

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