

[Rollcall Vote No. 267 Leg.]

YEAS—53

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

NAYS—47

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

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 47.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT—MOTION TO PROCEED

Mr. LOTT. Mr. President, I move to proceed to S. 1156, the D.C. appropriations bill.

Mr. DASCHLE. 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. Mr. President, is this a debatable motion?

The PRESIDING OFFICER. This is a debatable motion.

Mr. DASCHLE. Mr. President, I want to be heard on the issue, if I can. In essence, what we are doing here is pulling the bill. We are now stating that, at least for the purposes of this week and perhaps this session of Congress, debate on the campaign finance bill is over.

We are not prepared to accept that. I think we ought to have a good discussion this afternoon about whether we really want to do that. Do we want to pull this bill and go to the District of Columbia appropriations bill? I would say that at least every Member on this side of the aisle, and perhaps some on that side of the aisle, are not prepared to do that. So we are not prepared to have that vote right now, and I hope we will have a good discussion about it, a good debate about whether it is in our interest to do so.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

Mr. DASCHLE. Mr. President, I will not object for the purposes of giving the majority leader the opportunity to respond.

Mr. LOTT. Mr. President, I thank the minority leader for doing that so that I can respond to his comments. First of all, let me tell Members where we are on this. The D.C. appropriations bill would be the pending issue. We do have a cloture motion that we filed on that. We would have a vote on that not before 4 o'clock. There is still a chance we would get an agreement between Senator MACK, Senator GRAMM, and Senator GRAHAM of Florida on the immigration issue, and then we would have one other pending amendment. I believe it is the Coats scholarship amendment for the District of Columbia.

I believe those are the only two pending issues we would still have to dispose of on the D.C. appropriations bill, and then we would be able to go to final passage. That would be the last of the 13 appropriations bills, and then we could go on to conference on that and, hopefully, get all of these conference reports done before the continuing resolution runs out on the 23d, I believe, of this month. I wanted to make sure Members understand what we are trying to do here—go back to the D.C. appropriations bill.

Now, with regard to the issue that we have been debating and the votes we just had, those two cloture votes that we just took, in my opinion, put an end to campaign finance reform at this time. They end the drive for phony reform, the kind that rigs the law in favor of one side or the other. They end the partisan game plan that treated the Constitution and the right of free speech guarantees as technicalities to be gotten around. That was the worst aspect of this year's effort to rewrite Federal campaign law, this willingness to abridge one of the fundamental freedoms of the American people.

Earlier this year, to my amazement, 38 Senators actually voted to change the first amendment so that the Congress or a Federal agency could limit free speech. I never thought I would see that day arrive. Now, those 38 Senators have been joined by others who would not explicitly repudiate the first amendment, but they would in fact change it. I think that is a very serious challenge to the Constitution.

What we have here is an effort to change the subject, to change the laws, where the laws we have on the books have already been broken. We do not have a consensus yet on how to proceed on this issue. We will be back on this issue some day. But I want to say again that until we do something about the paycheck equity issue, allow people to

have some say over how their dues are used, and make sure that all campaign contributions are voluntary, I don't see how we can ever resolve this issue. So I feel good about what we did today. I think we did the right thing for the American people, the right thing in protecting free speech. Now we can move on to other issues, and we can continue to have other debate and other votes on this on other days.

But as for now, I think we did the right thing. I am proud the Senate didn't turn its back on the Constitution. Just yesterday, the Supreme Court ruled that you cannot limit free speech, you cannot limit advocacy issues in campaigns. We may not like it, but in America you should have a right to say how your monies are used. You should have the ability to express your position on an issue or on a candidate.

So I hope that we can mend some of the problems that have developed and go on and do our work on a lot of important issues, and perhaps some day we can find a way to have an opportunity to come together on this issue.

I yield to the Senator from Oklahoma for a question, without losing my right to the floor.

Mr. NICKLES. Mr. President—

Mr. KERRY. Regular order, Mr. President.

Mr. NICKLES. The majority leader has yielded so that I may ask a question. Your request was to move to the District of Columbia appropriations bill. Correct me if I am wrong, but that is the last appropriations bill we haven't passed. We passed the other 12, and we passed a continuing resolution. The continuing resolution will expire on the 23d of this month. So it is your hope that we can dispose of the District of Columbia appropriations bill, hopefully, tonight; is that correct?

Mr. LOTT. That's correct.

Mr. NICKLES. And dispose of—I believe there is the Coats amendment pending and also a Mack proposal pending. So if we can dispose of both of those amendments, finish the District of Columbia appropriations bill, let it go to conference, and hopefully work out the differences with the House on that and several other conference reports, as many as possible this week, hopefully complete all those by the 23d, maybe we won't need a continuing resolution. It looks like there may be a couple of bills that we may not be able to finish by the 23d. It is your hope that we can finish the D.C. bill tonight?

Mr. LOTT. That's correct. I believe we can. I understand that the interested Senators, on a bipartisan basis, have come very close to an agreement. I think we may have an answer within the hour.

Mr. NICKLES. The majority leader made some comments on the campaign finance reform and paycheck protection. I know my colleague the minority leader said he wanted to have more discussion. I will tell my colleague that I would like to visit about that a little

bit more as well. I think every American should be guaranteed the right to say whether or not they contribute to a campaign. I can't imagine that any employees have money taken away from them on a monthly basis without their consent. I think that is un-American.

I personally inform the majority leader and tell my colleague from South Dakota, I think it is a very fundamental question of freedom, and I feel very strongly about it. I am happy to discuss that with our colleagues and, hopefully, figure out a way to pass it. Two or three of my colleagues say maybe it should be amended. I am happy to discuss that with them as well. I never said it was perfect. I think we should have a fundamental question of fairness. Should we not have the right or the opportunity to make sure that everybody that contributes to a political campaign does it on a voluntary basis?

So I appreciate the majority leader's responding to my question. I know he wants to set this aside as far as campaign reforms and pass the appropriations bill. I concur with that.

But just to ask the majority leader a question, does he agree with me that every American should have the right to be able to contribute to a campaign on a voluntary basis?

Mr. LOTT. It is such a fundamental, basic right, I really can't understand why there is such resistance to it in campaign finance reform. Frankly, all employees, whether they are union members or not, should have the right to say how their dues or fees are used, and it should not be done without their permission.

Mr. McCONNELL. Will the majority leader yield for a question?

Mr. LOTT. I yield to the Senator from Kentucky for the purpose of a question, without losing my right to the floor.

Mr. McCONNELL. Well, Leader, let me just ask if you are familiar with the cloture vote we had on this issue last year. I was asking the leader, since I am compelled to ask a question, if he is familiar with the cloture vote we had last year.

Mr. LOTT. I believe I am familiar with it, and I believe that the vote we just had, as a matter of fact, was a better vote in defense of free speech than we had just a year ago. After all the pressures and all of the media hype on this issue, as a matter of fact, the Senate voted by a stronger margin for free speech and for union members being able to have a say on where their dues would go.

Mr. McCONNELL. I say the majority leader's memory is excellent. In fact, the vote against cloture and the vote to defend the first amendment was better this year than it was last year, in spite of all of the effort that has been made to undermine fundamental free speech in this country. So I commend the majority leader for his leadership, and we look forward to defeating this

measure at any time it may be offered to the Senate.

Mr. KERRY. Will the majority leader yield for a question?

Mr. LOTT. I yield to the Senator from Massachusetts for the purpose of a question, without losing my right to the floor.

Mr. KERRY. I ask the majority leader if it is a fact that, under the procedures of the Senate, this bill, the D.C. appropriations bill, would have been the regular order of the Senate, so it was unnecessary to move to proceed to the D.C. appropriations as the regular order, except that by moving, as the majority leader has, he has in effect taken the campaign finance reform bill and put it back on the calendar, which essentially removes it from the capacity of automatically coming up again before the Senate; is that an accurate description of what has happened parliamentarily?

Mr. LOTT. I think that is an accurate description of what is happening parliamentarily. We have had parts of 7 days of debate. We have had two votes on this issue. As I said, it is obvious that a consensus has not been reached. We have other important issues that Members want to come up and debate. I accommodated advocates of the campaign reform bill, and we have had the debate they wanted. It came up early, not later.

Now we have other issues we need to deal with. We need to deal with the District of Columbia appropriations bill, so that it can go to conference and hopefully go down to the President. A lot of work has gone into that bill this year to try to help the people in the District of Columbia. Do we want the District of Columbia appropriations bill to die here and be folded in some form or another in some CR at some point?

I know the Senator from Massachusetts would like to see us do Amtrak reform so that, as a matter of fact, the funds we have identified, a flow of funds for Amtrak, can go forward. If we don't get the reform authorization language, the money will not be released. That is going to get to be a serious problem. We see the possibility, or even the probability, of a strike facing Amtrak later on this very month. It seems to me that we need to address some of those issues so that we can have adequate funding for Amtrak. I know the Senator from Massachusetts wants that.

The President of the United States indicated to me through top staff officials on Monday morning that they hope we will vote on this issue and then move on to other issues, including the fast-track trade agreement. We have a lot of important work to do. I just said a moment ago that I don't think this is the last time we are going to talk about campaign finance reform. Maybe some day we can sit down and see what we might agree on. We are certainly not going to agree to a situation that gives up any American's

right to free speech and that forces other citizens to pay, against their wishes, for campaigns they don't support.

So you are right that our purpose here is to get off of campaign finance reform for now and go to the District of Columbia appropriations bill. I believe if we can do that, we could probably finish today. The next order of business I would like to try to go to is the ISTEA transportation infrastructure bill. That, too, is a bipartisan issue that Senator DASCHLE and I have talked about. Senator MAX BAUCUS is working on it, along with Senator CHAFEE. There is a bipartisan group, and they are ready to go. In that case, the Senate needs to provide a little leadership because the House hasn't been able to pass a bill. They passed just an extension. We can pass a 6-year bill with a formula that would be fairer overall. There will be some disagreements on that. Until we get started, we are never going to resolve them.

Mr. KERRY. Mr. President, if I can continue, let me say to the majority leader, I think all of us have been sensitive to the needs of the Senate to do the business of the Senate. We have set aside the campaign finance reform in order to do that at any time that it was important. But there is a very big distinction between taking this off the calendar in a way that prohibits us, if we were to reach agreement, from returning to it immediately or from really deliberating on it.

I ask the majority leader, would he be prepared, if Members on both sides were to discuss in the next hours some kind of approach that we weren't permitted to vote on, we weren't permitted to actually legislate on, but which might resolve this question of how you provide people the free choice with respect to their dues or otherwise, in a fair-minded way? Would the majority leader be prepared, if Members on both sides believe there is a solution, to bring this back for a vote in order to deal with that?

Mr. LOTT. Well, when we have a solution even in distant sight that would be fair and would not restrict Americans' ability to participate in the election process, a system that is a fair one, then certainly I am always amenable to talking further. My record is replete with examples where I said, I think there is hope, let's work. But on this issue at this time, that hope is not there. There has been no real movement in that direction. So I don't foresee that happening.

The Senator from Massachusetts was one of the ones who said, "Are you going to bring this up early, or are you going to wait until the last day of the last week of this session?" I said, no, I didn't want to do that because I didn't want us to end up on this issue without having the time to talk about it. I thought about it and I said, as a matter of fact, let's go ahead and get started because I thought there was a window of opportunity in here to have the debate, which we did for some 23 or 24

hours, on campaign finance reform. So I said, let's do it now. But I think it would not be good faith, after all that, to want to do it again next week, and every day we are in session, and the last day we are in session. I don't think that is in good faith either. That will wind up affecting everything else we need to do.

We have had a good debate. We know that right now there is not a consensus. But if we begin to move toward one that is not partisan, that is fair and does not limit free speech, I am always willing to see what we can agree to.

Mr. KERRY. One last question with a very quick response. The Senator from Massachusetts contemplated the Senate doing what the Senate is supposed to do, which is legislating, voting. We have not voted on one amendment. We have not permitted one issue to come to the real deliberative efforts of the Senate, which is through a vote. I think the Senator knows that.

So my question would be, if there is this kind of solution, will the Senator permit it to come to a vote—if it were a majority of the Senate that had come to that conclusion, a majority of the Senate?

Mr. LOTT. I cannot help but be reminded of some of the speeches I heard the former majority leader from Maine, Senator Mitchell, make on this floor. When a Senator would object to his procedures, he would reply that the Senator understands how the Senate operates; the Senator understands that in the Senate it quite often requires 60 votes, not 50 or 51 votes, to take action; the Senator understands that being deliberative doesn't mean having multiple votes.

We could have had amendment after amendment after amendment and be on this subject for the rest of this month. But there was no consensus. There is no consensus. The truth of the matter is that the other side feels that, if they do not limit free speech, the bill is not worth having. We, on the contrary, feel that if people can't have control over how their contributions are used or their dues are used, the bill would not be fair.

But, as I have said before, we will keep working on this. And I am always amenable to suggestions. I have been talking to Senators this very morning about that.

I yield to the Senator, if I can. Let me yield to the Senator from Pennsylvania, then I will come back to this side, for a question.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Pennsylvania.

Mr. SANTORUM. Thank you. I thank the leader.

I just wanted to ask a question. The Senator from Massachusetts talked about the job of the Senate as it moves forward on legislation. I just wanted to harken back to his statement about FDA reform, and what has been done by some people trying to block consid-

eration of FDA reform and comptime-flexitime. If you will correct me, I believe it is still on the calendar at this point because we do not have 60 votes to move forward with the comptime.

Mr. LOTT. As a matter of fact, on flexitime, that is the pending business. And, under certain circumstances this week, we could end up back on that bill, which will suit me fine.

Mr. SANTORUM. Is it not the fact that we will not be able to get 60 votes on comptime-flexitime, and as a result we have not been able to move forward with that piece of legislation, which, as we have just been told by the Senator from Massachusetts, is the business of the Senate? We have not had that debate yet.

Mr. LOTT. I believe, in answer to the Senator's question, that the majority of the Senate thinks there should be an opportunity for workers to be able to take time to be with their children, or to do whatever they might need to do—for the PTA or for their own health reasons. The U.S. Senate could, by a majority vote, allow that to happen, but instead the bill has been filibustered. Since we have not been able to round up 60 votes, it still is pending on the calendar.

Mr. SANTORUM. My understanding is that the major opposition to the comptime-flexitime—you can tell me—the major opposition that is moving is on the other side of the aisle, and talking to those Members to block the comptime-flexitime bill from coming up for consideration.

Mr. LOTT. I know there has been a lot of interest by the Senator from Massachusetts, Senator KENNEDY, about that. And I know he had problems with the Food and Drug Administration reform package, which, by the way, passed with a bipartisan vote, overwhelmingly, to cut off his filibuster. We voted, I think, twice to cut off the filibuster, and I understand it passed 98 to 2. It took us a month to get it done.

Mr. SANTORUM. Can the Senator say what outside organizations are principally opposed to the comptime-flexitime bills being considered here?

Mr. LOTT. I believe the AFL-CIO. I think it would be helpful if we could check with their members because I think the members would like to have a say about the denial of their comptime-flexitime.

Mr. SANTORUM. With respect to the Lott amendment on paycheck equity, what outside organization is blocking the consideration of that? In fact, what outside organization is a major opponent?

Mr. LOTT. That legislation to allow for voluntary contributions to campaigns so that workers are not required to pay dues as a condition of employment and then have those dues used for political candidates. Our amendment to fix that problem has been opposed by the union bosses. But yet the union members in the country, when they find out that their dues are being used

for political purposes without their permission and without their knowledge—the ones I talk to—are irate. They say, "I want the opportunity to decide. I may want to give permission. I might want to check it off and say this is fine."

But in America shouldn't you have the ability to say that? Shouldn't you have the choice about how your own moneys are used as a condition of employment?

Mr. SANTORUM. I would also ask the question maybe in a little different light.

Let me ask this question. My question is, can you come up with a reason why someone would want to be debating the changing of the underlying law with respect to campaign finance at a time when there is another debate going on out here about violations of current existing law? Can you possibly postulate for me what you think the motivation of some might be to question the underlying existing law of campaign finance in the face of overwhelming evidence and even new evidence that has come out, as recently as other day, that there are existing violations of campaign finance law? Could you answer for me or postulate for me what the reasons are that someone may want to divert attention away from a debate and examination of the breaking of existing campaign laws to talk about something completely unrelated, which is changing the existing law?

Mr. LOTT. I said in my speech a week or so ago that what really bothers me here is people saying, "My goodness, the laws which we wrote have been broken and, therefore, we should change them." And what new laws do they propose? Laws that restrict free speech, in the McCain-Feingold proposal as it now stands. There are provisions in that with regard to advocacy, or advocating an issue, or advocating even a candidate. The Supreme Court just yesterday refused to review the lower court which said you can't limit that.

Our paycheck protection amendment has been called a "poison pill." Since when is it a "poison pill" when you have an amendment that says the American people should have a say about how their money is used?

I think that is a very strange description of a very fundamental freedom and right I thought we still had in America.

Mr. SANTORUM. If I could ask one additional question, do you find it ironic that on the day in which we have campaign finance hearings in the Governmental Affairs Committee, talking about the legal activities at the White House with the Democratic National Committee, that Members of the Senate here on the other side of the aisle want to focus on a completely different issue which has to do with changing the existing campaign? Do you think there is some sort of strategy involved here? I am just curious as someone sort of on the outside.

Mr. LOTT. It appears to me there might be some thinking along those lines. But, you know, I, at this point, don't want to question the motives of others.

I appreciate the questions that have been asked, and I would ask consent that after the Senator from South Dakota speaks, that I be able to regain the floor to continue this discussion.

Mr. DASCHLE addressed the Chair.

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

The Democratic leader.

Mr. DASCHLE. Mr. President, I thank the Presiding Officer.

Mr. President, let me respond to a couple of the matters raised by my distinguished majority leader.

First of all, with regard to the District of Columbia appropriations bill, there is no reason why the majority leader could not have simply called for regular order. By calling for regular order, the D.C. appropriations bill would have been on the floor. We would not have had to put the campaign finance reform bill back on the calendar.

So no one should be misled by that sleight-of-hand. It is very important that everyone realize what happened. The majority leader pulled the bill, put it back on the calendar, ostensibly so we could come back to the District of Columbia appropriations bill. But that wasn't necessary because the regular order is the District of Columbia appropriations bill. So we could have achieved what the majority leader said he wanted to achieve simply by going back to the regular order.

Mr. President, I hope everybody realizes that is the reason Democrats have found the decision of the majority leader questionable today. Why would we do that if, indeed, we are going to be going back to cloture votes tomorrow and to cloture votes again on Thursday?

I have heard several of my colleagues say that it is the American way to ensure that every single person voluntarily participate in the political process, and, in so protecting the voluntary nature of that participation, it is critical that unions provide for some mechanisms to refund that portion of the payment dedicated to political activity within each union. That is the American way to have that opportunity.

I do not want to debate the so-called Lott amendment at length. But I certainly expect that they would then support that same freedom—that same voluntary spirit—when it comes to the mandatory collection of political resources from corporations, from organizations, and from all other entities involved in the political process. If it is good for one, it has to be good for the other.

With regard to having a full and fair debate about that, I don't know what could be more full or more fair than to bring up the bill separately and have a good debate—an all-out debate about it.

Let's have a debate with amendments on whether or not we want to expand it, whether, indeed, it is a good idea.

But I get back to why this is going on. This is going on not because people are concerned about freedom, about free speech. This is going on because it is a poison pill, because we know as long as we are in this situation we are never going to get to campaign finance reform.

So I hope everyone understands what this is all about. The majority leader says there isn't a consensus. I will agree today there are not 60 votes on the bill, but we are getting closer to a consensus on a lot of these other issues.

Mr. President, let me just say, given this poison pill, campaign finance reform probably choked a little bit today, but it did not die. It is alive. It is well. And it may choke a little bit more as they try to shove it down the throat of the whole campaign finance reform concept, but I will tell you this. Campaign finance reform will not die until it is passed. It will pass. I do not want to be in a situation to amend other bills, but that is exactly what we will be forced to do if we are not able to deal with this in a constructive way.

So I just hope that Republicans and Democrats can work through these obstacles, that we can rid ourselves of the poison pill and debate it as an issue as we should but then allow the Senate to work its will on campaign finance reform in a meaningful way. I hope we can do that.

Mr. DORGAN. Will the Senator yield?

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

Mr. DORGAN. I appreciate the Senator from South Dakota yielding. I would like to ask just a couple brief questions.

The majority leader has consistently this afternoon indicated there has been a rather full and extensive debate on campaign finance reform. Isn't it the case that exactly the opposite is true? The master illusionists in America are those who are able to convince people that they have seen things that do not exist.

Isn't that what we have here? We have had a debate on campaign finance reform, we are told. Isn't it the case, I ask the Senator from South Dakota, that the campaign finance reform bill was brought to the Senate in a very complicated set of almost Byzantine procedures that are called filling the tree so that no one else had an opportunity to do anything to amend this bill, and that under the procedure that existed the bill was debated, but no one, save the majority leader, was able to offer one single amendment?

Isn't it the case that we had what is called an illusion? I think this is an illusion to convince people to see things that do not exist.

I think people will see what happened here, a procedure that ties up the Senate, allows no one to offer any amendments, and then a claim, trying to pull the bill from the floor, that we have had a debate on campaign finance reform. Is that an accurate description of what has happened in recent days?

Mr. DASCHLE. The Senator from North Dakota is exactly right. That is the description. We have spent a lot of time on it. But ask any Senator in this Chamber whether they have had an opportunity to offer an amendment, to talk about differences that we might have with the McCain-Feingold bill per se. We have all indicated that we are willing to support it, but there have also been a lot of indications on the part of many Senators that they would like to improve upon it, they would like to change this or that. It is the nature of this body to have a good debate about what is the most appropriate language, what is the most appropriate provision with regard to these questions. We have been denied that.

So while we have had good speeches—I have heard some great speeches, even some exchange—we have not had a debate, not a debate in the true sense of the word where Democrats and Republicans can walk down to the floor, offer an amendment, have a good vote, go on to the next amendment, have an exchange. That has not occurred.

Mr. DORGAN. If I might just ask two brief additional questions.

Isn't it the case that on the cloture vote on the underlying bill, the McCain-Feingold bill, 53 Members of the Senate voted for cloture, which suggests that 53 Members of the Senate support this bill? So we have a campaign finance reform bill that has the support of the majority of the Senate and a procedure designed to prevent the Senate from having a vote on it. Is that not the case that we now face?

Mr. DASCHLE. The Senator is absolutely correct. The majority of the Senate has now gone on record in support of the bill as it is pending before the body, and we have been precluded the opportunity to vote up or down on that bill.

Mr. DORGAN. I know the Senator has another engagement, but let me ask one final question. Isn't it the case now that the pending business in this Chamber was campaign finance reform and the majority leader is asking by motion to go to D.C. appropriations and that those who decide to vote to do that are voting to pull campaign finance reform? If that is the case—and I guess it is procedurally—I think we ought to have a debate about that. I think we ought to have a vote on it, we ought to find out who in the Senate decides to vote to pull campaign finance reform from the floor of the Senate before we have had the first amendment offered to that bill.

Why haven't we had an amendment offered? Because this bill was tied up tight, brought to the floor with the design and a boast by some that they are going to kill it and be proud they killed it, and they are going to put this in a position where someone else filibusters and gets the blame for killing it.

This is clearly an illusion. And isn't it the case that the vote we are going

to be asked to take—and I hope it is a record vote; you have already asked for the yeas and nays—will be a vote on whether we believe we should pull campaign finance reform from the floor of the Senate? I am going to vote no, but isn't that in fact the vote we are going to have?

Mr. DASCHLE. I think the Senator from North Dakota describes it accurately. We don't think—

Mr. LOTT. Mr. President, will the Senator yield for a question to the Senator from North Dakota?

Mr. FORD. Let him answer his question.

Mr. LOTT. I will be glad to wait.

Mr. DASCHLE. I will be glad to complete my answer and yield to the majority leader.

The answer is clearly yes. We don't believe that this is time for business as usual here, that we simply pull the bill after we debated it, as we have now for some 23 hours, if you can call this a debate. Simply to pull the bill without any resolution on the issues is a very difficult thing for many of us to accept. So the Senator is absolutely right. Our preference would be to stay on this bill. Let's see if we can finish it. We hope we can finish the D.C. appropriations bill, too. We have attempted to do that, but clearly we have to move on with subsequent votes on campaign finance reform.

I would be happy to yield to the majority leader.

Mr. LOTT. I will just wait, if the Senator is about through with his comments. I will just go ahead and respond.

Mr. DASCHLE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I thank the Senator from South Dakota for allowing us to have this discussion to go back and forth, but I want to point out to the Senator from North Dakota that the same rationale that he used also applies to the amendment that I had offered, the paycheck equity amendment; 52 Senators voted to invoke cloture so that we could go ahead and get a vote on that issue, as a matter of fact. So a majority of the Senate feels very strongly about that.

Mr. DORGAN. Will the Senator yield on that point?

Mr. LOTT. It seems to me that sometimes maybe even the White House knows more about the rules of the Senate than some of us around here.

As a matter of fact, when the White House spokesman, Mr. McCurry, was asked about how the vote would come in the Senate, he was asked, "Well, what if there is a filibuster?"

Mr. McCurry said, "Well, then there would be a filibuster and there would be a cloture vote and then they would move on."

"But if they don't get 60 votes, that wouldn't be a vote."

"It would be a vote. That's the way the Senate rules work. What else?"

"Does the vote of 60, is that considered a vote?"

"Mr. McCurry. A vote to limit debate by invoking cloture is considered a vote under Senate rules, yes, the last time I checked."

Mr. DORGAN. Will the Senator yield?

Mr. LOTT. Mr. McCurry seems to know more about the rules than some of us around here.

Mr. DORGAN. Will the Senator yield?

Mr. LOTT. But the argument again that 53 Senators voted for cloture on the underlying bill applies the other way, too; 52 Senators voted for cloture on the amendment that was pending.

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

Mr. LOTT. I will be glad to yield.

Mr. DORGAN. No one is suggesting, certainly not me, that the Senator has not followed the rules. The Senator has used the rules exactly as he desired to use the rules to bring this bill up, fill the tree, prevent it from having amendments, have a cloture vote, and kill the bill. This Senator understands that. I have been curious about why the majority leader would not allow a motion to table. We understand that there was not an interest in allowing a motion to table the Lott amendment to be offered this morning.

In fact, the Senator in a rather unusual move last evening put us in morning business all morning. Our expectation was we would be able to have a motion to table. I wonder if the Senator would tell us why that was inappropriate or whether he would allow us the opportunity to offer a motion to table the Lott amendment at some point.

Mr. LOTT. In response to the Senator's question, as a matter of fact, I had been indicating all along that we would have full debate on this, we would have cloture votes. If cloture was achieved, then we would move on from there. If it was not, then we would go to other legislative business.

As a matter of fact, I had to file the cloture motion last week, I guess it was last Friday, so we could have these cloture votes. As a matter of fact, as to morning business, I have lots of Senators who come in and say: We have very important issues we want to talk about. Can you set aside an hour or some time, even 2 hours, for morning business?

Yesterday afternoon I came down to the floor. No Senators were waiting to speak on campaign finance reform. One Senator was waiting to speak on another issue, and so we went into morning business where Senators could speak up to 5 minutes on any other subject they wanted.

So if I could go on at this point, does the Senator from Utah have a question he would like to ask?

I yield for a question.

Mr. BENNETT. I would like to ask the majority leader a question regarding the Lott amendment about which

we have heard some ex post facto debate here. Is it not true that under the Lott amendment corporate employees who are not members of the union also would be required to give their permission before their money could be used?

Mr. LOTT. That is absolutely true, a little point that seems to be ignored in many circles around here. As a matter of fact, I don't think any worker, whether he or she is a union member or nonunion member, should be compelled to have their dues or fees or assessments or in any way have to pay without their permission for politics or for a political candidate. I think it should be applicable to workers at all levels. And so I purposely included that.

Some people say, "Well, you went beyond the Beck decision of the Supreme Court." Yes, that is one of the key places where I did go beyond the Beck decision. I said this voluntarism should be applicable to all employees, all workers. So clearly that is a part of the amendment as it now stands.

Mr. BENNETT. Now, if I could further query the majority leader, on this issue of equality between workers and shareholders and the suggestion that corporations that are involved in giving soft money are taking money involuntarily from the shareholders, is the majority leader familiar with the shareholder boycott movements that occurred, oh, some decade or so ago, people who would sell their shares of stock in companies that did business in South Africa, for example?

Mr. LOTT. I am familiar with that, and I know of the Senator's background in business as a corporate executive, and he knows all too well that stockholders, shareholders, have a very strong voice in what happens, and that voice is by buying or not buying more stock or by selling what they have and putting it somewhere else. They can choose where they put their money. What a wonderful American procedure that is. But it is one that we value very much.

Mr. BENNETT. I would say to the majority leader before my next question, I have been called by brokers who have told me what a marvelous investment a particular company is. And I said, "But they sell cigarettes, and I don't want to put my money in a company that sells cigarettes." And I was told, "Yes, but they're mainly in cookies and biscuits and other kinds of food." And I said, "No, I am making a decision as to whom I will support with my investment dollars, and the company that's in the tobacco business is not one I want to support with my money." I don't attack people who support it with their own money, but I make my own investment decisions. I have heard people say the same thing about entertainment companies, saying they don't want their money in the entertainment company that produces a particular movie, and whatever.

But this is the next question I would like to address to the majority leader. The distinguished minority leader

talked about campaign finance hitting a bump in the road today but saying it was not dead, that the Senate had hit it but not killed it.

Is it not the opinion of the majority leader that the biggest bump that McCain-Feingold has hit is not the vote in the Senate but the vote in the Supreme Court? When the Supreme Court took action with respect to denying cert to a lower court ruling, did the Supreme Court not in fact inflict a much bigger blow on McCain-Feingold than the vote we took today? And if, indeed, we had passed it today, is it not now clear the Supreme Court itself would gut the bill?

Mr. LOTT. I think it is obvious that that would be the result. Now, there are those who have been saying, well, you never know how the courts are going to rule until they look at the specific language or until they have in fact ruled. Right in the middle of the debate on McCain-Feingold, the Supreme Court spoke clearly, once again, and said you cannot limit people's speech. You cannot limit advocacy. You cannot limit groups that want to take a position on an issue. It was really interesting that ruling did come just yesterday of this week.

Mr. BENNETT. Would the majority leader not concur, then, that it is a better use of the Senate's time to be debating appropriations bills at this point in the fiscal year than worrying about legislation that is clearly unconstitutional? Don't we have a responsibility, when something is clearly unconstitutional, to get off of it and move onto something more productive?

Mr. LOTT. It would appear to me to be the case. If the Senator will allow me, I would like to ask that the cloture vote scheduled for today now occur at 4 p.m. I would say to the Senate that I have just notified the minority leader of this request, therefore the next vote will be 4 p.m. today on the motion to invoke cloture with respect to the Mack-Gramm immigration amendment to the D.C. appropriations bill.

The PRESIDING OFFICER. The leader has that right.

Mr. LOTT. Does the Senator wish me to yield further?

Mr. BENNETT. I thank the majority leader for his courtesy. I have no further questions.

Mr. LOTT. As I said here last week, I think protecting citizens against forced political contributions should be the litmus test for the sincerity of this debate. Anyone unwilling to do that cannot be taken seriously as an advocate for reform. The fact is that the advocates of McCain-Feingold decided that legislating about campaign finance reform was less important than maintaining the system of compulsory campaign contributions by employees. And, so, rather than allow their own legislation, the present form of McCain-Feingold, to go forward, they brought down the roof of the whole temple on their own bill. At least Samson had reason to wreck the place. But

I don't think that should be the case here. They are so determined to limit workers' ability to say where their dues or their fees are going to be used, and how, that they are willing to have the whole issue set aside.

So we stand here, now, in the midst of this scuffle, but maybe the things we are finding out this very day about what happened in the 1996 campaign will have some future effect on what we decide to do. Belatedly, now, we see these videotapes brought forward, showing White House coffees. Even more belatedly, we understand, now, that there is an audio track of the President's meeting with John Huang on June 18, 1996. Where have these tapes been? Why haven't we known about this before?

When it comes to campaign finance, the administration gives a whole new meaning to the term "technical problems." Only a few days ago, while those White House videos were not available—or maybe people weren't aware of them—the Attorney General had been moving away from an independent counsel, not toward it.

So, I once again have serious problems with trying to detect who is serious about legitimate campaign reform. What we have here is not a lack of restrictive campaign laws. In fact, I think that is a big part of the problem. We already have more laws, more restrictions, more regulations than the mind can contend with. I think we have been making mistakes over a period of years in the writing of campaign laws, where now it takes lawyers and CPA's and FEC experts to try to make sure that a candidate for office, of either party, is complying with the law. What we have is a lack of enforcement of the existing laws. So, the push has been to say, well, there may have been some problems, maybe some laws were broken, so what we need is new laws. I respectfully disagree with that.

We are not going to go forward in a way that is unconstitutional. We are not going to go forward in a way that does not deal with this problem of the taking of dues from workers and using them for political purposes.

I just came across an interesting quote attributed to former White House Deputy Chief of Staff, Harold Ickes. This is actually a quote from Michael Louis, in the New York Times magazine. He says that the Deputy Chief of Staff will tell you, point blank, that President Clinton does not care about campaign finance reform, that he is using the issue for his own purposes, none of them altruistic. I think that sums up what is going on here and I think the American people should not allow themselves to be fooled by the debate that we have been hearing over the last week.

I yield further to the Senator from Kentucky for a question.

Mr. MCCONNELL. Yes, I wanted to ask the distinguished majority leader if he was aware that there had been some survey data actually taken of em-

ployees, union employees, assessing their attitude about their dues being taken, in effect, and spent on causes with which they disagree?

Mr. LOTT. I am aware that there have been some survey data. I am trying to remember what the numbers were. I believe—perhaps you will have them—in one instance it was 62 percent; in another it was 78 percent.

Mr. MCCONNELL. I think the 78 percent figure the majority leader refers to is the one that I saw; 78 percent of workers would like to have an opportunity, up front in advance, to make the decision on whether or not they contribute, in effect, to a political cause; fundamental American right. That is what the leader's amendment would have provided, not just for union members but employees of corporations who are not union members, and of course any shareholders who are aggrieved have the option to sell the shares, if they object to any political donation of a corporation. So I commend the majority leader.

Mr. LOTT. I would like to make another point. Perhaps the Senator might want to respond with a question on that, or comment.

I didn't just dismiss the McCain-Feingold bill out of hand. I sat down with the Senator from Arizona and we went over what was in his bill. One of the problems with it is how he deals with this paycheck equity issue. His bill, as I understand it—maybe you can correct me—says, in effect, that after an election is over, if a member decides that he or she would like to get their dues back because the money was used in some way he or she didn't agree with, then they could get it back.

Great. You have already had an election. Somebody has already been bombed with millions of dollars of money that is used against union members' permission, and then they can say, after the fact: If you are mad, you can get your money back. I don't understand the rationale for that thinking.

Mr. MCCONNELL. The majority leader is absolutely correct. That provision would have only given an employee who decided he didn't like it an opportunity to write in and get his money back after it was over—wholly inadequate, I would say to the leader, wholly inadequate.

Mr. FORD addressed the Chair.

Mr. MCCONNELL. The real decision is, do you—are you asked in advance whether or not you want to contribute your hard-earned money to a group that may go out and spend it on causes with which you disagree?

Mr. FORD. Mr. President, I don't mind listening to this debate but the floor is in the possession of the majority leader and he yielded for a question, not a statement.

Mr. LOTT. Mr. President, in case the Senator from Kentucky or the other Senator from Kentucky or any other Senator would like to speak—we will have a vote at 4 o'clock, but in order

for them to make some comments if they would like, I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I just want to thank the distinguished majority leader for his leadership on this very important issue. In the judgment of this Senator, there is nothing more important than protecting the first amendment and giving American citizens an opportunity to participate in the political process.

I would say that is not just my view. That is the view of the United States Supreme Court. It is the view of the American Civil Liberties Union. The Court has said you have a constitutional right to support, to contribute to the candidate of your choice. So we are talking about fundamental first amendment rights in this debate.

I also want to take this opportunity to thank my colleagues who have spoken during the course of this debate. The number of speakers has been roughly equal on both sides. Every one of the Senators who spoke on my side of this issue spoke in defense of the first amendment.

I also extend my gratitude and my appreciation to Tamara Somerville, my long-time assistant in this struggle to protect the first amendment. Nobody has ever worked harder, produced more brilliant subject matter, and done it with greater humor than she. So, my thanks to Tam, not only for her good work for me but also on behalf of the country, in defense of the first amendment.

I also want to thank her assistant, Lani Gerst, who did a remarkable job as well, for all of her help.

Mr. President, it has indeed been a wonderful debate. We will in all likelihood have it off and on again. It seems that is the history of this issue. It has been around a few times over the last 10 years, but I think the opposition to ruining the first amendment continues to grow. Today's cloture vote against cloture was the highest in 10 years.

So, I end today on an optimistic note, that the first amendment will, indeed, survive for another year.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I hear a lot of interesting talk. It amuses me some but it also bothers me. In the hearing in the Governmental Affairs Committee today—we heard the majority leader talking about tapes. They don't want to impugn the integrity of the President, but they kind of scorn the tapes suddenly showing up. After everyone made a statement all morning—never got to witness, talked about tapes all morning—they tried to get to Mr. Ruff, I believe his name is, who is the counsel for the White House, who came down to the meeting, came in the audience, and the ranking member tried to get him before the committee

to answer their questions. And he was gavelled down and the committee recessed.

Something about this does not ring true. If you can come out here and just bash somebody and bash them, and they have no opportunity to defend themselves, and then you recess the meeting—something like that is what is happening here on the Senate floor. We see a campaign finance reform bill that comes up and we do what we refer to as filling the tree, and that means no one else can put up an amendment, and they say we have an opportunity to debate the bill? That is like the man trying to answer in the Governmental Affairs Committee about the tapes that were released, and they wouldn't let him talk.

So, we are trying to get to a campaign finance bill here today and you can't talk. Oh, you can talk, but you can't vote. And they talk about this amendment of the majority leader's, that is so great—why is it that they will not accept a more comprehensive bill in the same light that covers everybody? No, they want their own bill, because it is harder on labor than it is on business. It is harder on labor than it is on associations. So, that is the reason that amendment has been cloistered and we cannot get to it.

I understand we have a couple of more minutes. This is a little bit like they talk about the laws, that everything is fine. It is like being opposed to the IRS. Oh, we have had all these hearings about IRS, we are going to get rid of IRS, we are going to do all that—but the Republicans are in the majority. They are the ones who are bashing IRS. But they passed a bill, a tax bill, of almost 900 pages—900 pages, and they are trying to say we want to get rid of the IRS. Sure they are going to get rid of the IRS. They are going to overload them. When IRS is overloaded the constituents are overloaded.

Come on, now, give us a break. If you are against the IRS, don't pass 900 pages of new tax law. And, when a man wants to come to answer the questions that they are asking, let him talk, let him answer the questions. If you have an amendment that is comprehensive, that applies to all PAC's, all organizations, why not talk about it, why not let us vote on it? We are being gagged. We are being gagged by the majority. They don't want us to vote. They have the ability to do that. That is the rules of the Senate. I am in the minority. But we are going to protect the rights of the minority. We will protect the rights of the minority and that is the reason we are a great country, we listen to the minority's voice. We have a right and we exercise that right. We represent a State and we have that right, representing that State. We are U.S. Senators and we have that right.

So, therefore, that right is going to be exercised if I have anything to do with it and can stand on my feet.

I yield the floor at 4 o'clock.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. STEVENS). Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant 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, do hereby move to bring to a close debate on the Mack second-degree amendment No. 1253 to Calendar No. 155, S. 1156, the District of Columbia appropriations bill:

Connie Mack, Mike DeWine, Barbara Boxer, Bob Graham, Conrad Burns, Wayne Allard, Paul Coverdell, James M. Inhofe, John H. Chafee, Richard G. Lugar, Ted Stevens, Larry E. Craig, James M. Jeffords, Gordon Smith, R.F. Bennett, D. Nickles.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the Mack amendment No. 1253, as modified, to S. 1156, the DC appropriations bill, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 99, nays 1, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—99

Abraham	Feingold	Lott
Akaka	Feinstein	Lugar
Allard	Ford	Mack
Ashcroft	Frist	McCain
Baucus	Glenn	McConnell
Bennett	Gorton	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Gramm	Moynihan
Bond	Grams	Murkowski
Boxer	Grassley	Murray
Breaux	Gregg	Nickles
Brownback	Hagel	Reed
Bryan	Harkin	Reid
Bumpers	Hatch	Robb
Burns	Helms	Roberts
Campbell	Hollings	Rockefeller
Chafee	Hutchinson	Roth
Cleland	Hutchison	Santorum
Coats	Inhofe	Sarbanes
Cochran	Inouye	Sessions
Collins	Jeffords	Shelby
Conrad	Johnson	Smith (NH)
Coverdell	Kempthorne	Smith (OR)
Craig	Kennedy	Snowe
D'Amato	Kerrey	Specter
Daschle	Kerry	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Domenici	Landrieu	Thurmond
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Warner
Enzi	Levin	Wellstone
Faircloth	Lieberman	Wyden

NAYS—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 99, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

The PRESIDING OFFICER. The Chair, in my capacity as a Senator from the State of Alaska, moves to lay that motion on the table.

The motion to lay on the table was agreed to.