

There is no more we can do, particularly since McCain-Feingold is the least we should do. We want to do more. If we were in the majority, we would fight to cap spending. The Valeo decision, as I said, was 5 to 4. Mr. President, 126 scholars have said spending limits are constitutional. But we simply can't let the perfect be the enemy of the good. We are confronted with a systemic problem, and we need a systemic solution. We have a chance to make some changes we plainly know are needed to restore some dignity and sanity to this process.

So much time and money in this Congress has been spent already to investigate perceived abuses in the 1996 election. There are cries of outrage, cries of shock and indignation. The American people are cynical because they don't think Congress is going to do anything about it. They believe that the politicians' self-interest will again override the public good. If, after all the hearings, all the press releases, all the statements, all the reports, all the votes, we do nothing, then frankly, Mr. President, that cynicism will be justified.

The American people get it. They know the system is broken. They know we have an opportunity to fix it, but they don't think we will. We should surprise them. We need sincere bipartisan efforts to clean up our own house. We need Republicans to join with Democrats to make that happen this afternoon.

People who think they can quietly kill this effort are wrong. One day, hopefully today, but one day we will succeed. We will not give up. But this is the time to do it. If we squander this opportunity, it will not go unnoticed. If we seize this moment, we can make history and do the right thing for those people who want to be a part of the process, for all Americans, for people who want once more to participate in our Federal elections system. This is our opportunity. Let's do it right. Let's do it this afternoon. I yield the floor.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, morning business is closed.

#### PAYCHECK PROTECTION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1663, the Paycheck Protection Act, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1663) to protect individuals from having their money involuntarily collected and used for politics by a corporation or labor organization.

The Senate resumed consideration of the bill.

Pending:

McCain amendment No. 1646, in the nature of a substitute.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I am sorry the Democratic leader has left the floor. I did want to make a couple of observations.

First, with regard to the Buckley case, it was 9 to 0 on the issue of spending is speech. Quoting that great conservative Thurgood Marshall:

One of the points on which all Members on the Court agree is that money is essential for effective communication in a political campaign.

This was an extraordinarily important Supreme Court decision. It wasn't 5 to 4 on any of the critical issues, and, as a matter of fact, Mr. President, the Court has had an opportunity over the last 22 years to revisit the Buckley case in various subcomponent parts and has consistently expanded the areas of permissible political speech.

I heard the Democratic leader saying all of this spending is getting out of control. Bear in mind that what he is saying is that all of this speaking is getting out of control. What he is suggesting, and our dear colleagues on the other side are suggesting, is we need to get somebody in charge of all this speech and, of course, it is the Government that they want to be in charge of all this speech. The courts are not going to allow that. They didn't allow it in the mid-seventies, they haven't allowed it any time they have revisited that issue since, they are not going to allow it now, and they are not going to allow it ever, because it is not the Government's business to tell citizens how much they get to speak in the American political process.

The suggestion was made that all this spending is out of control. I always say, how much is too much? I asked my colleague from Wisconsin during the debate last October, how much is too much? I could never get an answer. Maybe today we can get that answer. How much is too much?

In the 1996 campaign, the discussion was intense. Spending did go up, the stakes were big—big indeed. It was the future of the country—a Presidential election, control of Congress. But we only spent about what the public spent on bubble gum.

Looking at it another way, Mr. President, of all the commercials that were run in 1996, 1 percent of them were about politics. Speaking too much? By any objective standard, of course not. Of course not.

It is naive in the extreme to assume everybody in this country has an equal opportunity to speak. Dan Rather gets to speak more than I do and more than the Senator from New Hampshire does, as do Tom Brokaw and Larry King and the editorial page of the Washington Post. Maybe we ought to equalize their speech. I am saying this, of course, tongue in cheek. But you can make the argument, it is the same first amendment, the same right applies to all of us.

I wonder how they would feel if we said, "OK, you are free to say what you want on the editorial page, but, henceforth, your circulation is limited to 5,000. We haven't told you what to say, but we think you are saying it to too many people, and so the Government has concluded that this is pollution."

I heard the Democratic leader talking about all this polluting speech—I am not sure that is the exact word he used—all this negativity, all this hostility. Most of the negativity and hostility I see is on the editorial page of the American newspapers. Maybe we ought to suggest they can't do that in the last 60 days of the election.

There isn't a court in America that is going to uphold this bill. But the good news is they are not going to get it and have the chance to uphold it.

The Democratic leader said we wanted to quietly kill it. We are not quietly killing it, we are proudly killing it. We are not apologizing for killing this unconstitutional bill. We are grateful for the opportunity to defend the first amendment. No apologies will be made, not now, not tomorrow, not ever. The Government should not be put in charge of how much American citizens as individuals or as members of groups or as political candidates or as political parties may speak to the people of this country.

I heard the Democratic leader complain that candidates can't control the campaigns. Well, it is not theirs to control. Of course we don't like issue advocacy. Of course we don't like independent expenditures. But the Supreme Court has given no indication that the political candidates are entitled to control all of the discourse in the course of a campaign. I wish I could control the two major newspapers in my State that are always against what I am doing. It irritates me in the extreme, Mr. President. But I am not trying to introduce a bill around here to shut them up the last 60 days of an election.

The good news is there has been a whole line of court cases on this question of trying to control what is called "issue advocacy"; that is, groups talking about issues at any time they want to, up to and including proximity to an election.

The FEC has been on a mission for the last few years to try to shut these folks up. They have lost virtually every single case in court. As a matter of fact, in the fourth circuit in a case about a year and a half ago, not only did the FEC lose again, but the court required that they pay the lawyer's fees for the group they were harassing. It was pretty clear, Mr. President, there is no authority to do this.

That is really where we are in this debate. The American people are not expecting us to take away their right to speak in the political process, and the Supreme Court has made it very, very clear. Let me say it again. They have said, unless you have the ability to amplify your voice, your speech is

not worth very much. You could go door-to-door for the rest of your life in California and have no impact on the process. So the Court wisely recognized that citizens under the first amendment had to have their right either as individuals or to band together as a part of a group to amplify their voice.

Spending has been critical in the political process going back to the founding of the country. Somebody paid for those pamphlets that were distributed around the time of the American Revolution. Somebody paid for those.

It is suggested under the most recent incarnation of McCain-Feingold, "Oh, we are not going to shut them up, we are just going to make them report their donors." Put another way, the price for discussing political issues at the end of a campaign is to disclose your donor list. The courts have already dealt with that issue in 1958 in an NAACP case in Alabama, that a group cannot be compelled to disclose its donor list as a condition for criticizing all of us.

This kind of effort to quash speech, to shut up the critics of candidates is not only going nowhere in the Senate, it is going nowhere in the courts. There has been an effort around the country, financed by some very wealthy people. George Soros, when he is not financing a referendum to legalize marijuana, is also financing this effort. And Jerome Goldberg, one of the wealthy financiers on Wall Street, has been providing money to go out and try and get these kinds of referenda on the ballot and approved around the country.

The good news is they are all getting struck down. Even if they are passed, they are getting struck down. It happened in California a couple weeks ago. It happened in Wisconsin. The courts understand the law, and the law is clear, and no effort to circumvent the first amendment, either in Washington in the Congress or community by community or State by State around the country is going to succeed, because the law is clear.

We are not apologetic in defeating this bill. It richly deserves to be defeated. For the moment—I see that there are some colleagues here who wish to speak—let me just recount some of the points from the Buckley case as a way of beginning today's discussion.

As I said earlier, the great conservative Thurgood Marshall said:

One of the points on which all Members of the Court agree is that money is essential for effective communication in a political campaign.

That is not MITCH MCCONNELL or BOB SMITH, that is Thurgood Marshall. Further excerpts from the Buckley case that we ought to be aware of, the Court said:

The first amendment denies Government the power to determine that spending to promote one's political views is wasteful, excessive or unwise.

The Government doesn't have the power to do that to individual citizens and groups.

The Court went on:

In the free society ordained by our Constitution, it is not the Government but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity—

How much we speak— and range—

What we say—

of debate on public issues in a political campaign.

In other words, this is beyond the province of Government to regulate in our democracy.

The Court went on:

A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating ideas in today's mass society requires the expenditure of money.

It is a statement of the obvious. It is a statement of the obvious. If it did not require money to communicate, why would Common Cause be doing direct mail finance solicitations all the time? They have to have money to operate. And I do not decry them that opportunity.

The Court observed that even "distribution of the humblest handbill" costs money. Further, the Court stated that the electorate's increasing dependence on television and radio for news and information makes "these expensive modes of communication indispensable"—Mr. President, this is the Supreme Court—"indispensable instruments of [free speech]."

In other words, it is a statement of the obvious. In a country of 270 million people, unless you have the ability to amplify your speech, to amplify your voice so you might have a chance of competing with Dan Rather, Tom Brokaw, and the editorial pages of your newspapers, at least during the last 30 days of your election, you do not have a chance. So we shut down all of these people, Mr. President. It is a power transfer to the broadcast industry and to the print industry in this country, which some of us think have a good deal of power as it stands now.

With regard to the appearance of corruption issue, it is frequently said that all of this money is corrupting the process. The Court held there is "nothing invidious, improper or unhealthy" in campaign spending money to communicate—nothing.

With regard to the growth in campaign spending, I heard the Democratic leader projecting some astronomical figure that candidates were going to have to spend in the future. Let me say, there is nobody in the Senate spending all their time raising money. That is said all the time. That is not true. Eighty percent of the money raised in Senate races is raised in the last 2 years, it is raised in the last 2 years by candidates who think they may have a contest.

What is wrong with that? We do not own these seats. If we are in trouble, we are probably going to want to express ourselves in the campaign. And if you are going to express yourself in the campaign, you are not going to write the check for it out of your own bank account. You better get busy to get the resources to communicate your message or you are history.

The Court said, with regard to the growth in campaign spending, ". . . the mere growth in the cost of federal election campaigns in and of itself provides no basis"—no basis—"for governmental restrictions on the quantity of campaign spending. . . ."—no basis.

It is often said that we need to level the playing field. How many times have we heard that? The Court addressed that issue in Buckley as well. The Court said, with regard to leveling the playing field, ". . . the concept that government may restrict the speech of some elements of our society in order to enhance the relative voice of others is wholly foreign to the First Amendment." "Wholly foreign to the First Amendment"—brilliant and thoughtful words from the Supreme Court in Buckley v. Valeo.

And the Court has never retreated from the major principles in this case, Mr. President. In fact, they are moving in the opposite direction, in the direction of more and more permissible political speech.

In fact, one of the few things in the Buckley case that the reformers liked has created one of the biggest problems in the last 20 years. The reformers liked the fact that the Court did uphold a limit on how much one could contribute to another, the contribution limit. Well, the Congress has never indexed the contribution limit. Even President Clinton said last month that the hard money contribution should be indexed to inflation. And he was absolutely right. That \$1,000 set back in the mid-1970s, at a time when a Mustang cost \$2,700, is now worth \$320. In a medium- or small-sized State, it does not produce a huge distortion, but it is an absolute disgrace for a candidate seeking to run for office in a big State where you have a huge audience, like California or New York or Texas, to be stuck with a \$320 per person contribution limit.

So ironically, Mr. President, the only part of the Buckley case that the reformers applauded has produced the biggest distortion in the process and the biggest problem for candidates running in large States.

So, Mr. President, let me just conclude this part of my remarks, as I see others here. We make no apologies for beating this terrible piece of legislation. It does not deserve to pass. It will not pass. The first amendment will be protected.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. In a moment I will yield to the Senator from Minnesota who I very much want to hear from on this issue.

Just a very brief comment with regard to the comments of the Senator from Kentucky. The language of the McCain-Feingold bill on issue advocacy was not an issue in the Wisconsin case. In fact, in that Wisconsin case the judge specifically suggested our provision on issue advocacy may be a model of what might pass constitutional muster.

The Senator made a lot of general comments on Buckley v. Valeo, but the one thing he didn't do is relate Buckley v. Valeo to our bill. Our bill was specifically crafted to be constitutional under Buckley v. Valeo. We have a letter from 126 constitutional scholars who say that our bill is in fact constitutional, especially with respect to the ban on soft money. It is 126 constitutional scholars against the mere constant repetition of the claim that our bill is unconstitutional. We have the weight of legal authorities on this issue on our side. Of course, it is our intention and belief that this would pass constitutional muster.

With that, Mr. President, I yield 10 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, it has been reported that a majority—majority; that is, Republican party—written portion of the Governmental Affairs Committee draft report reaches the following conclusion or contains the following statement: "In 1996, the federal campaign finance system collapsed." I would like to associate myself with this observation by the majority members of the Governmental Affairs Committee.

Mr. President, the system did collapse. Americans witnessed a corruption, a tarnishing of our political system. And I say to my colleague from Kentucky, the Supreme Court is very clear that that in fact is a justification for reform. People saw in a very systematic way special interest money dominate the discourse. And the American people stayed home in record numbers.

It is not surprising that as this system becomes more and more dominated by big money, and regular people feel like they are locked out of involvement, and that this system dominated by money does not respond to the concerns and circumstances of their lives, they stay home.

As a matter of fact, we did not even have 50 percent of the people voting in the last Presidential election. That was the third lowest turnout in the history of our country. Some people here on the floor of the U.S. Senate may be comfortable with that reality. I am not. It is the opposite of what I live and work for. And it is the opposite, I

would say to my colleagues, of real representative democracy.

Mr. President, a New York Times headline: "1996 Campaign Left Finance Laws in Shreds." I agree with the judgment of this article, which I quote:

Beneath the cloudy surface of the Senate hearings, one clear picture has emerged: The post-Watergate campaign finance laws that were passed to restrict the influence of special interests in politics have been shredded.

Mr. President, Americans know this. Some of my colleagues may not want to face up to these truths, but Americans know it. They know that every Federal Government issue that affects their lives is damaged by the way big money, special interest money has taken over our politics. It is as if there has been a hostile takeover of elections in our country, a hostile takeover of Government, whether it is health care, insurance rates, taxes, telecommunications, banking, tobacco, environment, food and agriculture, trade, oil and pharmaceutical company subsidies. What is on the table and what is not on the table, what is considered reasonable and realistic, what is not considered reasonable and realistic, what is debated, what isn't, what is distorted, what issues are even dealt with in the first place—people in the country know that this is dominated by big money. The system has collapsed. The laws that are meant to regulate it have been shredded.

What are we doing about it? We have a good bill, S. 25, the McCain-Feingold bill. It is the pending amendment. It would, A, prohibit soft money to the parties. That is maybe the biggest abuse. This might be the most single important reform that we can undertake; and, B, it restricts—restricts; not prohibits—phony "issue" ads which are really election ads.

My colleague from North Dakota, Senator DORGAN, read a piece yesterday on the floor of the Senate about \$800,000 of so-called issue ads poured into one congressional race, one special election, by a party—\$800,000 of so-called issue ads in a New York House district race last year to destroy a candidate there.

The bill would also expand disclosure requirements. It would strengthen FEC enforcement, and it would discourage wealthy candidates from spending more than \$50,000 of their own money on a race.

It is a decent, worthy bill, Mr. President. I hope we can pass it. My two colleagues have worked extremely hard in order to assure that this vote could happen. And I think that the bill will receive a majority of the vote. But it is going to be filibustered. And I fear that most Members of the majority party do not want reform. They are not willing to allow an acceptable version of this bill to receive the 60 votes. Why is that?

Mr. President, the public is fed up with the current system. Congressional Quarterly summarizes this aptly. "While polls show that the public is fed

up with the current system, the public is cynical about politicians' ability to fix it."

Mr. President, my colleague keeps talking about the first amendment. Nobody is saying you cannot spend money. Nobody is saying you cannot speak out. But what we are talking about is that we now have auctions rather than elections. We are talking about the way in which money has subverted this system, systemic corruption, when too few people have too much wealth, power and say, and too many people are left out.

Mr. President, we will also be discussing the Snowe-Jeffords proposal. I have said to my colleague from Wisconsin that I am a bit skeptical about it. I am a bit skeptical about it. I am not at all sure that I like the idea that this amendment only gets introduced if all 45 Democrats pledge allegiance to it, so that we can pick up two more Republican votes. But I know it certainly is a desirable alternative to the poison pill, the Paycheck Protection Act.

But here is what I am worried about. Maybe for tactical reasons we do it, but maybe for substantive reasons we do not. I am a little worried that we now have the following argument before us: We are desperately afraid that we cannot enact real campaign finance reform this year because the public is not angry enough and because the public is not mobilized; therefore, we should weaken the reform bill in order to excite the public. I do not think that is really going to happen. And I think we need an aroused public behind this worthy effort.

Again, I think it is desirable as a substitute for the poison pill Paycheck Protection Act, but it is also a retreat from the definitely superior express-advocacy and issue-ad provisions of the McCain-Feingold bill. Let me just remind my colleagues, that those of us who have been the reformers, we have compromised many times over already.

As a matter of fact, the provisions of the McCain-Feingold bill that would affect us most are basically out right now. We are not even talking about a piece of legislation that really affects the way we ourselves raise and spend money in Congressional races. It is an important effort. I am for it. I want it to pass. But I want to be clear, we dropped the voluntary spending limits which would have done the most to assure a more level playing field between incumbents and challengers.

In addition, we dropped the free and discounted television time. We also, as a concession, have inserted codification of the Beck language. We have gone a long ways toward trimming this down in order to try and get something passed that would at least be a positive step in the right direction, and the majority party is still stonewalling this.

Now, Mr. President, let me be clear in dealing with the provision that Senator JEFFORDS and Senator SNOWE have come up with. There is some merit to it tactically, without any doubt. I still

worry that it represents a retreat. I'm not sure we can excite people by continuing to strip this bill down to the point where it doesn't have teeth, and it doesn't do the job.

Mr. President, I ask unanimous consent to place a piece by Greg Gordon of the Star Tribune, the largest newspaper in my home State, be printed in the RECORD.

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

[From the (Minneapolis, MN) Star Tribune, Oct. 29, 1997]

TURNING NONPROFITS INTO POWERFUL  
POLITICAL TOOLS  
(By Greg Gordon)

(Twin Cities entrepreneur Robert Cummins gave \$100,000 to a nonprofit that backed a dozen GOP campaigns, including Gil Gutknecht's, a Senate panel has found. The trend, while legal, allows donors to circumvent federal election laws, observers say)

Senate investigators have obtained bank records showing that a Twin Cities entrepreneur donated \$100,000 to a nonprofit group that ran "issue ads" last year backing a dozen Republican congressional candidates, including Minnesota Rep. Gil Gutknecht.

With his donation to the Citizens for the Republic Education Fund, Robert Cummins, chairman of Eden Prairie-based Fargo Electronics Inc., joined in a trend by both major parties to turn nonprofit groups into political weapons.

Campaign-finance experts say the practice, although legal, offers a way for donors to circumvent federal election laws that require public disclosure of their names and limit the amounts they can give. The loophole also enables corporations that are barred from directly donating to campaigns to play major roles in political races, said Democratic investigators for the Senate Governmental Affairs Committee.

Gutknecht, whose reelection campaign faced an onslaught of attack ads sponsored by labor unions, says that early last year he gave the names of several potential Minnesota donors to Triad Management Service, the Virginia company that ran the Citizens for the Republic Fund. The First District congressman declined last week to say whether Cummins, who with his wife had each already donated the maximum \$2,000 to Gutknecht's campaign, was among them. Cummins, a politically active conservative, did not respond to phone calls seeking his comment.

Gutknecht said he has never heard of the Citizens for the Republic Education Fund, which spent at least \$3,000 boosting his campaign in the Rochester, Minn., media market, and that he never knew about the ad.

The organization is one of three conservative-backed nonprofits that were dormant in the summer of 1996 but sprang to life shortly before the election as donations poured into their accounts, people familiar with the investigation said.

Together, Citizens for the Republic Education Fund, Citizens for Reform, which also was managed by Triad, and the Coalition for Our Children's Future spent nearly \$4 million in October and November 1996 on ads that gave GOP candidates a late boost in at least 34 close House and Senate races, Senate investigators have found. The Coalition for Our Children's Future also send Republican-leaning postcards to tens of thousands of voters in at least nine Minnesota legislative districts.

Nonprofit groups are barred from expressly advocating the election or defeat of a can-

didate. But so-called "issue ads," which stop just short of doing so, have provided political consultants with an effective alternative.

The three tax-exempt groups have refused to identify their donors. Democratic investigators said they used subpoenaed bank records to trace the identities of Cummins and several other contributors to Citizens for the Republic Education Fund and Citizens for Reform.

Other donations to the three groups were made through secret trusts represented by Gen. Ginsberg, a former general counsel to the Republican National Committee (RNC), according to Senate investigators and a former employee of one of the groups. Ginsberg failed to return phone calls seeking his comment.

Senate investigators suspect one of these trusts is shielding the identities of Charles and David Koch, brothers who run oil industry giant Koch Industries, which operates a large refinery in Rosemount, a Democratic committee aide said. Jay Rosser, a spokesman for Wichita, Kan.-based Koch, declined to comment on whether the Kochs or their money were involved. Democrats on the committee sent Charles Koch a letter this month asking to speak with him about their inquiry, but he failed to respond, according to investigators.

Thomas Mann, a campaign-finance expert who is director of governmental studies for the Brookings Institution, called the financing of politically active nonprofits "an utter corruption of the system."

"There is just no question that this is an effort to circumvent the rules limiting the sources and amounts of contributions to federal campaigns," he said. Mann said the effort is proof that "the whole regulatory regime for campaign finance collapsed in 1996" amid "gaming" by both parties.

The Senate committee has previously disclosed that aides to President Clinton and officials at the RNC referred large donors to nonprofit groups so they could avoid the publicity that often accompanies big donations to the parties. The New York Times reported last week that Twin Cities businessman Vance Opperman donated \$100,000 to Vote Now '96, a nonprofit organization to which Clinton campaign and White House aides referred a number of large donors. The organization, which promoted voter turnout, apparently did not finance "issue ads."

Both conservative and liberal nonprofit groups have resisted committee inquiries, and the competing Republican and Democratic investigations have led to deep disagreements. Sen. John Glenn, D-Ohio, and other Democratic members complain that the panel's chairman, Sen. Fred Thompson, R-Tenn., has refused to sign subpoenas that would enable them to fully trace the funding of the conservative groups or to allow the Democrats to hold hearings where they could confront officials of Triad and the nonprofits. A Republican spokesman contended that the Democratic inquiry has been overly broad and burdensome for the nonprofit groups.

INVESTMENT ADVISER

At the center of the controversy is Triad, whose officers have declined to answer investigators' questions.

Mark Braden, a Washington lawyer for Triad, says the company served as "an investment adviser" that assisted clients in deciding "where to make political, charitable and issue-related donations." Senate investigators say Triad helped clients who had already donated the legal maximum to a candidate find other ways to help.

Triad was formed in 1995 by Carolyn Malenick, a former political fund-raiser for Oliver North, the ex-Marine who was a cen-

tral figure in the Iran-contra affair and then ran unsuccessfully for a Virginia Senate seat.

In the spring of 1996, investigators found, Malenick met with Pennsylvania businessman Robert Cone, the former owner of children's products manufacturer Graco Inc., and Sen. Don Nickles, R-Okla. Cone soon sent the firm \$600,000 in seed money and later gave substantially more, the investigators said.

In a promotional film in which Nickles endorses the group, Malenick talked about Republicans developing a way to quickly infuse \$100,000 into a congressional race, countering labor unions' ability to provide "rapid fire" to Democratic candidates.

Braden said Malenick's firm sent consultants to do "political audits" with about 250 GOP campaigns nationwide to identify races where donors could support candidates who shared their ideological views and had "a viable campaign."

Braden said Triad launched the "issue ad" campaign through the nonprofits only to respond to the AFL-CIO's \$20 million advertising blitz in the districts of vulnerable Republicans such as Gutknecht.

"The father of these ads is [AFL-CIO President] John Sweeney," Braden said. "If there had been no AFL-CIO campaign, there would have been no Citizens for the Republic Education Fund issue campaign."

Braden denied that any of the donations facilitated by Triad were illegally "earmarked" to specific candidates.

Another large donor was California farmer Dan Garawan, who has said publicly that he gave \$100,000 to Citizens for Reform, which spent heavily on issues ads that attacked Rep. Calvin Dooley, D-Calif.

Among donors yet to be identified is a trust that donated a total of \$1.3 million to citizens for the Republican Education Fund and to Citizens for Reform. Also still a mystery is the source of a \$700,000 check to the Coalition for Our Children's Future, a group unrelated to Triad. Barry Bennett, the coalition's former executive director, says that the donation was arranged in September 1996 by a Houston political consultant and that Ginsberg drew up confidentiality documents.

The investigators have information "that very strongly suggests the Koch family and Koch Industries were a major funding source for the Triad subsidiaries and the Coalition for Our Children's Future," one Democratic committee aide said. Koch made one direct donation to Triad of \$2,000, investigators found. Triad booster Nickles, a member of the Governmental Affairs Committee, has been a major Senate ally of Koch.

Federal Election Commission records show that the Koch brothers and KochPAC donated to more than a dozen of the candidates supported by the three nonprofits, most of them located in Kansas, Oklahoma and other states where Koch has facilities.

BOOST FOR GUTKNECHT

Cummino sent a \$100,000 check to the Citizens for the Republic Fund on Oct. 3, 1996, a week after Triad signed a consulting agreement with the nonprofit, investigators found.

Meredith O'Rourke, a former Triad employee, told the committee in a recent deposition that Triad officials has discussed key issues in Gutknecht's reelection race with Gutknecht or his campaign, people familiar with the inquiry said. Gutknecht acknowledged that he met with a Triad official early in his campaign, but said he only recalls discussing the "issues they [Triad representatives] were advancing," not his own.

The Citizens for the Republic Fund "issue ad" that fall mentioned Gutknecht's name five times, without identifying his Democratic challenger, Mary Rieder, and accused

"big labor bosses in Washington" of distorting Gutknecht's record on education.

Gutknecht dismissed disclosures about the nonprofit groups' political role as "a joke" and "a desperate" attempt by Democrats to distract public attention from Clinton's embarrassing campaign activities, such as inviting major donors to stay overnight in the Lincoln Bedroom.

"As far as I know," he said, "any businesspeople who participated with Triad did not get a night in the Lincoln Bedroom. They didn't get any preferential treatment on Asian pipelines, they didn't want to block an Indian casino in Hudson, Wisconsin. All were American citizens. None were Buddhist monks."

In the spring of 1996, three Washington-based nonprofit groups had no offices, no staffs and were inactive. By that fall, the groups had raised nearly \$4 million in donations and were pouring much of the money into "issue ads" supporting conservative House and Senate candidates.

#### CITIZENS FOR REFORM

Founded by conservative activist Peter Flaherty, the nonprofit group was incorporated in May 1996 and is now run by Triad Management Services, a political consulting firm in Manassas, Va. Senate investigators say the group spent \$1.4 million in October 1996 on ads in 21 House and Senate districts, including one that attacked Democratic congressional candidate Bill Yellowtail of Montana for striking his wife.

#### CITIZENS FOR THE REPUBLIC EDUCATION FUND

Incorporated in June 1996, the fund later obtained tax-exempt status as a political group. Also run by Triad, it is headed by former Reagan White House aide Lyn Nofziger. In October 1996, investigators say, the fund spent almost \$1.5 million on "issue ads" in 13 House and Senate races, helping secure victories for Rep. Gil Gutknecht, R-Minn., and Republican Senate candidates Sam Brownback of Kansas and Tim Hutchinson of Arkansas.

#### COALITION FOR OUR CHILDREN'S FUTURE

Formed in late 1995 to air ads supporting the Balanced Budget Act, the coalition was only a shell in the fall of 1996, operating in offices at the Virginia political fund-raising firm of Odell, Roper and Simms. Then a secret trust reportedly contributed \$700,000 to the coalition, which ran "issue ads" in Arkansas and Louisiana Senate races and three House races and blitzed voters in at least nine Minnesota legislative districts with postcards favoring GOP candidates.

Mr. WELLSTONE. He talks about turning nonprofits into powerful political tools. I'm worried about all of the ways, to quote Thomas Mann from the article, that this new practice has "become an utter corruption of the system." I don't want to retreat from clear standards here.

Mr. President, since I have less than 2 minutes, I hope the McCain-Feingold bill will pass intact. I hope we will vote for it today. I hope that colleagues will not be able to block it. I hope we will be wary of "deform" measures, not reform measures. We have to pass something real. We have to pass something significant. I hope we get a positive vote for this piece of legislation today, and I ask people in the country, please be vigilant, please hold all of us accountable. Don't let the majority party block a reform that would restore your voice and some real democracy in this country. Don't let the U.S. Senate pass

a piece of legislation which would have that made-for-Congress look, a great acronym, but will not have the enforcement teeth and would not do the job and really wouldn't get some of the big money out of politics.

The McCain-Feingold effort is not all I desire—I proposed the clean money, clean elections approach which has passed in Maine and that was also passed in Vermont—but it is a worthy piece of legislation and it ought to pass the U.S. Senate.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Kentucky.

Mr. MCCONNELL. I understand we are under a controlled time situation without designating a controller, so I ask unanimous consent I control the time on this side.

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

Mr. MCCONNELL. I yield to the distinguished Senator from Washington such time as he may consume.

Mr. GORTON. Mr. President, the first amendment to the Constitution of the United States reads in relative part "Congress shall make no law abridging the freedom of speech or of the press."

Today, once again, we are engaged in a debate in which the proponents propose to limit the freedom of speech, and most particularly, to limit freedom of speech in political debate about the policy and political future of the United States.

At the time of an identical debate last fall, George Will wrote, and I wish to quote him in full:

Nothing in American history—not the left's recent campus "speech codes," nor the right's depredations during 1950s McCarthyism, or the 1920s "red scare," not the Alien and Sedition Acts of the 1790s—matches the menace to the First Amendment posed by campaign "reforms" advancing under the protective coloration of political hygiene.

Mr. Will concludes by saying:

As Senator MITCH MCCONNELL, the Kentucky Republican, and others filibuster to block enlargement of the Federal speech-rationing machinery, theirs is arguably the most important filibuster in American history.

Mr. President, the Senator from Minnesota has just said that fewer people vote because of cynicism about the 1996 campaign and the blatant violations of the present law that took place during the course of that campaign.

Mr. President, the cure for the blatant violations of present campaign laws is not a new set of laws. It is the simple enforcement of the laws we already have. Laws, incidentally, that were passed in 1974 with arguments identical to those that are being made here today; laws that themselves seem to have been accompanied by a drop-off in the number of people who are voting.

If we simply look at our history and desire to have more people voting, we would presumably repeal all of those laws and go back to a pre-1974 situation in which at least we had a greater participation in our election process.

So what do the proponents today ask us? They ask us to limit severely the right of political parties to raise money and to use that money in order to express the ideas that motivate those political parties. In other words, they ask us to limit the ability to communicate the freedom of speech of those organized parties that have spanned most of the history of the United States, parties that most academics studying our political system say are too weak, not too strong. Most academics in this field feel that party discipline ought to be stronger rather than weaker. Yet the heart of McCain-Feingold is the philosophy that parties should not be able to communicate their ideas to people during election campaigns in any significant fashion whatever.

The predecessors of those who make these arguments today successfully limited the ability of political candidates for Congress to raise and to spend money and now criticize the very condition that they caused by saying that candidates spend too much time in raising money. It is a paradoxical set of arguments to say that the very cause that we espoused has caused candidates to spend too much time campaigning or raising money for campaigning and therefore we ought to have more laws of exactly the same type.

Mr. President, whatever the constitutionality of limiting the right of people to contribute to political parties and the right of political parties to solicit contributions, it can hardly be proposed with a straight face that we can limit the right of third parties, of independent organizations, to express their ideas on matters of politics and on candidates and on incumbents at any time, much less in the 30 or 60 days preceding an election. There is simply no indication in any decision by the Supreme Court of the United States that such limitations are appropriate. There is also no indication that such limitations are a good idea.

I wonder what the editorial page of the New York Times would say if the proposal before the Senate today said that newspapers would be limited to one or two editorials about election-year politics and none at all in the 30 days before an election. Yet, Mr. President, unless you can say in order to make elections fair, in order to give each citizen an equal right to participate, we can and should tell the New York Times, and every other daily newspaper in the country, all television networks and television stations, that they should shut up in the 30 days before an election takes place and let the election work its way out on the basis of whatever individual candidates say—unamplified, of course, by any mass media—and that even outside of that period of time they should be strictly limited in the number of statements that they ought to make about politics because, after all, they have a much larger voice than does an individual citizen.

We know exactly what they would say. They would say that is a blatant violation of the first amendment of the Constitution. They would go to court and they would get any such statute immediately thrown out. But if the New York Times and NBC and an individual television station are free to communicate their ideas about politics and about political candidates without restraint, how, then, can an organization, whether it is the Christian Coalition, the American Civil Liberties Union, a liberal or a conservative organization, be so limited? And why, if an organization of that nature can't be limited, should a political party be limited in what it can say and how it raises money in order to make any such statement?

Mr. President, all we have done is to make political speech less responsible rather than more responsible. We limited the amount of money candidates can get, and candidates, of course, can be called to account for any misstatement they make in a political campaign or for any unfair tactics. We now propose to limit the parties to which those candidates belong, so we force those who are interested in the political system whose lives are affected by the political system to operate entirely independently of parties or of candidates and to make whatever statements they wish for which those candidates and parties will, of course, bear any responsibility whatever.

Finally, I find it extraordinarily curious that the proponents of this bill—most recently the Senator from Minnesota—will say that the original proposal before the Senate by the majority leader, Senator LOTT, is a poison pill. Now, what is that poison pill? It is the totally constitutional and totally valid requirement that a labor organization to which people in given bargaining units must belong and to which they must contribute can only use the dues and the payments of their members for political purposes with permission. Now, this is the one area which is not only obviously constitutional but obviously desirable. Why should any American, why should any American have his or her money used by an organization to which he or she is required to belong to promote an idea and candidates with which whom he or she disagrees?

I do have in this connection, Mr. President, one advantage over, I believe, every other Member in this body, except for my own colleague from the State of Washington. In 1992, at a time in which Bill Clinton won the State of Washington in his Presidential campaign, the people of my State passed Initiative No. 134 by a 73-27 percent margin.

Initiative 134 simply said that neither an employer nor a labor organization could withhold a portion of a worker's wages or salary for political contributions without receiving written permission from that worker each and every year—the so-called "poison

pill," which is anathema to Members on the other side. Seventy-three percent of the citizens of the State of Washington voted for that proposition, Mr. President.

Now, what happened? Let's take one such organization, the Washington Education Association. Immediately after the passage of that initiative, fewer than 20 percent of the members of the Washington Education Association gave that association permission to use their money for its political purposes. Where it had 45,000 members who were constrained to contribute to its political action committee previously, the figure, after the election was over, was 8,000. Well, that is why 45 members on the other side of the aisle feel the Lott bill to be a "poison pill," because it deprives one of their principal supporters of the right to force people to contribute to their campaigns. That is a "poison pill," Mr. President. It is a "poison pill" to restrict political parties the right to speak and the right to effectively participate in politics, or even to restrict certain other organizations.

Mr. President, I understand—and perhaps the Senator from Kentucky will enlighten me on this—that the United Kingdom had similar restrictions to those proposed here with respect to issue advocacy. If my understanding is correct, the court of the European Community has just determined that those restrictions were a violation of human rights; is that correct? I ask the Senator from Kentucky that question.

Mr. McCONNELL. The Senator from Washington is entirely correct. Just last Thursday, February 19, the European Court of Human Rights ruled that laws banning ordinary citizens from spending money to promote or denigrate candidates in an election campaign was a breach of human rights. That was in response to a group in England that brought the suit with the argument that their voices were essentially quieted, eliminated, by British law that prohibited them from speaking, in effect, in proximity to the election. So the Europeans are heading in the direction of issue advocacy, which is something, I say to my friend from Washington—and I see my friend and colleague from Utah on his feet as well—that the Supreme Court anticipated in the Buckley case.

Mr. GORTON. I was simply going to ask that question of the Senator from Kentucky. Does the Supreme Court in Buckley versus Valeo not deal with this question of issue advocacy?

Mr. McCONNELL. Absolutely. The Senator is correct. Our friends on the other side of the aisle act as if issue advocacy is a recent invention that has been sort of conjured up and not previously thought of. The Court said in the Buckley case, in laying out the terms for express advocacy, which is the category directly in support of a candidate, which is in the category of FEC money, so-called hard money—they were defining express advocacy,

and by definition pointing out that "it would naively underestimate the ingenuity and the resourcefulness of persons and groups to believe that they would have much difficulty devising expenditures that skirted the restrictions on express advocacy of election or defeat, but nevertheless benefited the candidate's campaign."

Just one other quote from that same Buckley case: "The distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application." That was the Supreme Court 22 years ago. "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."

What is the Court saying? They are saying, in effect, that there is this whole category of discussion in this country that, under the first amendment, citizens are entitled to engage in, whether candidates like it or not. I mean, the whole assumption of the argument on the other side is that somehow the candidates have a right to control the election, control the discourse, in this selected period right before the election. Well, the Court anticipated that. They have already dealt with it. You clearly can't do it. We don't own these elections. Besides, as my friend from Washington pointed out, nobody is suggesting that the newspapers shut up during that period of time. Obviously, this would enhance their power dramatically.

Now, I will stipulate and concede that all of us candidates don't like all of this discourse that we don't control. Sometimes there are people coming in trying to help us and we think they are botching the job. Sometimes people are trying to hurt us, and that is particularly offensive. But it is absolutely clear that we cannot, by statute, shut all these people up, cleanse the process of all of this discussion, and control the campaign.

Mr. GORTON. If I may conclude, I thank the Senator from Kentucky for those comments. In reflecting back on the article from which I read excerpts by George Will, if we had detailed CONGRESSIONAL RECORDS of what was said in Congress in 1797 and 1798, at the time of the Alien and Sedition Act, I think we would see a philosophy quite similar to the philosophy that is being expressed by the proponents of McCain-Feingold: People aren't smart enough to know what ought to be said or not said or to sort out the quality of what is being said and not said, unless we here in Congress tell them who can say it, when they can say it, and how much of it they can say. This bill, under those circumstances, Mr. President, does have distinguished antecedents, the most significant of which is the Alien and Sedition Act.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, perhaps we have reached a new low in the debate on the McCain-Feingold bill, which has been characterized as a "human rights violation" and the "Alien and Sedition Act."

Perhaps the Senator from Maine can bring us back to the real discussion here. I yield her such time as she requires.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, the time has come to strike an important blow for our democracy by making some limited, but urgently needed, repairs to our campaign finance laws.

Mr. President, the legislation currently pending before this body is dramatically different from the original McCain-Feingold bill, which I cosponsored and supported. It does not seek to radically alter how we finance our campaigns. Indeed, I submit that it does not alter at all the basic framework that Congress established more than two decades ago.

Nevertheless, Mr. President, the bill before us today is vitally important.

Before us today is a bill designed to close election law loopholes that undermine the protections the American people were promised in the aftermath of Watergate. Unlike the prior version of the bill, it will not make new reforms to our campaign finance system. Rather, it will merely restore prior reforms.

Let me be more specific, Mr. President. Gone from S. 25 are the provisions intended to create a different system for financing campaigns. Gone are the voluntary limits on campaign spending. Gone is the free TV time. Gone is the discounted TV time. Gone is the reduction in PAC limits.

Most of these reforms continue to be very important, and they are reforms to which I remain personally committed. But in the interest of securing action on the major abuses in the current system, we, the proponents of the McCain-Feingold proposal, have agreed to significant compromises.

What, then, is left? The principal purpose of today's bill is to close two immense loopholes that have recently been exploited to evade the restrictions and the requirements of current law. I refer, of course, to soft-money contributions and bogus issue ads.

It is fair to ask whether these are, in fact, loopholes or whether they are practices that were contemplated when our election laws were enacted in the 1970s. To be more specific, when Congress put a \$1,000 limit on campaign contributions, was it intended that individuals could make unlimited contributions to political parties that, often following a circuitous route, would wind up financing ads clearly designed to help or to harm particular candidates? Clearly, Mr. President, the

answer is no. Similarly, when Congress established political action committees as a legitimate and needed mechanism for unions, corporations, and other groups to contribute to campaigns, did it intend that these entities could nevertheless also make unlimited expenditures for political attack ads as long as certain words were avoided and some reference, however flimsy, was made to an issue? Again, the answer to this question is obviously no, and history bears out this conclusion.

Go back to the early 1980s when soft money was used only for party overhead and organization expenses, and you will find that contributions totaled only a few million dollars. By contrast, in the last election cycle, when soft money took on its current role, these contributions exceeded \$250 million.

Bogus issue ads were such a small element in the past, that it is impossible to find reliable estimates on the amounts expended on them. Unfortunately, that is no longer the case, and these expenditures have now become worthy of study. The most prominent of these studies estimates that as much as \$150 million was spent on bogus issue ads in 1995 and 1996.

Mr. President, simple logic also shows that soft money, as it is currently used, and bogus issue ads could not have been intended by those who drafted our election laws. There would have been little purpose in limiting contributions to candidates if unlimited money could be given to parties to run ads effectively promoting those candidates. There would have been little purpose in placing monetary limits on contributions to and by PACs, as well as subjecting them to reporting requirements, if the entities for which they were designed could avoid all of that by simply running issue ads.

Mr. President, some may still ask whether any of this matters. Why should we be concerned if the campaign contribution limits have been rendered a sham by unlimited soft-money donations? Why should we care if the PAC safeguards have been eviscerated by bogus issue ads?

Starting with soft money, one need only consider the situation of the Hudson Band of Chippewa Indians, an impoverished tribe in the State of Wisconsin. Mr. President, this tribe has every reason to believe and every reason to suspect that the denial of their casino application was driven by the expectation of large soft-money donations by the wealthy tribes who opposed them.

Allowing such unlimited contributions subverts the proper operation of government or at least creates the appearance that it has been subverted. It is a sign of how extensive the corrupting effect has become that even Native Americans believe they must play the soft money to participate in our democracy.

The situation with bogus issue ads is not better. That practice undermines the two major objectives of our elec-

tion laws, namely, placing limits on contributions and disclosing the identity of those making the contributions. Without such disclosure, we lose accountability. A recent study found that as accountability in political communications declines, levels of misinformation and deceit rise. Thus, it is no surprise that bogus issue ads almost always carry a negative message, something which all in this body purport to decry. The question is—are we willing to do something about it?

In my view, it is imperative that we do something real about these problems. Mr. President, I spent much of my first year as a Member of this body listening to endless hours of testimony before the Governmental Affairs Committee about the campaign finance practices in the 1996 elections. While reasonable people can disagree on the solutions, those hearings demonstrated beyond any doubt that the current system is in shambles precisely as a result of the loopholes I have described.

Mr. President, let me briefly comment on the argument that S. 25 would violate the first amendment. I personally do not believe that to be the case, but more important, there are scores of constitutional scholars who support that conclusion. But the reality is that we can play the game of dueling law professors forever, and it will not resolve the issue.

We are dealing with an area of great uncertainty. Indeed, in the seminal case of *Buckley v. Valeo*, a majority of the Supreme Court Justices could not agree on a single opinion. On the subject of what constitutes issue advocacy, Federal Courts of Appeals have handed down conflicting decisions. Thus, no member of this body can say with certainty how the Supreme Court will decide the issue. Our role is to craft election laws that strengthen our democracy, knowing that the Supreme Court and the Supreme Court alone will ultimately determine the constitutionality of our actions.

It is also essential to eliminate two myths about this bill. It will not stop any American, whether acting as an individual or as part of a group, from running ads advocating for or against a position on any issue. It will also not stop any American, whether acting as an individual or as part of a group, from advocating for or against the election of a candidate, as long as the contribution limits and reporting requirements of our election laws are satisfied. Statements to the contrary are false, and their constant repetition does not make them true.

Let me close, Mr. President, by returning to my original point. When I ran for a seat in this body, I advocated a major overhaul in our campaign finance laws. Regrettably, that goal must await another day. The challenge before us today is far more modest. Are we prepared to close loopholes that subvert the intent of the election laws that we enacted more than two decades ago? Are we willing to restore to the

American people the campaign finance system that rightfully belongs to them?

I sincerely hope, Mr. President, that at the end of this debate, the answer will be yes and that the Senate will take an initial step on the road to restoring public trust in government.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. McCONNELL. Mr. President, I yield 10 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I thank the Senator from Kentucky and I thank my colleagues for this debate. Let me make a personal point at the beginning of my comments. While I disagree quite heartily with the position taken on behalf of those who support McCain-Feingold, I do not challenge their integrity or their motives. I believe that they are acting on the basis of the highest motives, that they honestly believe that this legislation would, in fact, be good for our political system and be good for the Republic as a whole. I disagree most heartily with that position and I do my best to try to convince them that the course they are on, however well meaning and well motivated, is, in fact, dangerous and threatening of our first amendment rights.

I learned today on the floor that in Europe it has been determined that if we went down this road we would be violating basic human rights, according to the European court. I am delighted to know that the Europeans have that much common sense. Clearly, the United States Supreme Court has made that clear and we in this body should not shirk our constitutional responsibility.

I was somewhat distressed to hear the comment that the Supreme Court and only the Supreme Court can determine what the Constitution has to say about this. I think we have a responsibility to pay attention to the Constitution in this body itself and not burden the Supreme Court with laws that are clearly unconstitutional. There is always the chance one of them might slip through. A court might not be appropriately attentive when a case comes before them, and we get unconstitutional legislation. We are the first line of defense as far as the first amendment in the Constitution is concerned, and we should take that responsibility very seriously and not say, "Oh, well, let's pass a law because it sounds good, let's pass a law because the New York Times will give us a good editorial, and the Supreme Court will bail us out by declaring it unconstitutional." That is a very dangerous position to take and I want to do my best to see to it that the first line of defense of the first amendment is drawn here in this body and maintained here so that the Supreme Court can pay attention to other issues.

I want to address the two points that my friend from Maine talked about, soft money contributions and bogus issue ads. Let me reverse the order and talk about the first one, the bogus issue ads. She suggests, and I'm sure sincerely and honestly she believes, that bogus issue ads have come as a result of an attempt to get around the Watergate reforms. In fact, bogus issue ads have been with us since the beginning of the Republic and they are a free exercise of first amendment rights by Americans pre-Watergate, post-Watergate, and frankly post McCain-Feingold. Americans will find a way around that even if the Supreme Court were to allow McCain-Feingold to stand, should we pass it.

One of the most vivid memories I have in politics is, as a 17-year-old high school student, watching my father, who was running for his first term in this body, standing in the living room of my grandmother, his mother, holding a newspaper and saying, "I can handle my enemies but, Lord, protect me from my friends"—a newspaper attacking the incumbent Senator from Utah, Elbert Thomas, as a Communist. And my father, trying to run his own campaign on other issues, was terribly distressed by this four-page attack on his opponent. There are those who wrote about that election after it was over who blamed my father for that rag. One of the professors from whom I took classes at the University of Utah, in the political science department, wrote an extensive article in the Western Political Quarterly in which he called the 1950 Senate race the dirtiest in Utah history, and blamed my father for calling his opponent a Communist and smearing him. My father had absolutely nothing to do with that particular publication and had no control over it. Mr. President, 1950 was clearly pre-Watergate. It was clearly pre the reforms that the Senator from Maine hopes to reestablish here.

However distasteful it was, however reprehensible it may have been, it was well within the rights of the first amendment guaranteed to the people who put up the money, published the paper, and distributed it. As the Senator from Kentucky indicated, we don't like independent expenditure ads. We want to control them. They make us mad—many times from our friends, many times from our opponents. But they are part of the price we pay for a free press and free speech in this country and I, for one, am not willing, in the name of shutting down that kind of an ad, to damage the first amendment right that everyone has, including the first amendment right to be stupid, the first amendment right to be outrageous, the first amendment right to say inflammatory kinds of things. I think that right is precious and the line to protect it must be drawn here in the Senate and not let us wait until we get to the Supreme Court.

Now, the second issue, the issue of soft money contributions. Like the

Senator from Maine, I sat on the Governmental Affairs Committee. I heard the testimony. Maybe I heard some different testimony than that which she heard, but one of the things that struck me most clearly was testimony from someone not of my party, not of my political persuasion, someone on the liberal end of the spectrum, who made this point historically. When Lyndon Johnson was President of the United States and prosecuting the war in Vietnam in a way that outraged huge numbers of our citizens to the point of protests in the streets, he was challenged in the electoral process within his own party by one brave Member of this body, Eugene McCarthy. McCarthy went to New Hampshire and took on an incumbent President within his own party, an unheard of kind of thing. He didn't win that primary but he came close. He came a close enough second that he shook LBJ to the point that LBJ subsequently left the race. How was the McCarthy campaign financed? It was financed with five wealthy individuals, each one of whom put up \$100,000 apiece. And in 1968, \$100,000 went a lot farther than it does in 1998.

In a way, he brought the Government down, not because he had \$500,000 to spend but because he had a message that the people of New Hampshire responded to. Without the \$500,000, however, the message could not have been heard. He and the others who were involved with him, who testified before our committee, said, "If we had been limited to \$1,000 apiece, McCarthy would never have been able to challenge Lyndon Johnson. If we had been limited to that kind of restriction, history would have been changed." And he quoted, I believe it was Senator McCarthy, who said, "The Founding Fathers did not say: To this we pledge our lives, our fortunes up to \$1,000, and our sacred honor." They went the whole way and the Constitution gives them the opportunity to go the whole way.

We have put limitations on. I happen to think that is a mistake, and I have talked about that. But we have allowed political parties to flourish by unlimited contributions to those parties. That is the terrible, awful, debilitating, corrosive soft money that we are talking about: The ability to challenge an incumbent President, the ability to expand political discourse at a time of great national concern over the direction in which an administration is going.

I ask unanimous consent I be allowed to continue for another 2 minutes.

Mr. McCONNELL. Mr. President, I yield 2 more minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized. The Senate will suspend until we get order in the Senate.

The Senator is recognized.

Mr. BENNETT. I thank the Chair.

Mr. President, I am not a lawyer. Sometimes that is an advantage, sometimes it is a disadvantage. But I happen to have devoted a good portion of my life to trying to understand the Constitution and understand the intentions of the Founding Fathers.

I don't know what was fully intended by the passing of the Watergate reforms, because, frankly, that was a period of time when I was leaving Washington instead of paying attention to what was going on here. But I do know what was intended in the passing of the first amendment. I do know what was intended in the creation of the Constitution.

I believe that McCain-Feingold falls on two overwhelmingly significant points: No. 1, and most important, it is clearly unconstitutional; and No. 2, equally crippling, it is totally unworkable. On those two bases, I am happy and proud to be part of the group that is opposing it here today.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes and 20 seconds.

Mr. MCCONNELL. Mr. President, if I may, I want to follow up on some observations by my friend from Utah. The underlying bill seeks to abolish what is pejoratively referred to as "soft money." In fact, as the Senator from Utah and I know, soft money should not be a pejorative term. It is, in fact, everything that isn't hard money. Our two great political parties, of course, are interested in who gets to be Governor in Utah; occasionally, they are interested in who gets to be mayor of Salt Lake City. They are, in fact, Federal parties.

So, in the aftermath of McCain-Feingold, you would have a complete federalization of the American political process, I guess putting the FEC in charge of the city council races in Salt Lake City.

Mr. BENNETT. Mr. President, if I might interrupt.

Mr. MCCONNELL. I yield for a question.

Mr. BENNETT. Salt Lake City has nonpartisan races. There are no limits on contributions and there are no limits on spending, and somehow we have managed to maintain the pattern of decent mayors through that whole situation.

Mr. MCCONNELL. A good point, I say to my friend from Utah.

It has been suggested by some around here that party soft money could simply be abolished, and that is what this underlying bill seeks to do. I doubt that, Mr. President.

A law professor at Capital University in Columbus, OH, who is an expert in this field, in a recent article in a Notre Dame Law School Journal of Legislation was pointing out with regard to the prospects of eliminating non-Fed-

eral money for the parties by Federal legislative action and said, in referring to the Colorado case in 1996:

The precedent makes clear that political parties have the rights to engage in issue advocacy—

Which is funded by the so-called "soft money"—

as other entities. In Colorado Republican Party v. FEC, the Republican Party ran a series of advertisements critical of the Democratic nominee for a U.S. Senate seat from Colorado. At the time the ads ran, the Republican nominee had not been determined, and the three candidates were actively seeking that nomination.

That was the fact situation in that case.

The Court rejected the FEC's position that a political party could not make expenditures independently of a candidate's campaign.

Independent expenditures are hard money; issue advocacy is soft money. So let's get them divided.

The Court held that the facts quite clearly showed that the defendant Republican Party expenditures in the race were independent of any candidate's campaign and so could not be limited as contributions to the candidate's campaign directly. If a political party can conduct express advocacy—that is independent and hard money—if a political party can conduct express advocacy campaigns independently of its candidates, surely it can conduct an issue ad campaign independently of its candidates. The Colorado Republican Federal Campaign Committee held that political parties' rights under the first amendment are equal to—equal to—those of other groups and entities: "The independent expression of a political party's views is 'core' First Amendment activity no less than is the independent expression of individuals, candidates or other political committees." In reaching this conclusion, the Court was not breaking new ground, but again merely following established law granting parties the right to speak on political issues.

I cite that, Mr. President, just to make a point in discussion with my friend from Utah that there is virtually no chance the courts would say that the Congress, by legislation, can prevent the parties from engaging in issue advocacy. We already know they can engage in independent expenditures which are financed by so-called "hard money," Federal money. Everybody else in America can engage in issue advocacy. The Senator from Utah can do it by himself. He can do it as part of a group. There is no change. The courts are going to say parties can engage in issue advocacy.

I commend my friend from Utah for his statement. He is absolutely correct, there is no chance that this bill, were it to be passed, which it will not be passed, but if it were to be passed, would be held constitutional. In fact, the courts are going in the opposite direction, in the direction of more and more political speech, more and more discourse, more and more discussion.

We do not have a problem in this country because we have too little political discussion. That is not a problem. Even though, as the Senator from Utah wisely pointed out, we frequently

do not like the content, the tone of the campaign, it is not ours to control. Nobody said we had ownership rights over the campaign. Lots of people are entitled to have their say.

I thank my friend from Utah for his fine statement. I yield the floor.

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

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair, and I thank my colleague from Wisconsin.

Mr. President, I have spent so much time on this subject in the last year that I think I can just clear my throat in 5 minutes. But I will try to do more than that, and I hope to have additional opportunities to comment as the debate goes on.

I want to speak against the underlying proposal, the so-called Paycheck Protection Act, and in favor of the substitute McCain-Feingold proposal that is before us. The Paycheck Protection Act, very briefly, is a very disappointing response to the many problems the Senate Governmental Affairs Committee uncovered in its recently concluded investigation. In fact, I was very surprised to see my dear friend, the majority leader, say yesterday, "I have laid down a bill that embodies the most important campaign finance reform of all, paycheck protection."

Frankly, there is not a single problem, with all respect, looked at during our investigation in the Governmental Affairs Committee that would have been solved with the Paycheck Protection Act. "Paycheck Protection" doesn't touch foreign money, it doesn't touch the use of public buildings for fundraising, it doesn't touch the problem of unregulated and undisclosed attack ads, and it doesn't touch the abuse of tax-exempt status by tax-exempt organizations.

In fact, the underlying bill, the Paycheck Protection Act, is a response to a problem that doesn't exist. No one is forced to join a union, and under the Beck decision, nonunion members already have an absolute right to ask for a refund of the amount they paid the union in agency fees that went to political activities of which they do not approve. Union members, for their part, voluntarily join an organization, and they express a desire to have their leadership represent them, both with management and more generally. If they disagree with the way in which the leadership of the union is spending that money for political or legislative purposes, they have the same right that shareholders have who are disgruntled with the activities of the leadership of a corporation. Shareholders can launch a proxy fight. Disgruntled union members can try to change the leadership of the union. There is a democratic process dramatically, intensely supervised by the Federal Government itself.

In fact, I suggest that the Paycheck Protection Act as before us is not only

a solution to a problem that doesn't exist, it is itself a problem because it is of doubtful constitutionality. This bill says to a union that before it can involve itself in political activities, before it can spend its own general treasury funds, contributed by dues-paying members, not just on political campaigns but, by definition in the underlying bill, in attempting to influence legislation, the union leadership needs the separate prior written voluntary authorization of each one of their members.

To me, that comes close to being a prior restraint on the exercise by a labor union of the rights it receives under the First Amendment to petition our Government to attempt to influence legislation and to free association. If that is not the case, it certainly raises questions of equal protection, because there is no similar restriction put on any other organization that I know of, including particularly corporations. True, there is language in the paycheck protection bill that deals with corporations, but by not even trying to cover shareholders, it is plainly not at all equivalent to the restriction on the expenditure of union dues.

On the other side, McCain-Feingold, with appreciation to its two cosponsors—a great example of the kind of bipartisanship that should exist around here—is a practical response to the problems that came before the Governmental Affairs Committee. The arguments against it, with all respect, are premised on this strange twist of principle that money is speech.

I think it was my friend, the junior Senator from Georgia, who said last year, if money is speech under the Constitution, that must mean that the more money you have, the greater is your right to free speech. Is that what the Framers of the Constitution meant when they said that all of us are created equal, we have an equal right, unfettered, to petition our Government? I don't think so. Against that specious principle, money is speech, they have undercut the sacred principle of equality of access to our Government.

So I say the soft money ban and the other limits in the McCain-Feingold proposal are constitutional. In the Buckley decision, the Court made it clear that it is constitutional to limit contributions to campaigns, and this ban on soft money is just another way to do that.

The fact is, as Chairman THOMPSON of the Governmental Affairs Committee said during our proceedings, effectively, there is no campaign finance law anymore in the United States of America, and the reason why the limits on individual contributions, the prohibitions on corporate and union money that are in the law are no longer effective is mostly because of soft money.

The PRESIDING OFFICER. The time requested by the Senator has expired.

Mr. LIEBERMAN. I thank the Chair for the very gracious way in which he

conveyed that message, which is very typical of the occupant of the Chair. I yield the floor.

Mr. FEINGOLD. Mr. President, I thank the Senator from Connecticut very much for his remarks. I note the emergence of a new argument that is in effect that the Supreme Court of the United States is incompetent, that they will not be able to recognize the constitutional problems in any bill and, therefore, we have to make sure that every piece of our bill raises absolutely no constitutional questions. I think that is a somewhat absurd proposition.

With that, Mr. President, I yield 5 minutes to the distinguished senior Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I, too, join in commending Senator FEINGOLD, Senator MCCAIN, Senator LIEBERMAN and the others for their persistence and perseverance in advancing sensible and responsible campaign finance reform to the U.S. Congress, and, hopefully, we will address it in a serious way as they have addressed this issue and do so in the next few days.

I will speak for a few moments about the underlying bill that is being proposed, and I suggest that this bill really is a sham in terms of proposing to protect the interests of American workers.

The average American worker earns \$12.51 an hour, just over \$26,000 a year. These workers want a good retirement, a decent education for their children, safe neighborhoods and quality health care. But how can they compete on these issues in the political process when the fat cats spend far more in one political fundraiser or in one 30-second political ad than the average worker earns in a year?

We must return election campaigns to the people, in which all voters are equal, no matter what their income, what job they hold or where they live.

The current system is a scandal, and Democrats are ready to reform it right now. Every Democratic Senator—every single one—supports the McCain-Feingold campaign finance bill. The burden now rests squarely with the Republican Party. It is up to Republicans to decide whether Congress will reform the broken campaign finance laws or continue the unseemly influence of special interests in American politics.

So far, all the Republican leadership in Congress proposes is more money in politics, not less. They want more money from their special interest friends. They want to silence working families and the labor unions for speaking up on issues they care about. That is what the Republican leadership calls campaign finance reform.

The Republican proposal purports to help working families by regulating how labor unions pay for their participation in the political process. But for working families, this proposal is grossly unfair. It is the centerpiece of

an agenda by big corporations and the right wing of the Republican Party to silence working families, not help them.

The Republican leadership proposal is not reform but revenge—revenge for the role of the labor movement in the 1996 campaign. It imposes a gag rule on American workers, and it should be defeated.

The bill is a sham. It does not protect the workers. It is designed to advance an antiworker, antilabor, antiunion agenda. It does not protect individual rights, as its sponsor claims. It singles out unions, but does nothing for corporate shareholders or members of other organizations.

In fact, in the 1996 election, corporations outspent labor unions 11 to 1. Under the Republican proposal, big tobacco can still use corporate treasury funds to oppose using cigarette tax revenues to promote children's health, even if shareholders object. And the National Rifle Association can oppose a ban on cop-killer bullets even if NRA members object. But before labor unions can use union funds to speak up for working families, they would have to obtain written approval from every union member first.

But it does not stop there. The antiworker Republican proposal before us today is only part of a larger, big business, right wing campaign conspiracy to deny working families a voice in their own Government. Already, proposals virtually identical to this one have been introduced in 19 States as ballot initiatives or as State legislation. The same people who fought the minimum wage and want to abolish labor unions—the same people who lead the charge in the Republican party for tax breaks for the rich—are also part of this coordinated nationwide campaign to block workers and their unions at every turn in Washington and State capitals everywhere.

A recent editorial in a Nevada paper says it clearly as anyone. Nevada is one of the States where the right wing is pushing these initiatives. And the Reno Gazette journal spoke out against the proposal, saying:

Beware of GOP Foxes in Labor's House. . . . Its main purpose is not to help workers but to weaken Democrats. . . . This petition is not intended to benefit the common man nearly as much as it is intended to benefit one specific class of politicians. . . . So when someone asks you to sign this Republican petition outside your favorite supermarket or elsewhere, think about what is really going on here. The scent of special interest fills the air like a convention of skunks in the hollow.

This language applies equally to the Paycheck Protection Act that my Republican friends are advocating in the U.S. Senate. The Republican proposal is phony reform, and it should be opposed. Far from protecting the American worker, it is a prescription for disaster for millions of Americans and their families. I oppose it. My colleagues on this side of the aisle oppose it. I urge every Senator to oppose it.

Senator McCAIN and Senator FEINGOLD have proposed sensible reforms to ban soft money and to crack down on campaign adds by outside interest groups that are nothing more than thinly veiled appeals to defeat particular candidates. These are responsible reforms. And I urge my colleagues to support them.

I thank the Senator for yielding me time.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from Massachusetts for his statement, and I strongly agree with his description of what this Paycheck Protection Act is all about. It is a poison pill directed at only one group in this country, which I think is clearly unfair.

Mr. President, I now yield 5 minutes to the distinguished Senator from Illinois, Mr. DURBIN.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the Senator for yielding to me.

Mr. President, when I try to understand the logic of those who oppose this bipartisan campaign finance reform and try to understand their thinking, which concludes that both the rich and the poor in America should have the right to purchase millions of dollars in television time, my mind is drawn to a movie, the movie "Titanic."

What is the link between the opposition to McCain-Feingold and the fate of the *Titanic*? On the *Titanic*, only 5 percent of the first-class women passengers drowned; more than 50 percent of all the women in the lowest class cabin drowned.

Now, in the eyes of those who oppose McCain-Feingold, everyone on the *Titanic* had the right to a lifeboat. Unfortunately, they would have to conclude, I guess, that those passengers in first-class cabins were just better swimmers. In fact, on the *Titanic*, they locked the doors of the cabin class until all the lifeboats had been opened for first-class passengers.

It reminds me too of their logic that the rich need to have their opportunity to exercise free speech. It reminds me of the old case in law school or the old story in law school that said the law, in its infinite wisdom, makes it a crime for the wealthy as well as the homeless to sleep under bridges. That gives us an insight, I think, into the thought processes that guide those who oppose this bipartisan campaign finance reform.

We have to understand what the result of the current campaign financing system is. It is a system without rules and without any moral grounding. It is a system heavily weighted in favor of the insiders, the gufflers and those middle-age crazy millionaires who just cannot get the melody of "Hail to the Chief" out of their minds. The flaw in their thinking in supporting the cur-

rent campaign system is their conclusion that campaign spending limitations restrain speech.

I know the Supreme Court reached that decision over 20 years ago. And I guess there is some value that the Supreme Court Justices by and large have never been political candidates. They have not been sullied by this nasty process. But that decision and their conclusion lacked any grounding in the real world of campaigns.

The campaign system we have today, where wealth buys speech, creates in fact, if not in law, a restraint on speech more insidious than any frontal assault on the first amendment. We give the candidates of modest means a throat lozenge and a soap box and give the wealthiest candidates the magic lantern of television and all its proven power of persuasion. The opponents to McCain-Feingold are blind to this obvious disparity and its consequences.

Now in this debate over changing our campaign system, if you stay tuned today, and perhaps later in the week, do not be surprised that the "haves" in politics are unwilling to concede any ground to the "have-nots."

If Machiavelli did not write this axiom, he should have: "No party in power will ever willingly surrender the means by which they came to power."

The Republican party is and always has been more adept at fundraising. They seldom lose for lack of money, only for lack of talent or ideas. And now we have a situation where eight Republicans have stood up and said that they are for campaign finance reform. They deserve our praise. It took courage for them to do it.

JOHN McCAIN, who has joined Senator RUSS FEINGOLD, deserves that recognition, as well as Senators CHAFEE, SUSAN COLLINS, TIM HUTCHINSON, JIM JEFFORDS, OLYMPIA SNOWE, ARLEN SPECTER and FRED THOMPSON. But I hope we can rally some more Republican support to join the 45 Democrats who are on the record for real reform.

Step back for a minute and ask yourself this question: Is the current campaign system serving America? Not whether it is good for Democrat or Republican incumbents or challengers. Is it serving America?

Let me show you two charts to take a look at. This is an interesting chart because it shows on this red line the percentage of eligible voters who are actually registered.

Back in 1964, 64 percent of eligible voters actually registered. By 1996, the number was up to 74.4 percent. That is good news, isn't it? More Americans are signing up to vote. We certainly want to encourage that. But look down here at the bottom line. Look at the turnout of voters for Presidential elections. The high number—61.92 percent over here in 1964—look how high it was in comparison to those eligible to vote who actually registered, and then look what happens in 1996, 49.08 percent actually turned out to vote for President.

So, 74.4 percent eligible, 49 percent turned out, the lowest percentage turn-

out of eligible voters since 1924. In 1924, the first year when women were allowed to vote, it was a year when it was an extraordinary count. There were more eligible women than actually voted. You have to go back to 1830 to find this low a turnout.

Mr. FEINGOLD. I yield to the Senator from Illinois such time as he requires.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DURBIN. Thank you.

This chart really brings home the issue what we are faced with. In 1960, the total amount of money spent in the United States of America on all Federal, State and local campaigns—\$175 million. Watch it grow. Watch it grow dynamically until we get to \$4 billion, the estimate of the amount spent in 1996 on all political campaigns.

But look what is happening to the voters. When we are spending \$175 million, 63 percent of the voters turned out. As we get up to \$4 billion in spending, we are down to 49% of the voters showing up for the Presidential election year.

If you were running a company and you said to your marketing division, "I want you to double the advertising budget and sell more of our product," and they come back in the next quarter and said, "We doubled the advertising budget and we're selling fewer products," you would have to reach one of two conclusions: something was wrong with your advertising organization or something is wrong with your product. In politics there is something wrong with both.

People are sick of our advertising. It is too negative. It is too nasty. These drive-by shooting ads that we have, 30-second ads by issue groups you never heard of, at the last minute of a campaign, and candidates, myself included, spending a lot of time groveling and begging for money, that does not help the process. It does not help our image. It does not encourage people to get involved.

What McCain-Feingold is about is not just changing the law but changing the attitude of the public toward the political campaigns. And unless and until that happens, we face a very serious problem in this country. What McCain-Feingold goes after in eliminating soft money is something that has to happen. Soft money is what is left after all of the restrictions on hard money have been applied.

For those who are not well versed in the language of politics and campaigns, "soft money" can be corporate money, it can be money that is given by a person that exceeds any kind of limitation. It can be money that is used indirectly to help a campaign. And that sort of expenditure has just mushroomed.

I am glad that the legislation of Senator FEINGOLD and Senator McCAIN is going to ban soft money. I also think it is critically important they do something about these issues ads. For goodness sakes, as a candidate for the U.S.

Senate, I have to disclose every penny raised and every penny spent. And when I put an ad on the air, I have to put an allocation at the bottom of each ad as to who paid for it and a little mug shot of myself so they can see my face.

But these groups that appear out of nowhere come in, in the closing days of a campaign, and absolutely blister candidates in the name of issue advocacy groups that do not disclose one single item of fact about how they raise their money and how they spent it. Don't believe for a minute that there is some group called the "Campaign for Term Limits" that is running around shopping centers with kettles and bells collecting money. This is a special interest group, spending literally millions of dollars in our political process to defeat candidates in the name of an issue, and you do not know a thing about them. You do not know if they are funded by the tobacco companies, you do not know if they are funded by foreign money, you do not have a clue. That is not fair.

What we have in the McCain-Feingold bill is an effort to finally—finally—bring some reality to this process and some sensibility to it. And it is long overdue. We have to make sure that we have a bustling, free marketplace of ideas. But the evidence is compelling that political megamergers of special interest groups like the NRA, Right to Life, Americans for Tax Reform, Chamber of Commerce, and even the AFL-CIO, which has clearly supported more Democrats than Republicans, all of these things are driving individuals with limited means and middle-range incomes out of the political process.

To argue passionately as we have in America for "one man, one vote" as a pillar of democracy and ignore the gross disparity of resources available to pursue that vote is elitist myopia.

I rise in support of this bill. And I hope that those who do support real campaign finance reform will not fall for proposals and poison pill amendments which will basically scuttle this effort. We have a rare opportunity to win back the American people and their confidence in our process. Defeating McCain-Feingold by procedural tricks and any other mechanism that they dream up is really not serving the future of this country and the future of our Republic. So I stand in strong support of McCain-Feingold, and thank my colleague from Wisconsin for yielding this time.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Senator from Illinois for all his tremendous help on this issue, and now yield to the Senator from North Dakota such time as he requires.

The PRESIDING OFFICER. The Senator has 9 minutes 40 seconds.

Mr. DORGAN. Mr. President, the Senator from Illinois said much of

what I would like to say. I appreciate very much the leadership of the Senator from Wisconsin, Senator FEINGOLD, and the Senator from Arizona, Senator MCCAIN, on this issue.

We had a lot of hearings last year about campaign finance reform: 31 days of hearings, 240 depositions, about 50 public witnesses, \$3.5 million, 87 staff people. We learned about all kinds of abuses with soft money and attack ads thinly disguised as issue advertising.

Well, here we have on the floor of the Senate today a piece of legislation that says, "Let us reform the system we have for financing campaigns."

One of the important pieces of this reform, the centerpole for the tent, in my judgment, is the ban on soft money. Now, what is soft money? People who are not involved in political campaigns may not know what this term soft money means. It is the political equivalent of a Swiss bank account. Soft money is like a Swiss bank account. It is where somebody takes money that is often secret, from an undisclosed source, with nobody knowing where it comes from, how much is there, how it got there, and it is used over here in some other device, ostensibly to help the political system and not to be involved in Federal elections. But what we now know from the range of campaigns that have gone on in recent years is soft money is a legalized form of cheating that has been used to affect Federal campaigns all across this country.

The total amount of soft money raised is on the rise. In the first 6 months of the 1993-1994 political cycle, \$13 million; the first 6 months of the 1997-1998 cycle, \$35 million. It is going up, up, way up.

Some say there is not a problem of campaign finance and we don't need a reform. Take a look at this political inflation index. At a time when wages have risen 13 percent in 4 years, education spending rose 17 percent, the spending on politics in this country rose 73 percent. There is too much money in politics.

Some say money is speech and we like free speech. That is the political golden rule. I guess those who have the gold make the rules.

I suppose if I was part of a group that had a lot more money than anybody else I suppose there would be an instinct deep inside to try to persuade you to say this situation is great. We not only have more money but we have access to more money than anyone else in the history of civilization. Why would we want to change the rules? We ought to change the rules because this system is broken and everybody in this country knows it and understands it.

Let me go through some examples to describe what is happening in this system. And both political parties have had problems in these areas, both parties. Let me give one example. In 1996, \$4.6 million of soft money went from the Republican National Committee to an organization called Americans for

Tax Reform, \$4.6 million. This soft money, then, comes from contributors whose identities are often unknown—they often do not need to be disclosed—contributing money in amounts that would be prohibited under our federal election laws, to influence a Federal election. \$4.6 million from a major political party to this organization, Americans for Tax Reform. That was four times the total budget of this organization in the previous year.

How was the money spent, this soft money raised in large undisclosed chunks from sources in many cases prohibited from trying to spend money to influence Federal elections? How was it used? To influence Federal elections, 150 of them, to be precise—17 million pieces of mail to 150 congressional districts.

You say the system isn't broken? Mr. President, \$4.6 million? This is the equivalent of a political Swiss bank account. Large chunks of money, blowing into the system to a group that never has to disclose what it does with it.

And what about the issue ads which Senator DURBIN mentioned as well? These issue ads—are they ads that contribute to this political process? Eighty-one percent of them are negative. They represent the slash, burn and tear faction of the political system. Get money, get it in large chunks from secret sources and put some issue ads on someplace and try to tear somebody down.

Let's discuss one group, and one ad in particular. Look at this scenario.

The Citizens for Republic Education Fund is a tax-exempt organization incorporated June 20, 1996, that raised more than \$2 million between June and the end of the year in this election year—\$1.8 million of which was raised between October 1 and November 15. They spent \$1.7 million after October 11 and before the election in a matter of a couple of weeks. Remember, these funds are not intended to influence Federal elections, but here's all this money being spent in just three weeks before the election.

You be the judge. Consider the following, and then you tell me whether these were intended to influence a Federal election. The vast majority of the money was spent after October 11 in an election year. The group didn't come into existence until June of the election year. The group never had any committees or programs, had no offices, no staff, no chairs, no desks and no telephones. All it had was millions of dollars to pump into attack ads.

The ads did not advocate on behalf of any one set of issues. Instead, the ads were almost universally tailored to a particular unfavored candidate's perceived flaws, just like any campaign attack ad would be. In fact, you could ask whether they advocate any issues at all.

Let me turn to a so-called issue ad.

Senate [Candidate X] budget as Attorney General increased 71 percent. [Candidate X] has taken taxpayer funded junkets to the

Virgin Islands, Alaska and Arizona, and spent about \$100,000 on new furniture. Unfortunately, as the State's top law enforcement official, he's never opposed the parole of a convicted criminal, even rapists and murderers. And almost 4,000 prisoners have been sent back to prison for crimes committed while they were out on parole. [Candidate X]: Government waste, political junkets, soft on crime. Call [Candidate X] and tell him to give the money back.

A political ad, paid for with soft money from a political Swiss bank account. It's like a Swiss bank account because it is from a secret source, designed to be used to create attack ads, to be used at election time to influence Federal elections, something that, frankly, is supposed to be prohibited by law. But this has now become the legalized form of cheating. In fact, we are not even sure it is legal, but it is being done all across this country and it is being done with big chunks of secret money.

In fact, one secret donor put up, I'm told, \$700,000 to spend on so-called issue ads to influence federal campaigns. We don't even know for certain the identity of that person. And that soft money, that big chunk of money prohibited from ever affecting Federal races was used in this kind of advertising to directly try and influence Federal campaigns.

Now, I just ask the question, is there anyone here who will stand in the Senate with a straight face and say that this isn't cheating? Anyone here who will stand with a straight face and say this isn't designed to affect a Federal election? Anybody think this is fine? Go to a friend someplace that has \$40 million and say, will you lend us \$1 million, we have these two folks we don't like—one in one State up north and one in a State down south. We want to put half a million into each State and defeat them because they happen to be of a political persuasion we don't like, and we don't want them serving in the U.S. Senate. If you give us \$1 million we will package it in two parts, half a million into each State. Your name will never be used. No one will know you did it. We will package up these kind of 30-second slash, tear and burn political ads and claim they are issue ads and they can be paid for with soft money.

Does anybody in this body believe this is a process that the American people ought to respect? That this is a process the American people think makes sense? Do we really believe that money is equal to speech and that anything that we would do to change the amount and kind of money spent in the pursuit of any campaign is somehow inhibiting the political process?

I ask unanimous consent for 2 additional minutes.

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

Mr. McCONNELL. Is that off of your time?

The PRESIDING OFFICER (Mr. SESSIONS). The presumption would be we would recess at 12:32.

Mr. McCONNELL. I believe I have 7 minutes, and I do want to reserve my 7 minutes.

Mr. DORGAN. I do want to make a couple of final points here. We can decide to do one of two things in this Senate on this day or this week. We can decide that campaign finance system in this country is just fine, that nothing is wrong with it, that we like the way it works. We can say that we think it has the respect of the American people, that we think this sort of nonsense that goes on is just fine and perfectly within the rules, that we think that the growth of soft money, the growth of spending in campaigns in this country is wonderful. We can say we think this explosion in political money reflects the American people's determination to acquire more and more speech, and that we think the American people believe, as some would say, that this system works just fine.

Or we can decide that something smells in campaign finance, that something is wrong with campaign financing in this country, that we see the costs of political campaigns are skyrocketing up, up, way up because we have people who believe they can take secret money and now use it to buy elections. We can decide something is horribly wrong with that, and we can decide that we know the American people know there is something horribly wrong with that. We can decide that it is in our province to do something about it, now, today, this week, this month. We in Congress can do something about this. We can do something about it without hurting free expression anywhere in this country, and anywhere in our political system. No one who supports reform wants to restrict free speech in this country, nor should we do that. But we can decide that this system is out of control, that this system disserves our democratic process, and that we must pursue a better way.

Senator MCCAIN and Senator FEINGOLD have proposed a piece of legislation. Is it perfect? No, it is not. But it is a good piece of legislation. I am a cosponsor. I want this Congress to pass that piece of legislation this week, have the House pass it, get to conference and pass a piece of campaign finance reform that will make the American people proud.

The PRESIDING OFFICER. The Senator from Kentucky has 7 minutes.

Mr. McCONNELL. After I use 7 minutes, we go into recess for policy luncheons?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCONNELL. Maybe a good place to wrap up the morning discussion, which I think has been a good one, is to call to the attention of Members of the Senate an NPR morning edition commentary by a woman named Wendy Kaminer who is a professor at Radcliffe College—not exactly a bastion of conservatism. This was

NPR's morning edition, December 3, 1997, on the subject we are debating here today.

Professor Kaminer said in her commentary that morning:

Protecting the act of spending money as we protect the act of speaking means standing up for the rights of the rich, something not many self-identified progressives are eager to do.

But the realization that money controls the exercise of rights is hardly new. Money translates into abortion rights, for example, as well as speech. Indeed, liberals demand Medicaid funding for abortions precisely because they recognize that money insures reproductive choice. Money also insures the right to run for office. Liberal support for reforms that provide minimum public subsidies to candidates is based on an implicit recognition that exercising political speech requires spending money.

So proposed public financing schemes are based on the fact that reformers like to deny—the fact that sometimes money effectively equals speech. Reformers who support public financing argue persuasively that candidates with no money have virtually no chance to be heard in the political marketplace. They want to provide more candidates with a financial floor, in order to insure more political speech. It is simply illogical for them to deny that a financial ceiling—caps on contributions and expenditures—is a ceiling on political speech.

It is absurd to deny that that is a cap on political speech. Professor Kaminer went on:

We need campaign finance reform that respects speech and the democratic process; it would subsidize needy candidates and impose no spending or contribution limits on anyone.

She says:

I'm not denying that money sometimes corrupts. It corrupts everything, from politics to religion. But if some clergymen spend the hard-earned money of their followers on fast women and fancy cars, there are others who raise money in order to spend it on the poor. While some politicians seek office for personal gain, others seek to implement ideas, however flawed. Money only corrupts people who are already corruptible. It is terribly naive and misleading for reformers to label their proposals "clean election laws." Dirty politicians who sell access and lie to voters in campaign ads will not suddenly become clean politicians when confronted with limits on contributions and spending.

Reformers are guilty of false advertising when they market campaign finance reform as a substitute for integrity. Politicians are corrupted by money when they are unprincipled. Limiting the flow of money to them will not increase their supply of principles. And, in the end, money may be less corrupting than a desire for power, which can engender a willingness to pander rather than lead.

Finally, she says:

If I wanted to influence Bill Clinton, I would not write him a check, I'd show him a poll.

So, Mr. President, it is the denial of the obvious to conclude that the limitation on the financing of campaigns or restrictions on the ability of individuals or groups to amplify their message is anything other than a degrading, a quantification, a limitation of their ability to express themselves in our democracy. And the bill that we have before us essentially seeks to weaken the

parties and make it impossible for outside groups to criticize us in proximity to an election.

There is no chance the courts would uphold this, but fortunately we are not going to give them a chance to rule on this because we are not going to pass this ill-advised legislation.

Mr. President, how much time is left?

The PRESIDING OFFICER. All time has expired.

I believe the Senator from Illinois wants to speak on a separate subject. The Senator would need to make a unanimous consent request.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

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

#### TRIBUTE TO PENNY SEVERNS OF ILLINOIS

Mr. DURBIN. Mr. President, on Saturday morning, in the early morning hours, my wife and I received a telephone call that was a shock to us. A dear friend and close political ally of ours, State Senator Penny Severns of Decatur, IL, had succumbed to cancer in the early morning hours.

I have literally known Penny Severns for over 25 years, since she was a college student. I followed her political career. We had become close and fast friends. The outpouring of genuine warmth and affection for Penny that we have heard over the last few days since the announcement of her death has been amazing.

Penny Severns was 46 years old. A little over 3½ years ago, she was running for Lieutenant Governor in the State of Illinois, and she discovered during the course of the campaign that she had breast cancer. I think most people, upon hearing that they had cancer, would stop in their tracks, would not take another day on the job, would head for the hospital and the doctor and say that the rest of this could wait. But not Penny Severns. She announced that she was going through the chemotherapy and radiation and then would return to the campaign trail. And she did.

I will tell you, in doing that, she inspired so many of us because her strength, her caring, her spirit, were just so obvious. She finished that campaign and was reelected to the State Senate and announced last year she was going to run for secretary of state in our State of Illinois. She filed her petitions, and within a week or so it was discovered she had another cancerous tumor, and in December she went into the hospital to have it removed. She went through the radiation and chemotherapy afterwards and had a very tough time. Unfortunately, she succumbed to the cancer in the early morning hours last Saturday.

It is amazing to me how a young Democratic State Senator like this could attract the kind of friends she did in politics. Penny was not wishy-

washy; when she believed in something, she stood up for it. Yet, if you listened to Republicans and Democrats alike who have come forward to praise her for her career, you understand that something unique is happening here.

There is so much empty praise in politics. We call one another "honorable" when we are not even sure that we are. But in this case, people are coming forward to praise State Senator Penny Severns because she truly was unique, not just because she fought on so many important political issues and gave all of her strength in doing that, but because of her last fight, which was her personal fight against cancer, and the fact that she just would not give up and would not give in.

Breast cancer has taken a toll on her family. She lost a younger sister to breast cancer a few years ago, and her twin sister is in remission from breast cancer today. Penny dedicated herself, in the closing years of her service, to arguing for more medical research when it came to breast cancer—not just for her family, but for everybody. That is part of her legacy. She will be remembered for that good fight and so many others.

I have to be honest with the Presiding Officer and the other Members. I would rather not be here at this moment. I would rather be in Decatur, IL, because in just a few hours there will be a memorial service for Penny Severns. My wife will be there, and I wish I could be there, too. But if there is one person in Illinois who would understand why I had to be here on the campaign finance reform debate, it was Penny Severns. I am going to miss her and so will a lot of people in Illinois.

Thank you, Mr. President.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota, Mr. GRAMS, is recognized.

Mr. GRAMS. I ask unanimous consent to speak up to 10 minutes as in morning business.

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

#### WHY WE MUST RETURN ANY BUDGET SURPLUS TO THE TAXPAYERS

Mr. GRAMS. Mr. President, I rise today to express my strong disappointment as my colleagues waffle on our commitment to allow working Americans to keep a little more of their own money.

I rise as well, Mr. President, to make the case for returning any potential budget surplus to the taxpayers.

Mr. President, I was shocked to pick up the Washington Times on February 18 and find the headline "Senate GOP leaders give up on tax cuts."

Having been elected on a pledge to reduce taxes for the working families of my state, the idea that we would so quickly abandon a core principle of the Republican Party is a folly of considerable proportions, one I believe would abandon good public policy.

In all the legislative dust that is kicked up in Washington, someone has to consider the impact of high taxes and spending, and speak up for the people who pay the bills: the taxpayers.

When the Republican Conference met on February 11 to outline our budget priorities for the coming year, I joined many of my colleagues in stressing the need for continued tax relief. I did not leave the room with the belief that we had abandoned the taxpayers.

Yet that is precisely what the Conference's "Outline of Basic Principles and Objectives" does, because under the Conference guidelines, tax relief for hard-working Americans would be nearly impossible to achieve.

Mr. President, since its very beginnings in the 1850s, the Republican Party has dedicated itself to the pursuit of individual and states' rights and a restricted role of government in economic and social life.

In 1856, the slogan of the new party was "Free Soil, Free Labor, Free Speech, Free Man." It is still our firm belief that a person owns himself, his labor, and the fruit of his labor, and the right of individuals to achieve the best that is within themselves as long as they respect the rights of others.

The fundamental goal of the Republican Party is to keep government from becoming too big, too intrusive, to keep it from growing too far out of control.

We constantly strive to make it smaller, waste less, and deliver more, believing that the government cannot do everything for everyone; it cannot ensure "social justice" through the redistribution of private income.

These two different approaches of governance are indeed a choice of two futures: A choice between small government and big government; a choice between fiscal discipline and irresponsibility; a choice between individual freedom and servitude; a choice between personal responsibility and dependency; a choice between the preservation of traditional American values versus the intervention of government into our family life; a choice of long-term economic prosperity and short-term benefits for special interest groups, at the expense of the insolvency of the nation.

I think history has proven that whenever we have stuck to Republican principles, the people and the nation prosper, freedom and liberty flourish; whenever we abandon these principles for short-term political gains, it makes matters far worse for both our Party and our country.

Here are two examples. Facing a \$2 billion deficit and economic recession in 1932, the Hoover Administration approved a plan to drastically raise individual and corporate income taxes.

Personal exemptions were sharply reduced and the maximum tax rate increased from 25 percent to 63 percent. The estate tax was doubled, and the gift tax was restored. Yet the federal revenue declined and the nation was deeply in recession.