

I urge my colleagues to take a stand and support this proposed amendment to the Constitution.

Mr. President, I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### CAMPAIGN FINANCE AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S.J. Res. 18, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (Senate Joint Resolution 18) proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. There will now be 1 hour equally divided between the Senator from Kentucky [Mr. MCCONNELL] and the Senator from South Carolina [Mr. HOLLINGS].

The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, let me first thank Senator BYRD our resident Senate historian. I do not say that lightly—because the distinguished Senator from West Virginia has been masterful in his analysis and been very, very cautious and careful. He has stood many a time for not amending the Constitution, that we don't do this, willy-nilly, for any and every problem. But, after 20 years, thousands of speeches and hours and effort made, he has given a very masterful analysis of the need for this amendment. The Senate and the Nation are indebted to him.

Mr. President, I ask unanimous consent that Senator DODD, of Connecticut, be added as a cosponsor.

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

Mr. HOLLINGS. Mr. President, although I commend the efforts of the minority leader and others seeking to statutorily reform our campaign finance laws, I am convinced the only way to solve the chronic problems surrounding campaign financing is reverse the Supreme Court's flawed decision in Buckley versus Valeo by adopting a constitutional amendment granting Congress the right to limit campaign spending.

We all know the score—we are hamstrung by that decision and the ever increasing cost of a competitive campaign. With the total cost for congressional elections, just general elections, skyrocketing from \$403 million in 1990 to over \$626 million in 1996, the need for limits on campaign expenditures is more urgent than ever. For nearly a quarter of a century, Congress has tried to tackle runaway campaign spending with bills aimed at getting

around the disjointed Buckley decision. Again and again, Congress has failed.

Let us resolve not to repeat the mistakes of past campaign finance reform efforts, which have become bogged down in partisanship as Democrats and Republicans each tried to gore the other's sacred cows. During the 103d Congress there was a sign that we could move beyond this partisan bickering, when the Senate in a bipartisan fashion expressed its support for a constitutional amendment to limit campaign expenditures. In May 1993, a non-binding sense-of-the-Senate resolution was agreed to which advocated the adoption of a constitutional amendment empowering Congress and States to limit campaign expenditures.

Now it is time to take the next step. We must strike the decisive blow against the anything-goes fundraising and spending tolerated by both political parties. Looking beyond the current headlines regarding the source of these funds, the massive amount of money spent is astonishing and serves only to cement the commonly held belief that our elections are nothing more than auctions and that our politicians are up for sale. It is time to put a limit on the amount of money sloshing around campaign war chests. It is time to adopt a constitutional amendment to limit campaign spending—a simple, straightforward, nonpartisan solution.

As Prof. Gerald G. Ashdown has written in the *New England Law Review*, amending the Constitution to allow Congress to regulate campaign expenditures is "the most theoretically attractive of the approaches-to-reform since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere." Adds Professor Ashdown: "If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles \* \* \* would be eliminated."

Right to the point, back in 1974, Congress responded to the public's outrage over the Watergate scandals by passing, on a bipartisan basis, a comprehensive campaign finance law. The centerpiece of this reform was a limitation on campaign expenditures. Congress recognized that spending limits were the only rational alternative to a system that essentially awarded office to the highest bidder or wealthiest candidate.

Unfortunately, the Supreme Court overturned these spending limits in its infamous Buckley versus Valeo decision of 1976. The Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court came to the conclusion that limits on campaign contributions but not spending furthered "the governmental interest in preventing corruption and the

appearance of corruption" and that this interest "outweighs considerations of free speech."

I have never been able to fathom why that same test—the governmental interest in preventing corruption and the appearance of corruption—does not overwhelmingly justify limits on campaign spending. The Court made a huge mistake. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by the Buckley decision.

After all, as a practical reality, what Buckley says is: Yes, if you have a fundraising advantage or personal wealth, then you have access to television, radio and other media and you have freedom of speech. But if you do not have a fundraising advantage or personal wealth, then you are denied access. Instead of freedom of speech, you have only the freedom to say nothing.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech in general.

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you're talking between \$1,000 and \$2,000 for 30 seconds of primetime advertising. In New York City, it's anywhere from \$30,000 to \$40,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you're not on TV, you're not truly in the race. Wealthy challengers as well as incumbents flushed with money go directly to the TV studio. Those without a fundraising advantage or personal wealth are sidetracked to the time-consuming pursuit of cash.

The Buckley decision created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only \$50,000 to spend in a race and I have \$1 million, then I can effectively deprive him of his speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley. By striking down the limit on what a candidate can spend, Justice Marshall said, "It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start."