



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147

WASHINGTON, WEDNESDAY, MARCH 28, 2001

No. 43

Senate

The Senate met at 9:15 a.m. and was called to order by the Honorable GEORGE ALLEN, a Senator from the State of Virginia.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of our beloved Nation, and the source of the absolutes that knit together the fabric of character, we ask You to stir up the banked embers on the hearth of the hearts of people across our land. Rekindle the American spirit.

We allow our hearts to be broken by what breaks Your heart in the American family, schools, and society. The roots of our greatness as a nation are in the character of our people. Our Founders' passion for justice, righteousness, freedom, and integrity gave birth to a unique nation. Now, at this crucial time in our history, we ask You to bless the Senators as they set an example to encourage parents, teachers, coaches, spiritual leaders, and all who impact our youth with the ethical values which transcend the divisions of race, creed, politics, gender, the rich, and the poor. You are our Adonai, our Elohim, Yahweh, our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GEORGE ALLEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 28, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GEORGE ALLEN, a Senator from the State of Virginia, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ALLEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will immediately resume consideration of the Thompson amendment regarding the hard money limit, or individual and other contributions that are referred to as hard money. There will be up to 30 minutes of debate prior to the vote at 9:45 a.m. Following the vote, another amendment regarding hard money is expected to be offered by Senator FEINSTEIN. Senators should expect that there will be a vote, or votes, every 3 hours during the day and, hopefully, maybe some of that time will be yielded back and we won't have to use the full 3 hours on each amendment.

Hopefully, we can make real progress today. Everybody will agree that we have had full, and some would even say good, debate on this subject. I think it has been handled in a fair way. I think we are going to be tested this morning in the next 3 hours to see if that will be the way it continues. I am concerned about things I have heard regarding how the Thompson amendment and others would be considered. I urge the Senate to continue in not only the words of the unanimous consent agree-

ment but in the spirit and make sure each Senator has an opportunity to have his or her amendment fully considered and fairly voted upon.

If that doesn't occur, then I think it could lead to other complications, and I will be prepared to become engaged in trying to make sure that this remains on an even keel.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 27, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 27) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

Pending:

Specter amendment No. 140, to provide findings regarding the current state of campaign finance laws and to clarify the definition of electioneering communication.

Thompson amendment No. 149, to modify and index contribution limits.

AMENDMENT NO. 149

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the Thompson amendment No. 149 on which there shall be 30 minutes for closing remarks.

Who yields time? The Senator from Tennessee, Mr. THOMPSON.

Mr. THOMPSON. Mr. President, as was stated, we are here to consider our amendment to modestly raise the hard money limits that can be contributed to candidates. We should keep our focus on what this whole reform debate is about; that is, the concern over large amounts of money going to one individual and the appearances that come about from that.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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What we are doing today is a part of helping that. It is not enough just to get rid of soft money and leave the hard money unrealistically low limitations where they are. Everything will go to the independent groups. We see how powerful they are now, and they are getting more and more so.

Under the first amendment, they have the right to do that. It will be even more in the future when and if we do away with soft money. Therefore, we should not keep squeezing down the most legitimate, on top of the table, limited, full disclosed parts of our campaign system, which is the hard money system which is now at \$1,000.

It has not been indexed for inflation since 1974. All we are asking is that we come up to limits, not even bringing it up to inflation, which would turn the \$1,000 limitation into about a \$3,550 limitation. We are not suggesting that. We are saying let's go to \$2,500, substantially below inflation and the other numbers commensurate with that.

If those limits did not have corruption significance and appearance problems in 1974, they do not today because we are actually giving the candidate less purchasing power than we gave him in 1974, and the reason we are having to bump it up in the increments that we are is because we have not done anything for all of that time.

I think the most salutary benefit of raising the hard money limits just a little bit and to the parties just a little—let the parties have some money to do the things they are supposed to do—no corporate money, no union money, no soft money, but hard money to the parties. Let them be raised, too, again below inflation. The effect of that would be to benefit challengers.

I engaged in a little colloquy with my friend from New York as to how in the world somebody in New York, who wants to run as a challenger in New York, under the \$1,000 limitation, or how in the world would a challenger in the State of California or the State of Texas or any other big State—or small State for that matter, but especially large States—get enough money to run as a challenger under these present-day limitations?

They will not even try anymore, and we will continue to have a system made up of nothing but multimillionaires and professional politicians who have Rolodexes big enough to barely fit in the trunk of an automobile.

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

Mr. THOMPSON. I will be glad to yield.

Mr. McCONNELL. Did the Senator see the full-page ad yesterday in the Washington Post?

Mr. THOMPSON. I did not.

Mr. McCONNELL. A full-page ad paid for by an individual named Jerome Kohlberg, a billionaire, who is financing a lot of the effort on behalf of the underlying legislation, which I know the Senator from Tennessee supports.

I bring it up only to underscore the point the Senator is making. To the extent you weaken the parties, these people are going to control the game. This particular individual put a half a million dollars in against Senator JIM BUNNING in his campaign in 1998.

The point, I gather, I heard the Senator from Tennessee making, to the extent you totally weaken the parties—they already lost money. We know that 40 percent of the RNC and DNC budget is gone. What the Senator from Tennessee is doing, as I understand it, is giving the parties a chance to compete against the billionaires.

Mr. THOMPSON. Exactly, and the candidates a chance. Continue on with those full-page ads. Spend millions of dollars on those full-page ads slamming the candidate. That is free speech, that is America, but let the candidate have a fighting chance. Let him have some control over his own campaign.

I am most disturbed to read in the newspaper that the leadership on the other side, with whom I have worked on these reform measures, is saying now that we can increase it this much, but if you go one centimeter over that, they are going to be against the whole McCain-Feingold bill.

I ask how that considers those of us who have stood with McCain-Feingold, against those who say it will hurt their own party, through thick and thin over the years, to hear the other side now saying that if you go one centimeter over this level, which is still substantially below inflation, we are going to blow up the whole bill because it disadvantages our party.

Are we back to trying to figure out which party is going to get a little advantage on the other party? Is that what this is all about? That is what we have been fighting against. That is not reform.

The fact of the matter is, in all of these areas, we are in as much equilibrium from a party's standpoint as we are ever going to be. Raising these limits to a point that is far below what the writers in 1974 wanted certainly does not tinge on corruption. It does nothing to weaken McCain-Feingold. It strengthens McCain-Feingold.

If you want a bill the Senate will pass, if you want a bill the House will pass, if you want a bill the President will sign, then you will assist in raising these hard money limits up to a decent point.

We talk about a couple and treating a man and a wife as the same; the wife going to do exactly what the husband says, presumably. Raise those money limits. We are talking about \$100,000. This is \$100,000. Why not extend it over 4 years and say \$200,000? You can get the theoretical limits up as high as you wish as long as no large amounts are going to individual candidates, as long as amounts are going to parties that under the law and under all of the learned speculation about what the law will be in terms of these cases that are

pending, you are still not going to be able to coordinate between the donor and the candidate. You give to the party and the party can give to the candidate, but you cannot have that kind of coordination that was suggested on the floor. That is just not the law.

Let us remember the purpose of this effort. This will strengthen this effort if we will raise these hard money limits. Give the candidates a fighting chance, give challengers a fighting chance, and not engage in some class warfare: Because not everybody can contribute \$2,500 then nobody ought to be allowed to contribute \$2,500, even though it skews our system and it will ultimately result in these independent groups totally taking over.

We will be back in here with a strong effort to get rid of all limitations and total deregulation. That will be the result.

We often say do not let the perfect be the enemy of the good. If that phrase ever applied, it applies today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut, Mr. DODD.

Mr. DODD. Mr. President, I gather the opponents of this measure have 15 minutes; is that correct?

The ACTING PRESIDENT pro tempore. That is correct; the opponents have 15 minutes.

Mr. DODD. Will the Chair advise me when I have consumed 4 minutes?

The ACTING PRESIDENT pro tempore. The Chair will do so.

Mr. DODD. Mr. President, I say to my friend from Tennessee, as I said last evening, I have great respect and admiration for him as a colleague and as a Member of this body. I remind my good friend from Tennessee that the McCain-Feingold bill, of which my friend from Tennessee is a supporter and of which I am and a majority of us are, has a \$1,000 per capita limitation on hard money contributions.

That is what McCain-Feingold says. McCain-Feingold does not raise the hard dollar contributions at all. It limits PAC contributions to \$5,000; contributions to parties to \$10,000; \$20,000 to national parties; and raises the aggregate limits from \$25,000 to \$30,000. There are increases in hard dollar contributions in McCain-Feingold. But our colleague from Tennessee is suggesting we increase the hard dollar contribution by 150 percent, from \$1,000 to \$2,500. The practical realities are, it is \$2,500 for the primary and \$2,500 for the general, so we are talking a \$5,000 base in that contribution; and as we solicit the contributions from families, a husband and wife, that is really \$10,000. We are going from \$4,000 to \$10,000. That is a significant increase.

I realize costs have gone up in the last 24 years, but this jump from \$1,000 to \$2,500, the net effect of going from \$4,000 to \$10,000, is a rather large increase. When we take the aggregate limits from \$25,000 to \$50,000, that is a

100-percent increase, \$50,000 per individual per calendar year. That is a large amount of money.

If you subscribe to the notion that there is too much money in politics, that we ought to try to get less or slow it down, so we don't have the chart my friend from Tennessee showed last evening where the costs have gone from \$600,000 for a statewide race in 1976 to in excess of \$7 million in the year 2000, 10 years from now, if you extrapolate the numbers, we are looking at \$13 million for the average cost of a Senate race.

When does this stop? When do we try to reverse this trend that I don't think is a part of natural law? This is not natural law. The cost of campaigns has to go up exponentially?

There are those who believe there should be some increase—I accept that—in the hard dollar. I am not happy, but I understand there should be some increase.

My plea is the one I made last evening to my friend from Tennessee, who I know is a strong supporter of McCain-Feingold and has been for several years; he is not a Johnny Come Lately to the reform effort. We ought to be able to find some common ground between his proposal and those who agree with McCain-Feingold, who believe and understand there should be some increase, and to find some number we can support.

There are many people who support the amendment of the Senator from Tennessee who ultimately will vote against McCain-Feingold. I think they are hoping to get this number up so high that there will be people on this side who do support McCain-Feingold but can't in good conscience if the number is so high that it makes a mockery of reform. There is sort of a three-dimensional chess game going on here.

My appeal to my colleague from Tennessee is, while we will vote on his amendment in 15 minutes, I suspect there will be a tabling motion, and I suspect there is a possibility the tabling motion may prevail. If it does, that may be a time in which we can begin to sit down and see if we cannot resolve some of this issue. I don't think the differences have to be that great. There can be some common ground.

My plea would be for those who support McCain-Feingold, to try to seek that level of increase that is acceptable, although not something many of us would like to see but certainly a more moderate increase than what is proposed.

I know we have several other colleagues who want to be heard on this amendment. I will yield 5 minutes to my colleague from Minnesota.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, putting more big money into politics is not reform; it is deform. Saying that an individual can contribute as much as \$5,000 a year to a candidate, that an

individual can contribute as much as \$100,000 a year in an aggregate to different political efforts, means two things. It means, first of all, that those who run for office are going to be even more dependent on the top 1 percent of the population. Is that reform?

It means the vast majority of the people in the country are now really going to believe if you pay, you play, and if you don't pay, you don't play. They will feel left out. And they should feel left out.

It is hard for me to believe that Senators want to go back home to their States and say, we have voted for reform by making it possible for those people who are the heavy hitters and the well-connected and have the money to have even more domination over politics today in our country. How are you going to explain that? Do you think it will be the schoolteachers who are going to be making \$100,000 contributions per year? Do you think it will be the hospital workers? Do you think it will be the child care workers? Do you think it will be middle-income people, working-income people, low- and moderate-income people, the majority of people? One-quarter of 1 percent of the population contributes over \$200. One-ninth of 1 percent of the population contributes over \$1,000. Now you will take the lid off and make the people with the big money even more important, with more influence over politics? And you dare to call that reform?

This is one of the most frustrating and disappointing times for being a Senator if we pass this amendment. My colleague from Tennessee talks about class warfare. Let me put it a different way. This is fine for incumbents; I guess they get the money. I don't see myself getting these big bucks. What about whoever wants to run for office as a challenger but he or she is not connected to all these interests; they are not connected to people who are so well heeled; they represent different people? There is not one Fannie Lou Hamer in the United States. There is not one Fannie Lou Hamer. The truth of the matter is, there will not be one Senator who will be able to represent a Fannie Lou Hamer, a civil rights leader, a poor person, people without any power, and people without any money.

You are not going to get people elected any longer if you raise these limits because no one is going to have a chance unless they have a politics that appeals to people who have all of the economic clout. What kind of reform is this?

I think this amendment, if it passes, is a potential "deal breaker." And my colleague from Tennessee says we cannot let the perfect be the enemy of the good. I say to my colleague from Tennessee, the question is whether or not we have the good any longer. The question is whether or not we have the good any longer. We take the caps off; we bring more big money into politics; we now make hard money contributions essentially soft money.

One hundred thousand dollars per year? How many couples in the State of Minnesota can contribute \$200,000 a year? How many people in Minnesota can contribute that? And we call this reform?

This amendment has that made-for-Congress look. This amendment has that pro-incumbent look. This amendment has that pro-money, big money look.

I ask, where are the reformers? Why aren't we making an all-out fight? Why aren't people saying this is the deal breaker? We are getting to the point where it is a very real question, if this kind of amendment passes, whether we even have the good any longer. I hope this amendment will be defeated.

Mr. THOMPSON. Does the Senator from New Jersey wish to speak?

Mr. TORRICELLI. If the Senator will yield time.

Mr. THOMPSON. I am informed we have 7½ minutes. I yield the remaining time to the Senator from New Jersey.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I thank the Senator from Tennessee for yielding. I compliment him on his leadership on this issue.

This is a regrettable debate in the McCain-Feingold reform question because it is in some measure a distinction without a difference. This is a matter that should have been and should still be settled.

The Senator from Tennessee is offering an amendment that allows a \$2,500 individual contribution per election. I believe it is the right level. Some of my colleagues have been apoplectic, that this is an extraordinary change in the system; it would destroy the campaign finance system. The only right and proper thing for the Republic is to have a \$2,000 individual campaign limit.

Our Republic must be weak, indeed, if that \$500 is the difference between reform and destruction for the whole national campaign finance system.

I believe Senator THOMPSON has struck an appropriate level. Indeed, the \$2,500 level that he has established is less, accounting for inflation, than the reforms of 1974. Indeed, in adjusted dollars, the \$1,000 limit of 1974 is now worth \$300. That \$1,000, if adjusted for inflation today, would be \$3,400.

Let me explain to my colleagues why I feel so strongly about raising this limit. My hope and wish is we could have reached a compromise on this level. Real campaign finance reform means creating a balanced system. We cannot reform just one part of the campaign finance system. Different aspects must be adjusted for a balanced, workable system.

Can I have order, Mr. President?

The ACTING PRESIDENT pro tempore. The Senate will come to order. Senators will please take their conversations off the floor so the Senator from New Jersey can be heard and other Senators can hear the Senator from New Jersey as well.

Mr. TORRICELLI. Mr. President, a balanced system must include a reduction of costs to end this spiraling cost of campaigns that adds so much pressure on Senate and House candidates. We did that by reducing the cost of television time.

We must eliminate soft money to increase confidence on accountability of these funds, and limits so every American believes they have an appreciably equal influence on their government.

We must ensure that not only the wealthy can get access to fundraising and their own ability to dominate the system is limited.

But there is another component that perhaps only Members of Congress themselves understand, another element of reform. It is the question of time. How much time are Senators taking, raising funds rather than legislating? How much time with their constituents rather than at fundraisers? How many times do they meet ordinary Americans rather than simply being with the wealthy and privileged few.

That last element is part of what Senator THOMPSON is trying to accomplish today. Because the \$1,000 limit forces people to go to hundreds and hundreds of fundraisers, putting together these contributions to fund these massive campaigns is part of the problem. Indeed, I demonstrated to the Senate a few days ago what it would take to run a \$15 million campaign today at \$1,000. You would raise \$20,000 every day, 7 days a week for 2 years; 1,500 fundraising events at \$10,000 per event. This is part of what we are addressing. If a person, indeed, contributes \$2,500 per election, \$5,000 a year, no one in this institution can possibly believe that either by perception or reality the integrity of a Senator is compromised.

Indeed, if our country has come to the point where the American people have their confidence in their government undermined because of a \$2,500 contribution, there is no saving this Republic. Certainly, we have better people in the Senate.

Mr. THOMPSON. If the Senator will yield, I understand the Senator has about 2 minutes left. Will the Senator yield about 30 seconds of that to me?

Mr. TORRICELLI. I will yield 1 minute and I will conclude.

I believe with the Thompson amendment we will have this balanced system reducing the amount of time candidates must campaign, and sufficient hard money can be raised to be able to communicate a message. It is a workable and a balanced system. Mostly I regret we have to divide ourselves on this issue, a \$500 difference between the Senator from California and the Senator from Tennessee. Even at this late moment, I wish we could bridge this gap. But I hope we can avoid coming to the conclusion that because this amendment is agreed to, somehow we have a less viable reform. This is still fundamental and comprehensive re-

form. It still reduces the amount of campaign expenditures and the reliance on large contributions. It is a better system under McCain-Feingold, and it is a system that now includes the support of more Members of the Senate on both sides of the aisle.

I yield to the Senator from Tennessee.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. THOMPSON. I will save what little remaining time I have and defer to my colleagues on the other side who oppose the amendment.

Mr. DODD. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Five minutes for the opposition.

Mr. DODD. I don't know if I have any other people who wish to be heard on this amendment, so I will take a couple of minutes and close.

Let me say to my friend from New Jersey that my hope is that also we will find some level that we can support. I said that last evening; I said it again this morning; I say it again this moment. There is a difference. For those of us who have long supported McCain-Feingold and variations of that and other such suggestions over the years, it would be a great tragedy, in our view, to finally close the door on soft money and then open up the barn doors on the other side for a flood of hard money.

To paraphrase Shakespeare, a rose by any other name is just as sweet. A dollar coming through one door or another door still poses the same problem.

What I reject is the idea that there is too little money in politics or there must be some inevitable, unstoppable increase in the cost of campaigns. Unsettled as I am about that, what really troubles and bothers me is who we are excluding. I said it last evening, and I will repeat it.

As we go and seek out these larger contributors, which is what we do every time we increase those amounts, we get further and further and further away from what most, the overwhelming majority of Americans, can participate in.

I think that is unhealthy in America. If we end up saying \$50,000 per individual per year—\$2,500—Mr. President, there are only a handful of people in this country—last year there were 1,200 people out of 280 million who made contributions of \$125,000 to politicians; 1,200. And we are saying it is not enough; we have to raise those amounts even further.

As we do that, we get further away from the average citizen of Virginia, Connecticut, Tennessee, and New Jersey. As we get further away from that individual who can write the \$25, \$50, \$100 check because we are not interested in them any longer, it is no longer valuable for our time to seek that level of support. That is dangerous when we start excluding people from the process.

My concern about this amendment is not just that it puts us on a track that we are going after bigger contributors, giving more access, but it is also whom we exclude—de facto, whom we exclude, and that is people who cannot even begin to think about this kind of level of contribution.

That is dangerous for the body politic. It is dangerous for democracy, in my view, when we or those who challenge us will only be going after those who can write these huge checks. And they are huge. Only here could we be talking about \$2,000 as a modest increase.

Who are we talking about? How many Americans could sit down and write a check for that amount—for anything, for that matter, let alone for a politician? I am supposed to somehow believe this is reasonable, when we ought to be doing everything we can to engage more people in the process.

I accept the reality there is going to be some increase. My plea would be to the author of this amendment and to those who also seek increases, to see if we cannot find some agreement that will be acceptable, but please don't try to convince me there is just an inevitable path we have to go down that continues to ratchet up the cost of these campaigns, shrinks the pool of those who can seek public office, and further excludes the overwhelming majority of Americans from financially participating in the political life of this country.

That is a dangerous path. That is a very dangerous path. I suggest we will come to rue the day in the not too distant future of having traveled this road, closing the soft money door and swinging wide open the hard money door and suggesting somehow we have achieved a great accomplishment.

We have an opportunity this morning to do both, to have a modest increase in hard money and to close down that soft money door. And then we can truly say we have reformed this process after 25 years of bickering about it. And I believe the President would sign it.

With all due respect to my colleague from Tennessee, I will oppose this amendment and urge my colleagues to do likewise.

Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. One minute on each side remains.

Mr. DODD. I think there is going to be a tabling motion. Maybe my colleague would like to complete his argument and then have Senator FEINGOLD make his and move to table. Do you want to yield back?

Mr. THOMPSON. I will yield back part of my time.

Mr. DODD. I yield a half minute to my colleague from Michigan.

Mr. LEVIN. Mr. President, we have worked real hard to close the soft money loophole with one hand. We are hopefully going to do that after a huge amount of work. We cannot and should not with the other hand undermine

public confidence by raising the hard money limits from \$25,000 per year to \$50,000 per year for an individual. That is too much money. It is corruptive in its appearance, and it undermines public confidence.

Mr. DODD. I yield 1 minute to the Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator is out of time.

Mr. DODD. I apologize to the Senator.

Mr. President, I ask unanimous consent for 30 seconds.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, should we achieve our dream of passing this bill, there are just four or five Senators who are said to be responsible for it. One of them is Senator FRED THOMPSON. So I regret that this amendment is too high and I have to oppose it. His attitude and his spirit on this bill has been stalwart, and I am grateful to him. It is necessary, though, that I have to move to table the amendment at the appropriate time. I will do that after his remarks.

Mr. THOMPSON. Mr. President, I simply remind my colleagues that we are here about \$100,000 contributions, \$200,000 contributions, and \$500,000 contributions. That is what this debate is all about. There is a difference from that and raising the hard money limit from \$1,000 and \$2,000 or \$500—which ever commentator says it—which is just and reasonable and substantially below inflation. This will help McCain-Feingold, not hurt it.

I yield the rest of my time. I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I move to table the Thompson amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table the Thompson amendment. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 46, nays 54, as follows:

[Rollcall Vote No. 53 Leg.]

Yeas—46

Akaka	Dayton	Kohl
Baucus	Dodd	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	Lieberman
Bingaman	Edwards	Lincoln
Boxer	Feingold	McCain
Byrd	Feinstein	Mikulski
Cantwell	Graham	Miller
Carnahan	Harkin	Murray
Cleland	Hollings	Nelson (FL)
Clinton	Inouye	Reed
Conrad	Johnson	Reid
Corzine	Kennedy	
Daschle	Kerry	

Rockefeller	Schumer	Wellstone
Sarbanes	Stabenow	Wyden

NAYS—54

Allard	Enzi	Murkowski
Allen	Fitzgerald	Nelson (NE)
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Carper	Hutchinson	Snowe
Chafee	Hutchison	Specter
Cochran	Inhofe	Stevens
Collins	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
DeWine	Lott	Torricelli
Domenici	Lugar	Voinovich
Ensign	McConnell	Warner

The motion was rejected.

Mr. LOTT. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). The majority leader is recognized.

Mr. LOTT. Mr. President, we are very close to a unanimous consent request that will allow us to proceed to a conclusion on this issue of the so-called hard money. I emphasize that I think what we should do at this point is go to a straight vote on the Thompson amendment. The motion to table was defeated by a considerable margin, and normally what we do, in an abundance of fairness, is go to a vote at that point on the amendment that was not tabled.

Of course, there is continuing interest in this area, and Senator FEINSTEIN has an amendment she wants to offer that will have a different level for hard money and will affect not only individual contributions but what individuals could give up and down the line, including to the parties.

The fair thing to do is have the two Senators have a chance to have a direct vote side by side and not go through procedural hoops of second degrees and motions to table. At some point, we should get to a vote, get a result, and move to either raise these limits or not.

I believe very strongly these limits need to be raised. They have not been modified in over 25 years. A lot has happened in 25 years. It is part of the fundraising chase with which Senators and Congressmen have to wrestle.

I am concerned what this is trying to do is set up a marathon or negotiating process that drags the responsible Thompson amendment down further.

Mr. MCCONNELL. Will the leader yield?

Mr. LOTT. I will be glad to yield.

Mr. MCCONNELL. Mr. President, this is the first time, as the leader pointed out, during the long 8 days of this debate that the will of the Senate has not prevailed on an amendment. What is happening, of course, is those who were not successful on the Thompson amendment do not want to allow the Senate to adopt the amendment.

The negotiation that the majority leader is discussing presumably will

occur now over the next couple of hours, but it is important to note that 54 Members of the Senate were prepared to adopt the Thompson amendment and that apparently is going to be prevented for the first time during the course of this debate.

I thank the leader.

Mr. FEINGOLD. Mr. President, I simply note that a motion to table does not mean one is prepared to vote for the underlying amendment. It means one is not prepared to table the amendment. I know, in fact, there are some Members interested in the negotiating process and looking for alternatives.

Mr. LOTT. I understand that, but I hope we do not negotiate it into a meaningless number or right of people to participate further. Having said that, we have an agreement that I think we can accept at this point that will get us to some straight up-or-down votes and conclusion.

I ask unanimous consent that Senator FEINSTEIN now be recognized to offer a second-degree amendment; that there be 90 minutes equally divided in the usual form, to be followed by a vote in relation to the Feinstein amendment. If the amendment is tabled, a vote will immediately occur on the Thompson amendment without any intervening action or debate. If the amendment is not tabled, there will be up to 90 minutes for debate on both amendments running concurrently to be equally divided, and following that time, the Senate proceed to a vote on the Thompson amendment to be followed by a vote on the Feinstein amendment which will be modified to be a first-degree amendment. I further ask unanimous consent that Senator THOMPSON have the right to modify his amendment, with the concurrence of Senator FEINSTEIN and Senator MCCONNELL, if the motion to table the Feinstein amendment fails, and the modification must be offered prior to the vote on the Thompson and the Feinstein amendments.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, I ask that following Senator MCCONNELL, we insert the name of our manager, Senator DODD, in that unanimous consent request.

Mr. LOTT. I will be glad to modify it to that extent, Mr. President.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, as I understand it, we have to have the concurrence of the two managers of this bill before Senator FEINSTEIN and I can set forth a modification or a perfection.

Mr. LOTT. I yield to Senator REID for comment.

Mr. REID. We would be happy to eliminate Senator DODD if Senator MCCONNELL were taken out so the two proponents of the two measures would be the determining individuals as to whether or not there would be a modification.

Mr. LOTT. I believe Senator THOMPSON has a further comment.

Mr. THOMPSON. I certainly want Senator MCCONNELL and Senator DODD to be a part of this process and a part of the discussions and negotiations, but I did not understand that we would necessarily have to have their concurrence in order for us to agree on a motion.

I don't think it would be appropriate, frankly.

Mr. LOTT. Mr. President, this is a process that allows time to debate further the provisions of the Thompson proposal and to debate the Feinstein proposal and for those that are trying to find some third way to negotiate, too.

I think in order to keep everybody calm and everybody comfortable in going forward, everybody ought to have a part and be aware of what change might be entered into in terms of the modification. I think this is the way to guarantee that.

Senator DODD, Senator MCCONNELL, Senator FEINSTEIN, Senator Reid, everybody has been, so far, dealing with this in a fair way, protecting each other's rights. We started off by a Senator not being allowed to modify his amendment. It caused a pretty good uproar and everybody said we don't want to do that.

I think we are swatting at ghosts when it is really not necessary.

Mr. MCCAIN. Basically, what we are asking for is the concurrence of Senator MCCONNELL and Senator DODD. I hope that would be forthcoming to have a vote on something that had been agreed to by all parties.

If not, the Senator from Tennessee has the right to pull down his amendment and we would propose another amendment.

Mr. LOTT. I say to Senator MCCAIN, he is absolutely right. I could seek recognition and offer a modification, too. I am going to try to make sure nobody gets cut out. Senator MCCAIN was one of the ones who made sure when we started this whole debate that the Senator was allowed to modify his own amendment. If there is an agreement reached, we are going to find a way to get that done.

Mr. MCCONNELL. Under the consent agreement, it requires unanimous consent to modify, anyway. I don't think anybody will unreasonably deny that. But I don't think it is inappropriate for the managers of the bill to be a part of the negotiation.

Mr. REID. Everyone doesn't have to agree if this unanimous consent agreement goes forward. It is my understanding that the modification would be under the direction of the two proponents of these two amendments. The rest of us would not have to agree.

Mr. THOMPSON. My understanding is that under ordinary rules, absent overall agreement, if the Feinstein motion to table does not carry, it would leave the Thompson amendment not tabled and the Feinstein amendment

not tabled. Ordinarily, I would have the right to come in at that point with a motion or perfecting amendment. I am told because we are operating within the confines of an overall agreement, that right is no longer there. So we are operating on the basis of what is fair and what is expeditious.

I don't want to complicate the issue in having more players, more and more players—as we are trying to refine this process and get a resolution, having more and more players involved. Obviously, everybody needs to be involved and would have to be in order for us to get a good resolution, but I don't want to bog it down more than necessary.

Mr. LOTT. I urge we go ahead and get this consent, get started, and start talking and continue to try to find a way to move forward in good faith, as we have done so far.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? Without objection, it is so ordered.

Mr. LOTT. I yield the floor.

AMENDMENT NO. 151 TO AMENDMENT NO. 149

Mrs. FEINSTEIN. Mr. President, on behalf of the senior Mississippi Senator, Mr. COCHRAN, the senior Senator from New York, and myself, I send a second-degree perfecting amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. COCHRAN, and Mr. SCHUMER, proposes an amendment numbered 151 to amendment No. 149.

Mrs. FEINSTEIN. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Federal Election Campaign Act of 1971 to clarify contribution limits).

Strike all after the first word and insert the following:

104. CLARITY IN CONTRIBUTION LIMITS.

(a) CONTRIBUTION LIMITS APPLIED ON ELECTION CYCLE BASIS.—Section 315(a)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(A)) is amended to read as follows:

“(A) to any candidate and the candidate's authorized political committee during the election cycle with respect to any Federal office which, in the aggregate, exceeds \$4,000;”

(b) INDIVIDUAL AGGREGATE CONTRIBUTION LIMITS APPLIED ON ELECTION CYCLE BASIS.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)), as amended by this Act, is amended to read as follows:

“(3) The aggregate contributions an individual may make—

“(A) to candidates or their authorized political committees for any House election cycle shall not exceed \$30,000; or

“(B) to all political committees for any House election cycle shall not exceed \$35,000.

For purposes of this paragraph, if any contribution is made to a candidate for Federal office during a calendar year in the election

cycle for the office and no election is held during that calendar year, the contribution shall be treated as made in the first succeeding calendar year in the cycle in which an election for the office is held.”

(c) INDEXING OF CONTRIBUTION LIMITS.—Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended—

(1) in paragraph (1)—

(A) by striking the second and third sentences;

(B) by inserting “(A)” before “At the beginning”; and

(C) by adding at the end the following:

“(B) Except as provided in subparagraph (C), in any calendar year after 2002—

“(i) a limitation established by subsection (a)(1)(A), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

“(ii) each amount so increased shall remain in effect for the calendar year; and

“(iii) if any amount after adjustment under clause (i) is not a multiple of \$100, such amount shall be rounded to the nearest multiple of \$100.

“(C) In the case of limitations under subsections (a)(1)(A) and (h), each amount increased under subparagraph (B) shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election.”; and

(2) in paragraph (2)(B), by striking “means the calendar year 1974” and inserting “means—

“(i) for purposes of subsections (b) and (d), calendar year 1974; and

“(ii) for purposes of subsections (a) and (h), calendar year 2001”.

(d) ELECTION CYCLE DEFINED.—Section 301 of such Act (2 U.S.C. 431), as amended by section 101, is amended by adding at the end the following:

“(25) ELECTION CYCLES.—

“(A) ELECTION CYCLE.—The term ‘election cycle’ means, with respect to a candidate, the period beginning on the day after the date of the previous general election for the specific office or seat that the candidate is seeking and ending on the date of the general election for that office or seat.

“(B) HOUSE ELECTION CYCLE.—The term ‘House election cycle’ means, the period of time determined under paragraph (A) for a candidate seeking election to a seat in the House of Representatives.”

(e) SPECIAL RULES.—Section 315(a) of such Act (2 U.S.C. 441a(a)) is amended by adding at the end the following:

“(9) For purposes of this subsection—

“(A) if there are more than 2 elections in an election cycle for a specific Federal office, the limitation under paragraph (1)(A) shall be increased by \$2,000, for the number of elections in excess of 2; and

“(B) if a candidate for President or Vice President is prohibited from receiving contributions with respect to the general election by reason of receiving funds under the Internal Revenue Code of 1986, the limitation under paragraph (1)(A) shall be decreased by \$2,000.”

(f) CONFORMING AMENDMENT.—Paragraph (6) of section 315(a) of such Act (2 U.S.C. 441a(a)(6)) is amended to read as follows:

“(6) For purposes of paragraph (9), all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.”

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of enactment of this Act.

SEC. —. TELEVISION MEDIA RATES FOR NATIONAL PARTIES CONDITIONED ON ADHERENCE TO EXISTING COORDINATED SPENDING LIMITS.

(a) AVAILABILITY OF TELEVISION MEDIA RATES.—Section 315(b)(2) of the Communications Act of 1934 (47 U.S.C. 315(b)(2)), as amended by this Act, is amended—

(1) by striking “TELEVISION.—The charges” and inserting “TELEVISION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the charges”; and

(2) by adding at the end the following:

“(B) LIMITATIONS ON AVAILABILITY FOR NATIONAL COMMITTEES OF POLITICAL PARTIES.—

“(i) RATE CONDITIONED ON VOLUNTARY ADHERENCE TO EXPENDITURE LIMITS.—If the limits on expenditures under section 315(d)(3) of the Federal Election Campaign Act of 1971 are held to be invalid by the Supreme Court of the United States, then no television broadcast station, or provider of cable or satellite television service, shall be required to charge a national committee of a political party the lowest charge of the station described in paragraph (1) after the date of the Supreme Court holding unless the national committee of a political party certifies to the Federal Election Commission that the committee, and each State committee of that political party of each State in which the advertisement is televised, will adhere to the expenditure limits, for the calendar year in which the general election to which the expenditure relates occurs, that would apply under such section as in effect on January 1, 2001.

“(ii) RATE NOT AVAILABLE FOR INDEPENDENT EXPENDITURES.—If the limits on expenditures under section 315(d)(3) of the Federal Election Campaign Act of 1971 are held to be invalid by the Supreme Court of the United States, then no television broadcast station, or provider of cable or satellite television service, shall be required to charge a national or State committee of a political party the lowest charge of the station described in paragraph (1) with respect to any independent expenditure (as defined in section 301 of the Federal Election Campaign Act of 1971).”

(b) FEDERAL ELECTION COMMISSION RULE-MAKING.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended by adding at the end the following:

“(4) If the limits on expenditures under paragraph (3) are held to be invalid by the Supreme Court of the United States, the Commission shall prescribe rules to ensure that each national committee of political party that submits a certification under section 315(b)(2)(B) of the Communications Act of 1934, and each State committee of that political party described in such section, adheres to the expenditure limits described in such section, complies with such certification.”

Mrs. FEINSTEIN. Mr. President, let me begin quickly by going over current law, McCain-Feingold, the Thompson amendment, and the Feinstein-Cochran-Schumer amendment.

Under current law, candidates in hard money are limited to \$1,000 per election or \$2,000 a cycle. PACs are limited to \$5,000 a calendar year, State and local parties to \$5,000, national parties to \$20,000, and the aggregate limit that any individual can contribute to all of the above is \$25,000 a year. That is present law.

McCain-Feingold keeps the \$1,000 limit, keeps the limit on PACs at \$5,000. State and local parties are doubled to \$10,000 per calendar year. National parties remain the same at

\$20,000 per calendar year. And the aggregate limit that an individual can contribute to all of the above is \$30,000 a calendar year, or \$60,000 a cycle.

The Thompson amendment changes that. The limit on an individual contribution goes to \$2,500 an election or \$5,000 a cycle. PACs go to \$7,500 per calendar year. State and local parties stay the same as McCain-Feingold at \$10,000. National parties double to \$40,000 a calendar year or \$80,000 a cycle. The aggregate limit is a substantial change. It goes from \$50,000 per calendar year to \$100,000 a cycle.

What Senators COCHRAN, SCHUMER, and I propose is as follows: that a candidate limit go to \$2,000. That is a doubling of the \$1,000 limit of current law. The PACs remain the same as McCain-Feingold and as present law at \$5,000 a calendar year. The State and local parties remain the same as McCain-Feingold, and the national party's contributions remain the same as McCain-Feingold.

We differ with McCain-Feingold, and I will make clear why. We raise the aggregate per cycle, which is \$60,000, under McCain-Feingold, to \$65,000 a cycle. So we are just \$5,000 more than McCain-Feingold. What we do in this cycle to allow for flexibility and also to allow for party building, we say of that \$65,000, it is split as follows: \$30,000 per election cycle can go to candidates, and \$35,000 per election cycle to party committees and PACs. We also say the \$2,000 cap on individual contributions would be indexed for inflation.

So the substantial differences between McCain-Feingold and Feinstein-Cochran-Schumer are on the candidate cap, which is doubled, which is from \$60,000 to \$65,000 with a split to encourage both giving to candidates as well as to parties, and indexing per election to inflation, which I happen to believe is extraordinarily important.

Right now, individuals may contribute \$1,000 to a House or Senate candidate for the primary and another \$1,000 for the general. As I said, we double that. We believe our amendment is necessary for the simple reason the \$1,000 limit was established in 1974. It hasn't been changed since then. That was 27 years ago. Ordinary inflation has reduced the value of a \$1,000 contribution to about one-third of what it was in 1974. The costs of campaigning have risen much faster than inflation.

In 1996, the Congressional Research Service cites figures to the effect that \$4 billion was spent on elections in 1996, up from \$540 million in 1976. So that is an eightfold increase in spending; an 800-percent increase in spending between 1976 and 1996.

Let me give some examples of how the cost of campaigning has soared since that thousand dollar limit was established three decades ago. The bulk mailing permit rate in 1974 was 6 cents per piece. Today it is 25 cents per piece. If you send out mail, that is a substantial increase in cost. In 1990, when I ran a gubernatorial campaign in Cali-

fornia, a 30-second television spot run in the Los Angeles media market at 6 o'clock at night cost \$1,800, one spot. Last year, when I ran for reelection to the Senate, the same spot cost \$3,000. That is a 67-percent increase in the cost of one television spot in 10 years.

In 1990, a 30-second spot run in the Los Angeles media market during prime time cost about \$12,000; by 2000, it cost \$22,000. That is an 83-percent increase. So bulk mail has gone up dramatically, television advertising has gone up dramatically. If you come from a large State, you cannot run a campaign without television advertising and without some bulk mail.

The hard money contribution limits have been frozen now for 27 years. What has been the result? Is that result good or bad? Candidates, incumbents, and challengers have had to spend more and more time just raising money. What gets squeezed out in the process? Time with constituents or, in the case of challengers, prospective constituents. I don't think that is good for our democracy.

Personally, in just this past election alone we have had to have over 100 fundraisers, and that took a lot of time—time to call, time to attend, time to travel, time to say thanks. That was time I could not spend doing what I was elected to do.

So the task of raising hard money in small contributions, unadjusted for inflation, is indeed increasingly daunting. Particularly in the larger States, it is not uncommon for Senators to begin fundraising for the next election right after the present one, as they often find themselves dialing for dollars instead of attending to other duties. In my book, that is bad.

I think that presents us with a problem. Let's be honest with each other and the American people. Campaigning for office will continue to get more and more expensive because television spots are getting more and more expensive. Meanwhile, one of the effects of McCain-Feingold is that as we ban soft money, which I am all for, the field is skewed because one has to say: Can you still give soft money? Some would say no. That is wrong. The answer is: Yes, you can still give soft money. But that soft money then goes toward the independent campaign; into so-called issue advocacy. I think it is a very dangerous skewing of the field.

Spending on issue advocacy, according to CRS, rose from \$135 million just 5 years ago, 1996, to as much as \$340 million in 1998. Then it rose again to \$509 million in the year 2000. So there has been almost a 400-percent increase in unregulated, undisclosed soft money-type dollars going into independent issue advocacy campaigns. That is the danger I see.

Remember, these figures are only estimates and are probably very conservative, since issue advocacy groups do not have to disclose their spending. It is likely that spending on so-called issue advocacy, most of which is thinly

disguised electioneering, probably is going to surpass all hard money spending, and very soon. It has already passed soft money spending. If we do not raise the limit on hard money contributions to individual campaigns, the pressure on the candidate and the party will grow exponentially.

Between 1992 and 2000, soft money jumped from \$84 million to \$487 million. In just 8 years, soft money increased sixfold.

Hard money has not. Clearly, that indicates the skewing of the playing field that I am trying to make the case against. Clearly, what that indicates is more and more people are turning to the undisclosed, unregulated, independent campaign which, increasingly, has become attack oriented.

There are some who do not want to increase hard dollars at all. To them I say if you do not increase hard dollars, you put every candidate in jeopardy. You put political parties in jeopardy.

What we have tried to do in this amendment is create an incentive for contributions to political parties for party building in the aggregate limit, for contributions to the individual within the aggregate limit, and also to give the candidates the opportunity to better use their time, to increase the hard cap, the contribution limit from \$1,000 to \$2,000.

Additionally, what the Feinstein-Cochran-Schumer amendment will do is move campaign contributions from under the table to over the table. Our amendment will make it easier to staunch the millions of unregulated dollars that currently flow into the coffers of our national political committees and replace a modest portion of that money with contributions fully regulated, fully disclosed under the existing provisions of the Federal Election Campaign Act. That is the value of this split, the raising from \$60,000 per cycle provided for in McCain-Feingold to \$65,000, providing that \$30,000 per election would go to candidates and \$35,000 for PACs and party committees.

McCain-Feingold is meaningful reform. I have voted for versions of it at every opportunity over the past several years. I commend both Senators MCCAIN and FEINGOLD. I support the soft money ban in S. 27. I support the Snowe-Jeffords provision in S. 27. I support the bill's ban on foreign contributions and the ban on soliciting or receiving contributions on Federal property.

Doubling the hard money contribution limit to individual candidates and creating these two new aggregate limits that are just \$5,000 more than what is already in McCain-Feingold per election cycle will help level the playing field and better enable candidates to run for election with dollars that are all disclosed and regulated.

On March 20, on the floor of the Senate, Senator FEINGOLD remarked:

We used to think that [\$10,000] was a lot of money. Unfortunately, given this insane soft money system, it is starting to look as if it is spare change.

To an extent that is what has happened to the \$1,000 limit.

It is very likely that candidates and their campaigns are going to have to live with what we do today for more than likely another 30 years, and costs are not going to drop in the next three decades.

Therefore, some ability to account for inflation, we believe, is both necessary and achievable.

Additionally, we believe that increasing the limit on individual contributions to Federal candidates would also reduce the need for political action committee—or PAC—funding by reducing the disparity between individual contributions and the maximum allowable PAC contribution of \$5,000.

The concern about PACs almost seems unimportant now compared with the problem that soft money, independent expenditures, and issue advocacy presents. But we shouldn't dismiss the fact that PACs retain considerable influence in our system.

Again, from 1974 to 1988, PACs grew in number from 608 to a high of 4,268, and PAC contributions to House and Senate candidates from \$12.5 million to \$148.8 million—that is a 400-percent rise in constant dollars—and in relation to other sources, from 15.7 percent for a congressional campaign committee to 33 percent.

So, today, one-third of all congressional campaigns are fueled by PACs.

The amendment Senators COCHRAN, SCHUMER, and I are offering would also diminish the influence of PACs.

The underlying Thompson amendment would increase the PACs. And that takes us back to where we were a few years ago, which is a mistake.

The Feinstein-Cochran-Schumer amendment would reinvigorate individual giving. It would reduce the incessant need for fundraising. I believe it compliments McCain-Feingold.

Let me conclude.

As I pointed out last Monday when I spoke in support of the Domenici amendment, I just finished my 12th political campaign. For the fourth time in 10 years, I ran statewide in California, which has more people than 21 other States. These campaigns are expensive. I have had to raise more than \$55 million in those four campaigns. And I can tell you from my personal experience that I am committed to campaign reform. And I am heartened to see that we are considering this bill, and I believe we will pass it on Thursday.

I believe this amendment will make that bill stronger. I believe it will help to level the playing field.

I believe if we pass a campaign spending bill without adding additional dollars of hard money to political parties and increasing the individual campaign limits, we skew the playing field so dramatically that the issue of advocacy and the independent campaign has an opportunity with unregulated large soft dollars to occupy the arena entirely.

That is a very deep concern to me.

With this amendment, a candidate has an opportunity to respond to an attack ad. With party building, a candidate has an opportunity to tell their political party they need help, that they are being attacked by the X, Y, or Z group that is putting in \$5 million in attack ads against them, that they need the party's help. Individuals can respond through the party on an increasing basis with flexibility because the limit is for the election cycle and not the individual calendar year.

That gives an opportunity for parties to raise disclosed regulated hard dollars.

Without this—again, as one who has done a lot of campaigns now—the playing field becomes so skewed that the independent campaign and the attack issue advocacy effort has an opportunity to dominate the political arena.

Mr. President, I would like to yield the floor and hope that you will recognize my cosponsor, the distinguished senior Senator from the State of Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from California for yielding, and also for her leadership in helping to craft an amendment to seek to find a solution to the challenge of putting the so-called hard money or regulated contributions at an appropriate limit in this modification of the Federal Election Campaign Act.

My perspective comes from my first candidacy for Congress in 1972. It was the first year that candidates for House and Senate seats in Congress were required to operate and fund their campaigns under the Federal Election Campaign Act of 1971. It required recordkeeping. It required disclosure of contributions that candidates were receiving. It limited those contributions. It required all expenditures to be reported on periodic reports to the Federal Election Commission. It required the keeping of records of all expenditures that were made and the keeping of receipts and invoices to back up the entire financial operation of a Federal election campaign.

That was the first election year in history that such extensive recordkeeping and disclosures and limitations were required.

Many Senators have been talking about the post-Watergate limits and reforms. Frankly, this preceded Watergate. It was in that election campaign that the Watergate incident occurred in 1974. But the fact is, candidates were required to make full disclosure but not organizations who were not covered by the Federal Election Campaign Act.

Now we have seen that the amounts being raised and spent by individual candidates have diminished considerably in comparison with the total amount of money being raised and spent to influence the outcome of Federal elections. Most of that money is

now not even recorded. The contributions are not limited. The expenditures are not limited. Hence, the phrase "soft money" has been used to describe those expenditures and those contributions. They are behind the scenes. They are secret. And we are trying, by this McCain-Feingold bill, to put an end to that kind of spending that is secret, undisclosed, repetitious, and expenditures which are not disclosed either.

Advertising is bought by groups. You don't know who is buying the ads. You just see the campaign ad attacking a candidate or a cause. The people are completely confused in many cases as to who is on which side and who is spending the money. We are trying now to help recreate a system where there is full disclosure.

In doing so, the McCain-Feingold original bill makes very few changes to the regulated, disclosed, and reportable political spending that goes on. Only in two instances—one involving contributions to State and local parties—does the McCain-Feingold bill increase the amount that could be contributed, from \$5,000 per calendar year to \$10,000 per calendar year. Then, in the aggregate limit allowed by law for regulated publicly disclosed contributions, the limit was increased from \$25,000 per calendar year to \$30,000 per calendar year.

Most Senators believe those modest changes aren't enough; that in order to make the campaign system fully operational so that candidates can, on their own initiative, raise and spend the moneys they need to offset opposition from organized groups, those limits must be increased. Most Senators agree with that proposition.

The issue now before the Senate is how much should the increases be. The Senator from Tennessee offered an amendment, and he discussed his views with the Senate that originally he wanted to triple the contributions in all of these categories. My personal preference was to double them. I made that comment to several Senators as we began to look closely at the provisions of McCain-Feingold.

Senator FEINSTEIN from California agreed that in most instances she thought so, too. We have been working now to craft the specifics of an amendment that would be more than McCain-Feingold provided for increases but a level that we think should pass and could pass the Senate and become a part of the McCain-Feingold bill on final passage.

That is the effort that is reflected in this amendment. It does not increase some of the categories as much as I personally think they should be. As I say, I think they should be doubled across the board.

It is easy to understand. It is substantially less than the index amounts would be if you took inflation into account from 1971 when the act was first created. Over \$3,000 would be reflected if we had indexed those amounts in 1971; so that the amount of an indi-

vidual contribution could be limited now, if it were indexed for inflation, at about \$3,300-something instead of \$1,000 as it is now.

So to strike a compromise, our suggested limit is \$2,000. It is a modest increase when you think about it. The other accounts are likewise increased, except for PACs, which some Members view with some skepticism. Frankly, all of the PAC contributions that are made under the law are fully disclosed; records have to be kept, just as in the case of individual contributions. It is there for the public to scrutinize and see in every instance of contributions from political action committees to Members or to candidates.

I am hopeful the Senate will look carefully at this proposal and in the instance of a motion to table, that Senators will vote not to table the Feinstein amendment.

The PRESIDING OFFICER (Mr. BUNNING). Who yields time?

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. How much time is remaining on my side?

The PRESIDING OFFICER. Sixteen and a half minutes.

Mrs. FEINSTEIN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. If neither side yields time, it will be taken out equally.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If I could say to my friend from Kentucky, Senator SCHUMER wishes to speak for 15 minutes. He is indisposed at this time. He badly wants to speak. We only have 16 minutes left. Do you think we can work it out that he have 15 minutes?

Mr. MCCONNELL. I say to my friend from Nevada, I am sure we can work it out. He will come back sometime before the vote is scheduled?

Mr. REID. He will be back sometime within the next 5 or 6 minutes.

Mr. MCCONNELL. It shouldn't be a problem.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be charged equally, and also keeping in mind that my friend from Kentucky, if he does not have a number of speakers here when Senator SCHUMER comes back, might give him the extra time.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, I congratulate the Senator from California for at least moving in the right

direction, recognizing that the cost of campaigns has gone up dramatically.

If the Senator from California is willing to respond to a couple questions, I do wonder, in the Senator's proposal, since the underlying bill would take away 40 percent of the budgets of the Republican National Committee and the Democratic National Committee, and 35 percent of the budgets of the Democratic Senatorial Committee and the Republican Senatorial Committee—and I know from reading the newspaper that many Senators on your side are concerned about what this proposal is going to do to the parties, regardless of how they may be voting—I was curious why the Senator made no change at all in the amount of money an individual could give to a political party in order to try to provide some opportunity to compensate, in hard dollars, for the dramatic loss of funds that this underlying bill will provide by the elimination of soft dollars?

Mrs. FEINSTEIN. I would like to try to answer the distinguished Senator from Kentucky.

Essentially, today, under current law, the aggregate limit that anyone can give in a calendar year to anything—to all of these—is \$25,000 or \$50,000 a cycle. McCain-Feingold, as you know, increases that to \$60,000 a cycle or \$30,000 a calendar year. We increase that further to \$65,000 a calendar year. And we tried to create an incentive. Again, we are replacing soft dollars with hard dollars.

Mr. MCCONNELL. Right.

Mrs. FEINSTEIN. All the giving to the political parties would have to be with hard dollars. So the way we approach it is that we create these split accounts. In other words, over the cycle an individual can contribute up to \$30,000 to candidates and \$35,000 to PACs and party committees. So that is a specific requirement.

Mr. MCCONNELL. But the Senator is not responding to my question, which is, the category right above the one you are pointing to on your chart, which is what an individual can give to a national party committee, remains unchanged from current law. According to your own chart, which I have in front of me, that remains unchanged from current law.

Let me repeat the question. Everyone agrees that the abolition of soft money, which this bill will accomplish based upon the Hagel vote yesterday, will take away 40 percent of the budgets of the two big national committees and 35 percent of the budgets of the two senatorial committees—gone. Your bill does not change what an individual can contribute in hard dollars to a party; it does not change that from current law.

Thus my question: How does the Senator envision that her proposal would help in any way the national party committees compensate in hard dollars for the loss of soft dollars?

Mrs. FEINSTEIN. You are correct. It does not. We simply believe the

amount in this for PACs and parties, which is the \$35,000 out of the \$70,000—\$35,000 a cycle out of the \$70,000—can be given to parties.

Now, of course, this is not \$40,000 a calendar year, but, again, there is a limit on the individual in hard dollars. I think most of the party building today comes from soft dollars rather than hard dollars, in any event.

Mr. MCCONNELL. So the Senator from California would agree with me, while there is some relief for us candidates, there basically is no change on the hard dollar donations—

Mrs. FEINSTEIN. Yes.

Mr. MCCONNELL. To the parties.

Mrs. FEINSTEIN. I think the evidence is that very few people essentially max out to parties. So we make it easier to contribute to parties by creating a separate account. That is my answer.

Mr. MCCONNELL. I say to my friend from California, both parties, it seems to me, are going to be anxious to try to increase the number of people who are interested in giving to parties because they are both going to have a dramatic shortage of funds should this—

Mrs. FEINSTEIN. That is healthy. It is all hard dollars. It is regulated. It is all disclosed.

Mr. MCCONNELL. Of course, as the Senator knows, all party soft money contributions are disclosed. That is how everyone knows what the parties are getting in soft dollars. There is no point in having that debate again. We had it yesterday. Soft dollars are gone. Now we are looking at a hard-dollar world.

I am trying to figure out how in the world the parties can compensate for the loss of those soft dollars under the proposal of the Senator from California. The annual aggregate under her proposal actually decreases the amount national parties can receive. Currently an individual can give \$50,000 to national parties in a cycle; that is, over 2 years. But under the Feinstein proposal, I gather they can only receive \$35,000 over a cycle; is that correct?

Mrs. FEINSTEIN. That is correct. As I said, this really affects very few people. We believe it is a good, healthy reform.

Mr. MCCONNELL. I thank the Senator from California. I did understand her amendment correctly.

Again, we saw a picture in the Washington Post yesterday of the world to come. This is a full-page ad by a billionaire named Jerome Kohlberg which appeared in the Post yesterday. He is one of the principal funders of this reform industry, the employees of which are huddled off the floor of the Senate working on this bill. I bring up Mr. Kohlberg only to illustrate what the world is going to be increasingly like if McCain-Feingold passes.

The distinguished occupant of the Chair experienced the wrath of Mr. Kohlberg in 1998 as he spent half of \$1 million trying to defeat the junior Senator from Kentucky. People such as

Mr. Kohlberg are going to be the wave of the future. There is a common misconception that people of great wealth are Republicans. In fact, they are overwhelmingly liberal Democrats, people such as Mr. Kohlberg.

With the dramatic weakening of the parties not only through the loss of soft money—that decision having been made yesterday—but should the Feinstein amendment or anything close to it be approved, none of that will be compensated for in hard dollars because there is no change in what individuals can give to parties. Get used to it; this is the wave of the future. We have a picture of it right here in the Washington Post yesterday. People of great wealth who have an interest in politics and public policy are going to increasingly control the national agenda, allied, of course, with the great corporations that own the New York Times and the Washington Post that also have an unfettered right to speak. I am not trying to change that. They just have a bigger voice than all the rest of us because they have big corporations behind them.

I find this very distressing. I do think it is important for everybody to understand the world into which we are about to march.

Having said that, I commend the Senator from California for at least recognizing the need to increase the individual contribution limit set back in 1974, when a Mustang cost \$2,700. She represents a State which really illustrates the heart of the problem. Imagine an unknown challenger in California who is not wealthy deciding to take on the well-known and powerful incumbent Senator from California, Mrs. DIANNE FEINSTEIN. I expect Senator FEINSTEIN would agree with me, with a \$1,000 contribution limit, trying to pool enough resources together to reach 30 million people against a well-known incumbent, that challenger would probably have to spend the whole 6 years trying to pool together enough resources to be competitive. I wonder if the Senator agrees with that observation.

Mrs. FEINSTEIN. I actually agree with it strongly. Most people in California find that they can't win statewide the first time out. Money is one of the issues here. The State is so big.

I harken back to a conversation I had with Alan Simpson. He said he could go home and have lunch at the grill in Cody and he would see all 200 people in Cody. He would campaign that way.

Mr. MCCONNELL. Right.

Mrs. FEINSTEIN. In the big States, that is impossible to do. Your campaign, getting your message out, has to depend to some extent on large-scale communication, big speeches, large direct mail, television, radio, those things that reach large numbers of people. It is a fact of life. As these prices go up, the candidate can buy less and less. This is what opens the field, then, to the very wealthy candidate who can come in and spend tens of millions of

his or her own money and preempt the field just because of that.

Mr. MCCONNELL. I think the Senator has it absolutely right. I am sure she also shares my opinion that the people who would benefit from a hard money contribution limit increase the most would be challengers who typically have fewer friends and not nearly the network that we incumbents have. They have a smaller group of friends and supporters to try to start with as a way to pool enough resources to get in the game. Does the Senator not think that the principal beneficiaries of an increase in the hard money contribution limits to candidates really will be challengers?

Mrs. FEINSTEIN. If the Senator will yield for a moment.

Mr. MCCONNELL. I do.

Mrs. FEINSTEIN. I heard an interesting comment by a Senator yesterday. He said: Well, at least I will only have to do half the number of fundraisers to raise the amount of money that is required. Now the question is, Is that good or bad? I happen to think it is great.

Mr. MCCONNELL. I do, too.

Mrs. FEINSTEIN. The fewer fundraisers one has to do, the better, because you can spend more time doing the things you are supposed to be doing. I have seen on both sides of the aisle the prodigious efforts dialing for dollars. People leave; they have to take time off. They go to party headquarters. They stand out on the street corner with their cell phone, and they call people and ask for contributions.

If inflation had not risen to the extent it has, that would be a different story. I know there are people on my side who believe that if you raise this contribution limit, it disadvantages Democrats. I truly do not believe that. It goes across the field. It gives a non-incumbent an advantage; it gives an incumbent the ability to do their work and concentrate less on fundraising. It gives one at least double the opportunity to meet expenses which, since this limit was put on, have actually tripled.

May I ask a question?

Mr. MCCONNELL. I believe I have the floor.

Mrs. FEINSTEIN. Is the Senator's time running?

Mr. MCCONNELL. I yield for a question.

Mrs. FEINSTEIN. I just wanted to know whose time was running.

Mr. MCCONNELL. It is my time, the Senator will be pleased to know.

Regretfully, the problem with the Feinstein amendment is it just doesn't go very far. It is certainly headed in the right direction. I don't know enough about the exact annual inflation increase over the years to know what going from \$1,000 to \$2,000 gets us up to. My guess is it probably gets us up to the mid-1980s in terms of purchasing power. I know my friend from California may even be in the minority on her side that want to raise the limit at all.

I have heard it said by a number of our colleagues that not many people can contribute this amount of money. That is certainly true. The fact that not many people can contribute this amount of money does not mean that no one should be able to. The cold, hard reality is that most people are not terribly interested in politics, and most people don't contribute to it. The best example of that that we talked about yesterday is the Presidential checkoff on the tax return where a taxpayer gets to check off \$3 they already owe—it doesn't add to their tax bill, just \$3 they already owe—into a Presidential campaign fund. Only 12 percent of Americans do that even when it doesn't cost them anything.

The real message is, people are just not terribly interested in politics and not terribly interested in contributing. I wish they were. It would certainly be great if large numbers of Americans had an interest and were willing to contribute. I wish we could get back to the \$100 tax deduction we had before 1986 that at least made some effort, through the Tax Code, to encourage people to contribute. But the cold, hard reality is, a rather small number of people are going to contribute to politics.

The question is, Are the parties going to still be viable? Regretfully, it seems to me, the amendment of the Senator from California creates an incentive for contributions to the party committees for party building, she said, but how can this happen if we reduce the amount national parties can receive? With the aggregate limit to parties, the \$20,000 limit, under current law, it is actually reduced to \$17,500 by the amendment. I think by, in effect, pushing the \$20,000 limit backward because of the aggregate provision the Senator has, we really move the party contributions back to the 1960s, not even leaving them at 1974.

I have sort of a mixed feeling about the Senator's amendment. It is great that she is moving in the right direction as far as candidates are concerned, but she has not addressed the needs of political parties, which are getting whacked by the underlying bill in a major way.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 28½ minutes.

Mr. McCONNELL. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 15 minutes.

Mrs. FEINSTEIN. Mr. President, I am hopeful Senator SCHUMER will come to the floor as soon as possible. Let me make a couple of comments to the remarks the distinguished Senator from Kentucky just concluded. I very much appreciate his comment about the political parties. On our side of the aisle,

when you are in public office, there is concern about asking individuals to contribute large amounts of money to a party, period, and that this uses power unwisely. What McCain-Feingold does is it eliminates the soft money aspect of that powerful use of request. You can't ask someone to contribute \$500,000 to the party or \$1 million to the party or \$100,000 to the party. You are essentially limited to the \$35,000 per election to go to the party. There are some on our side who don't like that because they say it is too big a request. I don't happen to believe that it is. I also don't happen—well, some are willing to do that and others are not willing to do it.

But in answer to the question of the Senator from Kentucky, that is really the answer. It is people in elected office requesting citizens to contribute large amounts of money. And what that request in itself conveys is the sense of that public official then giving the appearance, somehow, of indebtedness to the individual because they contribute that large amount of money.

The beauty of McCain-Feingold is that is now removed and a Senator is not in the position of having to do that anymore. I think that is very healthy for the system.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, a further provision in the Feinstein amendment, which I want to call to the attention of the Senator—and I am sure she is familiar with it, as is the rest of the Senate—is worthy of discussion. There is a current Supreme Court case, called the Colorado case, pending for decision, which, if the Court upheld the lower court, would declare that the party-coordinated contribution limits are unconstitutional. These are hard dollars spent by party committees on behalf of their candidates.

The Schumer provision says if that is struck down—the coordinated limit—and if parties take advantage of this ruling and make unlimited coordinated expenditures, then they will not get the lowest unit rate on television. They say parties will only get the lowest unit rate if they continue to abide by the coordinated party limits, even if those limits have been declared unconstitutional.

Now, I say to my friend from California—and I see the Senator from New York is back—this is clearly an unconstitutional condition. Party-coordinated expenditures are 100-percent hard dollars. There is no problem unless you believe parties can corrupt their own candidates, and it is illegal to earmark contributions to specific candidates in the amount beyond the individual contribution limit. In short, it is my understanding that the Schumer provision requires an unconstitutional condition on party spending.

So let's sum it up. If the Supreme Court strikes down the coordinated

limit as unconstitutional, which might happen, then the Schumer provision will require parties to continue to abide by an unconstitutional limit, in order to get the lowest unit rate from a broadcaster. I would look forward to litigating that in court, Mr. President. Declaring an unwillingness to follow a pattern declared as unconstitutional, putting in a stipulation that to do something that is constitutionally protected costs you money is not likely to be upheld by any court in the land.

I wanted to call that to the attention of our colleagues before we vote on the Feinstein amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, the Senator from California has 12½ minutes, and the Senator from New York needs 15 minutes. May I get the attention of my friend from Kentucky? Would the Senator be so kind as to allow us 2½ minutes of his time?

Mr. McCONNELL. How much time do I have?

The PRESIDING OFFICER. The Senator has 26 minutes.

Mr. McCONNELL. I will be happy to give 2½ minutes to the Senator from New York.

Mrs. FEINSTEIN. Mr. President, I yield 14 minutes of my time to the Senator from New York and 1 minute of my time directly following that to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I thank my friend from Kentucky for his courtesy, as well as the Senator from Nevada for arranging things on the floor with exquisite neatness and efficiency, as he always does, and most of all the Senator from California for her leadership on this issue.

I agree with everything the Senator from California was trying to do before. But I have joined this because of my concern about the 441(a)(d) amendment, which the Senator from California and the Senator from Mississippi have graciously agreed to add to their amendment. I will address that issue now.

Although I am fully supportive of the other parts of the amendment as well, the Senators from California and Mississippi have taken those up very well. Many Members come to me and say: What are you talking about with these 441(a)(d) limits?

Well, the bottom line is simple, that the very basis of McCain-Feingold, which is limiting the amount of contributions that can go to a candidate, is undermined by a removal of the 441(a)(d) limit. That limit is in the law now. It has been in the law for a long time—since the original campaign finance bill was passed.

But a Supreme Court case, called *FEC v. Colorado Republican Federal Campaign Committee*, has just been argued in the Court, and a decision

should come down shortly, within the next month or two. And to believe most—not all, but most—of the prognosticators, they will rule that the 441(a)(d) limits are removed. If the Court rules as most observers expect, we will face a gross distortion of our campaign finance system and the return of six-figure contributions by wealthy individuals that we absolutely have to address now.

The bottom line is simple. Even if McCain-Feingold were to pass completely intact, this Court case would greatly undermine what we are trying to do. But if we were to raise the limits under which a person could give to a party and then a party could give to a candidate, it would make it so much the worse.

Part of the Feinstein-Cochran-Schumer amendment that I am referring to would at least prevent that exacerbation of the problem.

Let us take it from the beginning. The 441(a)(d) limits direct a national party, whether it be the RNC or the DNC or, as usually happens, the DSCC and the RSCC, in the amount of money they can give directly to a candidacy. Coordination between the national party and the candidacy is completely allowed by the 1996 Supreme Court decision. It may be 1998. I do not remember the year.

Until now and as of now, there are real limits as to how much a party can give. It is 2 cents per voter-age person in the State. In California, it is limited to about \$2 million; in my State of New York, \$1.7 million; and the rates go down accordingly.

The problem with the 441(a)(d) mechanism, from the point of view of McCain-Feingold, is very simple. Under present law, a person can give \$20,000 to a national party, to the DSCC or the RSCC, and they can give it right to the candidate. What has kept that in check, of course, is the overall amount the party can give to that candidate is limited, but if the Supreme Court lifts that ruling and says there can be no limits on a constitutional first amendment basis—something we debated with Senator HOLLINGS' amendment and others; I disagree with that interpretation of the Constitution, but like everyone else, we must live with it. But if they were to lift that limit, then parties presently could raise virtually unlimited amounts of money in \$20,000 chunks. Under McCain-Feingold, it would go up to \$30,000 chunks per year.

If John Q. Citizen wished to fund Senate Candidate Smith in his State, he could give \$20,000, \$30,000 a year, each for 6 years to the national party, and that money could go right to Candidate Smith. It makes a mockery of the \$1,000 and \$2,000 limit. It allows people of great wealth to give huge amounts of money to the candidates.

My view is that the No. 1 thrust of McCain-Feingold in eliminating soft money was to prevent these large sums of money from going to candidates. If 441(a)(d) is lifted, those large sums of

money will continue. True enough, McCain-Feingold does other things with corporate and labor union contributions, and true enough, no one can give, say, \$½ million to a candidate through the party, which they can do today, but the limits would be so astoundingly high that they would almost make a mockery of the \$1,000 or \$2,000 limit that we are talking about on individual contributions.

What can we do about that? One thing we can do is make sure we do not raise the aggregate limits of giving to a party very high. One of the reasons—and I discussed this last night with my friend, the Senator from Tennessee—I am so opposed to his amendment is because it would not just mean you could not just give to the candidate through a party at a \$20,000 clip but rather at a \$60,000 clip. The Feinstein-Cochran-Schumer amendment at least limits that to \$35,000 per cycle.

It is an improvement over present law and, in my judgment, an improvement over McCain-Feingold before it was adopted. I think this is a step forward, not just a compromise, that you are not stepping back as much, but on the aggregate limits on the party, it is a step forward.

The second thing we have to do is try to discourage the parties from giving unlimited amounts of money to the candidates. Parties have great functions. I am all for party building. I have no problem with money going to the parties for get-out-the-vote operations and educating the people about the process but not for TV ads for candidates, which is what happens, no matter what disclaimer is on the ad.

What we do in this amendment is say that if you go over the limits that are in this bill—because the Supreme Court may rule that you can go over those limits; if the Supreme Court rules the other way, this amendment has no effect. But if you do go over those limits, you cannot get the low-cost TV time that the Torricelli amendment now allows. It is an incentive to keep the limits low to prevent the parties from raising vast amounts of money for the candidates and obliterating the \$1,000 or \$2,000 limit for individual contributions that we are hoping to make a much stronger basis of campaign financing with McCain-Feingold.

Is it constitutional? We have consulted a variety of experts, and they say very simply that the constitutional requirement is that the carrot is related to the stick. In other words, it can well be a constitutional limitation that does not strike down free speech.

I understand my friend from Kentucky has a much broader interpretation, but it is a constitutional limitation if what you are sanctioning is related to the reward. Clearly, the proposal we have made in the Schumer part of this amendment is related: Go over the limit and you do not get low-cost TV time. Stay within the limit and you get low-cost TV time. There

could not be a clearer relationship because most of this money is used, at least in every campaign I have seen, for television time.

We have consulted a variety of experts who all believe there is not a constitutional problem with this amendment.

If we do not adopt this amendment, if we do not include this amendment, I believe 6 months from now, and certainly 2 years from now after the next cycle of elections, people are going to scratch their heads and say: Was this bill a step forward on the road to reform or was it a step backward? Because even though some limits are placed on corporate contributions, the ease with which people will be able to give large amounts of money to candidates will probably increase or at least not decrease at all.

The ease with which somebody could, say, contribute \$150,000 to a candidate through the party in an election cycle would be large.

I say to my colleagues, first, whether you are for or against the limits in Feinstein-Cochran-Schumer, this is a salutary addition. Second, I say to my colleagues who have trouble raising the limits, which I do not, I support what is in the amendment that the senior Senator from California has crafted, and I think very well, that this will ameliorate some of the greater danger and make it more palatable to those who are against raising the limits altogether.

I particularly salute the Senator from California for having the aggregate party limit be \$35,000 a cycle. That is extremely important. Also, when in combination with the part of the amendment before us that I have added, it will put some brakes on a potentially runaway situation that could undo the very reform we seek to pass.

This is a complicated area but one that will become very obvious within a year or two if we do nothing about it. I urge my colleagues to adopt the Feinstein-Cochran-Schumer amendment, to not go in the direction, as much as the good Senator from Tennessee wishes to go, which, as I said, will have much greater ramifications should the Supreme Court rule against 441(a)(d) limits in the Colorado decision.

I hope we will support it.

I yield whatever time I have not consumed back to the Senator from California.

The PRESIDING OFFICER (Mr. BURNS). The Senator has 1 minute 5 seconds.

The Senator from California.

Mrs. FEINSTEIN. I yield that to the Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I strongly urge the body not to table this effort of Senator FEINSTEIN and Senator COCHRAN. It is much more restrained than the alternative. My personal view is we shouldn't increase the limits at all. I don't think we need to. I realize the majority of the body believes that is something that has to happen. I understand it will happen.

Senator FEINSTEIN has tried to craft a reasonable compromise between the different views, actually bring us together, and help us pass a bill. I urge my colleagues, at least on this vote for tabling, to vote no to table.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. I listened carefully to the Senator from New York talk about the possibility of circumventing the individual contribution limits. Let me say under current law contributions received by a national party committee which is directed to be used on a specific candidate's behalf is considered an earmark. Thus, if a donor gives \$1,000 to the Republican National Committee and directs it to a specific candidate, the \$1,000 contribution is attributable to the candidate. If the donor gives \$20,000 to the Democratic Senatorial Committee and directs it be spent on behalf of a specific candidate, it is a \$20,000 contribution to the candidate, and the contributor is prosecuted for making an individual contribution in excess of the \$1,000 limit.

What am I talking about? The Democrats understand that in the early 1990s the Democratic Senatorial Committee and the Democratic Senate candidates were raising hard money with the DSCC which tallied or earmarked these contributions to be used for individual Senators accredited with bringing them in.

Since the \$20,000 earmark contributions to the party were in excess of the limits individuals can contribute to a candidate, the DSCC was prosecuted. In 1995, the prosecution resulted in the DSCC being forced to: One, pay a \$70,000 fine; two, end the tally and earmark program; and, three, include specific language on all future solicitations stating the money raised into the DSCC is spent as the committee determines within its sole discretion.

Why bring that up? Only to make the point that the fear that the Senator from New York has is unwarranted because we have already learned that less on and the party committees know they cannot receive candidate contributions in hard dollars earmarked for candidates.

The problem with the Feinstein amendment and particularly the Schumer provision is this: If the Supreme Court strikes down the coordinated limit—we are talking hard dollars, the good dollars; that is what coordinated is, hard dollar expenditures by petitioners on behalf of the candidates—if the Supreme Court strikes down the current limit coordinated as unconstitutional, Schumer requires parties to continue to abide by unconstitutional limits in order to get a broadcast discount. This is a classic unconstitutional condition.

The Feinstein-Schumer provision will increase the individual contribution limit from \$1,000 to \$2,000. It does not increase the amount an individual

can give to political parties. The aggregate individual limit in the Feinstein amendment reduces the amount an individual can give to a party from \$20,000 per year to \$17,500 per year. Even if the Supreme Court declares party coordinated expenditure limits unconstitutional, the Colorado case we were just talking about, parties must still abide by them or lose the broadcast discount.

Even though the Senator from California gives the candidate a little help, it is worse than current law for parties. It is already clear from the action taken yesterday there is going to be no more non-Federal money in the party committees. That is gone. If the Feinstein amendment passes, there will be less hard dollars for the committees than we have today. We are going backwards. There may be some relief for parties, but it is a bad deal for candidates.

I see the Senator from Tennessee is on the floor. I yield 10 minutes to the Senator from Tennessee.

Mr. THOMPSON. I have had an opportunity to read or have summarized the Feinstein amendment, and I thought we were just basically dealing with dollar limits. But as we get into it, it is breathtaking in its scope and, in my opinion, clearly unconstitutional.

The Senator from Kentucky had it exactly right. Basically what the so-called Schumer provision would do—it is like the government losing a first amendment case and then conditioning a benefit upon not doing what the Supreme Court just decided he has a right to do.

There is no way we can engage in that kind of activity. As we know, there are limits now on what a party can spend in coordination with its candidates. A lot of people think that will be overturned in Colorado and the Colorado 2 case.

As I understand the Schumer amendment, if the Supreme Court strikes the coordinated expenditure limits of parties, then no broadcaster is required to give a party the lowest unit rate unless the national party certifies to the FEC that neither it nor the State committees where the television ad is run—that certifies they are adhering to what the Supreme Court just struck down.

I have never seen anything quite like that before. It is clear in a long line of cases that we cannot require private citizens to restrict their speech in order to get certain benefits. It is easier when it is the government. This is not the government. These are private governmental entities, some right-to-life case, and so forth. These are not governmental entities. You cannot require private citizens to restrict their speech in order to get certain benefits.

Velazquez v. Legal Services Corporation was decided just this year. I urge my colleagues to have someone take a look at that case and explain to me why the principles of that case don't

clearly set out or establish that we just can't do this constitutionally. They held in that case that Congress can't condition legal services grants on a lawyer's inability to challenge the constitutionality of welfare reform. That is an unconstitutional restriction of the first amendment rights of that lawyer, even though it is government money and the government doesn't have to give them money to start with.

Once you have a scheme like that, you cannot condition receiving that government benefit on an agreement to not exercise your free speech rights. In this case, we are putting into law something that requires them not to exercise a free speech that the Supreme Court had just decided they had a constitutional right to.

This is clearly unconstitutional. I know I sound like a broken record. Some of these other things that we have been engaging in have similar problems, but I think this is the worst that I have seen.

As I look at the limits, I second what the Senator from Kentucky said about party committees. I have been spending a lot of time trying to do something about soft money and the kind of money that gives the wrong kind of appearances with the hundreds of thousands of dollars that are flowing into these parties and soft money, corporate money, union money, coordinated money, and we are trying to do something about that. I still am. Hopefully, we can get rid of all of that.

But we cannot emasculate the parties. Parties are not bad. Parties are weak enough as they are. The Feinstein amendment provides for \$35,000 per cycle to the party committees. That is \$17,500 a year when the limit today is \$20,000. We are going backwards. That is \$20,000 that was established in 1974, which adjusted for inflation, will be in the neighborhood of \$60,000 or \$70,000. Instead of recognizing that and making some inflationary adjustment in response to getting rid of soft money, which we are trying to do, we are going in the opposite direction and further clamping down on the parties.

Mr. SCHUMER. I thank the Senator and apologize that I had to be off the floor for a minute while he was addressing this amendment.

Let me say we can disagree on the policy, in terms of strengthening or weakening the parties. My view is the parties are not strengthened when they are conduits for large amounts of money, whether it be hard money or soft money. I would be all for giving the money for get-out-the-vote operations, giving the money for true educational operations—the things the parties used to do before 1985 when I think most of us would admit they were a lot stronger than they are now.

We can debate that. That is for each person. All of us here have lots of experience that way and have made up our minds.

I know in our State when these party committees are formed—

Mr. THOMPSON. Let me say to my friend, I will yield for a question.

Mr. SCHUMER. Let me ask him this question on the constitutionality. Should the Supreme Court knock down the 441(a)(d) limit, then they would be doing it, I believe—because this is the argument; I have read the arguments—on its mandatory nature. Right now that limit is mandatory.

Our amendment, as my good friend from Tennessee knows, is voluntary. It says you can go above the limit but you don't get the benefit of the low-cost TV time. But if you want the benefit of the low-cost TV time, then you do not get the benefit.

My reading of constitutional law is very simple, and that is that it is quite different, on a first amendment case, to make something mandatory, where the Court is very reluctant—at least this Court—I do not agree with it, but it is there, and we have to live with it—than when there is an option, there is a voluntary limit for which you get some kind of benefit.

I ask the Senator what his view is of that argument, so he can respond to it.

Mr. THOMPSON. I say to my friend, I do not view that argument very favorably because it flies in the face of *Velazquez v. Legal Services Corporation*. The people in Legal Services did not have to take that money either. They had the option to take that money or not, and the Supreme Court there said you can't require private citizens to restrict their speech in order to get those benefits.

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

Mr. MCCONNELL. Will you yield for a question?

Mr. THOMPSON. I yield to the Senator from Kentucky.

Mr. MCCONNELL. I guess the Senator from New York was saying speech up to a certain amount only costs this much but if you speak above that amount, that speech costs more.

Mr. THOMPSON. Or if you exercise your speech as a party committee to coordinate with a candidate—not the donor but the party committee, coordinate with the candidate, which the Supreme Court has just decided you have a constitutional right to do—that if you exercise that right, then you do not get the benefits described.

I yield to my friend from New York.

Mr. SCHUMER. I thank my friend for yielding.

As I understand the *Velazquez* case, which dealt with *Legal Services*, the very rationale of the Supreme Court in striking that down was they said there was no relationship between the reward and the punishment. In other words, they said that this is simply an attempt to limit free speech and using an unrelated reward to do it. They said the nexus was not close enough, the nexus between government funding and the ability of a *Legal Services* lawyer to proceed in a certain way or say a certain thing.

It seems to me in the amendment that we have crafted there is a direct

nexus. First of all, the nexus is very close. You have the ability to get more money from your party and the privilege of getting the lowest TV cost.

It does not say you can't put an ad on television. That would probably be unconstitutional. But what we have said here is that certain people, in a certain position—i.e., candidates—should be privileged.

Maybe the Senator from Tennessee might think the *Torricelli* amendment itself is unconstitutional. I do not recall if the Senator from Kentucky has argued that. But that would be the nub of his argument there.

Second, the attempt here is not the same as in *Velazquez*, as I understand the case, and that is because in *Velazquez* people were trying to shut down a certain type of activity they did not like, a certain type of speech, a certain type of activity. There is no such attempt here.

So I ask the Senator from Tennessee, doesn't he see a real difference in both what the Court has said in the case law, the case circumstances, that way?

The PRESIDING OFFICER. The time of the Senator from Tennessee has expired.

Mr. MCCONNELL. Would the Senator like some more time?

Mr. THOMPSON. I will ask unanimous consent—

Mr. MCCONNELL. You don't need unanimous consent. I yield you 5 minutes.

Mr. THOMPSON. I respond to my friend from New York by saying, yes, in fact I do see a distinction. Here we are dealing with political speech, which makes it even more sensitive. What my friend's amendment would do is cut back and restrict clearly constitutionally protected political speech. The Supreme Court has decided on numerous occasions that there are only certain limited ways and times you can restrict political speech, such as if you are engaging in express advocacy, which this has nothing to do with.

So I think not only is *Velazquez* relevant and on point, the amendment before us is more egregious than the activity in *Velazquez* that was struck down by the Supreme Court.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I think we are close to a vote here. My understanding is the time has run on the other side. Is that correct?

The PRESIDING OFFICER. That is correct. The Senator from Kentucky has 7 minutes 10 seconds.

Mr. MCCONNELL. Mr. President, let me just sum up prior to the vote.

The *Feinstein-Schumer* provision will increase individual contribution limits from \$1,000 to \$2,000. That certainly is helpful to candidates. It sort of catches us up, maybe, to the early 1980s in terms of purchasing power. It does not, however, increase the amount an individual can give to political parties. In fact, the aggregate individual

limit also, as part of the amendment, will reduce the amount an individual can give to a party from \$20,000 per year down to \$17,500 per year. So we are going backwards.

We have already taken away all the non-Federal money from political parties. That is 40 percent of the budgets of the Republican National Committee and the Democratic National Committee, 35 percent of the budgets of the Republican Senatorial Committee and the Democratic Senatorial Committee. We have wiped that out with the votes yesterday.

Now if the *Feinstein* amendment were adopted, the parties, national parties, would be left only with hard money and we have, in effect, reduced the amount an individual could give to a party, set back in 1974, from \$20,000 down to \$17,500.

While the *Feinstein* amendment might make some marginal improvement for candidates, it is a step backwards for parties.

In addition, it has the *Schumer* provision in it that the Senator from Tennessee has very skillfully discussed a few moments ago, that even if the Supreme Court declares party-coordinated expenditure limits unconstitutional—which may happen in the next few months in the Colorado Republican case currently before the Supreme Court—even if that coordinated limit, that hard money limit that parties can spend on behalf of their candidates is struck down as unconstitutional, if a party chooses to spend more than the old limit just having been struck down as unconstitutional, then the party loses the lowest unit rate on ads.

So the practical effect of that is a party could spend so much on behalf of a candidate at a certain price and then, once it has spent more than that, it would have to pay more for additional speech.

The Senator from Tennessee has persuasively argued, and I would as well, that is an unconstitutional condition or surcharge, if you will, on the exercise of free speech, a tax on speech. Clearly, a tax on speech raises serious constitutional questions. I could have raised a constitutional point of order on this. I say to the Senator from Tennessee that I am not going to do that. I have done that in the past when we had campaign finance debates. I am not going to do that.

But I assure you that if this is in the final bill, and if the bill is signed by the President, it will be one of the items that, as a plaintiff in the case, I intend to be as one of the items that we will be raising in court.

Mr. President, I yield the remainder of the time on my side.

I make a motion to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 46, nays 54, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—46

Allard	Fitzgerald	Nickles
Allen	Frist	Roberts
Bennett	Gramm	Santorum
Bond	Grassley	Sessions
Breaux	Gregg	Shelby
Brownback	Hagel	Smith (NH)
Bunning	Hatch	Smith (OR)
Burns	Helms	Stevens
Campbell	Hutchinson	Thomas
Chafee	Hutchison	Thompson
Craig	Inhofe	Thurmond
Crapo	Kyl	Torricelli
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McConnell	
Enzi	Murkowski	

NAYS—54

Akaka	Dodd	Lieberman
Baucus	Dorgan	Lincoln
Bayh	Durbin	McCain
Biden	Edwards	Mikulski
Bingaman	Feingold	Miller
Boxer	Feinstein	Murray
Byrd	Graham	Nelson (FL)
Cantwell	Harkin	Nelson (NE)
Carnahan	Hollings	Reed
Carper	Inouye	Reid
Cleland	Jeffords	Rockefeller
Clinton	Johnson	Sarbanes
Cochran	Kennedy	Schumer
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Corzine	Landrieu	Stabenow
Daschle	Leahy	Wellstone
Dayton	Levin	Wyden

The motion was rejected.

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

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 151, AS MODIFIED

The amendment (No. 151), as modified, is as follows:

At the appropriate place, insert the following:

SEC. 104. CLARITY IN CONTRIBUTION LIMITS.

(a) CONTRIBUTION LIMITS APPLIED ON ELECTION CYCLE BASIS.—Section 315(a)(1)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(A)) is amended to read as follows:

“(A) to any candidate and the candidate’s authorized political committee during the election cycle with respect to any Federal office which, in the aggregate, exceeds \$4,000;”

(b) INDIVIDUAL AGGREGATE CONTRIBUTION LIMITS APPLIED ON ELECTION CYCLE BASIS.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)), as amended by this Act, is amended to read as follows:

“(3) The aggregate contributions an individual may make—

“(A) to candidates or their authorized political committees for any House election cycle shall not exceed \$30,000; or

“(B) to all political committees for any House election cycle shall not exceed \$35,000. For purposes of this paragraph, if any contribution is made to a candidate for Federal office during a calendar year in the election cycle for the office and no election is held during that calendar year, the contribution shall be treated as made in the first succeeding calendar year in the cycle in which an election for the office is held.”

(c) INDEXING OF CONTRIBUTION LIMITS.—Section 315(c) of the Federal Election Cam-

paign Act of 1971 (2 U.S.C. 441a(c)) is amended—

(1) in paragraph (1)—

(A) by striking the second and third sentences;

(B) by inserting “(A)” before “At the beginning”; and

(C) by adding at the end the following:

“(B) Except as provided in subparagraph (C), in any calendar year after 2002—

“(i) a limitation established by subsection (a)(1)(A), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

“(ii) each amount so increased shall remain in effect for the calendar year; and

“(iii) if any amount after adjustment under clause (i) is not a multiple of \$100, such amount shall be rounded to the nearest multiple of \$100.

“(C) In the case of limitations under subsections (a)(1)(A) and (h), each amount increased under subparagraph (B) shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election.”; and

(2) in paragraph (2)(B), by striking “means the calendar year 1974” and inserting “means—

“(i) for purposes of subsections (b) and (d), calendar year 1974; and

“(ii) for purposes of subsections (a) and (h), calendar year 2001”.

(d) ELECTION CYCLE DEFINED.—Section 301 of such Act (2 U.S.C. 431), as amended by section 101, is amended by adding at the end the following:

“(25) ELECTION CYCLES.—

“(A) ELECTION CYCLE.—The term ‘election cycle’ means, with respect to a candidate, the period beginning on the day after the date of the previous general election for the specific office or seat that the candidate is seeking and ending on the date of the general election for that office or seat.

“(B) HOUSE ELECTION CYCLE.—The term ‘House election cycle’ means, the period of time determined under paragraph (A) for a candidate seeking election to a seat in the House of Representatives.”

(e) SPECIAL RULES.—Section 315(a) of such Act (2 U.S.C. 441a(a)) is amended by adding at the end the following:

“(9) For purposes of this subsection—

“(A) if there are more than 2 elections in an election cycle for a specific Federal office, the limitation under paragraph (1)(A) shall be increased by \$2,000, for the number of elections in excess of 2; and

“(B) if a candidate for President or Vice President is prohibited from receiving contributions with respect to the general election by reason of receiving funds under the Internal Revenue Code of 1986, the limitation under paragraph (1)(A) shall be decreased by \$2,000.”

(f) CONFORMING AMENDMENT.—Paragraph (6) of section 315(a) of such Act (2 U.S.C. 441a(a)(6)) is amended to read as follows:

“(6) For purposes of paragraph (9), all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.”

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of enactment of this Act.

SEC. —. TELEVISION MEDIA RATES FOR NATIONAL PARTIES CONDITIONED ON ADHERENCE TO EXISTING COORDINATED SPENDING LIMITS.

(a) AVAILABILITY OF TELEVISION MEDIA RATES.—Section 315(b)(2) of the Communications Act of 1934 (47 U.S.C. 315(b)(2)), as amended by this Act, is amended—

(1) by striking “TELEVISION.—The charges” and inserting “TELEVISION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the charges”; and

(2) by adding at the end the following:

“(B) LIMITATIONS ON AVAILABILITY FOR NATIONAL COMMITTEES OF POLITICAL PARTIES.—

“(i) RATE CONDITIONED ON VOLUNTARY ADHERENCE TO EXPENDITURE LIMITS.—If the limits on expenditures under section 315(d)(3) of the Federal Election Campaign Act of 1971 are held to be invalid by the Supreme Court of the United States, then no television broadcast station, or provider of cable or satellite television service, shall be required to charge a national committee of a political party the lowest charge of the station described in paragraph (1) after the date of the Supreme Court holding unless the national committee of a political party certifies to the Federal Election Commission that the committee, and each State committee of that political party of each State in which the advertisement is televised, will adhere to the expenditure limits, for the calendar year in which the general election to which the expenditure relates occurs, that would apply under such section as in effect on January 1, 2001.

“(ii) RATE NOT AVAILABLE FOR INDEPENDENT EXPENDITURES.—If the limits on expenditures under section 315(d)(3) of the Federal Election Campaign Act of 1971 are held to be invalid by the Supreme Court of the United States, then no television broadcast station, or provider of cable or satellite television service, shall be required to charge a national or State committee of a political party the lowest charge of the station described in paragraph (1) with respect to any independent expenditure (as defined in section 301 of the Federal Election Campaign Act of 1971).”

(b) FEDERAL ELECTION COMMISSION RULE-MAKING.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended by adding at the end the following:

“(4) If the limits on expenditures under paragraph (3) are held to be invalid by the Supreme Court of the United States, the Commission shall prescribe rules to ensure that each national committee of political party that submits a certification under section 315(b)(2)(B) of the Communications Act of 1934, and each State committee of that political party described in such section, complies with such certification.”

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Members to speak therein for up to 10 minutes each, and the time be considered charged against the 90 minutes provided under the unanimous consent agreement previously adopted. This period will run approximately an hour, while the negotiators work on a potential compromise between the Feinstein and Thompson amendments. We will reserve the last 30 minutes of the 90 minutes for debate on a compromise, if one develops.

Mr. DODD. Mr. President, reserving the right to object, that 30 minutes is to be equally divided between the two sides.

Mr. MCCONNELL. Yes. The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.