

As chairman of the conference that presented the final version of the line-item veto bill to the Senate, I am pleased that the procedures established in that bill have worked.

I regret that we must act to override the President's veto of this disapproval bill. In a hearing before our committee and in numerous public statements, administration officials conceded that errors were made in handling the military construction bill. During a time of intense pressure on our defense budget, there could be no consideration of foregoing these critical projects that are necessary to support our military efforts.

Override of the President's veto restores 38 projects, totaling \$287 million, for this fiscal year 1998. All of these projects have been defined as necessary by the Armed Forces and are executable during this fiscal year.

Subsequent to the President's action on the military construction bill, the administration took a very different approach to the remaining 12 appropriations bills for fiscal year 1998. I do believe that the confrontation that has occurred over this bill has refined the process for dealing with the line-item veto. While I do not support the President's decision with regard to many of the specific line-item vetoes he presented to Congress with regard to the 1998 bills, our committee did not hold any hearings or report disapproval bills on any of the other line-item veto messages. We did not challenge the President's decision on any line-item veto on any bill other than this military construction bill, although, again, I will say, as chairman, I disagreed with many. For 1998, the President transmitted 81 line-item vetoes of specific appropriations totaling \$483.4 million.

In my judgment, the line-item veto has proven to be a useful and appropriate tool for any President to reconsider spending matters passed by the Congress.

Consideration of this bill, however, and this override will demonstrate the effectiveness of the process created by the bill that created the line-item veto. We definitely prepared a process to overturn a Presidential veto of a disapproval bill, and that is what we are dealing with now. We passed the original bill, the President line-item vetoed it, we passed a disapproval bill, and he vetoed that. This is a process to overturn that veto of our bill whereby the Congress decided to literally overturn his veto.

I again regret that the President chose to veto this measure. I think he did so on the basis of misunderstanding or upon misinformation presented to him. As I said in the beginning, the criteria used by the White House, as applied to these projects, just did not fit. This was not a proper veto of the items in this military construction bill.

I am here to urge all Members to vote to override the veto on this bill, restore the funding for these projects that are urgently needed for military

construction, and validate the process that the line-item veto bill presented to the Congress and make it work. Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

PAYCHECK PROTECTION ACT

The Senate continued with the consideration of the bill.

Mr. MCCONNELL. Mr. President, are we now on the Jeffords-Snowe time?

The PRESIDING OFFICER. The Senator is correct. At this point, 5 minutes are left on each side, according to the previous unanimous consent agreement.

Mr. MCCONNELL. Mr. President, the Snowe-Jeffords amendment, while I am sure it is well-intentioned, isn't consistent with the first amendment. The American Civil Liberties Union, America's experts on the first amendment, say that it falls short of the free speech requirements of the U.S. Supreme Court in the first amendment.

The proponents of this proposal seem to me to be dismayed at all of this speech out there polluting our democracy and our campaigns. The presumption underlying that, of course, is that we as candidates somehow ought to be able to control elections, as if only our voices should be heard.

The proponents say what we need to do is get all of this speech under control. And the way you do that, of course, is you make the speech accountable to the Government through the Federal Election Commission. They say, "Well, it is just disclosure. All we are asking is just disclosure." The U.S. Supreme Court in the case of NAACP v. Alabama made it abundantly clear that you could not require of the group its membership list or its donations to be handed over to the Government as a condition for engaging in public discourse.

So clearly, Mr. President, this measure would not pass muster.

With regard to nonprofits, the amendment puts all manner of new controls on them if they are so audacious as to mention any of our names near an election.

Finally, Mr. President, it punishes private citizens who have a constitutional right to support causes popular and controversial without being subject to Federal regulation.

So, let me just sum it up.

There isn't any question—and I am sure proponents of this amendment wouldn't deny it—they wouldn't be offering the amendment at all if it were not designed to make it more difficult for groups to criticize all of us in proximity to an election.

Mr. President, I confess I don't like it. I wish it didn't happen. Even some of those groups that come in in support of us we frequently think make things worse and botch the job. But the Court has been rather clear—crystal clear—that the candidates don't control all of the discourse. We certainly don't con-

trol what the newspapers are writing about us in the last few days of an election. And we certainly can't control what groups may say about us to our displeasure in proximity to an election.

Democracy is sort of a messy thing. It is sort of a messy thing. The speech police don't get to control how everybody participates in our elections. It may frustrate us. But that is the price for a healthy democracy.

So, Mr. President, at the end of the discussion I will make a motion to table the Snowe-Jeffords amendment, and I hope the motion to table will be approved.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I am delighted to be able to yield a minute to my colleague from the State of Maine who has been a leader on campaign finance reform.

Ms. COLLINS. Mr. President, thank you.

Mr. President, I rise today to urge my colleagues to support the compromise amendment offered by our distinguished colleague, the senior Senator from Maine, and the Senator from Vermont.

Mr. President, I am confident that the original language in the McCain-Feingold bill relating to the issue ads would have withstood constitutional scrutiny. But the careful work of the Senator from Maine and the Senator from Vermont certainly removes any doubt on that score. They have done an artful job in crafting this language, and I hope it will receive the support of every Senator.

Thank you, Mr. President.

Ms. SNOWE. Mr. President, I now yield a minute to my colleague from Vermont, Senator JEFFORDS. I want to express my appreciation to him for all the work he has done on this amendment and his leadership on that as well.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Vermont is recognized.

Mr. JEFFORDS. Madam President, there is an adage in the legal debate that when the facts and the law are not in your favor you tend to shout loudly and improperly about irrelevant principles of free speech.

The opposition has done a masterful job on that. The issue is simple. In an election, does the public have the right to have disclosed in a timely fashion who is paying for an attack ad attacking a candidate? It is a matter of right to the voter and the election process. It is a matter of fairness to the attack candidate. More correctly stated, does the attacker have a constitutional right not to disclose who they are? The answer is a clear no. The public yes, the attacker no.

Ms. SNOWE. Madam President, first of all, I express my appreciation to my colleague, Senator JEFFORDS, for all of his efforts, and to all of my colleagues who have supported this endeavor.

First of all, Madam President, I ask unanimous consent to have printed in

the RECORD a letter from Public Citizen. I know my friend, the Senator from Kentucky, quoted portions of their letter opposing disclosure. But they have distributed a letter in support of the limited disclosure in the Snowe-Jeffords amendment.

In fact, they said, "Opponents of reforms assert that they would violate freedom of speech. But what they are really protecting is the freedom to spend unlimited dollars to corrupt our democratic process."

They support our amendment.

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

PUBLIC CITIZEN,

Washington, DC, February 25, 1998.

Hon. OLYMPIA SNOWE,
U.S. Senate,
Washington, DC.

DEAR SENATOR SNOWE: I understand that certain statements made by Public Citizen President Joan Claybrook, in a May 23, 1997 letter, have been cited as reasons to oppose your amendment to the McCain-Feingold bill dealing with disclosure requirements for organizations engaged in certain electioneering communications 60 days prior to a general election and 30 days before a primary election. Specifically, your amendment would require the disclosure of large donors to groups that make expenditures of more than \$10,000 for radio and TV electioneering communications from other than PAC money. Let me set the record straight.

Ms. Claybrook's comments were made in response to a media request that Public Citizen disclose the names and donations of all its supporters. Public Citizen, like most membership organizations, does not provide this information, consistent with its members' expectation of privacy and the Supreme Court's case law that citizens have a protected freedom of association that government may not infringe, absent a strong reason to mandate disclosure. However, regarding non-profit groups such as Public Citizen, Congress has mandated that certain disclosures be made, and Public Citizen complies with those obligations.

Public Citizen's position is fully consistent with our support for your amendment, which is very limited in scope and seeks to mandate disclosure of large donors to organizations that use these large donations to pay for certain electioneering communications. Enactment of a law mandating disclosure in this limited circumstance concerning federal elections would also put prospective large donors on notice ahead of time and let them make their own judgments. These circumstances are far different from the situation Ms. Claybrook was describing in her letter, where requests for disclosure are made by third parties to satisfy their curiosity, and donors to the organization have no reason to believe in advance that their names might be disclosed.

Public Citizen applauds your efforts to work with Senators McCain and Feingold and other colleagues to achieve significant progress towards campaign financing reform. Opponents of reforms assert that they would violate freedom of speech. But what they are really protecting is the freedom to spend unlimited dollars to corrupt our democratic process. About \$150 million, half of it soft money, was spent by political parties, business and union groups, and other interests on phony "issue ads" during the last cycle. The real purpose of these ads was to assist or attack political candidates. All of this money was spent outside the limitations of federal

law, which already allows the rich and powerful to disproportionately influence our democracy.

Phony "issue ads" written by clever consultants to evade legal limitations on contributions to political candidates are a betrayal rather than a triumph of free speech. The whole idea of freedom of speech is to contribute to a reasoned debate among equal participants. Unfettered political contributions by the wealthy destroy that equality. Huge contributions end up drowning out the voices of the majority of Americans.

Sincerely,

FRANK CLEMENTE,

Director.

Ms. SNOWE. Madam President, before we vote on the motion to table the Snowe-Jeffords amendment I want to thank Senator JEFFORDS for his tremendous work and leadership on this issue, as well as the cosponsors of the amendment—Senators LEVIN, LIEBERMAN, MCCAIN, FEINGOLD, CHAFEE, COLLINS, and THOMPSON—for their invaluable comments and support.

We have had a good debate on this amendment this afternoon, but we have also heard a great many misconceptions. So before we vote, I want to once again speak to the importance of this amendment, what it really does and doesn't do, and why the American people are counting on us to pass it.

Madam President, the Supreme Court has made clear that, for constitutional purposes, electioneering is different from other speech. And the Supreme Court has also never held that there is only a single, constitutionally permissible route a legislature may take when it defines "electioneering" to be regulated or reported. To the contrary, Congress has the power to enact a statute that defines electioneering in a more nuanced manner, as long as its definition adequately addresses the vagueness and overbreadth concerns expressed by the court.

This compromise amendment carves out, in a clear and narrow way, a new category of electioneering that meets the Court's criteria. It draws a bright line between issue advocacy—which we don't want to infringe—and electioneering by laying out specific criteria that must be met in order to trigger the requirements of our amendment.

Medium: The ad must be broadcast on radio or television.

Timing: The ad must be aired shortly before an election—within 60 days before a general election or 30 days before a primary.

Candidate Specific: The ad must mention a candidate's name or identify the candidate clearly.

Targeting: The ad must be targeted at voters in the candidate's state.

Threshold: The sponsor of the ad must spend more than \$10,000 on such electioneering ads in the calendar year.

If and only if a broadcast communication meets all of these criteria do the following rules apply:

First, the electioneering ad cannot be paid for directly or indirectly by funds from a business corporation or labor union. Advocacy groups could not use

such funds to run electioneering ads. They could however, engage in unlimited electioneering ads using individual, voluntary funds. This provision builds on nearly a century of law and Supreme Court cases that restrict the use of union and corporate treasury money in politics. It is balanced in that it treats corporations and unions equally, and it gets at part of the problem of these entities using member dues and shareholder monies without their consent.

Second, the sponsor of an electioneering ad must disclose the amount spent and the identity of contributors who donated more than \$500 toward the ad. This is entirely in keeping with the Supreme Court's Buckley decision, which stated that "the governmental interests that justify disclosure of election-related spending are considerably broader and more powerful than those justifying prohibitions or restrictions on election-related spending." Indeed, the Court put forward a threshold of \$200 in terms of contributions candidates need to disclose—our amendment's threshold is more than double that.

We don't prohibit advocacy groups from disseminating electioneering communications. We don't prohibit such groups from accepting union or corporation money. We don't require such groups to create PACs or separate entities. We don't address voter guides, pamphlets, or any other print media.

We don't affect groups' ability to urge grassroots contacts with lawmakers. We don't have invasive disclosure rules that require the disclosure of entire membership lists. We don't require the disclosure of the text of any ads. We don't even say that corporation or union leaders can't engage in political speech—just that they do it through a voluntarily, individually funded PAC.

That's it, Madam President—that's our amendment. A simple, straightforward, reasonable, constitutional, brightly drawn line between issue advocacy and electioneering that only applies 30 days before a primary and 60 days before an election, if a candidate is identified, and only if more than \$10,000 is spent.

But you don't have to just take my word for it. The approach was developed by noted experts and reformers including Norm Ornstein of the American Enterprise Institute, Dan Ortiz at the University of Virginia School of Law, Josh Rosenkranz at the Brennan Center for Justice at NYU and others.

And their approach has also been endorsed by Professor Thomas Baker, Texas Tech University School of Law; Professor Paul Kurtz, University of Georgia Law School; Professor William Cohen, Stanford Law School; Professor Harold Maier, Vanderbilt Law School; Professor Abner Mikva, University of Chicago; Professor Robert Aromson, University of Washington School of

Law; Professor Ralph Stein, Pace University School of Law; Professor Robert Benson, Loyola Law School; Professor Elwood Hain, Whittier Law School; Professor Ann Freedman, Rutgers Law School, and Professor William Rich, Washburn University School of Law.

Why? Why are all of these prominent scholars in agreement with this approach? Because it represents a common sense, middle ground approach around which the Senate can coalesce. That's the heart of compromise—some feel the amendment doesn't go far enough, some wouldn't go as far. But this amendment would take substantial steps toward providing accountability in an exploding and currently unaccountable area of campaigning, and it would take steps toward abating some of the valid concerns raised about the use of union dues and shareholder monies for political purposes.

Madam President, we've come to the bottom line here. Either we vote to keep the system as it is—either we vote to continue to allow hundreds of millions of dollars to be spent to influence federal elections without one dime having to be disclosed—or we take a tangible, incremental step toward addressing these abuses.

A vote against this amendment is a vote against disclosure—and a vote for secrecy. A vote against this amendment is a vote against the public's right to know who is pouring millions into influencing our elections, and a vote for keeping America in the dark. A vote against this amendment is a vote against putting electioneering ads back into the hands of individuals and a vote for the involuntary use of union dues and shareholder monies for blatant political ads.

Madam President, groups spent \$150 million or more—we don't know because there is no accountability for these ads—to influence the 1996 elections. That's about one-third of what all federal candidates spent on advertising. This is a massive force invading our system of elections in this country, flying under the radar screen of disclosure or any other accountability. And it's only going to get worse.

All we are saying is, let's have some disclosure for these ads, let's give the public information they need in order to make informed decisions, and let's fund these ads with voluntary, individual contributions. That's not an infringement on free speech. That is bringing the facts about elections in America out of the shadows and into the light of debate and discourse.

I hope my colleagues will join me in supporting this sensible, incremental approach that will advance the ball for campaign reform. Because frankly, if you can't support this—if you can't support disclosure—I don't know what kind of reform you can support. And the American people will be watching. The American people will be watching, and they will remember who is truly interested in working to restore America's faith in their elections—and they

will remember, too, who are the doorkeepers of the status quo.

I again thank Senators JEFFORDS, MCCAIN, FEINGOLD, as well as all of my distinguished colleagues who have joined me in this effort. We are in the majority in this body and I hope after the tabling vote we will be able to have a true up-or-down vote on our amendment.

Madam President, and Members of the Senate, in the final analysis, what the Snowe-Jeffords amendment is all about is disclosure. We have heard a lot of issues here today. We have heard a lot about Supreme Court cases and constitutionality and infringement on the first amendment rights of freedom of speech.

There is nothing in the Snowe-Jeffords amendment that will restrict freedom of speech. Anybody, anytime, can run any ad. The question is whether or not the public will have the right to know who is sponsoring and financing those ads. Even then the threshold is high for disclosure—\$500 or more in donation.

I suspect that when Congress was debating the sunshine laws and the right-to-know laws and opening up all of the meetings in the U.S. Congress that we had pretty much the very same debate.

A vote against the Snowe-Jeffords amendment is a vote for secrecy. A vote against the Snowe-Jeffords amendment is a vote for the lack of accountability. We don't want to be the doorkeepers of the status quo for a system that has been shrouded in secrecy by the very fact that we have \$150 million spent in elections. In this last election, not one dime has been disclosed. Not one dime. We have heard about editorials and newspaper and the print media being excluded. Does anybody think for one moment that that is where the money is put? Absolutely not.

We have \$550 million total that goes into candidate advertising. And a third of that is not disclosed. That is the issue.

It is whether or not you are for secrecy, or the public's right to know who is supporting those ads. That is what it is all about.

We have heard about issue advocacy. I think the body should look at what we are talking about. We are talking about issue advocacy versus stealth advocacy.

I ask unanimous consent for additional minute.

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

Ms. SNOWE. An issue ad that talks about the issues doesn't identify a candidate.

This chart demonstrates the stealth advocacy that we are talking about that is not disclosed—that talks about individual candidates 60 days before election. And this one would run 60 days before the election naming the candidate. It says, he is just another Washington politician. He has taken over \$250,000 from corporate special in-

terest groups. He listens to them but he is not listening to us anymore.

No one knows who sponsored that ad. That is what this is all about—whether or not the public will have the right to know who is financing these ads.

The PRESIDING OFFICER. The Senator from Kentucky has 1 minute and 46 seconds remaining.

Mr. MCCONNELL. I yield the remainder of my time, and I move to table the Snowe-Jeffords amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

CANCELLATION DISAPPROVAL ACT—VETO

The Senate continued with the consideration of the veto message to accompany H.R. 2631.

The PRESIDING OFFICER. Under the previous order, the question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa (Mr. HARKIN) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 78, nays 20, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—78

Akaka	Enzi	McConnell
Allard	Faircloth	Mikulski
Baucus	Feinstein	Moseley-Braun
Bennett	Ford	Moynihan
Biden	Frist	Murkowski
Bingaman	Glenn	Murray
Bond	Gorton	Nickles
Boxer	Graham	Reed
Breaux	Gregg	Reid
Brownback	Hagel	Roberts
Bryan	Hatch	Rockefeller
Burns	Helms	Roth
Byrd	Hollings	Santorum
Campbell	Hutchison	Sarbanes
Chafee	Inhofe	Sessions
Cleland	Inouye	Shelby
Cochran	Jeffords	Smith (NH)
Collins	Kempthorne	Smith (OR)
Conrad	Kerry	Snowe
Coverdell	Lautenberg	Specter
Craig	Leahy	Stevens
D'Amato	Levin	Thomas
DeWine	Lieberman	Thompson
Domenici	Lott	Thurmond
Dorgan	Lugar	Torricelli
Durbin	Mack	Warner

NAYS—20

Abraham	Gramm	Kyl
Ashcroft	Grams	Landrieu
Bumpers	Grassley	McCain
Coats	Hutchinson	Robb
Daschle	Johnson	Wellstone
Dodd	Kerrey	Wyden
Feingold	Kohl	