise a little more than that during my 1996 race. That is an average of almost \$2000 a day.

When a candidate is faced with the daunting task of raising \$12,000 a week—every week—for six years to meet the cost of an average campaign, qualified people are driven away from the process. If we allow ideas to take a back seat to a candidate's ability to raise money—surely our democracy is in danger.

The numbers are proof enough. As campaign costs have risen, voter turnout has drastically fallen. Think about that. People are spending more and more, while fewer people are voting. Since 1992, money spent on campaigns has risen by \$700 million dollars. In the same time period, turnout has dropped from 55% to an all time low of 48%.

Mr. President, less than half the country now votes in elections. What does this say about our political system? It says, quite simply, that people no longer believe that their vote counts, that they can make a difference. They believe that big corporations and million dollar PACs have more of a say in government than the average citizen. That perception is the most dangerous threat facing our country today.

Let me be clear—my first choice would simply be to control campaign costs by enacting campaign spending limits. However, the Supreme Court, in *Buckley v. Valeo*, made what I believe was a critical mistake.

They equated money with free speech—preventing Congress from setting reasonable state-by-state spending limits that everyone would have to abide by.

#### WHAT'S RIGHT WITH THE BILL

While I must admit this bill is not perfect, it will take several crucial actions to reign in campaign spending. First, this is the first bi-partisan approach to campaign finance reform in more than a decade.

Second, the bill establishes a system that does not rely on taxpayers dollars to work effectively.

The McCain-Feingold substitute would prohibit all soft money contributions to the national political parties

from corporations, labor unions, and wealthy individuals.

The bill offers real, workable enforcement and accountability standards. Like lowering the reporting threshold for campaign contributions from \$200 to \$50. It increases penalties for knowing and willful violations of FEC law. And the bill requires political advertisements to carry a disclaimer, identifying who is responsible for the content of the campaign ad.

Every election year, in addition to the millions of dollars in disclosed contributions, there are the hundreds of millions in unreported, undisclosed contributions spent by "independent expenditure" campaigns and "issue advocacy" advertisements. These ads are funded by soft-money contributions to national political parties.

Out-of-state special interest groups can spend any amount of money they choose, none of which is disclosed, all in the name of "educating" voters—when in fact their only purpose is to influence the outcome of an election. More times than not, the see-sawing 30 second bites do more to confuse than to educate.

This lack of accountability is dangerous to our democracy. These independent expenditure campaigns can say whatever they wish for or against a candidate, and there is little that candidates can do—short of spending an equal or greater amount of money to refute what are often gross distortions and character assassinations.

To close, Mr. President, America needs and wants campaign finance reform. The Senate should pass comprehensive legislation right now. That legislation should accomplish one clear goal: we must ensure that political campaigns are a contest of ideas, not a contest of money.

An oft-quoted American put it this way: "Politics has got so expensive that it takes lots of money to even get beat with." That statement wasn't made this year or last year, or even during our political lifetimes. Will Rogers said that in 1931. He was right then, and he's even more right today.

I remain committed to this cause and will do everything in my power to ensure that the Congress passes meaningful Campaign Finance Reform, this year.

Mr. WYDEN. Mr. President, the American political system is profoundly broken. I experienced this in my recent campaign for this office, which was why I made it my first official act, fifteen minutes after being sworn in to the Senate, to cosponsor the McCain-Feingold bill.

We have all seen the phenomenon, in our own campaigns and in others, where they hold the election on Tuesday, you sleep in on Wednesday, and by Thursday afternoon it has started all over again. There is no interval in which to focus exclusively on the public's business.

I don't think that anyone in this body likes that situation. I have never

heard a group of Senators talking among themselves about how wonderful the seemingly permanent campaign is. Well today we have a chance to do something about it. The McCain-Feingold bill won't fix everything, but it will be the most significant step in the right direction in a long, long time.

This bill also takes on one of the greatest threats that has developed in recent years to the quality of our nation's public dialogue, the recent rash of so-called "independent expenditure campaigns."

Political campaigns ought to be an opportunity for people who want to serve in public office to not only explain themselves, but to listen and learn. I have tried when running for office to spend as much time as possible listening to what the people I meet at shopping centers and bus stops and ice cream socials have to say. I want to hear what they think and I want to talk to them in a serious way about the fights that I want to wage on their behalf, the issues that I feel passionately about, and the direction I think our country ought to be headed.

But in the past few years, new tactics have been developed by a variety of groups on both the left and the right who seek to insert themselves in between candidates and the public they seek to serve. In these races, the candidates at times become mere pawns in some larger battle for influence.

In the race that my colleague from Oregon and I ran against each other, there were ads that were run that were probably meant to help me, and ads that were run that were meant to hurt me. I think that Senator SMITH and I would both agree that we both would have preferred if all of these ads had never been aired. The McCain-Feingold bill is the best solution available at this time to clean up the excess of these independent expenditures.

Democracy is a precious and fragile gift that has been left to us by previous generations, Mr. President. I don't expect that the republic will collapse tomorrow if we fail to pass this bill, but make no mistake about it, the steady erosion of the public's confidence in their leaders is a dangerous trend. We can make a real beginning today. The American people want this system fixed, and they have a right to expect that it will be. Let's not disappoint them again.

The PRESIDING OFFICER. Who yields time?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I yield myself such time as I require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FEINGOLD. Mr. President, conversations today have been including the notion that the American people don't care about campaign finance reform, and occasionally people do ask why is it important to reform our system of financing campaigns. I think it

is pretty clear that people do care about this issue. Just talk to them about it. Trying to get it to show up on a poll is one thing, but if you talk to them, you will find a different story.

That is particularly true when Americans are told the facts or learn the facts about our current system that it actually affects average Americans who may not even care a great deal about being involved in the political process.

I heard today on the floor a number of opponents of our bill assert this issue has no impact on the average citizen. Although I recognize many Americans do not think this issue is the No. 1 issue in America, Americans do care about this issue because it does affect their daily lives in real ways.

Why should Americans care about campaign finance reform? One very good reason to care is that as consumers, they are affected. We all pay for the current system of campaign financing through higher prices, higher prices in the pharmacy, in the supermarket, on our cable bills, when we fill our cars with gas and in many other ways.

Mr. President, in support of this, I have two items I would like to have printed in the RECORD which explain that our current system of financing political campaigns has a very real and direct effect on consumers and provides further support for the need to pass meaningful campaign finance reform.

Today, Common Cause released a report entitled "Pocketbook Politics." Common Cause reveals how special interest money hurts the American consumer. This report examines the campaign contributions of special interest groups which have benefited from Federal programs and policies that have had a costly effect on American consumers.

Mr. President, I ask unanimous consent to have printed in the RECORD the executive summary from this new Common Cause report, "Pocketbook Politics."

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From the Common Cause Follow the Dollar Report, February 1998]

#### POCKETBOOK POLITICS: HOW SPECIAL-INTEREST MONEY HURTS THE AMERICAN CONSUMER

In 1996 and 1997, powerful special interests—with the help of generous campaign contributions—won victories in Washington that resulted in higher prices in our day-to-day lives and have taken a substantial bite out of the pocketbooks of typical American families.

Special-interest victories in just six areas denied the American public access to cheaper, generic versions of many popular brand-name drugs; halted improvements in the fuel efficiency of their minivans and cars; pushed up their cable bills; made them pay more to make a call from a pay phone; and kept the prices of peanuts and sugar artificially high.

Since 1991, the special interests represented in just these six examples gave more than \$61.3 million in political contributions, including \$24.6 million in unlimited soft money donations to the political parties.

The policies these special interests supported not only harm consumers, they often hurt the environment as well. Environmentalists charge that the peanut price-support program whose benefits go to large peanut producers and a small number of landowners, has encouraged farming practices that exhaust the land and result in an increased use of agricultural pesticides. Sugar policies encouraged the growth of sugar plantations near the environmentally sensitive Florida Everglades. A stalemate on fuel efficiency standards increased air pollution and aggravated global warming.

"Our report documents six government programs and policies and their costly effect on the American family," Common Cause President Ann McBride said. "But what we show is just a drop in the bucket. These examples don't begin to explore all the agendas of all special-interest political contributors, their victories on Capitol Hill and at the White House, and their overall impact on the American public."

"But it's clear that a campaign finance system that rewards deep pocket corporations and wealthy individuals directly affects all Americans, robbing them of their hard-earned dollars and threatening to degrade the earth's environment—our legacy to our children. In the insider's game that determines public policy in Washington, special interests and politicians hit the jackpot. But too much of that jackpot comes out of the pocketbook of the American consumer."

#### POCKETBOOK POLITICS: EXECUTIVE SUMMARY

In 1996 and 1997, powerful special interests—with the help of generous campaign contributions—won victories in Washington that resulted in higher prices in our day-to-day lives and have taken a substantial bite out of the pocketbooks of typical American families. This study examines just a handful of examples where special interests won victories at the expense of the American consumer.

**Bad Medicine:** Since 1991, the companies belonging to the Pharmaceutical Research and Manufacturers of America (PhRMA), the trade group for brand-name drug makers, have given more than \$18.6 million in political contributions, including \$8.4 million in soft money donations to the political parties. With the help of that influence, brand-name drug companies have kept their bottom lines healthy by successfully convincing Congress to let them hold on to their drug patents longer. Loss of access to generic drugs costs consumers, as much as \$550 million a year.

**Car Fare:** The American auto, iron, and steel industries gave \$5.7 million in political contributions since 1991, including more than \$1.7 million in soft money donations to the political parties. For the past three years, Congress has voted for a freeze on Corporate Average Fuel Economy (CAFE) standards, thereby sparing these special interests the burden of making cars and trucks more fuel efficient, which they fear might eat into their bottom lines. Supporters of higher CAFE standards claim that it is possible to produce safe, fuel-efficient cars that can save consumers money at the gas pump. Being deprived of this fuel efficiency costs consumers about \$59 billion annually.

**Party Lines:** Together cable and local phone companies have given \$22.8 million in political contributions since 1991, including \$8.7 million in soft money donations to the political parties. The groundbreaking Telecommunications Act of 1996, which was supposed to make the industries more competitive and responsive to consumer needs, has actually worked to shrink competition. The resulting jump in cable TV bills and pay phone rates costs consumers about \$2.8 billion annually.

The \$1 Billion PB&J Sandwich: Together peanut and sugar interests have given \$14.2 million in political contributions since 1991, including \$5.7 million in soft money donations to the political parties. In 1996, they fought to ensure that a historic overhaul of domestic farm policy left their programs virtually untouched. They also rebuffed congressional proposals in 1997 to phase out or eliminate their programs. These legislative victories have upped the price of peanuts and sugar substantially, costing consumers about \$1.6 billion annually.

**Mr. FEINGOLD.** Also, Money magazine published an article in December making much the same point, with additional examples of how consumers have been hurt by decisions made by this Congress under the influence of campaign donations from affected industries.

Our decisions on everything from the airline tax to sugar subsidies to securities laws reform to electricity deregulation are potentially compromised by the money chase. Anyone who cares about public confidence in this institution should be concerned about these examples of industries and individuals with a great economic stake in our deliberations being able to and actually, in fact, making large and strategically focused campaign contributions.

I ask unanimous consent to have printed in the RECORD an excerpt from the Money magazine article entitled "Look Who's Cashing in on Congress."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Money Magazine, December 1997]

LOOK WHO'S CASHING IN ON CONGRESS; TALES FROM THE MONEY TRAIL: HERE ARE SOME OF THE REASONS YOU'LL PAY NEARLY \$1,600 THIS YEAR FOR LEGISLATION THAT BENEFITS CORPORATIONS AND THE WEALTHY.

(By Ann Reilly Dowd)

Ordinary Americans are prohibited from climbing Mount Rushmore, where the faces of four great Presidents are carved in granite. But this September, just before the Senate began debating campaign finance reform, Senate Minority Leader Tom Daschle (D-S.D.) led a group of supporters, including 21 representatives of industries as diverse as airlines, financial services, telecommunications and tobacco, up the mountain that's been called the "Shrine of Democracy." Taking Washington's traditional brie-and-Chablis fund raiser to unusual heights, Daschle pulled in \$105,000 for his re-election campaign and for his party during that weekend trip to his state's Black Hills. In return, the contributors not only got to perch at the top of a monument off limits to most mortals, but they also won access to the second most powerful politician in the Senate, a man who wields enormous influence over their industries' futures and their own fortunes.

That cash-driven coziness was not exactly what our forefathers had in mind when they spoke of a government of, by and for the people. Increasingly, however, the soaring cost of congressional races, weak campaign finance laws and potentially fat returns on contributors' donations have conspired to give big-spending corporations and wealthy individuals unprecedented access to Washington lawmakers, putting the givers in a prime position to influence the laws the politicians make. "The founding fathers must be spinning in their graves," says Sen. John McCain (R-Ariz.), co-sponsor with Sen. Rus-

sell Feingold (D-Wis.) of the leading campaign finance reform bill.

Yet after weeks of high-profile hearings on presidential campaign finance abuses before a panel chaired by Sen. Fred Thompson (R-Tenn.) and heated debate on the Senate floor, the nation's legislators remain deadlocked over whether to fix the system—let alone how to do so. Worse, public interest in the subject is practically nil. For example, a recent poll found only 8% of Americans have been paying close attention to news about the Democrats' 1996 fund raising.

So why should you care about the way both parties finance their congressional campaigns? Because the subject isn't only about politics, it's about your money. Here are two examples of this year's tab:

U.S. taxpayers will pay \$47.7 billion for corporate tax breaks and subsidies. That's the conclusion of an exhaustive study by economist Robert Shapiro, vice president of the Progressive Policy Institute, a Washington think tank affiliated with the moderate Democratic Leadership Council. The total cost to the average American household in 1997: \$483.

Import quotas for sugar, textiles and other goods will raise consumer prices \$110 billion, according to economist Gary Hufbauer of the nonprofit Council on Foreign Relations. Total cost per household: \$1,114.

All of this comes amid rising public cynicism and apathy about politics. In a recent poll by the Center for Responsive Politics, a nonpartisan group that studies how money influences politics, nearly four in five Americans said major contributors from outside U.S. representatives' districts have more access to the lawmakers than their constituents do. Also, about half of those polled believe that money has "a lot of influence on policies and legislation." Says Ann McBride, president of Common Cause, a political watchdog group: "It's no accident that last year's extraordinarily low voter turnout coincided with the highest-priced election in history."

During the 1995-96 election cycle, the Federal Election Commission (FEC) reports, candidates running for the House and Senate raised \$791 million, 68% more than a decade earlier. Of the total, a quarter, or \$201 million, came from political action committees (PACs) run by corporations, labor unions and other interest groups. Of the \$444 million from individuals, only 36%, or \$158 million, was given in amounts of less than \$200.

Even more startling, the political parties collected an additional \$264 million in so-called soft money in 1995-96, triple the amount they raised during the last presidential election campaign. While the law limits so-called hard-money contributions to candidates to \$1,000 per election from individuals and \$5,000 from PACs, there are no caps on soft money, which flows from corporations, unions and individuals in huge chunks. For example, according to Common Cause, in the last election cycle tobacco giant Philip Morris and its executives gave \$2.5 million in soft money to the G.O.P., while the Communications Workers of America contributed \$1.1 million to the Democratic Party. The FEC says soft money is supposed to be spent on "party building." But much of the cash finds its way into congressional and presidential races. Says McBride: "Soft money is clearly the most corrupting money in politics today."

Indeed, campaigning has mostly turned into a money chase. Last year, winning a Senate seat cost an average of \$4.7 million, up 53% since 1986. Snagging a House seat ran \$673,739, up 89%. Some veteran senators, including Paul Simon (D-Ill.) and Bill Bradley (D-N.J.), have cited their distaste for endlessly dialing for dollars as one reason they

dropped out of politics. As for the current Capitol gang, says Charles Lewis, president of the Center for Public Integrity, a non-partisan research group: "It's a misimpression to think all new members are innocents. Either they are millionaires or they are willing to sell their souls, or at least lease them, before they even set foot in Washington."

Of course, lawmakers often take positions out of principle. Other times, constituent or broader public interests dictate their votes. But the question remains: What role does money play in shaping legislation?

MONEY has found five instances where big money and bad bills collided, resulting in legislation that has—or may soon—cost tax-paying consumers like you dearly. (For more examples, see the table on page 132). We'll tell the tales and let you judge whether it's time for campaign finance reform.

#### FEAR OF FLYING

Why you may pay more for air travel: Early this year, Herb Kelleher, the tough-talking chief executive of Southwest Airlines, dropped to his knees in the office of U.S. Rep. Charles Rangel of New York City, the top Democrat on the powerful House Ways and Means Committee. "If you'll support the little guy against this measure," begged Kelleher, referring to a proposed new flight tax that would hurt discount carriers like his, "I'll give up Wild Turkey and cigarettes."

Though only half in jest, Kelleher's theatrics weren't enough to overcome the clout of the Big Seven airlines—American, Continental, Delta, Northwest, TWA, United and US Airways—who stood to gain from the new tax. The Center for Responsive Politics estimates that during the 1995-96 election period, the Big Seven contributed \$2.5 million in PAC money to candidates and soft money to both parties, almost three times what the airlines had given during the last election cycle. Among their biggest recipients was House Speaker Newt Gingrich of Georgia, where Delta is based, who took in \$12,000 for his congressional campaign. Then in the first six months of this year, while Congress was debating the airline-tax bill, the big carriers kicked in another \$640,000, including \$6,000 more to the Speaker. By contrast, Texas-based Southwest and its small airline allies have contributed nothing to Gingrich and only \$95,000 to congressional campaigns and the parties since 1995.

After a bruising Capitol Hill battle, the major carriers emerged with much of what they wanted, tucked into the 1997 tax act: a gradual reduction in the airline ticket tax from 10% to 7.5% plus a new \$1 levy, rising to \$3 in 2002, on each leg of a flight between takeoff and final landing. Many passengers who fly on regional carriers and discounters like Southwest emerged as losers, since those airlines tend to make more stops. For example, after the ticket-tax reduction and new segment fee are fully phased in, a family of four that flies on Southwest for \$225 per person from Houston to Disney World, with a stop in New Orleans, will pay \$25.50 in additional taxes.

For that, opponents say, the family can thank Gingrich, who broke a deadlock in the Ways and Means Committee over two warring proposals. One, backed by Southwest and Republican Jennifer Dunn of Washington, would have preserved the flat 10% ticket tax. The other, supported by the Big Seven and sponsored by Republican Michael ("Mac") Collins of Georgia, reduced the tax and imposed a segment fee.

"Let's settle this like adults and compromise in [the House-Senate] conference," Gingrich told Dunn, who agreed to shelve her proposal. The Senate sided with Southwest.

But a House provision favorable to the big airlines won in the closed door negotiations between Senate Majority Leader Trent Lott (R-Miss.) and Gingrich. Says a congressional aide whose boss backed Southwest: "We left it to Trent and Newt, and Newt fought harder." Campaign money was not a factor, insists the Speaker's press secretary, Christina Martin. Instead, she says, Gingrich was guided "by his experience, his vision and the will of his constituents and the Republican conference."

#### DANCE OF THE SUGARPLUM BARONS

Why you pay 25% too much for sugar: The next time you buy a bag of sugar, consider this: You are paying 40[cents] a pound, 10[cents] more than you should, because a handful of generous U.S. sugar magnates have managed to preserve their sweet deals for 16 years. Says Rep. Dan Miller (R-Fla.), who led the bitter losing battle last year to dismantle the program of import quotas and guaranteed loans that props up domestic sugar prices, costing U.S. consumers \$1.4 billion a year: "This is the poster child for why we need campaign finance reform."

The sultans of sugar are Alfonso ("Alfy") and Jose ("Pepe") Fanjul, Cuban emigre brothers whose Flo-Sun company, with headquarters in South Florida, produces much of the sugarcane in the U.S. The Fanjuls sprinkle more money over Washington than any other U.S. sugar grower. According to the Center for Responsive Politics, during the 1995-96 election cycle, when the sugar program was up for another five-year reauthorization, the Fanjul family, the companies they own and their employees gave \$709,000 to federal election campaigns. Alfy served on President Clinton's Florida fund-raising operation, while Pepe co-chaired Republican presidential nominee Bob Dole's campaign finance committee. Overall during the past election cycle, the Center reports, U.S. sugar producers poured \$2.7 million into federal campaign coffers, nearly 60% more than the \$1.7 million given by industrial sugar users, including candy and cereal companies, who oppose price supports.

The sugar industry's investment appears to have paid off handsomely. At first, two conservative firebrands, Rep. Dan Miller (R-Fla.) and Sen. Judd Gregg (R-N.H.), seemed to have enough votes to kill the price-support program. In the Senate, however, then-Majority Leader Dole, determined that nothing would hold up the 1996 farm bill, took a machete to amendments that threatened to topple it, including Gregg's, which died by 61 votes to 35.

In the House, the sugar program was saved after six original co-sponsors of the Miller amendment switched sides, killing it by 217 votes to 208. One defector, Texas Republican Steve Stockman, who was locked in a tight re-election race that he ultimately lost, received \$7,500 in sugar contributions during 1995 and '96, including \$1,000 on the day of the vote. Stockman did not return Money's phone calls. Another voting for big sugar, Robert Torricelli (D-N.J.), now a U.S. senator, received \$19,000 from sugar producers. New Jersey grows no sugar, but it is home to 870,000 Cuban Americans, whose votes Torricelli wanted for his Senate campaign. On the House floor, he argued that eliminating the program would drive up world prices, hurting domestic growers and helping foreign producers like Cuba. Said Torricelli: "We will lose the jobs and the money, and Fidel Castro's Cuba will reap the benefits."

#### WASHINGTON POWER PLAY

How politically charged utilities are short-circuiting federal deregulation efforts that could cut your electric bill: If you could shop

around for power instead of buying it from a single local utility, you could cut as much as 24% off your monthly electric bill, according to the Department of Energy. For a family whose monthly electric bills average \$100, that would mean yearly savings of \$288, nearly three months of free power. But while states from California to New Hampshire are moving to increase competition among utilities, two deep-pocketed and determined adversaries have thus far stymied federal deregulation efforts.

Those fighting for rapid deregulation include large commercial electricity users, such as Anheuser-Busch, General Motors, Texaco and major retailers, as well as low-cost power producers and marketers like Houston's Enron. The Center for Responsive Politics estimates that during the 1995-96 election cycle, as Congress began considering deregulation, the major commercial power users contributed \$7.8 million to congressional candidates and the parties, while Enron and its employees gave another \$1.2 million.

On the other side of the power war are old-line, monopolistic utilities led by the Edison Electric Institute (EEI), their major Washington lobby. Their big fear: that so-called stranded costs for investments in nuclear power plants and other projects they pass on to consumers in the rates they pay will make it difficult to compete with low-cost energy producers under deregulation. During the 1995-96 election period, the old-line utilities contributed \$7.7 million to the candidates and the parties. In addition, the Institute assessed its members \$3 million to pay for a lobbying campaign against rapid federal deregulation.

So far, that effort seems to be working. After 14 hearings on deregulation, Frank Murkowski (R-Alaska), chairman of the Senate Energy and Natural Resources Committee, has still not introduced a comprehensive bill. Instead he is backing a narrower measure sponsored by Sen. Alfonse D'Amato (R-N.Y.) that would help the old-line utilities by letting them compete in any nonutility business, without allowing other power companies to enter the older firms' local electricity markets.

\* \* \* \* \*

What will these power plays mean to you? Says, Charlie Higley, a senior policy analyst at Public Citizen, a consumer rights group: "Generally we are concerned that legislators will strike a deal where the utilities will get the taxpayer to foot the bill for their stranded costs, the big industrial users will get all the breaks, and residential and small business customers will get no relief or, worse yet, higher costs."

#### A MIDSUMMER'S NIGHT SCHEME

How Wall Street and Silicon Valley could undercut investor rights: In the summer of 1995, a coalition of accounting, securities and high-tech firms persuaded Congress to pass sweeping legislation limiting securities litigation that MONEY had warned could severely restrict investors' abilities to bring successful class-action suits for securities fraud. Though the Securities and Exchange Commission has concluded that it is too early to tell whether the Securities Litigation Reform Act has seriously eroded investors' rights, the same group of industries is now promoting legislation that would virtually ban investors from bringing class-action suits in state courts involving nationally traded securities. Warns Barbara Roper, the Consumer Federation of America's securities law expert: "The big risk for investors is that the federal law will end up restricting meritorious cases and that we'll lose the states as an alternative venue for them." The possible result: Wronged investors not



only could find such cases harder to win, but they also may be prevented from filing suits in the first place.

\* \* \* \* \*

In 1995 and '96, securities and accounting firms, as well as high-tech companies, which frequently are the targets of securities fraud lawsuits, flooded Congress and both parties with \$29.6 million in campaign money, according to the Center for Responsive Politics. By contrast, the Center estimates the trial lawyers association, the biggest critic of the legislation, gave \$3.1 million. (The total from all trial lawyers is unknown.) Says one top Democratic congressional aide: "This is completely money-driven, special-interest legislation that we would never even be looking at if there were campaign finance reform. Most congressmen are not being bombarded with requests from local constituents to pre-empt state securities laws."

#### WHAT CONGRESS SHOULD DO

Here are six changes recommended by advocates of campaign finance reform:

**Ban soft money.** This is the heart of the McCain-Feingold bill to improve the way campaigns are funded. The prohibition would shut down the easiest way corporations, unions and the wealthy have to buy access to Congress and influence legislation.

**Limit PAC contributions.** Congress ought to ban PACs from giving money to the campaigns of members of committees that govern the PACs' industries or their interests.

**Offer cut-rate TV time.** Candidates who agree to reject PAC money might get free or discounted TV time.

**Reward small contributors.** Tax credits for donations of \$200 or less might stimulate more people to give. Says Kent Cooper, executive director of the Center for Responsive Politics: "It's critical that we build a wider base of small contributors."

**Streamline disclosure.** Candidates should be required to file their campaign receipts and expenditures electronically to the Federal Election Commission. That would enable it to post the data to its Website ([www.fec.gov](http://www.fec.gov)) more quickly.

**Toughen election laws and enforcement.** Congress must make the six-member Federal Election Commission, typically half Republican and half Democrat, more effective. The panel needs authority to impose civil penalties, a bigger enforcement budget (now only \$31.7 million) and a seventh member to break ties.

What can you do? Write to congressional leaders Gingrich, Lott and McCain, as well as your own U.S. representative, senators and President Clinton. Tell them you want campaign finance reform that will restore accountability and integrity to federal elections and the government. And while you're at it, tell them you'd like the right to climb Mount Rushmore—without giving Tom Daschle \$5,000 of your hard-earned money.

Mr. FEINGOLD. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 9 minutes remaining.

Mr. FEINGOLD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum with the time being charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD addressed the Chair. The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, at this time I yield such time as he requires to the leader on this issue, the senior Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. I thank the Senator from Wisconsin.

May I ask, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Arizona has 8 minutes 48 seconds; the Senator from Kentucky controls 7 minutes 13 seconds.

Mr. McCAIN. Since it is the McCain-Feingold amendment, I ask the Senator from Kentucky if we could close the debate with our comments.

Mr. McCONNELL. I am sorry; I did not hear the Senator from Arizona.

Mr. McCAIN. Since the vote would be on our amendment, it is customary that we, the sponsors of the amendment, be allowed to close the debate. I ask if the Senator from Kentucky would agree that I could have the last 5 minutes before the vote.

Mr. McCONNELL. I have absolutely no problem with that. That is perfectly acceptable.

Mr. McCAIN. Does the Senator from Kentucky want to proceed now?

Mr. McCONNELL. Yes. Would you like me to go on to wrap up?

Mr. McCAIN. Yes.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. I am happy to accommodate the Senator from Arizona.

Mr. President, I think we have had a very important and useful debate. In many ways it has gone on for the last 10 years in various forms. Prior to 1995, it was the Mitchell-Boren bill. There have been several changes over the years, but fundamentally the issue is this: Do we think we have too much political discourse in this country?

I would argue, Mr. President, that we do not have any problems in this country related to too much political discussion. The Supreme Court has made it quite clear that in order to effectively discuss issues in this country, one must have access to money, and, frankly, that should not be a shocking concept to anyone going all the way back to the beginning of our country when anonymous pamphlets were passed out supporting the American Revolution. Somebody paid for those.

Virtually any undertaking, whether it is raising money for Common Cause so that they can get their message out or raising money for a campaign so that it can get its message out or raising money for a political party so it can get its message out or by some group that wants to be critical of any of us up to and including the time just prior to an election, the Supreme Court has appropriately recognized that in order to have effective speech you have

to be able to amplify your voice. That is not a new concept. It has been around since the beginning of the country.

So the fundamental issue, Mr. President, is this: Do we have too much political discourse in this country? I would argue that we clearly do not. The political discussion has increased in recent years for several reasons. No. 1, the effective means of communication costs more—nobody has capped inflation in the broadcast industry—and, No. 2, the stakes have been large.

The Congress was for many years sort of a wholly owned subsidiary of the folks on the other side of the aisle. But since 1994 it has been a good deal more competitive, so the voices have been louder. We had a robust election in 1996 about the future of the country, and a good deal of discussion occurred. But even then, Mr. President, that discussion, converted to money and compared to other forms of consumer consumption, if you will, in this country, was minuscule. One percent of all the commercials in America in 1996 were about politics. So it seems to me, Mr. President, by any standard, we are not discussing these issues too much.

The other side of the issue that must be addressed is, assuming it were desirable to restrict this discussion, is that a good idea? In order to do that, Mr. President, you have to have a Federal agency essentially trying to control not only the quantity but the quality of discourse in our country.

The Supreme Court has already made it quite clear that it is impermissible for the Government to control either the quantity or the quality of our political discussion in this country.

So this kind of regulatory approach to speech is clearly something the courts are not going to uphold. Nor should the Senate uphold that approach. Fundamentally that is the difference between the two sides on this issue.

Do we think there is too much speech? Or do we think there is too little? Do we think it is appropriate for the Government to regulate this speech? Or do we think it is constitutionally impermissible? That is the core debate here, Mr. President.

McCain-Feingold, in its most recent form, upon which we will be voting on a motion to table here shortly, in my view, clearly goes in the regulatory direction. It is based on the notion that there is too much political discussion in this country by parties and by groups.

Mr. President, the political parties do not exist for any other reason than to engage in political discussion. They financed issue advocacy ads with non-Federal money. The pejorative term for that is "soft money," but it should not be a pejorative thing. The national political parties get involved in State elections, local elections. They need to be there to protect their candidates if they are attacked by the issue ads of someone else.

All of this is constitutionally protected speech. Obviously, we do not like it when they are saying something against us. We applaud it when somebody is trying to help us. But the problem is not too much discussion, Mr. President. America is not going to get in trouble because of too much discussion.

In fact, we have killed this kind of proposal now for 10 years. It is unrelated to the popularity of Congress. Congress is currently sitting on a 55 to 60 percent approval rating, the highest approval rating in the last 25 years. It achieved that approval rating in spite of the fact that this issue was not approved last year, nor the year before, and, Mr. President, I am confident will not be approved this afternoon.

So when a motion to table is made, I hope that the majority of the Senate will support a motion to table McCain-Feingold.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. In a moment, I will yield to the senior Senator from Arizona. But before I do, let me make clear what we are tabling here today if we table the McCain-Feingold amendment.

The other side would have us believe it is one narrow aspect of a bill that has to do with certain aspects of express advocacy and independent advocacy. Surely, that is part of the bill. But what they don't talk about very much is what else would be tabled. It would involve the tabling of a complete ban on soft money. It would be wiping out the opportunity for this Congress to have a ban on soft money. What that means is they are also tabling a concept that has been endorsed by over 100 former Members of Congress who signed a letter to ban soft money.

It is also a denial and tabling of an effort to ban soft money that has been endorsed by people like former Presidents George Bush and Jimmy Carter and Gerald Ford. In addition, if this tabling motion prevails, you will be wiping out provisions that actually lower the provisions that require candidates to report contributions of \$50 and over, not just the ones of \$200 and over. It would be wiping out provisions that double the penalties for the knowing and willful violations of Federal elections law and tabling the provisions that require full electronic disclosure of campaign contributions to the FEC.

You will be wiping out provisions that require the Federal Elections Commission to make those campaign finance records available on the Internet within 24 hours. You will be wiping out provisions that would stop the practice of Members of Congress using their franking privileges, their mass mailing franking privileges in an election year. Our bill would ban that.

The tabling motion would wipe out the provisions that require a candidate

to clearly identify himself or herself on one of these negative ads.

So the fact is this bill has many important provisions. A tabling motion denies the chance to do all of these things. What the opposition has chosen to focus on is merely a few aspects, which I think we are right about, but they completely ignore the many important items of enforcement and disclosure and the banning of soft money the McCain-Feingold bill would achieve.

How much time remains?

The PRESIDING OFFICER. The Senator has 5 minutes 30 seconds.

Mr. FEINGOLD. Mr. President, I yield the remaining time to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, first of all, I want to extend thanks, as is customary at the end of debates such as these, to the majority leader for agreeing to schedule this vote and to the minority leader for all of his help in this effort, Senator DASCHLE, the Democratic leader. I would like to thank Senator MCCONNELL of Kentucky for again conducting the debate, which is distinguished by its lack of rancor and by its adherence to an honest and open difference of opinion, a fundamental difference but one that I believe is strongly held by both Senator MCCONNELL and myself.

As always, I want to thank my dear friend, Senator FEINGOLD, who, in my view, represents the very best in public service. As he and I differ on a broad variety of issues, we have always agreed on the principle of the importance, the integrity, and the honor associated with public service.

Mr. President, since last year, a number of things have been happening since we had votes last September. A very good manifestation of how this system is out of control was contained in the January 17 Congressional Quarterly about the California House race that is taking place.

I will not go into all the details. This was January 17. On March 10 there is an election. It lists noncandidate spending in the California special: Campaign for Working Families, \$100,000; Americans for Limited Terms, \$90,000; Foundation for Responsible Government, \$50,000; Planned Parenthood Action Fund, \$40,000; Catholic Alliance, \$40,000; California Republican Assembly, \$16,000; and the list goes on and on and on.

Millions of dollars are being spent in a House race in California. And you know what, Mr. President? Those funds and those campaigns are not being conducted by the candidates. They are being conducted by organizations that enter into these races that sometimes have no connection with the candidate themselves. And you know they all have one thing in common. They are all negative, Mr. President, they are all negative.

One of the radio ads says, "Call Bordonaro and tell him you're not buy-

ing Planned Parenthood. Tom Bordonaro is the definition of a religious political extremist." That came from Planned Parenthood.

The same thing on both sides. You will never see one of these, Mr. President, in a so-called independent campaign that says, "Vote for our guy or woman. They're very decent and wonderful people." Then we wonder why there is the cynicism and the lack of respect for those of us who engage in public service.

Mr. President, since last year there have been several indictments that have come down. One thing I can predict to you with absolute certainty on this floor; there will be more indictments, Mr. President, and there will be more scandals and more indictments and more scandals and more indictments and more people going to prison until we clean up this system. There is too much money washing around. This money makes good people do bad things and bad people do worse things.

I guarantee you, Mr. President, this system is so debasing as it is today that we will see lots of indictments, prison sentences and, frankly, these investigations reaching levels which many of us had never anticipated in the past.

We have also, thanks to our tenacity, gotten a vote. For the first time, Members of the Senate will be on record on campaign finance reform. I have no doubt about what this vote is about. It is on campaign finance reform.

Later, hopefully, we will have a vote on the Snowe amendment, which I think is a compromise which is carefully crafted and one that deserves the support of all of us. I believe that we are closer to the point that I have long espoused and advocated to my friends and colleagues from both sides of this issue. We are closer to the point where all 100 of us agree that the system is broken and needs to be fixed and we need to sit down together and work out the resolution to this terrible problem which is afflicting America, which we can work out in a bipartisan fashion that favors neither one party nor the other.

The American people are demanding it, the American people deserve it, and the American people will get it. Mr. President, we will never give up on this issue because we know we are right in the pursuit of an issue that affects the very fiber of American life and American Government.

Mr. President, I yield the remainder of my time.

Mr. MCCONNELL. I move to table the McCain-Feingold amendment.

The PRESIDING OFFICER (Mr. HAGEL). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 1646

The PRESIDING OFFICER. The question is on agreeing to the motion to table the McCain-Feingold amendment numbered 1646.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa (Mr. HARKIN) is necessarily absent.

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 12 Leg.]

#### YEAS—48

Abraham	Faircloth	Lugar
Allard	Frist	Mack
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brownback	Grassley	Roberts
Burns	Gregg	Roth
Campbell	Hagel	Santorum
Coats	Hatch	Sessions
Cochran	Helms	Shelby
Coverdell	Hutchinson	Smith (NH)
Craig	Hutchison	Smith (OR)
D'Amato	Inhofe	Stevens
DeWine	Kempthorne	Thomas
Domenici	Kyl	Thurmond
Enzi	Lott	Warner

#### NAYS—51

Akaka	Feingold	Lieberman
Baucus	Feinstein	McCain
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Hollings	Murray
Bryan	Inouye	Reed
Bumpers	Jeffords	Reid
Byrd	Johnson	Robb
Chafee	Kennedy	Rockefeller
Cleland	Kerrey	Sarbanes
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Daschle	Landrieu	Thompson
Dodd	Lautenberg	Torricelli
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

#### NOT VOTING—1

Harkin

The motion to lay on the table the amendment (No. 1646) was rejected.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

#### AMENDMENT NO. 1647

(Purpose: Relating to electioneering communications)

Ms. SNOWE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. SNOWE], for herself, Mr. JEFFORDS, Mr. LEVIN, Mr. LIEBERMAN, Mr. MCCAIN, Mr. FEINGOLD, Mr. CHAFEE, Ms. COLLINS, and Mr. THOMPSON, proposes an amendment numbered 1647.

Ms. SNOWE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 201 and insert:

#### Subtitle A—Electioneering Communications

#### SEC. 200. DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following new subsection:

“(d) ADDITIONAL STATEMENTS ON ELECTIONEERING COMMUNICATIONS.—

“(1) STATEMENT REQUIRED.—Every person who makes a disbursement for electioneering communications in an aggregate amount in excess of \$10,000 during any calendar year shall, within 24 hours of each disclosure date, file with the Commission a statement containing the information described in paragraph (2).

“(2) CONTENTS OF STATEMENT.—Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

“(A) The identification of the person making the disbursement, of any entity sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement.

“(B) The State of incorporation and the principal place of business of the person making the disbursement.

“(C) The amount of each disbursement during the period covered by the statement and the identification of the person to whom the disbursement was made.

“(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

“(E) If the disbursements were paid out of a segregated account to which only individuals could contribute the names and addresses of all contributors who contributed an aggregate amount of \$500 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

“(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of \$500 or more to the organization or any related entity during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

“(G) Whether or not any electioneering communication is made in coordination, cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee, any political party or committee, or any agent of the candidate, political party, or committee and if so, the identification of any candidate, party, committee, or agent involved.

“(3) ELECTIONEERING COMMUNICATION.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘electioneering communication’ means any broadcast from a television or radio broadcast station which—

“(i) refers to a clearly identified candidate for Federal office;

“(ii) is made (or scheduled to be made) within—

“(I) 60 days before a general, special, or runoff election for such Federal office, or

“(II) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for such Federal office, and

“(iii) is broadcast from a television or radio broadcast station whose audience includes the electorate for such election, convention, or caucus.

“(B) EXCEPTIONS.—Such term shall not include—

“(i) communications appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate, or

“(ii) communications which constitute expenditures or independent expenditures under this Act.

“(4) DISCLOSURE DATE.—For purposes of this subsection, the term ‘disclosure date’ means—

“(A) the first date during any calendar year by which a person has made disbursements for electioneering communications aggregating in excess of \$10,000, and

“(B) any other date during such calendar year by which a person has made disbursements for electioneering communications aggregating in excess of \$10,000 since the most recent disclosure date for such calendar year.

“(5) CONTRACTS TO DISBURSE.—For purposes of this subsection, a person shall be treated as having made a disbursement if the person has contracted to make the disbursement.

“(6) COORDINATION WITH OTHER REQUIREMENTS.—Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act.”

#### SEC. 200A. COORDINATED COMMUNICATIONS AS CONTRIBUTIONS.

Section 315(a)(7)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)(B)) is amended by inserting after clause (ii) the following new clause:

“(iii) if—

“(I) any person makes, or contracts to make, any payment for any electioneering communication (within the meaning of section 304(d)(3)), and

“(II) such payment is coordinated with a candidate for Federal office or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee.

such payment or contracting shall be treated as a contribution to such candidate and as an expenditure by such candidate; and”.

#### SEC. 200B. PROHIBITION OF CORPORATE AND LABOR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting “or for any applicable electioneering communication” before “, but shall not include”.

(b) APPLICABLE ELECTIONEERING COMMUNICATION.—Section 316 of such Act is amended by adding at the end the following new subsection:

“(c) RULES RELATING TO ELECTIONEERING COMMUNICATIONS.—

“(1) APPLICABLE ELECTIONEERING COMMUNICATION.—For purposes of this section, the term ‘applicable electioneering communication’ means an electioneering communication (within the meaning of section 304(d)(3)) which is made by—

“(A) any entity to which subsection (a) applies other than a section 501(c)(4) organization, or

“(B) a section 501(c)(4) organization from amounts derived from the conduct of a trade or business or from an entity described in subparagraph (A).

“(2) SPECIAL OPERATING RULES.—For purposes of paragraph (1), the following rules shall apply:

“(A) An electioneering communication shall be treated as made by an entity described in paragraph (1)(A) if—

“(i) the entity described in paragraph (1)(A) directly or indirectly disburses any

amount for any of the costs of the communication; or

“(ii) any amount is disbursed for the communication by a corporation or organization or a State or local political party or committee thereof that receives anything of value from the entity described in paragraph (1)(A), except that this clause shall not apply to any communication the costs of which are defrayed entirely out of a segregated account to which only individuals can contribute.

“(B) A section 501(c)(4) organization that derives amounts from business activities or from any entity described in paragraph (1)(A) shall be considered to have paid for any communication out of such amounts unless such organization paid for the communication out of a segregated account to which only individuals can contribute.

“(3) DEFINITIONS AND RULES.—For purposes of this subsection—

“(A) the term ‘section 501(c)(4) organization’ means—

“(i) an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

“(ii) an organization which has submitted an application to the Internal Revenue Service for determination of its status as an organization described in clause (i); and

“(B) a person shall be treated as having made a disbursement if the person has contracted to make the disbursement.

“(4) COORDINATION WITH INTERNAL REVENUE CODE.—Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 from carrying out any activity which is prohibited under such Code.”

#### Subtitle B—Independent and Coordinated Expenditures

##### SEC. 201. DEFINITION OF INDEPENDENT EXPENDITURE.

Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

“(17) INDEPENDENT EXPENDITURE.—The term ‘independent expenditure’ means an expenditure by a person—

“(A) expressly advocating the election or defeat of a clearly identified candidate; and

“(B) that is not provided in coordination with a candidate or a candidate’s agent or a person who is coordinating with a candidate or a candidate’s agent.”

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 1648 TO AMENDMENT NO. 1647

(Purpose: To prohibit new welfare for politicians)

Mr. LOTT. Mr. President, I send an amendment to the desk to the pending Snowe amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1648 to amendment No. 1647.

Mr. LOTT. Mr. President, I ask unanimous consent the amendment be considered as having been read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

##### SEC. 200. ELECTIONEERING COMMUNICATIONS.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available to the

Federal Communications Commission may be expended to impose or enforce any requirement or obligation with respect to the provision of free or discounted television broadcast time for campaign advertising unless such requirement or obligation is specifically and expressly authorized by title III of the Communications Act of 1934.

AMENDMENT NO. 1649

(Purpose: To prohibit new welfare for politicians)

Mr. LOTT. Mr. President, I now send a perfecting amendment to the desk to the underlying bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1649.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the language proposed to be stricken in the bill, strike all after the word “political” on page 2, line 23, and insert the following:

“party.”

##### SEC. 3. ELECTIONEERING COMMUNICATIONS.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available to the Federal Communications Commission may be expended to impose or enforce any requirement or obligation with respect to the provision of free or discounted television broadcast time for campaign advertising unless such requirement or obligation is specifically and expressly authorized by title III of the Communications Act of 1934.

(b) EFFECTIVE DATE.—This section shall take effect one day after enactment of this Act.

Mr. LOTT. I ask for the yeas and nays on my amendment, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1650 TO AMENDMENT NO. 1649

(Purpose: To prohibit new welfare for politicians)

Mr. LOTT. I now send an amendment to the desk to my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1650 to amendment No. 1649.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word in the pending amendment and insert the following:

##### SECTION 3. ELECTIONEERING COMMUNICATIONS.

(a) PROHIBITIONS.—None of the funds appropriated or otherwise made available to the Federal Communications Commission may be expended to impose or enforce any requirement or obligations with respect to the provision of free or discounted television broadcast time for campaign advertising unless such requirement or obligations is specifically and expressly authorized by title III of the Communication Act of 1934.

(b) EFFECTIVE DATE.—This section shall take effect two days after enactment of this Act.

MOTION TO COMMIT

Mr. LOTT. I send to the desk a motion to commit the bill to the Commerce Committee with instructions to report back forthwith.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] moves that the Senate commit S. 1663 to the Committee on Commerce, Science and Transportation with instructions that it report back the bill forthwith.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1651

(Purpose: To prohibit new welfare for politicians)

Mr. LOTT. I now send an amendment to the desk to the instructions.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1651 to the motion to commit the bill to committee.

Mr. LOTT. I ask the amendment be considered as having been read.

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will report.

The legislative clerk read further as follows:

At the end of the instructions add the following:

“with an amendment as follows:

Strike all after the enacting clause and insert the following:

##### SEC. 1. ELECTIONEERING COMMUNICATIONS.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available to the Federal Communications Commission may be expended to impose or enforce any requirement or obligation with respect to the provision of free or discounted television broadcast time for campaign advertising unless such requirement or obligation is specifically and expressly authorized by title III of the Communications Act of 1934.”

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1652 TO AMENDMENT NO. 1651

(Purpose: To prohibit new welfare for politicians)

Mr. LOTT. I now send an amendment to the desk to my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1652 to amendment No. 1651.

In lieu of the matter proposed to be inserted, insert the following:

##### SEC. 1. ELECTIONEERING COMMUNICATIONS.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available to the Federal Communications Commission may

be expended to impose or enforce any requirement or obligation with respect to the provision of free or discounted television broadcast time for campaign advertising unless such requirement or obligation is specifically and expressly authorized by title III of the Communications Act of 1934.

(b) **EFFECTIVE DATE.**—This section shall take effect one day after enactment of this Act.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DASCHLE. Parliamentary inquiry.

Mr. LOTT. I now send a final amendment to my amendment to the desk—

Mr. DASCHLE. What constitutes a sufficient second in this case?

The PRESIDING OFFICER. Does the Senator yield for a parliamentary inquiry?

Mr. LOTT. I yield for a parliamentary inquiry.

Mr. DASCHLE. I appreciate the majority leader's yielding. I ask the Chair, what would constitute a sufficient second, given the number of Senators on the floor currently?

The PRESIDING OFFICER. The Constitution requires one-fifth of those present.

Mr. DASCHLE. Mr. President, I hope we will count carefully, because I think we are getting very close here to whether or not we have a sufficient second. I appreciate the answer of the Chair.

AMENDMENT NO. 1653 TO AMENDMENT NO. 1651

(Purpose: To prohibit new welfare for politicians)

Mr. LOTT. I now send a final amendment to the desk to my amendment. I believe the desk has that amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered No. 1653 to Amendment No. 1651.

Strike all after the word "section" in the pending amendment and insert the following:

# 1. ELECTIONEERING COMMUNICATIONS.

(a) **PROHIBITION.**—None of the funds appropriated or otherwise made available to the Federal Communications Commission may be expended to impose or enforce any requirement or obligation with respect to the provision of free or discounted television broadcast time for campaign advertising unless such requirement or obligation is specifically and expressly authorized by title III of the Communications Act of 1934.

(b) **EFFECTIVE DATE.**—This section shall take effect two days after enactment of this Act.

Mr. LOTT. Mr. President, for the information of all Senators, the Senate is now in a posture where the tree is filled with respect to the pending campaign finance legislation. Senator MCCAIN has offered his substitute amendment and we have had a very good discussion about the issue prior to the motion to table, and the time for the vote was agreed to and that occurred, of course, at 4 o'clock. The mo-

tion to table did fail, although I think we should note that it was the identical vote that we had on this same issue last year.

Now our colleague, Senator SNOWE, has offered her version of paycheck protection to the McCain-Feingold amendment, and I intend to file a cloture motion on that today. However, it is my hope that cloture votes on the Snowe amendment could occur Thursday morning, but after we have had debate tonight. She is prepared, I believe, to talk about her amendment.

There also are a number of Senators who are very interested in talking about the second-degree amendment, or the amendment I offered to her amendment. I know Senator MCCAIN feels very strongly that the FCC should not impose the requirement of free broadcast time. Senator BURNS had indicated he wanted to speak on this. We had been hoping he would be here momentarily, and I am sure he will be, and he will want to speak on that issue, too.

So, after a debate on this issue, we expect to have a time set for a vote. But I will consult with the minority leader and also with the sponsor of the amendment and the second-degree amendment before we announce a time on that.

I ask for the yeas and nays on amendment No. 1647.

The PRESIDING OFFICER. Is there a sufficient second? So ordered.

The yeas and nays were ordered.

Mr. MCCAIN. Will the majority leader yield for a second?

Mr. LOTT. I ask for the yeas and nays on amendment No. 1646.

The PRESIDING OFFICER. It would take unanimous consent to do that. Is there objection?

Mr. DORGAN. Reserving the right to object, what is the request?

The PRESIDING OFFICER. To be able to order the yeas and nays on amendment No. 1646.

Mr. DASCHLE. Did the majority leader ask unanimous consent to do that? In that case, we will be compelled to object.

Mr. MCCAIN. Will the majority leader yield for a question? My understanding of the majority leader's amendment is it would bar the FCC from allocating free television time to candidates. As the majority leader pointed out, that is a position that I share because I believe only the legislative and executive branch should be responsible for what basically changes the entire electoral system in this country.

But my question to the majority leader is that, following disposition of his amendment, either through tabling or up-or-down vote, would the majority leader be amenable to a unanimous consent request that Senator SNOWE's amendment be taken up without amendment, so that the Senate can vote on this issue?

Mr. LOTT. Let me discuss this with you, Senator MCCAIN, and with Senator

SNOWE. I want to make sure we had considered all of the ramifications to that. I think probably the answer may be yes, but I would like to make sure we have had a chance to talk it through. I am not making a commitment at this point.

I think it is important that we have a full discussion on the FCC effort and we have a full discussion on our amendment. That will give us time. I presume she is not interested in having a vote this afternoon, so we will have some time tonight to talk about that and then tomorrow, after the funeral services for Senator Ribicoff, and then after the vote on the military construction appropriations bill, we will come back to this issue around, I guess, 3:30. Then, hopefully, we will have a vote sometime tomorrow afternoon, probably around this time or a little earlier. We will talk about what order that would be in prior to that.

Mr. MCCAIN. If the majority leader will further yield, I thank him for that consideration. I do believe, obviously, that we should have a vote on the Snowe amendment, and I appreciate his consideration of it. Of course, whether we were going to have a vote on the Snowe amendment would obviously dictate my vote and, I think, that of some of my colleagues, including those on the other side of the aisle who may share our view concerning whether the FCC should be deciding these things or not. Because, if it serves just to kill our ability to vote on the Snowe amendment, then obviously that may not be something that I would want to support. But I appreciate the majority leader's consideration.

Mr. LOTT. I agree with the chairman of the committee. I feel very strongly the FCC should not be doing this. I would like to inquire, does the chairman of the committee intend to have some hearings on this and maybe move this as an amendment or as a part of another bill at some point? Perhaps this year?

Mr. MCCAIN. I would hope so. As you know, the majority leader knows I am loath—loath—to determine policy issues on appropriations bills. But on occasion there might be some exception made to my absolute opposition to any authorization on appropriations bills, because I feel this is a very important issue. I thank the majority leader.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senate minority leader.

Mr. DASCHLE. I file two cloture motions, one on the McCain-Feingold amendment and then on the Snowe—first on Snowe and then on McCain.

## CLOTURE MOTION

Mr. DASCHLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Snowe amendment:

Edward M. Kennedy, Daniel Inouye, Byron Dorgan, Max Cleland, Russell D. Feingold, Ernest F. Hollings, Daniel K. Akaka, Wendell Ford, Patrick J. Leahy, Christopher J. Dodd, Jack Reed, Patty Murray, Robert Torricelli, Barbara Boxer, Ron Wyden, Carol Moseley-Braun, Kent Conrad, and Jeff Bingaman.

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the McCain-Feingold amendment:

Russell D. Feingold, Paul Wellstone, J. Lieberman, Richard J. Durbin, Tim Johnson, Edward M. Kennedy, Byron L. Dorgan, Barbara A. Mikulski, Daniel K. Akaka, Jay Rockefeller, Dale Bumpers, Wendell H. Ford, John Breaux, J.R. Kerrey, Ernest F. Hollings, Daniel Moynihan, Patty Murray, Carol Moseley-Braun, and Max Cleland.

Mr. DASCHLE. Mr. President, here we go again. I thought that we had an understanding about the opportunity that we would be presented to have a good debate. In fact, I am going to go back to the RECORD and check, but I am quite sure that there was some understanding that there would not be any need to fill trees and to prevent open and free debate, because we saw what happened the last time we tried this. It locked up the Senate for weeks on end with absolutely no result.

I would ask my colleagues, what are you afraid of here? Why are our colleagues on the other side not willing to allow this body to work its will? Why is the majority party filibustering legislation that the majority of Senators supports?

Mr. President, I am disappointed and frustrated. I am prepared to take this to whatever length is required to bring it to a successful resolution this week, next week, at some point in the future. We have a lot of work to do here, and I want to work with the majority leader to find a way to accomplish all that must be done. But I can't think of a better way to slow progress, to stop progress, to preclude us from getting our work done than to deny this body the opportunity to have a good debate and some votes on this important issue.

I must say, it is, again, a reminder to the Democratic caucus that when we enter into these agreements, we better check the writing, we better check the specifics, we better ensure we have a clear understanding of what the agreement is.

There was a colloquy just a moment ago about whether or not we could have an up-or-down vote on the Snowe amendment. Clearly, with this scenario, there is no way you can have an up-or-down vote on the Snowe amendment. This is a tree so loaded that the branches are breaking. And so I suppose I could dream someday of drafting a scenario that would allow us to get

to the amendment of the Senator from Maine. It ain't going to happen. With the tree as filled as it is right now, there is no way there will be a vote on the Snowe amendment.

I note, and the majority leader even noted, that there is maybe another option, another route, another bill, maybe, as the Senator from Arizona suggested, an appropriations bill. I suspect that this loaded tree will provide both sides with ample opportunity to offer amendments and bills to other amendments, and with a limited period of time, we all know what that means. But if those are the cards we are dealt, I am prepared to accept that as the circumstance and deal with it.

It is really amazing to me that there are those in the Senate who profess to support a process by which we can accomplish all of our legislative goals, but then continue to put obstacles in the path of resolution to the objectives in reaching those goals.

So, I am disappointed and, frankly, somewhat amazed that we have not learned our lessons of the past. But so be it, the tree is filled, the opportunities will be there, either this week, next week, the week after, but they will be there, just as they were last fall.

Mr. DORGAN. Will the Senator yield for a question?

Mr. DASCHLE. I will be happy to yield to the Senator from North Dakota.

Mr. DORGAN. I thank the minority leader for yielding for a question. So that those who watch these proceedings and listen to these proceedings understand, is it not the case that a procedure, a rarely used procedure until recently, has been used today that is designed to block legislation, that creates shackles and handcuffs designed in a way to lock the legislation up so it can't move?

We were, as I recall, promised some long while ago that we would be able to consider campaign finance reform legislation on the floor of the Senate. So, a date was set, a time for a vote was set, and the legislation came to the floor of the Senate, at which time we discover that, although we have a first vote on a tabling motion, following that vote, this procedure, throughout its history always used to block legislation, is immediately employed.

The implication of that, I guess, is that there is not a desire to proceed to consider, fully consider campaign finance reform. Many in this Chamber have other amendments they wish to offer, have considered and have votes on. It appears to me that the procedure now employed by the majority leader is to say, "Yes, I brought it to the floor; yes, you had one tabling vote, and from now on we will do it the way I want to do it." As the Senator from South Dakota said, the majority leader expressed, "I filled up the tree and we will allow only amendments that I will allow in the future." It seems to me that is not an approach that is de-

signed to allow consideration of campaign finance reform.

I ask the Senator from South Dakota, was it your understanding when we had an agreement on this issue that campaign finance reform would be brought to the floor of the Senate for a debate and for the opportunity to offer amendments and to consider fully and have votes on issues related to that subject?

Mr. DASCHLE. The Senator from North Dakota is absolutely correct. I think we can all go back and look through the RECORD and, again, as I say, we have to look at the meaning of each word in these agreements with perhaps greater skepticism. This idea of filling the tree is great short-term strategy. It has a horrible long-term effect, long-term effect on the comity of the of the Senate, long-term effect on getting legislation accomplished.

So we are compelled, once again, to use the techniques and methods we have used in the past. It is very likely that we will be relegated to using them again in the future.

The Senator is right, clearly we had an understanding that we would have an opportunity to debate issues, to offer amendments and ultimately to resolve this issue. We have been denied that as a result of the actions taken just now, and I deeply regret it.

Mr. WELLSTONE. Will the minority leader yield for one moment?

Mr. DASCHLE. I will be happy to yield to the Senator.

Mr. WELLSTONE. It will take me only a few seconds. Since this is an effort to basically choke off debate and deny us an opportunity to present amendments—many of us worked on this for years and care fiercely about it and many of the people in the country do. The minority leader understands and certainly realizes that on any bill that comes up forthwith, it would be our right to come back with these amendments, is that correct?

Mr. DASCHLE. The Senator from Minnesota is absolutely right. We will have the opportunity on countless occasions over the course of the next 10 months to revisit this issue, which obviously we will be in a position to do and be prepared to begin at some point either this week or next week. But we will certainly pursue this in other ways.

Mr. WELLSTONE. I thank the leader, because I very much want to do that. We have a right to continue to do this and if we are serious about it, we will fight for it, and we can bring amendments out over and over and over again, is that correct?

Mr. DASCHLE. That is correct.

Mr. KERRY. Mr. President, will the leader yield for a question?

Mr. DASCHLE. I will be happy to yield to the Senator from Massachusetts.

Mr. KERRY. I ask the leader, referring back to the October 30, 1997, CONGRESSIONAL RECORD, reading from the language of the leader himself, he said:



This is not better—

Referring to the agreement—

This is not better necessarily for Democrats or Republicans. But in our view, this is a very big victory for the country. This will give us an opportunity to have a good debate as we have discussed.

And then going on further, the minority leader said:

I expect a full-fledged debate with plenty of opportunity to offer amendments. Given this agreement, now I have every assurance and confidence that will happen.

I recall, having been part of the discussion and referring back to Senator LOTT's request, Senator LOTT said:

I further ask that if the amendment—

Referring to Senator MCCAIN's amendment—

is not tabled . . . the underlying bill will be open to further amendments, debates and motions.

There was a clear understanding, if I am correct, and I ask the leader if there was not a clear understanding, that while the Republicans retained the right to filibuster, they would not fill up the tree and they would not deny the Senate the right to have the opportunity to debate and have a series of votes on the substantive issues, but that there would be a distinct opportunity for both sides to be able to amend and follow this debate? Is that the minority leader's understanding, and is that a correct reference to the language that he relied on at that time?

Mr. DASCHLE. There is no doubt about it. Again, Senator LOTT, and I quote a comment he made to reporters that very day, said: "As far as I can tell at this point, amendments would certainly be in order, would be considered, they might be second-degreed and they certainly would be given a third degree."

There is no question that we had the clear understanding that there would be an opportunity to have a good debate, offer amendments, have them voted upon and ultimately dispose of this issue.

So I am really disappointed we have not been able to reach that point in this debate to date, and this, in my view, is not what we had agreed to last fall.

Mr. KERRY. I thank the minority leader. I simply express on behalf of all of us I think who had an anticipation of an opportunity to bring a number of amendments that this is a setback for the Senate and it is clearly a setback for all those in the country who thought the Senate could approach the issue of reform responsibly.

When we talk about filling the tree here, for a lot of people who listen to these debates and don't know what that means, under the rules of the Senate, we are given an opportunity to be able to bring up an amendment according to the rules. But according to the rules, the majority leader has the opportunity of right of recognition to take up all of the options that the rules allow in order to bring up amend-

ments. By doing that, he can choose to deny any other opportunity for an amendment.

That is precisely what the majority leader has chosen to do here. When we say he has filled up the tree, he has denied the Senate the opportunity to be able to bring amendments in order to be able to work the legislative process as people sent us here to do.

I think what he has asked for is a long process of delay. He has initiated gridlock in the U.S. Senate again, solely to protect a certain group of narrow vested interests represented in this campaign finance debate. It is very, very clear as of today, there are a majority of the U.S. Senate prepared to vote for campaign finance reform. There is a minority that is trying to stop it. They have that right, but they also, I hope, will be subject to the judgment of the American people who will recognize who is for campaign finance reform and who is against it. I thank the leader.

Mr. DASCHLE. Mr. President, I yield to the Senator from North Dakota.

Mr. DORGAN. For one additional question. I mentioned in my initial question to the Senator from South Dakota, this is a rarely used approach. It is true that this approach has been used by the majority leader a couple of times last year, but in history, it has been rarely used in the Senate. And the reason is, it is almost exclusively used to block legislation, but it is never successful, because you can block someone by tying legislation up in chains and shackles now and preventing anybody from offering an amendment, but you can't prevent that forever. You have to bring legislation to the floor of the Senate at some point which, according to the rules of the Senate, will allow another Senator to stand up and offer an amendment to such legislation.

In my judgment, this is very counterproductive. Some in this Chamber want to dig their heels in and say, "Notwithstanding what the majority wants to do in this Chamber, we intend to block campaign finance reform." You can block the right of Members to offer amendments now if you use this rarely used procedure, but you can't block people here forever from doing what we want to do, and that is have a full and good debate on campaign finance reform, offer amendments and have votes on those amendments.

I don't think the American people are going to be denied on this issue. The American people know this system is broken, it needs fixing, and they want this Congress and this Senate to do something about it. We can temporarily tie it up in these legislative chains, but that is not going to last forever, and I think that simply delays the final consideration of this issue.

Mr. DASCHLE. I thank the Senator from North Dakota for his comments, and I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Kentucky.

Mr. McCONNELL. Mr. President, if I may, I listened with great interest to the comments of the Democratic leader and others on that side of the aisle. Point No. 1 should be crystal clear to everyone who has followed this debate. Forty-eight Senators are not in favor of this measure.

In the Senate, as we know in recent years, every issue of any controversy requires 60 votes. So it is not at all unusual when an issue cannot achieve 60 votes for it not to go forward. That is the norm around here.

Point 2. It does not make any difference in what context the issue comes up. There are 48 people in the Senate who are not willing to vote for this measure either on cloture or on a motion to table. So it isn't going to pass. It is not going to pass today, not tomorrow, not 3 months from now, not 5 months from now. We can decide whether we want to waste the Senate's time on an issue that is not going to pass. But it is clearly a waste of time.

With regard to how unusual it is to fill up the tree, let me just mention that when Senator Mitchell was majority leader in the 103d Congress, he filled up the tree on February 4, 1993; February 24, 1993; January 31, 1994; May 10, 1994; May 18, 1994; June 9, 1994; June 14, 1994; June 14, 1994; and August 18, 1994. Those are nine occasions, Mr. President, when Senator Mitchell, during the 103d Congress, nine occasions in which Senator Mitchell filled up the tree. This is not exactly uncommon. It is not a routine everyday activity, but it certainly is not uncommon.

In 1977, Jimmy Carter's energy de-regulation bill, Senator BYRD was the leader and he filled up the amendment tree.

In 1984, in the Grove City case, Senator BYRD was in the minority, and he filled up the tree.

In 1985, the budget resolution, Senator Dole was the majority leader, and he filled up the tree.

In 1988, campaign finance—it has been around for a while—Senator BYRD filled up the tree, and there were eight cloture votes.

In 1993, there was an emergency supplemental appropriations bill, the so-called stimulus bill. Senator BYRD filled up the tree.

Let me say that it is not an everyday action but it is not uncommon for majority leaders to fill up the tree. What is fairly unusual is for the minorities to file cloture motions. Not common, typically done by the majority. And the only cloture motions we have at the desk at the moment are by the minority.

But the fundamental point is this, Mr. President. There are not enough votes in the Senate to pass this kind of measure. Consequently, it isn't going to happen. That is the way the process works around here. And we can waste a whole lot of time having repetitive

votes. The 48 votes that were cast in favor of the motion to table were the same 48 votes that were cast against cloture in October. And it will be the same 48 votes that will be cast whether it is a motion to table or a motion to invoke cloture no matter how many times it is offered. So who is wasting the people's time here? It is certainly not the majority.

The majority leader sets the agenda. He is anxious to move on to issues that people care about that will make a difference to this country. And clearly, any way you interpret what had happened last October and here in February, there are not enough votes to pass this kind of campaign finance reform.

So, Mr. President, I just wanted to set the record straight with regard to how unusual it is for a majority leader to fill up the tree and to make the point that the 48 votes that were cast in favor of the motion to table today were the same 48 votes cast against the cloture motion back in October. This is a high water mark in the 10 years I have handled this debate. And 48 votes is the best we have ever done. This measure simply isn't going to pass.

Mr. President, I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, in response to the Senator from Kentucky, let me say the point still stands. I ask the Senator from Kentucky to do a little research and tell me whether in all of those instances, where he described the so-called filling of the tree, whether someone came to the floor of the Senate and tried to fill the legislative tree or create a set of chains beyond which the Senate could not work before filing a cloture motion and allowing the votes on amendments on an issue. I do not think he will find that circumstance existed.

He pointed out a number of occasions when the legislative approach was used. I said it is rarely used. I stand by that. But it is almost never used in a circumstance where prior to a cloture vote and prior to allowing amendments to be offered and voted, someone comes out here and ties the legislative system up with these chains and shackles. That has not been the case. And so we ought not to suggest this is some normal procedure that has been used on occasion over the years by both sides.

The point I make is this. This is not a partisan issue. There are Republicans that support campaign finance reform and Democrats who support campaign finance reform. In fact, there is a majority of the Members of this body that support campaign finance reform and if we can have a vote up or down on final passage in some reasonable form on campaign finance reform, it is going to pass. It is what the American people want and it is what this Congress ought to do.

The Senator from Kentucky appropriately said that there is a 60-vote

issue in the Senate. And I understand that. That is what the rules provide. But it is extraordinary and it is unusual before a vote on cloture or vote on amendments with the exception of one for somebody to come out and say we are going to tie this whole system up and we are going to use a procedure that is always used to block legislation.

I say, we ought to let the American people have their day on the floor of the Senate. And their day is a day in which the Senate recognizes that this system needs reforming, this system needs changing. And if we debate between Republicans and Democrats and find a set of proposals, starting with McCain-Feingold, which I support, concluding perhaps with Snowe-Jeffords, which I also will support, and perhaps with some additional amendments, we will, I think, find an approach for campaign finance reform that, while not perfect, certainly does improve campaign finance in this country.

You cannot, in my judgment, stand here today and say, "Gee, the current system works really well. This is really a good system." The genesis of this system starts in 1974, with the campaign finance reform legislation in 1974. The system has been changed somewhat over the years by virtue of court decisions and rule changes, and also by some of the smartest legal minds in our country trying to figure out how you get campaign money under the door and over the transom and into the campaign finance system. The rules have now been mangled and distorted so badly that the system just does not work.

And if you have a system that is not working, it seems to me our responsibility is to say: Let's fix it. And, by the way, despite many attempts to muddy the waters on this, we are not saying: Let's fix it in a way that denies anyone a voice in this system or attempts to shut anyone down or any group down.

The McCain-Feingold bill, in my judgment, is a very reasonable approach to addressing the abuses and the problems in the current campaign finance system.

The Snowe-Jeffords proposal, which I will support, is one that falls short of what I would like—I would like to expand its reach, and prefer the issue advocacy approach in the original McCain-Feingold.

Senator SNOWE is on the floor and prepared to speak to that amendment. Will her proposal advance us towards a better system? Yes, it will. So let us decide that we can be more than just roadblocks. I mean, the easiest thing in the world is to be a roadblock to something. I think it was Mark Twain who once said, when he was asked if he would be willing to debate an issue, "Of course, providing I'm on the negative side."

They said, "You don't even know the subject."

He said, "It doesn't matter. It doesn't take any time to prepare for the negative side."

It is always easy to be against something.

So I hope, as we go along, the majority leader and others will think better of a strategy that says we allowed you to bring it to the floor, but we are not going to allow a full and free debate and votes on amendments. I hope he will think better of that, because there isn't a way, in the long run, to shut off our opportunity to thoughtfully consider this legislation, and to prevent our ability to offer amendments.

Mr. President, I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Thank you, Mr. President.

#### AMENDMENT NO. 1647

Ms. SNOWE. Mr. President, I rise today to offer an amendment on behalf of myself and Senator JEFFORDS, along with a bipartisan group of colleagues—Senator MCCAIN, Senator FEINGOLD, Senator LEVIN, Senator LIEBERMAN, Senator CHAFEE, Senator COLLINS, Senator THOMPSON, which I believe represents a commonsense middle-ground approach to reforming our campaign financing system in America.

As I think our colleagues know, I have long been a proponent of fair, meaningful changes in the way campaigns are financed in this country. That is why, when this issue came to the floor last year, I worked with Senators MCCAIN, JEFFORDS, FEINGOLD, Senator DASCHLE, and others, to try to forge a compromise that would address the concerns of both sides and move the debate forward. I said then on the Senate floor, and say again today, that we should be putting our heads together, not building walls between us with intractable rhetoric and all-or-nothing propositions.

While that effort was not successful, I am pleased that we are again having the opportunity to address campaign reform, and I thank the distinguished majority leader for making this possible. I also want to thank the bill's sponsors—Senators MCCAIN and FEINGOLD—for their continued leadership and determination on this issue, and their support of the efforts that are being done here today with Senator JEFFORDS and myself.

I want to acknowledge the hard work of my colleagues who are committing themselves to this compromise amendment and have committed themselves to moving campaign finance reform forward: Senators LEVIN, CHAFEE, LIEBERMAN, THOMPSON, COLLINS, BREAUX, and SPECTER have worked very hard with us on crafting this amendment. They have made clear their support for meaningful reform this year.

Last year, this body became stuck in the mire of all-or-nothing propositions and intransigence. We missed an opportunity to coalesce around a middle

ground—any middle ground—and the result was that the status quo remained alive and well. Despite the efforts of some of us who tried to work to forge a compromise that would have moved the debate forward, campaign finance reform died a quiet and ignoble death here in the U.S. Senate.

The reasons are many but the central issue then, as now, centered on the objection of Republicans to a package that does not address the issue of protecting union members from having their dues used without their permission for political purposes with which they may disagree, and the objection of Democrats to singling out unions while not providing similar protections for corporation shareholders.

Let me say that I am among those Republicans who have had a concern about the use of union dues for political purposes and, in fact, the campaign finance reform bill that I introduced last year included language similar to the Paycheck Protection Act. I happen to think it is not a bad idea, and in a perfect world where I could get my way on this and still pass meaningful reform, I would support it.

But the fact is, I believe we can still have fair and meaningful reform at the same time we take a step back from this incredibly divisive issue. In fact, it is probably the only way we can have such reform. The bottom line is, we will never pass campaign finance legislation—at least in the foreseeable future—if we take an all-or-nothing approach on this facet of reform. And I believe that we can and must make significant changes that may not be perfect, that may not make everyone happy, but which will be a great improvement over the current morass we find ourselves in.

If we do nothing, we will see a repeat—or likely an even worse scenario—of what we saw in 1996, which confirmed all the reasons why it is imperative to be strong proponents of campaign finance reform. We saw over \$223.4 million in soft money raised by the two national parties—three times more than in the last Presidential election. We saw more than \$150 million—we do not know the precise amount because it is not disclosed—spent on attack ads paid with unlimited funds by third-party groups that made candidates largely incidental to their own campaigns.

We saw an electorate that was, to put it bluntly, disgusted by the spectacle. And the 1996 elections were barely over when allegations were made of illegal and improper activities, centered around the issues of so-called “soft money” and foreign influence peddling through campaign contributions, all egregious abuses highlighted by the Senate Governmental Affairs hearings.

All of this has only served to further undermine public confidence and underscore the importance of enacting meaningful and achievable campaign finance reform this year.

I believe that S. 25 is a good start, and I commend Senators McCain and

Feingold for their tenacity in getting this bill to the Senate floor once again. One of the most important aspects of this scaled-back version of the original bill is its ban on soft money. We all know that soft money is becoming a major issue, and for good reason. It is money that circumvents the intent of the law—unaccounted for money which influences Federal campaigns above and beyond the intended limits.

S. 25 takes a tremendous step forward by putting an end to national party soft money, as well as codifying the so-called Beck decision, making prudent disclosure reforms, tightening coordinating definitions, and working to level the playing field for candidates facing opponents with vast personal wealth to spend in their own campaigns.

Do I think this is a perfect bill? No. Are there other things I would like included? Of course. Do I think it can be improved? Certainly. That is why I have again teamed up with my colleague from Vermont, Senator JEFFORDS, to work with the sponsors of this legislation, Senators McCain and Feingold and others, in a fresh approach developed by noted experts and reformers, including Norm Ornstein, Dan Ortiz of the University of Virginia School of Law, Josh Rosenkranz at the Brennan Center for Justice at NYU, as well as others. They developed a proposal to address the exploding use of unregulated and undisclosed advertising that affects Federal elections and the concerns of many that the intent of S. 25 to address this issue would not withstand or survive court scrutiny.

Therefore, the amendment that my colleague from Vermont and I are offering will fundamentally change the way in which the underlying bill addresses this issue. It strikes section 201 of title II, which redefines express advocacy and replaces it with the language that we have offered in our amendment that makes a clearly defined distinction between issue advocacy and influencing a Federal election. In other words, we are making a distinction between candidate advocacy and issue advocacy. This is important because, if the courts rule the efforts of S. 25 to address this distinction as unconstitutional, then essentially all that will remain from S. 25 is a ban on soft money. If that happens, we will be left with only one-half of the equation. I share the concerns of those who want to see balanced reform and who want to improve the system.

Our amendment applies to advertisements that constitute the most blatant form of electioneering. The chart to my left shows what the Snowe-Jeffords amendment does. It is a straightforward, two-tier approach that only applies to ads run on television or radio—those are the only ads that this amendment addresses—near an election, 60 days before a general election, 30 days before a primary, that identify a Federal candidate, that mentions a

Federal candidate in that radio ad or that television ad, and only if the group spends more than \$10,000 on such ads in a year. What we require is the sponsors' disclosure and also the donors on such ads because we think it is important that donors who contribute more than \$500 to such ads should be disclosed by these organizations.

The amendment also prohibits direct or indirect use of corporation or union money to fund the ads in the 60 days before the general election and 30 days before the primary. We call this new category “electioneering” ads—again, making the distinction between issue advocacy and candidate advocacy designed to influence the outcome of a Federal election.

They are the only communications that we address in our amendment, and we define them very narrowly and very clearly. If the ad is not run on television or radio, if the ad is not aired within 30 days of a primary and 60 days before a general election, if the ad doesn't mention a candidate's name or otherwise identify either he or she clearly, if it isn't targeted at the candidate's electorate, or if a group hasn't spent more than \$10,000 in that year on these ads, then it is not an electioneering ad. If an item appears in a news story, editorial, commentary, distributed through a broadcast station, it is also not an electioneering ad, plain and simple.

If one does run one of these electioneering ads, two things happen. First, the sponsor must disclose the amount spent and the identity of the contributors who donated more than \$500 to the group since January 1 of the previous year. Right now, candidates, as we all well know since we have been candidates, have to disclose campaign contributions over \$200. So the threshold and the requirement in this amendment is much higher.

Second, the ad cannot be paid for by funds from a business corporation or labor union in the nonvoluntary contributions such as union dues or corporate treasury funds.

Again, I just want to repeat, these are basically the provisions on what this amendment would do. We have heard a lot of things about what it would do, and I want to make sure that everybody understands. It is very simple, very direct, it is very narrow. The clear and narrow wording of this amendment is important because it passes two critical first amendment doctrines that were at the heart of the Supreme Court's landmark *Buckley v. Valeo* decision—vagueness and overbreadth.

Vagueness could chill free speech if someone who would otherwise speak chooses not to because the rules aren't clear and they fear running afoul of the law. We agree that free speech should not be chilled, and that is why our rules are clear. Any sponsor will know with certainty if their ad is an electioneering ad. That, again, gets back to when the ad is run and whether or not it mentions a candidate by name.

Overbreadth can unintentionally sweep in a substantial amount of constitutionally protected speech. But our amendment is so narrow that it easily satisfies the Supreme Court's overbreadth concerns. We strictly limit our requirement to ads near an election that identify a candidate or ads that plainly intend to convince voters to vote for or against a particular candidate.

Nothing in the Snowe-Jeffords amendment restricts the right of any advocacy group, labor union, or business corporation from engaging in issue advocacy or urging grassroots communications. If a group were truly interested in only the issues, all they would have to do to avoid our requirements is to run an ad talking about the issues and encouraging people to call their Senators rather than naming them. Indeed, nothing in our amendment prohibits groups like the National Right-to-Life Committee, the Sierra Club, and a host of groups that exist in America from running electioneering ads, either. We just require them to disclose how much they are spending on electioneering ads, who contributes more than \$500, and we prohibit them from using union and corporation money during that 60-day period before the general election and 30 days before a primary.

So we create a very narrow standard. Even if the threshold of disclosure is \$500, it is not like what it was in the *Buckley v. Valeo* decision where it was \$10. That was broad and it was sweeping, drawing everybody in, and it raised questions in the Court. That is why they struck it down. We are raising a threshold of \$500—\$300 more than we are required in terms of disclosing our donors.

Both of the basic principles, disclosure and a prohibition on union and corporation treasury funds, not only make sense, they are also on solid, legal footing. As detailed in a letter recently circulated by legal experts Burt Neuborne, professor of law at NYU School of Law; Norm Ornstein; Dan Ortiz; and Josh Rosenkranz, executive director of the Brennan Center, the Supreme Court has made clear that, for constitutional purposes, electioneering is different from other forms of speech. Congress is permitted to demand the sponsor of an electioneering message to disclose the amount spent on the message and the source of funds. Congress may prohibit corporation and labor unions from spending money on electioneering. These legal scholars further state that in *Buckley* the court declared that the governmental interests that justify disclosure of election-related spending are considerably broader and more palatable than those justifying prohibitions or restrictions on election-related spending.

Disclosure rules, the Court said, enhance the information available to the voting public. That is why we disclose; that is why we are required to disclose; that is why the Congress can require us

to disclose; and that is why the Supreme Court has upheld it. Disclosure rules, according to the Supreme Court, are the least restrictive means of curbing the evils of campaign ignorance and of corruption. Our disclosure rules are eminently reasonable.

Second, the Congress has had a long record, which has been upheld, of imposing more strenuous spending restrictions on corporations and labor unions. Corporations have been banned from electioneering since 1907, unions since 1947. As the Supreme Court pointed out in the *United States v. UAW*, Congress banned corporate and union contributions in order "to avoid the deleterious influences on Federal elections resulting from the use of money by those who exercise control over large aggregations of capital." In 1990 the Supreme Court upheld that rationale, as well.

If anything, we have increased first amendment rights for union members and shareholders, while we maintain the right of labor and corporate management to speak through PACs and raising hard money like other political action committees.

As these legal experts further state, "The Snowe-Jeffords amendment builds on these bedrock principles, extending current regulations cautiously and only in the areas in which the first amendment protection is at its lowest ebb. It works within the framework of the two contexts—disclosure rules and corporate and union spending—" which the Supreme Court allows and says we have the broadest discretion when it comes to governmental interest and governmental regulations, as well as corporate and union spending because we have had a century of rulings by the Supreme Court, not to mention Congress, in this issue, "in which the Supreme Court, as well, has been most tolerant of campaign finance regulations."

Hearing the debate here today, there have already been misconceptions out there. I think it is important to make very clear what this amendment does not do. I have a chart here to my right that talks about what the Snowe-Jeffords amendment would not do. I think it is important to restate this because there is a lot of information that has been circulated here in the Congress about saying what it would do, from a variety of groups, saying they would not be able to disseminate electioneering communications.

That is not true. It would not prohibit groups like the Sierra Club or the right-to-life or any other group from disseminating electioneering communications. They can send out whatever they want.

It would not prohibit these groups, again, from accepting corporate or labor funds.

It would not require groups like the Sierra Club or right-to-life to create a PAC or other separate entities.

It would not bar or require disclosure of communications by print media, di-

rect mail, voter guides or any other nonbroadcast media because, again, it only applies to TV and radio broadcast 60 days before the election.

It would not affect the ability of any organization to urge grassroots contacts with lawmakers on upcoming votes. They could say, "Call your Senator." They could say, "Call your Senator on the 1-800 number" which is a very popular means of advertising today. But if they use the Senator's name 60 days before the election, they have to disclose their donors who donate more than \$500.

It does not require invasive disclosure of all donors, because some have said it will require them to release their donors list. Well, we all have to release donors at a certain threshold. We are not requiring everybody to release donors lists. We are saying in a very narrow period, right before the election, those groups who identify candidates in their ads or use a likeness are required to disclose their donors who donate more than \$500. That is not invasive. It is not intrusive.

It would not require advance disclosure of full contents of ads. Some have said in some of the material circulated here in Congress that somehow these groups will be required to disclose in advance the contents of their ad. That is not true.

So, it is important to understand what this amendment does as much as in terms of what it does not do. It is a very limiting amendment. That is why it will withstand constitutional scrutiny. That is why it is important for everybody to understand that. So every group can advertise, they can communicate, they can accept money. But in that narrow period of time before the general election, if they target a candidate by identifying them by name—because if they are doing that, it is designed to influence the outcome of the election—that will be upheld by the courts.

We are not saying they can't engage in grassroots activities and communications with their lawmakers who come and vote in Congress. They can urge their Senator or urge their Congressman to vote for or against such and such a bill. It is not affected by this amendment. All we are doing is requiring disclosure. Now that is for a very good reason, as to why we require disclosure, as we will see in the next chart of how much money is being placed in these elections by groups that don't have to disclose \$1.

Mr. President, this is a sensitive and reasonable approach to addressing a burgeoning segment of electioneering that is making a mockery of our campaign finance system. That is why it is important to use the 1996 election. It is certainly the one that reflects the most significant changes in campaigns. As is indicated by the two charts behind me—and I am going to describe this because I think it is interesting to show the problem we are facing in elections today, and it will only get worse.

It will only get worse. We haven't seen a declining amount of money in each subsequent election. In fact, the opposite is true, as we well know.

According to the Annenberg Public Policy Center, it shows that \$130 million to \$150 million was spent on issue ads in the 1996 election. But that is just a guesstimate because they don't disclose. We don't know. It could be far more than that. It could be more than \$150 million. That is the best guess, the best estimate anybody can make. Money spent by all candidates, including the President, U.S. Senate and U.S. House, was \$400 million. So a third of the ad spending was done on issue ads. A third of all the money that was spent by candidate advertising was spent on issue ads, and they didn't even have to disclose a dime.

Now, something is wrong. Something is wrong with a system where a third of all the money was spent on candidate advertising and not one dime was disclosed in the last election. Do you think this number is going to get worse, or is it going to get better? It is going to get worse.

The chart represents the so-called issue ads in the 1996 elections. Again, according to the Annenberg Public Policy Center of the University of Pennsylvania survey—and it is important to look at this because when you see so-called issue ads, many of them are designed to influence the outcome of an election. It is not talking about legislative outcome. And no one wants to affect issue ads in which a group has a legitimate right and is entitled to discuss issues and run an ad that tells a Senator or a Member of Congress how to vote without identifying them. You must disclose it if their name is mentioned, if you do it 60 days before the election. Interestingly enough, on these so-called issue ads, almost 87 percent referred to an official or a candidate; 87 percent of the so-called issue ads referred to an official or a candidate. Instead of saying, "Call your Senator," or, "Call your Congressman," they identified that official or that candidate by name. That is the big distinction between issue advocacy and candidate advocacy. We do not want to infringe upon the rights of those groups who want to conduct grassroots communications through their membership or through Members of Congress and their elected officials on the issues of true issue advocacy. But now it is becoming candidate advocacy, designed to influence the outcome of a Federal election.

Pure attack in 1996 issue ads. According to the Annenberg survey, 41 percent of those issue ads were "pure attack"—41 percent; 24 percent, Presidential ads; debates, 15 percent; free time, 8.9 percent; and 36 percent from the news organizations. But 41 percent of the attacks came from what were so-called issue ads. That is the problem that we are facing in the system today.

Now, that is why this amendment Senator JEFFORDS and I are offering re-

quires disclosure. We are not even saying they can't do it. We are saying that 60 days before the election, if they mention a candidate by name, they have to disclose their donors of \$500 or more. Now, I know there are some in this body who object to disclosure. But can anyone, with a straight face, tell me that when ads like these clearly cross the line into electioneering—which is a different category—there should not even be disclosure? Candidates, as I said earlier, have to disclose, and as candidates, I could not believe we would not want more disclosure in other areas that affect candidates in elections throughout this country.

So can somebody honestly say that groups that spend millions of dollars in ads near elections that mention specific candidates don't have to disclose anything? Are we prepared to say that we don't even have the right to know who is spending vast sums of money to influence Federal elections? It is interesting to me we had \$150 million—it could be more—spent in the last election cycle and we don't even know who donated that money. Yet, 87 percent of those so-called issue ads identified the candidate.

As the letter from the legal scholars that I referenced earlier states:

The Supreme Court has never held that there is only a single constitutionally permissible route a legislature may take when it defines "electioneering" to be regulated or reported. Congress has the power to enact a statute that defines electioneering in a more nuanced manner, as long as its definition adequately addresses the vagueness and overbreadth concerns expressed by the Court.

The letter from these distinguished scholars also says:

The Supreme Court has made clear that, for constitutional purposes, electioneering is different from other speech (*FEC v. Massachusetts Citizens for Life*). Congress has the power to enact campaign finance laws that constrain the spending of money on electioneering in a variety of ways . . . (*Buckley v. Valeo*). Congress is permitted to demand that the sponsor of an electioneering message disclose the amount spent on the message and the sources of funds. And Congress may prohibit corporations and labor unions from spending money on electioneering. This is black letter constitutional law about which there can be no serious dispute.

Again, these are their words, and these are constitutional experts. These are the words of experts who have made a life of studying these issues.

Mr. President, we have the power and the obligation to put elections and specifically electioneering ads—because that is what this amendment is all about—back into the hands of voluntary, individual contributors. The question before us now is, will we stand foursquare behind reform? Will we support this incremental, reasonable, constitutional approach that gets at some of the core abuses that we have seen in previous elections?

Maybe the question is better stated this way: How can we not support such

a reasonable approach? How can we go home and face our constituents, our electorate, and explain that we didn't even want to vote for a measure that would give them the information they need to be informed voters? How can we go home without having voted for a measure that addresses at least some aspect of campaign reform that Americans view as out of control in a sensible and reasonable way?

Let's make no mistake about it; we will pay the price. To those who hide behind the mistaken notion—the doorkeepers of the status quo—that people don't really care, I say that you are making a grave mistake. Yes, some of you may point to studies such as the January poll conducted by the Pew Research Center, which ranked campaign reform 13th on a list of 14 major issues. But let's look at the reason. The report also said that the public's confidence in Congress to write an effective and fair campaign law had declined.

That is a sad commentary. Many Americans have taken campaign finance off of their radar screens simply because they have given up on us. Frankly, it is an embarrassment, Mr. President. That this great body has not come together on some reasonable, incremental reform to move the issue forward is unacceptable. That is why Senator JEFFORDS and I have worked, with a bipartisan group, to change the dynamic in this debate, to address what were some legitimate concerns about some of the issue advocacy provisions of the McCain-Feingold amendment, on some of their restrictions. So this takes a different approach, based on what legal and constitutional experts have said would withstand judicial scrutiny.

We have a chance to remedy this abrogation of our responsibility and, so far, we have failed to address some of the serious inequities and abuses in our campaign finance system. Our amendment would deal simultaneously and in a realistic way with broadcast electioneering messages at the time they have the most impact—which is right before an election, and, as we all know, that is where most of the money is spent in the final analysis—and a clear campaign context. It would provide the electorate with information as to who is running the ads. Isn't that something that everybody is entitled to know when we are seeing \$150 million and we don't know who spends that money? Not one penny. In fact, it is probably much more.

Our amendment would reinforce the traditional rules, limiting the role of unions and corporations in elections. I believe that this amendment would move us forward, again, because the courts, as well as Congress, have been able to draw a line on imposing restrictions on certain groups, and it can do so when it comes to unions and corporations because of the preferential benefits that have been accorded to them through the U.S. Congress and by statute in law.

Typical of any compromise, both sides of the aisle have identified aspects of the measure they might not like. But I think that always means that we are on the right track. It is my hope, Mr. President, that this common-sense, incremental approach can be the impetus to passing an improved, balanced and fair S. 25. I sincerely believe that we can and must take a first step toward restoring public confidence and public faith in our campaign finance system. We are the stewards of this great democracy that has been handed down from our forefathers—who would be aghast if they saw the state of campaigning in this country today, I might add—and it is our responsibility to see that it does not disintegrate under the weight of public cynicism and mistrust.

As I said last year, it is the duty of leaders to lead and that means making some difficult choices and doing the right thing. I had hoped that our leaders would have been able to have come together and I had urged last fall that we have a bipartisan group to work out a plan, through the leaders, to come to the floor. That didn't happen. But many of us in the rank and file are working together on a bipartisan basis because we think this issue is important. Not to say that all we are doing is right and perfect; it is not. But it advances the process forward, the issue forward, and it makes substantial improvements on those areas which we have identified to be the most problematic in our campaign finance system today.

I hope that we would not entrench ourselves in the rhetoric of absolutism. Let us not shun progress in the name of perfection. The fact is, improved S. 25 would be a good bill and it would be a good start down the road to putting our elections back into the hands of the American people. I urge my colleagues to join my colleague Senator JEFFORDS and others in bringing this bill out of the shadows of obfuscation and into the light of honest discussion and debate. The American people expect as much and they certainly deserve as much.

Mr. President, I know we will have further discussions on this issue tomorrow before we have a vote on the motion to table. But I urge that each and every Senator give consideration to this amendment—that has been offered by a bipartisan group—that Senator JEFFORDS and I have been working on with others in hopes of moving this debate forward, to change the debate discussion and to show there is an earnestness and willingness to approach this very serious issue; not to set it aside, not to deflect it, not to ignore it, saying it will go away and people will not notice. I happen to think that people will notice. They will notice.

They will be quickly reminded when they see the next election, because more money will be spent, as we see in this \$150 million. This number is going to go up and people will be reminded

how much they care about this issue. But more important, they will be reminded, if we fail to take action here, of our unwillingness and our failure to take action on this issue.

I suggest to Members that we are embarking on a high-risk strategy by suggesting that somehow we can get away with not addressing this issue. I think that is a very high-risk strategy and I think it is dead wrong.

I hope Members of this Senate will look very carefully at this amendment. There is nothing tricky about it. It is pretty straightforward, in accordance with the decisions that have been rendered by the Court in the past. It is very narrowly drawn, very precisely drawn, requiring disclosure. Because that is where the Court has granted a greater prerogative to the Congress and to the public's right to know, and restrictions only in those areas in which the Court and Congress has ruled in the last century, because we have a right to draw that line when it comes to unions and corporations.

So, I hope that each Member of the Senate will have a chance, over the next 24 hours, to look at this amendment very carefully and to see that it does move in the right direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. The distinguished Senator from Maine asks rhetorically who would be opposed to disclosure of group contributions? I would say to my friend from Maine, the Supreme Court would be opposed to it. In the 1958 case of NAACP v. Alabama, the Court ruled definitively on the issue of whether a group could be required to disclose its membership or donor list as a precondition for criticism or discussion of public issues. So the Supreme Court very much is opposed to requiring groups, as a condition of engaging in issue advocacy, constitutionally-protected speech, that they have to disclose their list.

Interestingly enough, two groups that certainly have not been aligned with this Senator on this issue over the years had something to say about that. Public Citizen and the Sierra Club, on the question of disclosure of issue advocacy:

Top officials in Public Citizen and the Sierra Club Foundation, a separate tax-exempt offshoot of the environmental organization, argued that divulging their donor lists would either give an unfair advantage to competitors or unfairly expose identities of their members.

"As I am sure you are aware, citizens have a First Amendment right to form organizations to advance their common goals without fear of investigation or harassment."

That was Joan Claybrook, with whom I have dueling on this issue for a decade, in response to questions about whether or not Public Citizen would be willing to disclose their donor list. Claybrook goes on:

We respect our members' right to freely and privately associate with others who share their beliefs, and we do not reveal

their identities. We will not violate their trust simply to satisfy the curiosity of Congress or the press.

Bruce Hamilton, national conservation director for the Sierra Club Foundation, said [of] donors to the separate Sierra Club's political action committee . . .

Of course they are required to disclose, because they engage in express advocacy. That is part of hard money, part of the Federal campaign system. What Senator SNOWE's amendment is about is issue advocacy, which is an entirely different subject under Supreme Court interpretations; an entirely different subject.

Now, the Sierra Club said with regard to compelling them to disclose their membership as a precondition for engaging in issue advocacy—Hamilton said:

That is basically saying, "Turn around and give us your membership . . . We want public disclosure of the 650,000 members of the Sierra Club, which is a valuable resource, coveted by others, because they can turn around and make their own list."

The last thing he had to say I find particularly interesting, and knowing the occupant of the Chair is from out West, he might appreciate this. He said:

It can also be turned around and used against them. We have members in small towns in Wyoming and Alaska (who could by hurt) if word got out that they belong to the Sierra Club.

So I say to my friend from Maine, this is not in a gray area. The Supreme Court has opined on the question of the Government requiring a donor list of groups as a precondition for expressing themselves at any time—close to an election or any other time.

My good friend from Maine also cited a 1990 case, commonly referred to as the Austin case, in support of the notion that, somehow, the Court would sanction this new category of electioneering. The Austin case, I am sure my good friend from Maine knows, had to do with express advocacy, not issue advocacy. In the Austin case, they banned express advocacy by corporate treasurers. That of course has been the law since 1907. That is not anything new. You can't use corporate treasury money to engage in express advocacy of a candidate.

But the definitive case on the issue the Senator from Maine is really talking about, because her amendment deals with issue advocacy, is First National Bank of Boston v. Bellotti in 1978, where the Court held that corporations could fund out of their treasuries—out of their treasuries, issue advocacy.

So, with all due respect to my good friend from Maine, the courts have already ruled on the kind of issues that she is discussing here. No. 1, you can't compel the production of membership lists as a condition to criticize all of us. And, No. 2, issue advocacy cannot be redefined by Congress. The courts have defined what issue advocacy is.

Now, with regard to the opinion of various scholars, let me just say America's expert on the first amendment is



the American Civil Liberties Union, and they wrote me just yesterday, giving their view on the Snowe-Jeffords amendment. Let me read a pertinent part.

We are writing today, however, to set forth our views on an amendment to that bill dealing with controls on issue advocacy which is being sponsored by Senators Snowe and Jeffords. Although that proposal has been characterized as a compromise measure which would replace certain of the more egregious features of the comparable provisions of McCain-Feingold, the Snowe-Jeffords amendment still embodies the kind of unprecedented restraint on issue advocacy that violates bedrock First Amendment principles.

Those time-honored principles were set forth with great clarity in *Buckley v. Valeo*.

Which we frequently refer to. The ACLU goes on:

First, "issue advocacy" is at the core of democracy. In rejecting the claim that issue-oriented speech about incumbent politicians had to be regulated because it might influence public opinion and affect the outcome of elections, the Supreme Court reminded us of the critical relationship between unfettered issue advocacy and healthy democracy. "Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution."

Further, the ACLU said:

... in an election season, citizens and groups cannot effectively discuss issues if they are barred from discussing candidates who take stands on those issues. "For the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest." 424 U.S. at 43. If any reference to a candidate in the context of advocacy on an issue rendered the speaker or the speech subject to campaign finance controls, the consequences for First Amendment rights would be intolerable.

Third [the ACLU says] to guard against that, the Court fashioned the critical express advocacy doctrine.

The Court fashioned it. They didn't say, Congress, you can make up something called electioneering. This is not our prerogative. The Court fashioned the critical express advocacy doctrine, which holds that:

Only express advocacy of electoral outcomes may be subject to any form of restraint. Thus, only "communications that in express terms advocate the election or defeat of a clearly identified candidate" can be subject to any campaign finance controls.

Express advocacy: Within the Federal Election Campaign Act. Issue advocacy: Outside the Federal Election Campaign Act. That just didn't happen last year. This has been the law since *Buckley*. Issue advocacy has been around since the beginning of the country.

Finally, and most importantly, all speech which does not in express terms advocate the election or defeat of a clearly identified candidate is totally immune from any regulation;

The ACLU continued:

The Court fashioned the express advocacy doctrine to safeguard issue advocacy from campaign finance controls, even though such advocacy might influence the outcome of an election. The doctrine provides a bright-line, objective test that protects political speech and association by focusing solely on the content of the speaker's words, not the motive in the speaker's mind or the impact on the speaker's audience, or the proximity to an election.

Nor does it matter whether the issue advocacy is communicated on radio or television, in newspapers or magazines, through direct mail or printed pamphlets. What counts for constitutional purposes is not the medium, but the message.

My understanding of the Snowe-Jeffords amendment is that these restrictions only apply to television and radio. But there is no constitutional basis for sort of segmenting out television and radio and saying those kinds of expenditures require the triggering of disclosure, but it's OK to go on and engage in direct mail or presumably telephones or anything other than the broadcast medium. That is in a somewhat different category.

By the same token, it is constitutionally irrelevant whether the message costs \$100 or \$1,000 or \$100,000. It is content, not amount, that marks the constitutional boundary for allowable regulation and frees issue advocacy from any impermissible restraint. The control of issue advocacy is simply beyond the pale of legislative authority.

So the Snowe-Jeffords amendment violates these cardinal principles. First, the amendment's new category, which we have not heard before, of electioneering communication is simply old wine in old bottles with a new label. The provision would reach, regulate and control any person, group or organization which spent more than \$10,000 in an entire calendar year for any electioneering communications.

The ACLU says that critical term is defined solely as any broadcast communication which refers to any Federal candidate at any time within 60 days before a general or 30 days before a primary election and is primarily intended to be broadcast to the electorate for that election, whatever that means.

The unprecedented provision is an impermissible effort to regulate issue speech which contains not a whisper of express advocacy simply because it refers to a Federal candidate who is more often than not a congressional incumbent during an election season.

The ACLU says the first amendment disables Congress from enacting such a measure regardless of whether the provision includes a monetary threshold, covers only broadcast media, applies only to speech during an election season and employs prohibition or disclosure as its primary regulatory device. It would still cast a pall over grassroots lobbying and advocacy communication by nonpartisan, issue-oriented groups like the ACLU, for example.

It would do so by imposing burdensome, destructive and unprecedented disclosure and organizational require-

ments and barring use of any organizational funding for such communications if any corporations or unions made any donations to the organization.

Mr. President, I ask unanimous consent to have printed in the RECORD the entire letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ACLU,  
WASHINGTON NATIONAL OFFICE,  
Washington, DC, February 23, 1998.

DEAR SENATOR: We have shared with you our grave concerns about the different versions of the McCain-Feingold campaign finance bill that have been before the Senate. (See "Dear Senator" letter dated February 19, 1998 and enclosure.) For the reasons we have stated previously, the most recent "pared down" reincarnation of that bill remains fundamentally flawed, and we continue fully to oppose it.

We are writing today, however, to set forth our views on an amendment to that bill dealing with controls on issue advocacy which is being sponsored by Senators Snowe and Jeffords. Although that proposal has been characterized as a compromise measure which would replace certain of the more egregious features of the comparable provisions of McCain-Feingold, the Snow-Jeffords amendment still embodies the kind of unprecedented restraint on issue advocacy that violates bedrock First Amendment principles.

Those time-honored principles were set forth with great clarity in *Buckley v. Valeo*, 424 U.S. 1 (1976) and reaffirmed by numerous Supreme Court and lower court rulings ever since.

First, "issue advocacy" is at the core of democracy. In rejecting the claim that issue-oriented speech about incumbent politicians had to be regulated because it might influence public opinion and affect the outcome of elections, the Supreme Court reminded us of the critical relationship between unfettered issue advocacy and healthy democracy. "Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution." 424 U.S. at 14.

Second, in an election season, citizens and groups cannot effectively discuss issues if they are barred from discussing candidates who take stands on those issues. "For the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest." 424 U.S. at 43. If any reference to a candidate in the context of advocacy on an issue rendered the speaker or the speech subject to campaign finance controls, the consequences for First Amendment rights would be intolerable.

Third, to guard against that, the Court fashioned the critical express advocacy doctrine, which holds that only express advocacy of electoral outcomes may be subject to any form of restraint. Thus, only "communications that in express terms advocate the election or defeat of a clearly identified candidate" can be subject to any campaign finance controls.

Finally, and most importantly, all speech which does not in express terms advocate the election or defeat of a clearly identified candidate is totally immune from any regulations; "So long as persons and groups eschew

expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want to promote the candidate and his views." 424 U.S. at 45.

The Court fashioned the express advocacy doctrine to safeguard issue advocacy from campaign finance controls, even though such advocacy might influence the outcome of an election. The doctrine provides a bright-line, objective test that protects political speech and association by focusing solely on the content of the speaker's words, not the motive in the speaker's mind or the impact on the speaker's audience, or the proximity to an election.

Nor does it matter whether the issue advocacy is communicated on radio or television, in newspapers or magazines, through direct mail or printed pamphlets. What counts for constitutional purposes is not the medium, but the message. By the same token, it is constitutionally irrelevant whether the message costs \$100 or \$1,000 or \$100,000. It is content, not amount, that marks the constitutional boundary of allowable regulation and frees issue advocacy from any impermissible restraint. The control of issue advocacy is simply beyond the pale of legislative authority.

The Snowe-Jeffords amendment violates these cardinal principles.

First, the amendment's new category of "electioneering communication" is simply old wine in old bottles with a new label. The provision would reach, regulate and control any person, group or organization which spent more than \$10,000, in an entire calendar year, for any "electioneering communications." That critical term is defined solely as any broadcast communication which "refers to" any federal candidate, at any time within 60 days before a general or 30 days before a primary election, and "is primarily intended to be broadcast to the electorate" for that election, whatever that may mean.

This unprecedented provision is an impermissible effort to regulate issue speech which contains not a whisper of express advocacy, simply because it "refers to" a federal candidate—who is more often than not a Congressional incumbent—during an election season. The First Amendment disables Congress from enacting such a measure regardless of whether the provision includes a monetary threshold, covers only broadcast media, applies only to speech during an election season and employs prohibition or disclosure as its primary regulatory device. It would still cast a pall over grass-roots lobbying and advocacy communication by non-partisan issue-oriented groups like the ACLU. It would do so by imposing burdensome, destructive and unprecedented disclosure and organizational requirements, and barring use of any organizational funding for such communications if any corporations or unions made any donations to the organization. The Snowe-Jeffords amendment would force such groups to choose between abandoning their issue advocacy or dramatically changing their organizational structure and sacrificing their speech and associational rights.

Beyond this new feature, the Snowe-Jeffords amendment simply leaves in place many of the objectionable features of McCain-Feingold that we have criticized previously. One is the unprecedented generic expansion of the definition of "express advocacy" applicable to all forms of political communication going forward in all media and occurring all year long. Another are the intrusive new "coordination" rules which will be so destructive of the ability of issue organizations to communicate with elected officials on such issues and later commu-

nicate to the public in any manner on such issues. And the radically expanded activities encompassed within the new category of "electioneering communications" would be subject to those radically expanded coordination restrictions as well. The net result will be to make it virtually impossible for any issue organization to communicate, directly or indirectly, with any politician on any issue and then communicate on that same issue to the public.

All of this will have an exceptionally chilling effect on organized issue advocacy in America by the hundreds and thousands of groups that enormously enrich political debate. The bill flies in the face of well-settled Supreme Court doctrine which is designed to keep campaign finance regulations from ensnaring and overwhelming all political and public speech. And the bill will chill issue discussion of the actions of incumbent officeholders standing for re-election at the very time when it is most vital in a democracy: during an election season. It may be inconvenient for incumbent politicians when groups of citizens spend money to inform the voters about a politician's public stands on controversial issues, like abortion, but it is the essence of free speech and democracy.

In conclusion, the ACLU remains thoroughly opposed to McCain-Feingold. The ACLU continues to believe that the most effective and least constitutionally problematic route to genuine reform is a system of equitable and adequate public financing. While reasonable people may disagree about the proper approaches to campaign finance reform, McCain-Feingold's restraints on issue advocacy raise profound constitutional problems, and nothing in the Snowe-Jeffords amendment cures those fatal First Amendment flaws.

Sincerely,

LAURA W. MURPHY,  
*Director, ACLU Washington Office.*

JOEL GORA,  
*Dean & Professor of Law, Brooklyn Law School and Counsel to the ACLU.*

Mr. McCONNELL. Mr. President, we will discuss this issue further tomorrow. Let me sum it up by saying the courts are clear. The definition of express advocacy has been written into the laws of this country through court decisions. It is clear what issue advocacy is. It is clear that under previous Supreme Court decisions that you cannot compel a group to disclose its donors or membership lists as a condition for expressing themselves on issues in proximity to an election or any other time for that matter.

Mr. President, I will be happy to discuss these issues further tomorrow. With that, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I understand what my good friend from Kentucky is saying, but I remind everyone what the real issue is, and that is elections. We are talking about a system which has developed over the past couple of years which has seriously imposed upon us unfairness as far as candidates are concerned who find themselves faced with ads, and other

areas of expression, to change the election. Why would they spend \$135 million to \$200 million unless it was successful?

Let us get a real-life situation of what we are talking about. I have been in the election process for many, many years, and I know from my own analysis—and I think it probably is carried forward everywhere—that the critical time in an election to make a change in people's minds is the last couple of weeks.

Basically, I find that probably of the electorate, only about 50 percent care enough about elections to even go. That is the average across the country. Of that 50 percent, probably half of them will make up their minds during the last 2 weeks.

So you are out and have a well-planned campaign and everything is coming down to the end. You can go and find out what your opponent has to spend, and you can try to be ready to match that. And then whammo, out of the blue comes all these ads that are supposedly issue ads, but they are obviously pointed at positions that are taken by you saying how horrible they are. So these are within the Snowe-Jeffords amendment.

What can you do about it? You cannot do anything. You cannot even find out who is running them, unless you are lucky and have an inside source in the TV and radio stations to tell you who it is. You cannot find out. There is no disclosure.

The most important part of our amendment is just plain disclosure. If it is far enough in advance, 30 days before a primary and 60 days before a general election, at least you have time to get ready for it. If you know you are going to get all these ads coming, then you can reorder your priorities of spending. You can say, "Oh, my God, we have all this coming," and you never know until it is all over. You are gone. You lose the election and you didn't know. The opposition comes forth with this barrage and you are totally helpless.

What we do is not anywhere near what we would like to do in the sense of protection against this kind of thing, because I am sure they will find ways to get around it and feel they do not have to disclose. But it is so simple.

What is wrong with disclosure? What is wrong, if somebody is going to spend a couple of million bucks in the election against you, with at least knowing what is coming and who it is coming from? That is all we are asking for. We don't say you can't do it. Another thing we do, as explained very well by Senator SNOWE, is deal in a constitutional way with the money coming from the treasuries of corporations or money coming from the treasuries of unions by restricting that even more so they cannot even intervene within that last 30 to 60 days. But there are other ways, through PACs and other ways the money can be brought into the

election process, but it would be disclosed to the FEC and you have the ability to understand what you are going to be facing.

I cannot understand why anybody would be against this amendment. It makes such common sense. It doesn't do anything. It doesn't create anything except it requires people to disclose their intentions and also prohibits the use of the treasuries of the corporations and unions. There is nothing very dramatic about that as a change in the law. I really take serious issue with my good friend, the Senator from Kentucky, on the questions he raised.

Are these ads effective? Yes, I have talked with consultants, and I know one consultant who ran a lot of these ads. Obviously, what they were trying to do was win an election for their person who they were trying to help. No evidence of connection, but the people who wanted the ads sent the money for this purpose to defeat a candidate, and they felt those ads turned around at least five elections that would not have been turned around if it were not for use of these funds with no way for the poor candidate who is facing it to understand who it is, how much money is going to be spent and where it goes.

I want to give real-world situations we are involved with. What is so unfair about being fair and getting full disclosure?

I commend my good friend from Maine with whom I have worked very closely. I must say, this amendment is weaker than I would like to see, but I think we have done all we can do under the Constitution. I commend her for the presentation she has given and for her effort to raise the visibility to the Nation of the serious problems we have with these so-called advocacy or issue ads.

It has been my pleasure to work with her on this important endeavor, and today the Senate has the opportunity to enact real campaign finance reform.

The amendment we offer succeeds where others have failed in bringing the two sides closer to a workable solution. Combined with the underlying McCain-Feingold legislation, this amendment will ensure that all parties are treated equally in the reformed campaign finance structure.

As my record has shown, I have long been a supporter of campaign finance reform. I have sponsored a number of initiatives in the past and have worked actively to enact campaign finance reform. I have been reluctant to cosponsor the McCain-Feingold bill this time around because of my concerns in two areas which I have just been discussing. First, issue ads that have turned into blatant electioneering with no meaningful disclosure of the source of the attack; second, the unfettered spending by unions and corporations to influence the outcome of an election, especially close to elections, without the ability to identify the source.

Disclosure—how in the world can you be against disclosure?

The amendment Senator SNOWE and I are proposing strengthens the McCain-Feingold bill in a fair manner. Maybe too fair. That is the only criticism I can find of it.

Mr. President, the work that Senator SNOWE and I, as well as many other Senators, have done to develop an acceptable compromise is squarely within the goals of those calling for full campaign finance reform. We have been brought to this point by the disillusionment of the electorate. People across this Nation have grown wary of the tenor of campaigns in recent years. This disappointment is reflected in low voter participation and the diminished role of individuals in electing their representatives.

Our efforts to reform the financing of campaigns should begin to reinvigorate people to further participate in our democracy. I am ashamed at the voter turnouts across the Nation. I am a little bit less ashamed of Vermont which has one of the highest, but we all should be working to get fuller participation, closer to 60, 70, 80, 90 percent.

The 1996 election cycle reinforces the desperate situation we face. During this campaign, more than \$135 million was spent by outside groups not associated with the candidates' campaigns. These expenditures indicated to the public that our election laws were not being enforced and the system was out of control. Additionally, recent hearings in both the Senate and the House point to the need for serious reform.

Senator SNOWE has clearly outlined the content of our amendment. Our proposal boosts disclosure requirements and tightens expenditures of certain funds in the weeks preceding a primary and general election. The amendment provides disclosure of the funding sources for electioneering communications broadcast within 30 days of a primary or 60 days of a general election.

The measure prohibits labor union or corporation treasury funds from being used for these electioneering broadcast ads 30 days before a primary or 60 days before a general election. These two main provisions should strengthen the efforts put forward by the proponents of reform.

Of equal importance is what this amendment will not do, and that was gone into in very great detail. In fact, we have so many things we will not do that it sometimes concerns me if we have done enough. The amendment will not restrict printed material nor require the text or a copy of a campaign advertisement to be disclosed.

The amendment does not restrict how much money can be spent on ads, nor restrict how much money a group raises. In fact, our amendment clearly protects the constitutional prerogatives while promoting reform in a system badly in need of change. We have taken great care not to violate the important principles of free speech.

In developing the amendment, we have reviewed the seminal cases in this area, particularly the Buckley case.

The Supreme Court has been most tolerant in the area of limiting corporate and union spending and enhancing disclosure rules. We also worked to make the requirements sufficiently clear and narrow to overcome unconstitutional claims of vagueness and overbreadth.

I have long believed in Justice Brandeis' statement that "Sunlight is said to be the best of disinfectants." That is what we are looking for here, just a little sunlight on some of the very, very devious types of procedures that are utilized to influence elections.

Disclosure of electioneering campaign spending will provide the electorate with information to aid voters in evaluating candidates for Federal office. As we have seen in the last few campaign cycles, ads appear on local stations paid for by groups unknown to the public. These ads reference an identified candidate with the result of influencing the voters. Giving the electorate the information required in our amendment will give the public the facts they need to better evaluate the candidates but, more importantly, evaluate what information they are receiving and whether it is biased or where it came from, to be able to at least check where it came from and make sure it did not come from Indonesia or China or some other place.

Additionally, this disclosure, or disinfectant, as Justice Brandeis puts it, will also help deter actual corruption and help avoid the appearance of corruption that many feel pervades our campaign finance system.

Delivering this information into the public purview will enable candidates, the press, the FEC and interest groups to ensure that Federal campaign finance laws are being obeyed. Our amendment will expose any corruption and help reassure the public that our campaign laws will be followed and enforced.

The amendment will also prohibit corporations and unions from using general treasury funds to pay for electioneering communications in a defined period close to an election.

By treating both corporations and unions similarly, we extend current regulation cautiously and fairly. This prohibition, coupled with the disclosure requirements, will address many of the concerns my colleagues from both sides of the aisle have raised on campaign finance reform proposals. This provision will help satisfy our goal of creating a fair and equitable campaign finance system.

The amendment I am asking my colleagues to support will, hopefully, provide the additional momentum to bring this issue to closure. Although I am optimistic, I am not blind to the uphill battle we face in enacting appropriate change. I am encouraged by the fair and informative and productive debate we have had on campaign reform today. The proposal Senator SNOWE and I are offering, built upon the McCain-Feingold legislation, should become law.

I cannot conceive of how any legitimate objection can be made to the Snowe-Jeffords amendment. It is a step forward to making sure that elections are fair, that the public knows who it is trying to influence the elections, and that they have the right to find out that information.

Mr. President, I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I rise today to make a few comments about at least one amendment that has been offered here this afternoon.

As we work our way through the debate on campaign finance reform and you listen to Senators express themselves in the legal areas, the more one thinks that maybe we have got enough laws in place, maybe it is a matter of enforcing them.

I remind Senators that it was in 1996 when one major party failed to file their FEC report on the date it was supposed to be filed. In fact, it never was filed until after the election was over.

So I would argue that law enforcement probably has as much to do with the problems we see in political campaigns more than anything else. All through this process, we try to pass legislation that would maybe bring political campaigns into the light of public scrutiny. We would try to cap contributions, how much an individual or an organization can contribute to a particular campaign. We would try to cap spending. We would try to establish and make permanent filing dates.

Yet all of them would be to no purpose if we do not enforce them. In fact, we have gone into some approach of asking for free advertising from radio and television based on a faulty assumption, an assumption, if we do something, get something for nothing, we can limit the expenses, thus making it easier for everybody to run for political office.

I would ask those who would advocate such a regulation to offer free television and free radio time, I would ask them, the newspapers and publications, will they be made to offer free space? Will printers lay out people, graphic artists? Will they donate their labor for direct mail and fliers and stickers and, yes, those things that we mail direct to our constituency?

While we are talking about that, would we also write into the same regulation that they may be sent postage free? Should the laborers of the post office, or whoever, be made to do it for nothing? And my answer to that is, of course not.

Radio and television is a unique medium. Some would say it operates on the public airwaves. How public are they? If a radio station or a television station owns a chunk of frequency, do they not own it? They are only given so many hours in a day—like 24—that they can sell time. Once that time has passed, it cannot be recovered or made

up later on. Are we asking them to give away their inventory? Are we asking them to pay their production people to dub and to produce? Why are not their expenses the same as any other segment of the American media?

The amendment is nothing more than that the FCC should not advocate or use funds to regulate radio and television stations for free time or free access. It just does not make a lot of sense, especially when broadcasters lead this country in public service, in news and weather and services to a community. Yes, they get paid for the advertising for some of those programs, but basically they are there 24 hours a day, 7 days a week, 52 weeks a year.

Of course, they are being asked to do something for nothing. So I hope in any kind of reform that passes this body, that this amendment to prevent the FCC from requiring radio and television stations to give free advertising space would be a part of that reform.

But bottom line—and I am not a lawyer; never been hinged with that handle—as I listen to the argument, it boils down to, bottom line, the integrity of the folks that are supporting an issue or an individual for political office. It all comes down to that. For if lawyers write this law, it will be lawyers that will figure a way around it. It is a matter merely of enforcing the law.

#### CLOTURE MOTION

Mr. BURNS. Mr. President, I send a cloture motion to the desk to the pending bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 1663, the Paycheck Protection Act.

Trent Lott, Mitch McConnell, Wayne Allard, Paul Coverdell, Robert F. Bennett, Larry E. Craig, Rick Santorum, Michael B. Enzi, Jeff Sessions, Slade Gorton, Chuck Hagel, Don Nickles, Gordon H. Smith, Jesse Helms, Conrad Burns, and Lauch Faircloth.

Mr. BURNS. Mr. President, for the information of all Senators, this cloture vote will be the last of three consecutive cloture votes occurring Thursday morning, assuming none of the previous cloture votes is successful. The leadership will notify all Senators as to the time for these votes, once the leader has consulted with the minority leader. However, at this point, I ask unanimous consent that the mandatory quorum under rule XXII be waived with respect to all three cloture motions filed today.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. BURNS. Mr. President, I ask unanimous consent that there be a pe-

riod for morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### REPORT OF EXECUTIVE ORDER ORDERING THE SELECTED RESERVE OF THE ARMED FORCES TO ACTIVE DUTY—MESSAGE FROM THE PRESIDENT—PM 97

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services.

*To the Congress of the United States:*

Pursuant to title 10, United States Code, section 12304, I have authorized the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard, when it is not operating as a Service within the Department of the Navy, to order to active duty Selected Reserve units and individuals not assigned to units to augment the Active components in support of operations in and around Southwest Asia.

A copy of the Executive order implementing this action is attached.

WILLIAM J. CLINTON.

THE WHITE HOUSE, February 24, 1998.

#### MESSAGES FROM THE HOUSE

##### ENROLLED BILL SIGNED

At 5:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 927. An act to reauthorize the Sea Grant Program.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOND (for himself, Mr. COCHRAN, Ms. SNOWE, and Mr. SHELBY):