to speak, you wish to speak during that period, Senators MCCAIN and FEINGOLD don't wish to speak. Then we will get back to you right away and maybe you want to speak later or both times.

Mr. MCCONNELL. Since I will be controlling an hour and a half of the precloture time, I will try to work that out in such a way to accommodate Senator GRAMM. Senator HUTCHISON of Texas is here to use some of our time. We will be happy to begin.

RESERVATION OF LEADER TIME

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

BIPARTISAN CAMPAIGN REFORM ACT OF 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 2356, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2356) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 1 p.m. shall be equally divided between the two leaders or their designees.

The Senator from Nevada.

Mr. REID. Before the Republican leader leaves, it would be to everyone's interest to have the vote start at 12:50. All other provisions of the unanimous consent agreement would be in effect.

Mr. LOTT. I think that is the wise thing to do. I appreciate the cooperation on that; is that a unanimous consent request?

Mr. REID. It is.

Mr. LOTT. We would have no objection to that. So it is 12:50.

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

The Senator from Kentucky.

Mr. MCCONNELL. I yield to the distinguished Senator from Texas such time as she may desire.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Kentucky for leading the effort to point out some of the flaws in this campaign finance reform bill. This has been a long process. Everyone knows how hard it is to get a bill into final form. Frankly, we are being asked to vote cloture on a bill that we have not debated since it came from the House. There are some flaws in this bill. I don't think it is unreasonable to request the ability to have some amendments to try to correct the flaws.

Most people would like to see campaign finance reform. There are flaws in the current system. However, this bill does not fix all of them. It does some harm, in place of good. To have no amendment capable of changing it is a very bad process that will result in a bad bill.

Last year I proposed several reforms that were in a bill I introduced. I am glad to see included in the current legislation a provision that limits the amount of loans a candidate can repay, loans made to his or her own race. But there are several provisions I introduced that are not included in the bill.

First, I believe an inordinate amount of campaign contributions can come from outside a person's home State or district. You can say: Make that an issue. Just tell everyone the majority of a person's contributions are coming from outside the State.

But what we are doing in this bill is exacerbating the problem. In the bill I introduced last year, I said that 60 percent of campaign contributions should come from a Member or candidate's home State or district, because I do not think a group from outside the State should be able to drown out the people of the State or district. The bill that is before us today is going to allow outside groups, whose contributors we do not know, to have unregulated access to the system and limit the capability of parties whose contributors are made public. We are going to have situations, especially in a small State, where the people of that State can be totally drowned out by interest groups in Washington, DC.

I think we are creating a monster by not putting in a limitation on how much you can raise outside the State. I think that could severely hamper the people of the State, especially a small State, from having their views, expressed through their contributions, able to be heard and not be drowned out by outside groups from another State or district. So that was not good in the bill, and I think the provisions that are in the bill make it worse.

One of the provisions that is in the bill that I am very worried about allows unregulated special interest groups to raise and spend unlimited amounts of soft money without any real reporting requirements. I really do not know who the contributors are to a private group that decides to become politically active, which they have the right to do. It is their freedom of speech. Anyone can buy time for a television ad or newspaper ad or send out a flier. You do not have to know who the contributors are. But we have elevated the status of groups such as that by curtailing the ability of our political parties, which have played a vital role in getting out the vote and informing people about the nominees of that political party. We are limiting the amount of soft money that can go to the political parties while outside groups are not limited at all. I think that is a blow to the political system, and I think it is really against what the bill's backers would want.

In addition, I think the bill tramples the principle of freedom of speech by restricting broadcast advertising for 60 days before an election. This is the part of the bill that I think is unconstitutional. How many times have we heard that a large portion of the voting public really doesn't focus on the campaign until 2 weeks before the election? A poll taken 2 weeks before an election is not really valid, and any candidate will tell you that, because so much can happen in that last 2 weeks. That is when the majority of the public begins to collect the data they have been getting in the mail to start studying it. They start to listen to what is being said on television, which is where most people get their news. Now people are just beginning to tune in, the heat is on, and we are restricting the capability for that broadcast message.

I think this is an area of free speech with which we cannot afford to tamper, to lessen the capability to be heard in this medium. I think this is what will be thrown out in the end.

I have to say I do not like the idea of voting cloture on a bill that has just come back from the House, has been amended in the House, and to say the Senate really should not have the ability to amend the bill because if we do that, somehow it will delay it further and we may not ever get it to the President. That goes against everything we stand for in a representative democracy where we have two bodies. Specifically, we have two bodies so you can make sure you cover all the bases because when one body passes a bill, the other one may see something that is different or they may find a mistake. We have seen that happen many times. To say: do not tamper with this bill that the House just passed, pass it intact, is an incredible statement, especially when the sponsors of a bill say they are trying to open the political system.

We are closing the Senate in an effort to open the political system? Somehow that does not pass the logic test.

I am going to vote against cloture. I think it is premature. If the bill is closed to debate, if cloture is invoked, I will certainly vote against a bill that I think has tremendous flaws in its treatment of fundamental rights in our country.

I would like to see some reforms in our system. I introduced a bill that I thought had legitimate reforms. The few parts of my legislation that are included I appreciate. I think there are good parts of this bill. But I cannot in good conscience vote for a bill that I think will hamper free speech and will tilt the balance of power away from accountable political parties in favor of unaccountable interest groups from Washington, DC, whose supporters I do not even know, I have no idea who they are, and I will not be able to get that information in any reasonable manner under the bill that is being tested today on the Senate floor if we invoke cloture and the bill is passed without any amendments.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. MCCONNELL. Before the Senator from Texas leaves the floor, I would like to commend her for an outstanding statement. I listened carefully to all her words. I just would point out what a wise observation she made about the 60-day blackout period. This bill seeks to make people go register with the Federal Government and raise hard dollars in order to have the right to say anything about any of us within 60 days of an election—unless you own a newspaper. If you own a newspaper, you are exempt from everything.

This bill, I say to my friend from Texas, sort of singles out various groups for preferential treatment. If you are a big corporation that owns a newspaper, you have no restraints. If you are a big corporation that doesn't own a newspaper, you have a bunch of restraints. So the effort here is to give some people more first amendment rights than others. That is among the things, in my judgment, that make this bill constitutionally flawed.

I congratulate the Senator from Texas for her comments and observations.

Mrs. HUTCHISON. I say to the Senator from Kentucky, I think that is the part that is going to go first under the constitutional challenge. We have been, for over 200 years in this country, protective of every media outlet, trying to assure that there is no outlet that will be closed—other than the person who yells ''Fire!'' in a crowded theater, who could do harm. But other than that, to pick one medium and say you are going to have severe restrictions and redtape and bureaucracy before anything can be heard on your medium, but the other medium would have no restrictions whatsoever, is beyond comprehension when you read the Bill of Rights. It is beyond comprehension.

I can't imagine that our Founding Fathers would have envisioned we would even attempt something such as this. At least they had the foresight to put speech as our most important right and gave the Supreme Court the capability to check the Congress when they would violate such an important right.

Mr. MCCONNELL. It is as if the supporters of this bill and the owners of the newspapers who are so enthusiastically behind this bill think that newspapers have greater first amendment rights than any of the rest of us. The court decisions over the years have made it very clear that, while we do have freedom of the press—I support that, and the Senator from Texas supports that—everyone else has a right to speak at any time without undue interference.

The Senator from Texas has pointed out one of the obvious flaws. There are others, all of which will now unfortunately have to go through the courts to be sorted out.

I thank her for her statement. I thought it was an important contribution to our closing debate today.

Mrs. HUTCHISON. I thank the Senator from Kentucky for continuing to look at these bills in great detail. We have tried to offer amendments that might clear these constitutional challenges. I know the Senator from Kentucky has tried to do that without success. That is why we are here today. But our Founding Fathers, who probably never envisioned television, had the foresight to know that freedom of speech was inviolate under our Constitution. They gave us the clear language of the Bill of Rights, and they gave us a third branch of government—the Supreme Court—to protect us.

Thank you, Mr. President. I yield the floor.

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

The ACTING PRESIDENT pro tempore. Who yields time?

If neither side yields time, the time will be equally divided on both sides.

Mr. MCCONNELL. Mr. President, Parliamentary inquiry: Does that happen automatically? If there are no speakers, the time runs equally on both sides?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum, and I ask that the time be equally divided under the quorum.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. FEINGOLD. Mr. President, how much time does the Senator desire?

Mr. WELLSTONE. Fifteen minutes.

Mr. FEINGOLD. I yield 15 minutes to the Senator from Minnesota.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank my colleague.

I wish to speak today about the campaign finance reform bill. This is a step in the right direction, for sure.

When this bill came to the floor in 1995, I was an original cosponsor with Senator THOMPSON. First of all, there are a couple of ways in which it is weaker than before. One of the ways has to do with raising the individual spending limits to $2,000.

It is interesting that during the last election 4 citizens out of every 10,000 Americans made contributions greater than $200. Only 232,000 Americans gave contributions of $1,000 or more. That was one-ninth of 1 percent of the voting-age population. By bumping the spending limits up, I think we just simply further maximize the leverage and the influence, and, frankly, the power of the wealthiest citizens in the country. I regret that. I oppose it. But it is part of the bill.

There was an amendment I had in the bill which would have changed a word or two in the Federal Election Commission Code that would have allowed States to voluntarily move toward a public system, a system of public financing, or partial public financing—a kind of clean money/clean election effort. I think we received 36 votes for that amendment. I would like to have seen the sponsors of the legislation support it because I think we could have passed it. I think it would have strengthened the bill.

Frankly, I think you would have a lot of energy back in the States—in the States of Minnesota and Nebraska—where people could say: Listen, if we in our State want to have some kind of public or partial-public financing, it would have to be an agreed upon spending limit applied to Federal races, let us do it.

I think it would have been wonderful to see the energy back at the State level and see people have more of a chance to organize. I dearly would have liked to have seen that amendment agreed to.

However, I think we need to have some victories. I think that passing this legislation—I thank both Senators MCCAIN and FEINGOLD for their effort—will whet people's appetite for more. I think we need victories in the reform area. That is why I support this legislation far more than any other reason. I don't like to increase spending limits. I would like to have seen limits on public financing if States wanted to move forward with that. I certainly will be introducing that bill separately. I certainly will have another vote on that. I think we can get to 50 votes. Ultimately, I would like to see a system of clean money/clean elections. But I believe overall, even with some misgivings, that their piece of legislation represents a huge step forward.

Let me point out again by way of analysis that the problem is 80 percent of the money is hard money. No one should have any illusion that if we pass this legislation we are getting big money out of politics. This legislation is the first step. It is not the last step. It is important that we have a victory. It is important that people in the country can say now we can do more. I hope that will be the direction in which we go.

I want to, however, talk to what I think is the strength of this bill, which has to do with the prohibition on soft money, getting unaccounted for money contributions—$200,000, $300,000, $400,000, $500,000 or whatever—out of politics. Of course, what the political parties said, at least initially what some people said is we can't give up all of that soft money; it will weaken political parties. I don't think so. I think it would be wonderful to see both political parties have to get back to more rational politics. I think it would be wonderful to see both political parties have to rely on smaller contributions. I think it would be wonderful to see both

political parties having to be more connected to the ordinary citizens, which I mean in a positive way, not in a pejorative sense.

The most controversial provision of this legislation was an amendment I submitted on the floor of the Senate. I would like to speak about this amendment. This was one of the toughest fights I have had in the Senate.

When you see an editorial in the New York Times in which you are characterized as not being a reformer, and having offered an antireform amendment, it is hard to take because, for me, ever since I have been in the Senate, after the 1990 election, reform has been at the top of my agenda.

I do not know how many amendments I have brought to the floor dealing with this whole question of how you get money out of politics. I do not know how many battles I have fought. I cannot recount them all. As I said, I was pleased to be one of original two cosponsors of this legislation.

But when this bill came to the floor of the Senate, my concern was that we would have a prohibition of the soft money going to the political parties and to corporations and unions but there would be no prohibition of soft money going to all kinds of other groups and organizations that would proliferate and would basically raise soft money and go on television with these sham issue ads, in which case I was not even sure the legislation would be a step forward.

If we had less of this money going to the parties but more of it going to all kinds of independent groups and organizations—''Americans For This'' and ''Americans For That''—that could raise $200,000, $300,000, $400,000, $500,000 at a crack and put it into these sham issue ads, I do not think we would be any better off.

So the amendment I offered to this bill said we would also have the same prohibition on soft money applied to all of these independent groups that applied to all of these sham ads. This is not to say that any organization cannot raise money and put on ads 60 days before an election. But what we do say is, you have to abide by the same spending limits as everybody else. That was the amendment.

I say to colleagues in this Senate Chamber, I do not think I have ever done this more than once in the last 11½ years—I hope not because it will come off a little self-serving—but I am really proud of that amendment, and I feel vindicated because—do you what want to know something?—in the House of Representatives, there were many Members who wanted to make sure we did not create this huge loophole, who wanted to make sure the prohibition of soft money would apply to these sham issue ads as well. That was part of the reason they supported this legislation.

So by having the same feature, the same provision in both bills, we did not have to make this change in the House It kept this bill out of a conference committee. I remind my colleagues of that. We did not have to go to conference committee. We were able to get the necessary number of votes in the House of Representatives. The bill came back to the Senate, and we are where we are.

This is one of the two major provisions of this campaign finance reform bill. I point out to Senators, on both sides of the aisle, in my view, this is one of the critical features because, again, I am pleased to go after the soft money. I wish we did not raise the hard money contributions. I still think we have a lot of work to go after big money in politics. But if we were going to have a prohibition on the soft money to the parties, and to the unions and corporations, and we were not going to be doing anything about all kinds of other groups and organizations that could then raise all this money, in huge sums, and then put on these sham issue ads, then we would not have been any better off. We would have had a huge loophole.

I am proud of the fact that I brought that amendment to the floor. I regret how tough a fight it was, although I do not mind tough fights. It was a victory. I certainly regret some of the characterization of that amendment. I would remind any number of different newspapers, as a matter of fact, subsequent to that battle in the Senate, many papers have now editorialized for that amendment. It is one of the critical provisions in the bill. It made it possible for us to pass it in the House because many Representatives were saying: Wait a minute, if you have this loophole, we are going to weaken the parties and we are going to enhance the strength of all these different interest groups everywhere. So it made it possible to pass it in the House. It meant that the House bill and the Senate bill—because certainly Congressmen MEEHAN and SHAYS wanted this feature in the bill—were in identical form. It meant we did not have to go to conference committee. It meant we got the bill before us. And it means we are going to pass the bill before us today.

So I am really proud of that work. For me, this has been 11 years of fighting over this issue. I do not think there is anything more important we can do than to pass this legislation. I am sure we will get cloture, if we have a cloture vote. I am sure this bill will pass by the end of the day. I am sure this bill will be a significant reform and a significant step forward. It will not be a great leap sideways.

I am sure people in the country will feel better about the fact we have passed some reform legislation. I am also sure no one in Minnesota and no one in the United States of America should believe we have now created a level playing field, where you do not have to be a millionaire to run, where you do not have to depend upon big money to win, where you get a lot of the big money out of politics and you get more ordinary citizens back into politics.

We are not there yet. This bill does not get us there. But do you know what? It is a step forward. It is a victory for the citizens in the country. I think it is a victory for good government. It is not Heaven on Earth, but it makes the political Earth a little better on Earth.

I am very pleased we are finally at this point. For me, there have been many years of struggle on this question. And I will finish where I started, and I will say this. I apologize, in a kind of a self-aggrandizing way—I am fiercely proud of the fact that this controversial provision and amendment was an amendment I brought to the Senate. We won it in a tough fight. There was plenty of attack over it. We needed to plug that loophole. We needed to make sure the soft money did not flow to all these different interest groups that would basically then take over all the campaigns. I am honored to be a part of this reform bill.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, I commend our colleague from Minnesota for his typical eloquence. I, too, think he offered a very valuable amendment and one that, as he has explained, ran the risk of sinking the legislation, but that did not make the amendment any less worthy. For oftentimes, in a situation where a proposal makes all the sense in the world, for a variety of other reasons it may make it difficult to continue the process.

But his point about treating some organizations differently than others is based on sound logic. I commend him for his efforts and his participation in the debate on this subject matter and for his longstanding commitment to the issue of campaign finance reform.

Today is, in fact, one of those historic days. It may not look that way at this particular moment in the Chamber where every seat is not occupied, but we are coming down to the final hours of what has been a very lengthy, contentious, and highly charged debate, going back years in this country. It will come to a culmination, I am told, possibly as early as this afternoon. We will vote, finally, on a package dealing with campaign finance reform.

It is an issue I have supported over the years, since arriving in the Congress, for that matter, in the other body, where I served for some 6 years before coming to the Senate 21 years ago.

The issue of campaign finance reform—in the wake of Watergate in the mid-1970s, which spawned the underlying legislation that dealt with Presidential races and campaign finance issues—has been an ongoing discussion and debate for many years and one I have associated myself with as both a Member of the other body and a Member of this body.

The action we are going to take later today is going to rewrite one of our Nation's Federal campaign finance laws in a very fundamental way. As has been stated over and over again, the Senate will approve legislation addressing what the American people believe is maybe the single most egregious abuse of our campaign finance system, and that is the raising and spending of unlimited and unregulated so-called soft money in our Federal elections.

It is not the only problem in our campaign finance laws. It is not the only answer. But it is the answer around which a majority of Members here could coalesce. I would have preferred a system that has been used at the Presidential level, which I think has worked very well. And every American President, regardless of party, has embraced it, going back to the late 1970s: Ex-Presidents Ronald Reagan, George Bush, Sr., the father, as well as President Clinton, and President Bush, the son. All have embraced the principle of matching campaign contributions, public support, with limits, prohibitions, and disclosure on the amounts spent on campaigns. To their credit, every Republican candidate and Democratic candidate have done so.

While it is extremely expensive to run for President, in the absence of that structure, I think we would have watched the cost in Presidential campaigns double, triple, maybe quadruple what it is today.

Today, there is not a majority of Members of this body or the any other body who would support a similar structure for congressional races, Senate or House. So no matter how good the idea may be, if you can't muster 51 votes here and a majority in the House, then the idea is only that: it is a good idea, but it lacks the ability to build the necessary majority support for the idea to become law.

This is the formula we have been able to coalesce around, to either ban, or place specific and real limits, on soft money in our Federal elections. While others may wish we had a different formula, it seems to me that not to do anything because you are unable to get your formula adopted would be a huge mistake.

I strongly support this approach, although I might have preferred others.

The exploding use of soft money that permeates our campaign system is, of course, having, in the minds of many, a corrupting influence, suggesting that large contributions by donors to officeholders, candidates, and political parties provide those donors with preferred access and influence over public policy.

Whether or not that is the case is immaterial, I have never suggested, I have never known of a particular Member whom I thought cast a ballot because of a contribution. In the minds of most people—a sad commentary—maybe not most, but many people, that is the case. That is what they think happens. So it then becomes a fact to them. Whether or not the reality lines up with that perception is something else. But if in the minds of Americans, our public citizens at large, in whom we must maintain the confidence of an electoral democratic process, our campaign financing system is so corrupted by large contributions, that is a stark reality with which we have to contend.

That is what our distinguished colleagues from Arizona and Wisconsin, Senators MCCAIN and FEINGOLD, and their supporters have had in mind over the years.

It is not unreasonable that the public perception of even the appearance of corruption erodes public confidence in the integrity of our electoral process and the independence of our democracy. If the McCain-Feingold/Shays-Meehan legislation does nothing else but eviscerate the soft money loophole, it will be considered the most effective reform in decades. I am convinced this legislation is narrowly tailored to strike the appropriate and constitutionally sound balance between the two competing values scrutinized by the Supreme Court in the historic case of Buckley v. Valeo: Protecting free speech and limiting ''the actuality and the appearance of corruption.''

It has been decades since Congress took similar comprehensive action with enactment of the Federal Election Campaign Act of 1971. The one thing we cannot afford to do is wait any longer. Now is the time to enact the McCain-Feingold/Shays-Meehan legislation. The American people have shown an incredible amount of patience in waiting for this law to be enacted.

I predict this debate will find its place in history. The debate, going back to the end of March and early April of 2001, will go down as one of the most significant, worthwhile debates in the recent history of this institution. Everyone had a chance to offer whatever amendments they wanted to on the bill. It was free flowing. It was actually an ongoing debate and discussion about ideas. The Senator from Minnesota, during that period, offered his amendment. We had many other ideas being offered by a number of Senators that had a chance for full discussion and airing. We then had the opportunity to vote those amendments.

I compliment the Democratic leader, TOM DASCHLE, for his willingness and his leadership in providing the opportunity for every Member to have full input in the rush of passage. This issue was of paramount importance to the continued health of our democracy. The majority leader's handling in the winding-down process of the campaign finance debate exemplified the Senate at its best. The Senator from Nevada, Mr. REID, played a very important role as well in seeing to it that everyone had a chance to be heard as we went through that historic debate last year.

Now, as we prepare for the final passage, the unrestricted opportunity to offer and debate amendments, the unrestricted opportunity for all parties to complete negotiations for a technical corrections bill, and the opportunity for all Members to be heard are the hallmarks of the world's greatest deliberative body. We should all be proud to be Members of it, as we finalize this product.

At the same time, I also acknowledge the influence and the passion the Senator from Kentucky has brought to this issue. He is the ranking member of the Rules Committee, the former chairman. I have said on other occasions, he embraces an unyielding belief in how the financing of our campaigns should be accomplished. There are concerns about the constitutionality of certain provisions, whether or not this is the way we ought to be regulating speech in this country. I disagree with Senator MCCONNELL with respect to his conclusions that most or some of these provisions are unconstitutional with respect to first amendment right to free speech and association. However, I admire people who have strong beliefs and are willing to fight for them. Whatever else one may say about the substance of this debate, we all admire the commitment and strength of Senator MCCONNELL and his commitment to his ideas and how hard he has fought for them.

Certainly Senators FEINGOLD and MCCAIN, Congressman SHAYS, and Congressman MEEHAN deserve the lion's share of credit for pursuing this issue. They have been unyielding in their determination in the face of a lot of criticism, a lot of people pushing in the other direction. They stuck with it. As a result, we are about to adopt historic legislation that will bear their names. Whatever else they may accomplish—and they have in many other areas—I know for Senators FEINGOLD and MCCAIN, the accomplishment of campaign finance reform will culminate one of their finest hours of public service. They have rightly received the acknowledgment for their efforts in bringing this bill to its final conclusion.

I support this legislation. I thank the Democratic leader and whip, Senator REID, the two sponsors of the bill in the Senate, and those who have opposed it. This has been one of the finer debates in which I have participated in my service in the Senate, the culmination of which is not going to alter the course of history, but it is going to bring a significant, profound, and worthwhile change in how we finance our campaigns for public office at the Federal level.

For all these reasons, I am privileged and honored to be associated with campaign finance reform legislation and commend those who have been engaged in this debate in helping us to arrive at this moment.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from Connecticut, in his usual way, passed a lot of accolades to everyone

except himself. This was one of the most difficult to manage bills I have seen on the floor. Senator DODD managed that bill as well as I have ever seen a bill managed during the time I have been in the Senate. I thank him for his compliments to the leader and to me. We just basically stood and watched him do all that he did to get to the point where it passed. It was extremely difficult. I thank him.

Based on a conversation I had this morning on the floor with the Republican leader, I ask unanimous consent that time beginning at 12:30 today be equally divided and controlled as follows: Senator LOTT or a designee from 12:30 to 12:40; Senator DASCHLE or a designee from 12:40 to 12:50.

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

Mr. REID. Senator DODD, who would normally manage the bill, has other obligations. The majority leader has asked that the time be controlled and designated by the Senator from Wisconsin, Mr. FEINGOLD, whose name is associated with this important legislation.

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

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from Nevada. I strongly agree with him with regard to the outstanding job the Senator from Connecticut did in managing this bill. It was truly masterful and essential, given the open and difficult nature of the process. I thank him for his kind words.

How much time remains on our side?

The ACTING PRESIDENT pro tempore. There are 44 minutes at this time, not counting the time for the leadership just prior to the vote.

Mr. FEINGOLD. Thank you, Mr. President.

I am about to yield to one of the Senators who was very helpful on this issue. I have been through many of the turning points on this issue over 7 years. One of the clear turning points was the group of Senators who arrived after the 2000 election. None has been more loyal and helpful in the process than the Senator from Missouri. I am grateful for her support on this issue.

I yield 10 minutes to Senator CARNAHAN from Missouri.

Mrs. CARNAHAN. Mr. President, today marks the final stage for congressional action on campaign finance reform legislation. That we have reached this point is a testament to the leadership of my colleagues, JOHN MCCAIN and RUSS FEINGOLD. I thank them for their dedication. The American people are grateful to them for helping to restore our democracy.

Our Founding Fathers gave us a tremendous gift: the experiment in self-government, an experiment that embodies faith in mankind, a revolutionary idea of governance.

To those who say Americans have deviated from this course, to those who say Americans have become apathetic or disinterested, I say Americans cherish their democracy as never before.

Dating back to the birth of our Nation, numerous observers have visited America's shores to witness firsthand the wonders of this Government. In ''Democracy in America,'' Alexis de Tocqueville commented on the trust vested by the American people in their elected officials. He said:

> The electors see their representatives not only as a legislator for the state, but also as the natural protector of local interests in the legislature; indeed, they almost seem to think that he has a power of attorney to represent each constituent.

Certainly, De Tocqueville identified a sacred trust—a trust still held and cherished by the American people. We, as elected officials, must not jeopardize that trust. Voters understand the danger of money in politics. Voters understand that the so-called special interests can have an insidious effect on good government. They have seen Enron reel and topple. Between 1989 and 2001, Enron contributed nearly $6 million to Federal parties and candidates. It is fair for our constituents —many of whom lost their savings when Enron collapsed—to ask what Enron got in return. Now voters are calling for our Government to take action to prevent special interests from having the ability to whisper in the ear of elected officials simply because their campaign coffers have been filled.

The clarion call for action can no longer be ignored. We must have systemic change. The legislation before us today cleans up our system and strengthens our democracy. Banning unlimited contributions eliminates the very worst aspect of our campaign finance system: huge contributions that distort the democratic process.

Banning soft money will not make our system perfect, but it will cleanse our politics and make it possible for the voices of ordinary Americans to be heard. No longer will wealthy special interest groups have an advantage over average, hard-working citizens. By diminishing the role of money in politics, this bill will help to ensure that elected officials spend less time fundraising and more time doing the job they were elected to do.

This bill will strengthen democracy by strengthening the faith that Americans have in their elected officials and Government. No one understands the connection between campaign finance reform and love of country better than my colleague, JOHN MCCAIN. His service and his sacrifice for the Nation stand as an inspiration for all of us. His dedication to the cause of reform is a continuation of that service.

Vaclav Havel once said that ''democracy is like a horizon, always approaching.'' Democracy has always been a work in progress.

In fact, I am reminded of a story once told about President Eisenhower, who had a painting hung in his office—the Oval Office. It was a painting of the signing of the Declaration of Independence. The strange thing about the painting was that it was not completed. It was only two-thirds complete. There was some raw, unfinished canvas in one corner. Someone asked him: ''Why did you hang such a picture?'' He said: ''I found it in the basement of the White House. The painting had been commissioned many years earlier, but the painter had died before the work was completed.'' But Eisenhower hung it anyhow because he said it reminded him that democracy is an unfinished work and that there is room in the picture for all of us. Campaign finance reform reminds us that democracy is an unfinished work, and the passage of this bill will ensure us that there is room in the picture for all of us.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. FEINGOLD. Mr. President, I yield 5 minutes to one of our most steadfast supporters of this bill from the time we began, from the time we were sworn in together as Senators, the Senator from California, Mrs. BOXER.

Mrs. BOXER. Mr. President, I say to Senator FEINGOLD, thank you very much for your work on this bill that we are about to pass. You and Senator MCCAIN were steadfast, and you never gave up. You focused and you fought, and every time there was back sliding, you refused to give up. I think it is a model for all of us, and it is a model for young people to see that if you have a goal and you stick with it, and it is right, you are going to win in the end—eventually.

Having said that, I just hope this is the start of going back to one of the original ideas of Senators FEINGOLD and MCCAIN, which was really to limit campaign spending. There are a couple of wonderful things about the bill on which we are about to vote for which I want to say thank you.

No longer will Federal candidates have to go and ask for unlimited sums of money for our parties and be put in a position where, even if, of course, we are not going to give special privilege to the people giving it, it has that appearance of a conflict of interest. And the American people have every right to question what we do if they look and see the large sums of money we receive. I think the Enron scandal brought this home. I think people felt terrible that they had taken these sums. That was the system. They may have done absolutely nothing to help a company that had gone astray, but it looks bad.

I say to Senators FEINGOLD and MCCAIN, thank you for that provision.

Soft money is out of the picture for Federal candidates, and that is a good thing for us. We still have to raise, however, large sums of money. In the case of California, it is an obscene amount of money because of the cost of television, the cost of mail, the cost of

grassroots organizing in a State of 34 million people—we are talking about sums required in excess of $20 million. Believe me, when I say $20 million, that is on the low side of what you really need to spend in order to get your message across in light of vicious attacks that will come.

Another good thing about McCain-Feingold: Those vicious attacks that have come from large soft money contributions will not be able to come 60 days before your election. That is a big plus because that is what we find—that candidates at the end simply cannot respond to this barrage of activity.

So I feel personally grateful, going into an election cycle, that in 2004 candidates will not have this burden to raise hundreds of thousands of dollars from one source in soft money. That will not be allowed. I think that is good for the candidate. I think that is good for the country, it is good for the legislative process. We will not be hit by these last-minute ads with unregulated soft money at the end, to which we will be unable to respond.

I want to work on this further. We still have a big problem. One thing got knocked out of the bill, which was ensuring that the lowest rates would be available to us on television. That got knocked out of the bill. I am still forced, and so are my colleagues from these high-cost States, to have to scramble to raise funds from individuals to get our message out on TV.

Unfortunately—although I always run a grassroots campaign, as many of my colleagues do—in these large States, even if one works 24 hours a day, morning, noon, and night, one cannot meet all the voters, the millions of voters. We have to rely on TV and radio. It is very costly. We will still have to do that, a few thousand dollars at a time, which means we are going to be very busy.

Until we can limit campaign spending, we are going to be in this terrible situation. We all know, including Senator FEINGOLD, this bill is not the be-all or the end-all, but it is a strong start, and I am proud to stand shoulder to shoulder with my colleagues on this one. I hope we get an overwhelming vote and can celebrate the fact that, after all these many years, we are moving to get control of a system that is out of control.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. REED). The time of the Senator has expired.

Who yields time? The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from California. I could not agree with her more. This is a modest step, it is a first step, it is an essential step, but it does not even begin to address, in some ways, the fundamental problems that exist with the hard money aspect of the system.

I pledge to work with Senator BOXER and everybody else to continue the efforts to accomplish more.

Mr. President, how much time do we have remaining on our side?

The PRESIDING OFFICER. The Senator from Wisconsin has 32 minutes.

Mr. FEINGOLD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The senior assistant bill 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 yield 45 minutes of my time to the distinguished senior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, this issue has been talked about at great length, and has been the focus of attention in Washington, DC, but I do not believe it has been or is the focus of attention on Main Street, America.

We are coming to the end of the debate where it appears this bill will be passed by the Senate in the same form it was passed by the House, then sent to the President, and signed into law.

I wish this morning to talk about the issue that is before us and to explain why I am very strongly opposed to the bill. I think it is a case study in the power of special interest. I thank Senator MCCONNELL for his leadership on the issue.

I will begin with another observation. I congratulate Senator MCCAIN and Senator FEINGOLD. If there is anything we know about democracy, it is that majority rule does not exist in practice. In a democracy, intensity determines the outcome of debate on public policy. It is the willingness of often a small number of people who care passionately about something, who have overriding and burning interest, their willingness to stay with that issue and to fight for it day after day, week after week, month after month, and to ultimately wear down those who do not care equally.

Anyone who does not understand that does not understand American democracy. We are here today because of the intense desire of a relatively small number of people to see this bill become law. I congratulate Senator FEINGOLD and Senator MCCAIN. I believe they are both wrong, but they are not wronghearted. In my opinion, they are wrongheaded on this issue even though they both believe that what they are doing is in the interest of America. As Thomas Jefferson said long ago: Good men with the same facts often disagree.

Why am I so strongly against this bill? First of all, I am not running again. I am about to close out my public life and exit the public stage, as Washington expressed it.

I am profoundly opposed to this bill, first because it is clearly unconstitutional.

Elected officials take an oath to support and defend the Constitution against all enemies, foreign and domestic. In the early days of the Republic, the oath was taken very seriously. Officials took it as a charge to themselves, given their individual capacity. I went to Korea when the first real election in history had occurred, and they swore in a new President. It really came home to me how different our system is. When he swore on behalf of the people of Korea, he swore an oath to the people. Under our system we do not swear any oath to the people. I took no oath to the people of Texas. The oath I took was to uphold, protect, and defend the Constitution against all enemies, foreign and domestic. That was the oath.

In the early days, each individual who took that oath took it upon themselves to make a judgment, to determine what was and what was not constitutional. Since they had put their hand on the Bible, they took constitutionality issues very seriously. I am sure John Marshall, when he introduced judicial review in his famous Supreme Court rulings that had a profound, positive impact on America, never foresaw the day would come when Members of Congress might put their hands on the Bible and swore to uphold, protect, and defend the Constitution and then say: It is not up to me to make a determination as to whether something is constitutional; that is up to the courts.

Long ago, 24 years ago, when I took the oath, I did not say I swear to uphold, protect, and defend the Constitution based on what the courts may some year in the future decide. I swore to uphold, protect, and defend the Constitution given my ability to read and understand that document.

On that basis alone, I oppose this bill. This bill is as blatantly unconstitutional as any bill which has ever been written, any bill which has ever been adopted by the Congress of the United States.

I want to mention two areas where it is clearly unconstitutional. I am a free man and an American, and if I discovered that living in College Station, TX, was a new Thomas Jefferson—and I am waiting for another one to come back—and I wanted to sell my house and raise money to tell the country about it, do I not have that right?

When the Founders wrote the first amendment, they were not concerned about commercial speech. They were concerned about free speech, and they wrote: Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof or abridging the freedom of speech or of the press or the right of the people to peaceably assemble and to petition the Government for the redress of grievances.

Does anybody doubt that my right to sell my property and tell the Nation another Thomas Jefferson is in our midst is guaranteed under the first amendment of the Constitution of the

United States? How dare anybody tell me I cannot sell my property or mortgage my future, or disinherit my children in order to tell the world there is another Thomas Jefferson.

The Founding Fathers would be amazed that any such proposal could ever be considered seriously. They would be astounded it could happen.

I am hopeful that the Supreme Court will use the flaming letter of the Constitution to strike down this bill.

The second problem with this bill has to do with equal justice under the law. If I am the New York Times, I am a for-profit company. My stock is on the New York Stock Exchange. I am driven by the same motives—many of our colleagues would say greedy motives—as every other for-profit institution in America. Does anybody doubt the New York Times, the Washington Post, or the Dallas Morning News is a for-profit business? If they doubt it, they should have been on the Commerce Committee when the head of the Washington Post testified in favor of legislation to prevent any telephone company from getting into the communication business to compete with the Washington Post.

The New York Times is a for-profit enterprise, and so is the New York Stock Exchange. They are both equally committed to making money. They are both driven by the bottom line.

They are both good investments today. Yet under this bill the New York Times has freedom of speech. They can editorialize all they want in editorial space that would cost hundreds of thousands, and perhaps millions of dollars, for the New York Stock Exchange to purchase. They can routinely state their views on the editorial page and, quite frankly, through their news reporting, and they do it every single day on the front page and on the editorial page. They have a right to do it. But why should the New York Times have a larger say in the election of the President of the United States than the New York Stock Exchange?

When did God decree freedom of speech existed only if one owns a newspaper or a television station or if they are a commentator? What about people who work for a living and who want to be heard?

How can we write a law that treats the New York Stock Exchange differently from the New York Times?

What this bill provides is unequal speech, privileged speech. So I am opposed to this bill because it is patently unconstitutional.

Let me try to explain, as best I can in the time I have, how all of this came about, in my opinion, and what this is all about. First of all, you have heard the endless hollering about political influence. Political influence arises from the fact people want to influence the Government. In fact, the Founders understood that and they wrote it into the first amendment of the Constitution that the right to petition the Government would not be abridged.

People want to influence the Government for two reasons, it seems to me. One, the Government spends $2 trillion a year. Most of it, it spends without competitive bidding. The Government grants privileges worth billions of dollars, grants special favors routinely, even sets the price of milk to benefit people who have assets of $800,000 by stealing from schoolchildren who are poor. That is the Government, and people want to influence it.

The second reason people want to influence Government is because they love their country and they want to affect its future. I assume no one is interested in preventing that kind of influence. This bill does that.

Let me set that aside because that is not what we are debating. Does anybody believe if we stop this massive flow of money into the process, that the Government is going to stop setting the price of milk? Does anybody believe if we stop this soft money corruption of the political process, that the Government is not going to give away $2 trillion this year? By limiting the ability of people to petition their Government, we do not eliminate political power; we simply redistribute it. We take it away from one group; we give it to another.

The proponents of this bill would have Members believe that by banning soft money we are reducing political influence. We are not reducing political influence at all. We are redistributing political influence. Who are we taking it away from? We are taking it away from people who are willing and able to use their money to enhance their free speech guaranteed by the Constitution. Who are we giving it to? We are giving it to the people who have unequal free speech under this bill. We are giving it to the media. We are giving it to the so-called public interest groups. What a misstatement of fact. These are the same people, the Common Causes and the Ralph Naders who won't tell you where they get their money.

Under this bill, Ralph Nader can come to my State and denounce me as he has on many occasion. I wear it as a badge of honor. But he will never have to tell anybody under this bill where he gets his soft money.

We have had ads run in favor of this bill by groups spending soft money. They are not talking about banning their ability to spend it. They are talking about banning everybody else's ability to spend it. What blatant hypocrisy. But there it is.

What this bill does is not reduce political influence but redistribute it, take it away from working people who commit their own money to enhance their speech and give it to the media and the special interest groups that use the media to magnify their speech.

Is it not amazing when you list those who support this bill, they all fall into the category of the people who gain political power from the passage of this bill? The New York Times never tires of editorializing in favor of this bill. But they are perhaps close with the Washington Post as the biggest beneficiaries of this bill, because their speech will still ring while the speech of others will be muted. So a one-eyed man is king in a world of the blind.

Mr. McCONNELL. Will the Senator yield?

Mr. GRAMM. I am happy to yield to the Senator.

Mr. McCONNELL. The New York Times and the Washington Post editorialized on this subject an average of once every 5½ days for the last 5 years.

Mr. GRAMM. But they have done more than editorialize. They have engaged in a type of McCarthyism. Let me explain.

Every day we read in the paper that the Senator from Kentucky or the Senator from Texas or the Senator from Rhode Island or the Senator from Wisconsin get so much money from Arthur Andersen or Enron or U.S. Steel. Yet, verifiably, none of us ever received money from Arthur Andersen or Enron or U.S. Steel or any other company. Those who say we did, know we did not, because it is illegal. Corporations cannot contribute to campaigns.

Yet all one has to do is open the daily paper to find that almost on any issue now, as this has turned into a great symphony, almost on any issue that is being debated, if you care about something, everybody who agrees with you who has ever contributed to you is listed—but not as individuals. They are listed by what profession they are in or what company they work for.

It is McCarthyism to say that all the accountants who contributed to me—and God knows if there is a living CPA who has not contributed to me, shame on you; shame on you—every CPA in America should have contributed to me. I understand debits and credits. I have spent a political lifetime talking about balancing the books. If you are a CPA and you have not contributed to me, you may be guilty of malpractice.

This is the point. To say that the people in my State who work for Arthur Andersen were representing Arthur Andersen when they contributed to me is totally false and it is exactly the guilt-by-association process that the media has denounced over and over again. Yet in the most effective way, they promoted this bill. They have committed McCarthyism routinely. Routinely. I defy them to go to any accounting firm in America—and there isn't one where there are not a lot of people who have supported me—and find where there was a directive from the company to give me money. Everybody knows that is a felony. That is illegal.

Yet long ago the Washington Post, the New York Times, and virtually every other newspaper in America stopped saying a Senator received contributions from employees of Arthur Andersen. They say he received funds from Arthur Andersen.

It is not just editorializing every 5 days. It is changing the very meaning

of words, and distorting the very English language to create this conception that somehow the whole system is corrupted by free speech, all the while knowing they will be the biggest beneficiaries of limiting other people's free speech.

The Dallas Morning News, I am proud to say, the most important paper in my State—maybe I should say the Houston Chronicle—has always endorsed me. But in any election I probably have 80,000 or 100,000 individual donors and they contribute and give me the ability to tell my side of the story. So if the newspaper or the television station or somebody who has the ability to express an opinion has an opinion different than mine, I have an opportunity to tell my side of the story. Under this bill, that ability is limited, and that is profoundly wrong and unconstitutional.

The problem, it seems to me, goes even further because in the end we are tilting the balance of power to a very small group of people. It was the involvement of people in contributing their money that destroyed the smoke-filled room, that ended the back-room deal, that literally brought politics into everybody's living room. This bill is a movement back to the smoke-filled room. This concentrates political power in fewer and fewer and fewer hands. This is fundamentally anti-democratic. It violates what the Founding Fathers understood as being important.

The Founders knew the country was not peopled by angels because they were not angels. The Founders understood that people had their own special interests, that people could have corrupt views. So they provided the maximum number of people with influence so the evil of the few was offset.

As I often say, I love the issues that are hotly debated. Because if politicians know they are going to catch hell no matter what they do, they will normally do the right thing. It is when nobody is paying attention on one side and everybody on the other side is organized that bad things happen.

I have heard my colleagues say: I don't want these outside groups involved in my election. Pardon me? Since when was it their election? When I am running for public office, it is not my election. It doesn't belong to me. It belongs to the people of Texas. Often, when I ran, there have been mean groups that have come to the State and said bad things about me.

This election does not belong to me. It does not belong to my opponent. It belongs to the people—and not just the people of Texas because I am a United States Senator. I cast votes that affect people who live everywhere. My service has affected people who live in every State in the Union, every town in every State in the Union. They have a right to be involved in my campaign. They don't have a right to vote, but they have a right to speak.

Many of my colleagues have said: I don't want those groups involved. There is an inconvenience in free speech—if people aren't saying what you want them to say. But is it not dangerous to end their ability to speak? If this bill really stood—and I do not believe it will—I think you would have a concentration of power in the media and in these special interest groups that use the media—Common Cause, Nader—it would be harder and harder for people to get their view out if their view differs with the established power structure. More and more decisions about who wins elections would be made by editors and by special interest groups.

There will be more smoke-filled rooms—I don't guess people smoke anymore, but whatever it is they do in these rooms, there will be more of it. You will have more athletes elected, you will have more celebrities elected.

The problem is, this new Thomas Jefferson may not be a star. He may not even be attractive. He might not be extraordinarily articulate. The original Thomas Jefferson was a very poor speaker, from all we know. But his ideas were revolutionary. In fact, I think if you had to choose the most important man of the last thousand years—you would have to give it to two people: Thomas Jefferson for political freedom; and Adam Smith for economic freedom. The two of them together had the revolutionary idea of our time.

I am afraid, under this bill, that we will not discover the next Thomas Jefferson. I am afraid, under this bill, that other things will be more important. As you narrow the vision of a great country, you narrow its future. The Bible says, ''Where there is no vision, people perish.''

I wonder what will occur when the American people are ready to be led in another direction, but the power structure does not want to go there. How are the people ever going to hear the other side of the story?

These are very important issues. We have never debated an issue more important than this. Yet there is no interest in this issue because, as a result of all these years of distorting the English language, keeping up a drumbeat, gradually politicians have been worn down. Now people can say: I can violate the Constitution, I can endanger the future of America, or I can get a bad editorial in the New York Times. Of course they decide they do not want the bad editorial in the New York Times.

So that is where we are. I am relatively confident this bill will be struck down by the Supreme Court. What a paradox it will be, what a happy day it will be for me and for the Senator from Kentucky, since this bill has no severability clause in it, if it is struck down, only the parts struck down die. What a great triumph for freedom it would be if all of the parts of the bill that limited free speech were struck down as unconstitutional, and only the part of the bill that enhances free speech by simply updating for inflation the limits on individual contributions remained. Could it happen? It has happened before.

My colleagues on the other side of the aisle are going to vote for this, in large part because they believe this tilts the playing field toward them.

It may very well be that it will not. It may very well be that, in the end, we did not fulfill our oath, but our Constitution is a powerful document, and when we pass a law and the President signs it because of the pressures of the moment and the consensus in the media, then it has to stand the test of the Supreme Court. They are only across the street. But across the top of their building is written, ''Equal Justice Under Law.'' This bill destroys equal justice under the law. And anyone who could sit under that roof with a good conscience is going to feel called upon to take the Constitution seriously and will strike down this law. In doing so, they will live up to the high expectations of the founders.

Let me conclude by congratulating the Senator from Kentucky. It is fun to be in front of television cameras. It makes you feel important. It gives you sort of a notoriety. People recognize you. It doesn't last very long, but they do. And it is awfully easy to stand up and defend things that are popular. It is very difficult to defend ideas that are unpopular, to be attacked every day in the media because of the position you take.

There are not many people who are tough enough to do that. There are probably only three or four—five people in the Senate, and I am being generous.

A lot of people get into politics because they want to be loved. Then, when an issue comes along where your principles are on one side and love is on the other, it is hard.

I have watched and I have read those editorials vilifying the Senator from Kentucky. I know it has been hard, and I just want to say that I don't know whether they will ever build a monument to the Senator from Kentucky, but he is already memorialized in my heart. I will never forget the fight he has made on this bill. I thank him.

The Constitution does not work by itself. It requires a few good men. The Senator from Kentucky is one of those good men.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FEINGOLD. Mr. President, I suggest the absence of a quorum, and ask that the time be equally divided.

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

The clerk will call the roll.

The bill 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, unfortunately, he has left the floor, but I just wanted to thank the distinguished Senator from Texas for his brilliant speech outlining the deficiencies of the bill, which will pass later today. I am extraordinarily grateful for his overly generous comments about my work on this issue. I assure him that the vote today is not the end. There is litigation ahead. We will have announcements about the litigation team in the near future. I share the hope of the Senator from Texas that the unfortunate parts of this bill, which he outlined so skillfully, will indeed be struck down in the courts. I can assure him that we are going to give it our best shot and that we will have an extraordinarily talented legal team spanning the illogical divide in this country to take this case forward and to give it our very best effort and to protect the first amendment, which he outlined so skillfully in his comments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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 ask unanimous consent that the time under the quorum call about to begin be equally charged against both sides.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FEINGOLD. 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. FEINGOLD. Mr. President, I yield myself such time as I need.

Mr. President, on September 7, 1995, 6½ years ago, the senior Senator from Arizona and I introduced the first version of the McCain-Feingold campaign finance reform bill. It was a different bill from the bill we are about to pass today, but it was a different world then. The Senate that year was controlled by the Republican party. The majority leader was Bob Dole. The occupant of the White House was a Democrat, Bill Clinton, still in his first term. Still far in the future, unimaginable to any of us then, were an impeachment trial, an impossibly close Presidential election, and of course, September 11.

The world of campaign finance was much different, too. Still to come was the 1996 Presidential campaign with campaign finance abuses that by now we refer to in shorthand—the White House coffees, the Lincoln Bedroom, the Buddhist temple fundraiser, Roger Tamraz. Still ahead were the extraordinary revelations of the Thompson investigation concerning fundraising abuses by both political parties. Still in the future was the explosion of phony issue ads by outside groups and by the political parties—hundreds of millions of dollars spent to influence elections through a loophole that assumes that the advertising is not meant to influence elections.

Most amazing, as I look back on these many years, is the growth since then of the soft money outrage, which has become the central focus of our campaign finance reform effort over the past several years. When we first introduced our bill—I have to be honest about this—soft money was still in, if not its infancy, then, at the most, it was in its adolescence.

When we first introduced the bill in 1995, banning soft money was on our list of provisions, but we listed it, actually, as the sixth component of the bill, coming after, believe it or not, the problem of reforming the congressional franking privilege. I noted in that speech, with some emerging outrage, that the political parties had raised—I kid you not—''tens of millions of dollars'' in 1995 alone, a figure that, of course, is absolutely nothing compared to what we see today.

The soft money loophole surely came of age in the 1996 elections, and has only kept growing since then. In the 1992 election cycle, the parties raised a total of $86 million. In 1996, that number more than tripled to $262 million. And in 2000, soft money receipts nearly doubled again to $495 million, nearly half a billion dollars.

As the world of campaign finance has changed, so has the McCain-Feingold bill. In late 1997, in the wake of the Thompson investigation, we reluctantly concluded that we needed to first focus our efforts on closing the biggest loopholes in the system: the soft money and the phony issue ads. But narrowing the bill, obviously, did not make it easy to pass. As those two loopholes have grown in importance, and more and more money has flowed through them into our elections, the commitment of the major players in the political system to protect them has only increased.

Indeed, there was a time when the opponents of campaign finance reform called soft money ''sewer money'' and proposed banning it in their own alternative bill. Now, instead, they champion soft money as essential to the health and stability of the political parties and that it is somehow now protected by the first amendment, even though they wanted to eliminate it and called it ''sewer money'' before.

But a few things have not changed a bit since Senator MCCAIN and I began this journey together. One is our commitment to bipartisan reform. Both Senator MCCAIN and I mentioned this in our first speeches in 1995. We knew then that a partisan effort on this issue would be doomed to failure.

In my speech, I noted that we were both speaking to Members of both parties about our bill, and that ''we are not dividing up the Senate because this has to be a product of the Senate.'' This had to be a product of the whole Senate, both parties.

That hope was put to the test last year when this body engaged in an extraordinary 2-week floor debate on campaign finance reform, with an open amendment process and a vote on final passage for the first time since 1993. We had 27 rollcall votes in that debate. Thirty-eight amendments to the bill were offered and 17 were adopted. This bill is truly the work product of the Senate as a whole. That is a major reason why it will soon be headed to the President for signature.

Another thing that has not changed since 1995, of course, is the need for reform. If anything, it has increased as much as the amount of soft money contributed to the parties has increased. In 1995, I noted that the public had reason for concern when big money was being poured into legislative efforts such as the telecommunications bill and regulatory reform legislation. Since then, the list of legislative battles where money has seemed to call the shots has gotten longer and longer: the bankruptcy bill, product liability legislation, the tobacco wars, financial services modernization, the Patients' Bill of Rights, China MFN. I could, obviously, go on and on.

I have called the bankroll on this floor more than 30 times since June 1999. These days, major legislation almost never comes to this floor without interests, often on both sides, that have made major soft money contributions to the political parties. We need to look no further than the work we do on this Senate floor to see the appearance of corruption—the appearance of corruption—that justifies banning soft money.

A few years ago an advocacy group unveiled a huge ''FOR SALE'' sign and held it up for an afternoon on the steps of the east front of the Capitol. We have seen similar images for years in political cartoons. A constituent once wrote to me that perhaps Senators should wear jackets with corporate logos on them like race cars. We laugh at these images, but inside we cringe, because this great center of democracy is truly tainted by money. Particularly after September 11, all of us in this Chamber hope the public will look to the Capitol and look to the Senate with reverence and pride, not with derision. Our task today is to restore some of that pride. I believe we can undertake that task with our own sense of pride, because we know it is the right thing to do, and we know it has to be done.

Another thing that has not changed since we first introduced the McCain-Feingold bill in 1995 is the determination of the opposition to defeat reform. Early in 1996, when we were approaching our first vote on the McCain-Feingold bill and the first filibuster against our bill, a coalition began to meet to plot our defeat. The Washington Post

described the coalition as ''an unusual alliance of unions, businesses, and liberal and conservative groups.''

I called them at the time—and continue to call them—the Washington gatekeepers: the major players in politics and policy in this town for whom campaign money is the currency of influence.

The National Association of Business PACs even began to run ads against House Members who cosponsored the bill, and they threatened to withhold financial support in the next election. Even before our bill had seen its first debate, the status quo had organized to kill it. And their efforts have continued unabated throughout the last 6½ years.

The opposition has plainly made our task more difficult, but it also now makes our victory more satisfying. Because as we stand on the verge of enacting this major accomplishment, we in the Congress who have supported this effort know we have acted not out of self-interest, and not for the special interests but for the public interest. This bill is for the American people, for our democracy, and for the future of our country.

When a previous effort to reform the campaign finance system failed in an end-of-session filibuster in late 1994, then-Majority Leader George Mitchell said this on the floor:

> The fact of the matter is, Mr. President, every Senator knows this system stinks. Every Senator who participates in it knows this system stinks. And the American people are right when they mistrust this system, where what matters most in seeking public office is not integrity, not ability, not judgment, not reason, not responsibility, not experience, not intelligence, but money.

This bill will not fix every problem in our campaign finance system. The Presiding Officer and I have talked about this throughout the years of his steadfast support for our efforts. This bill will not miraculously erase distrust and suspicion of the Congress overnight. It will not completely end the primacy of money in politics that so disturbed Senator Mitchell. But the bill is a step in the right direction. It is a step in the right direction.

After so many years of effort, and so many disappointments, the public has reason to be gratified by what we are about to do, and to look with hope to what we can accomplish together when the monkey of soft money is finally lifted off our backs.

As elated as we are about finally finishing this long battle for reform, I cannot leave the floor without noting that the war is not over. We must be vigilant as the Federal Election Commission promulgates regulations to implement the legislation. And, of course, we face a certain court challenge by opponents of reform who will argue that it violates the Constitution.

I assure my colleagues of two things: First, we have had one eye on the eventual court challenge ever since we started this process. This bill has been carefully crafted to take account of the Supreme Court's decisions in this area. Can I guarantee that every provision will survive a Court challenge? Of course not. But I can tell you that we have done our very best to design these reforms in a constitutional manner.

Second, we plan to be active participants in the legal fight that will undoubtedly end in the Supreme Court of the United States, perhaps as early as a year from now.

We will be similarly active in pressing the FEC to promulgate regulations that fulfill—that fulfill, not frustrate—the intent of the Congress in passing this bill. The Senator from Arizona and I did not fight for 6½ years to pass these reforms only to see them undone by a hostile FEC. The role of the FEC is to carry out the will of the Congress, to implement and enforce the law, not to undermine it.

I call on each of the Commissioners, regardless of political party or personal views on our reform effort, to be true to that role and to the oaths of office they took.

I urge my colleagues to join with us in overseeing the crucial work of the FEC and to participate in its rulemaking proceedings where appropriate.

In addition, even after we have enacted this law, there will be other reforms to do. We need to look at the cost of broadcast advertising and consider whether those having a license to use the public airwaves ought to be required to provide free airtime to promote democratic discourse during election campaigns.

In my opinion, we need to again consider the possibility of public funding of congressional elections, following the very successful experience with clean money systems in Maine and Arizona.

Finally, we must remain vigilant to guard against the next abuse of the campaign finance system when it comes, as it surely will.

I thank all of my colleagues for their patience and their support. I know this battle has been difficult for many of them. The pressure to preserve the status quo was intense. Inertia is a powerful force against change. We have all compromised at least a little in order to achieve this final result. Many Members have cast difficult votes. They have sometimes followed Senator MCCAIN and me down a path without knowing exactly where it would lead. I am grateful for the trust they have shown in us, and I thank them from the bottom of my heart.

Before I close, I pay special tribute to my partner in this effort, the Senator from Arizona. When Senator MCCAIN called me shortly after the 1994 elections and asked me to join with him in bipartisan reform efforts, I could never have imagined we would be standing here together on this day on the verge of a great victory for the American people. He just didn't tell me how long it would take. I truly believe his courage and dedication, demonstrated in so many ways over so many years, are the reasons the Bipartisan Campaign Reform Act of 2002 will soon become the law of the land.

My respect for him has grown with every challenge we have faced together. He is a great legislator, a great leader, and, above all, a great friend.

Our work on this bill, JOHN MCCAIN, has been the highlight of my professional life. Your friendship means more to me than you will ever know. Thanks, JOHN.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I think I am the last Senator on this side of the aisle who served on the conference committee that produced the bill that was declared unconstitutional in Buckley v. Valeo. In the 8 years I served as assistant Republican leader on the floor, many times I was involved in debates concerning actions to try to get back to the subject of campaign reform.

On May 26, 1983, I introduced the constitutional amendment to allow Congress to regulate and limit expenditures and contributions in Federal elections.

In 1986, I put in the RECORD a campaign finance study which showed very strong public opposition to publicly funded congressional campaigns, and I have maintained this stance against publicly funded campaigns for Congress since.

In 1986, Senator HOLLINGS introduced a constitutional amendment, and I cosponsored that with him, again trying to limit expenditures in Federal elections.

In 1987, I was part of the debate on S. 2, which would have provided publicly funded Senate campaigns. And it was my argument then that we should have full disclosure of soft money and that the issue ad sponsorship and subsidized mail rates for 501(c) nonprofits should be regulated, as well as limiting the PAC influence on our elections.

In June of 1987, I introduced S. 1326, which required unions, corporations, PACs, and all parties to report all attempts to influence Federal elections, including voter registration and get-out-the-vote drives. It would have required notice and disclosure of independent expenditures and prohibited coordination of independent expenditures, but it would have increased contribution limits for individuals facing wealthy opponents.

I am pleased to say that at that time I was ranking member of the Committee on Rules, in 1987, and that Senators MCCONNELL and MCCAIN cosponsored S. 1326.

In this Congress, I voted to send the Senate campaign finance bill to conference committee and stated at the time it was my hope that a conference would produce a fair and balanced bill. This bill has not gone to conference. Instead, now we have a bill that tilts the balance of power away from accountable political parties towards

nonprofit interest groups whose donors are often shielded from disclosure. These nonprofits often exist side by side: 501(c)(3) and 501(c)(4) corporations use tax-deductible contributions to support their overhead expenses, which allows them to spend more money on issue ads which are not regulated by this bill.

As ranking member of the Rules Committee in 1987, I tried to eliminate all soft money. That legislation, I believe, would have provided substantial new disclosure requirements to rein in the nonprofit groups which now overwhelm the political process.

In terms of this legislation, I have reached the conclusion that it, too, is unconstitutional. If the bill that was reviewed in Buckley v. Valeo was unconstitutional, this one surely is. It does not provide a level playing field. It does not deal with the pernicious problem of 501(c)(3) and (c)(4) nonprofit corporations. I will not put it in the RECORD now, but Senator Kasten at one time made a study of the influence of those corporations, and he has been gone for a long while. Their influence has grown. This bill just gives them more and more power over the election process.

In my opinion, we should stop picking at the edges of this issue and pass a constitutional amendment to solve the problems created by the Supreme Court in the Buckley case.

I shall vote against this bill.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, we are concluding a great debate that has lasted for years. I compliment the primary sponsors of this legislation, Senators MCCAIN and FEINGOLD, for their tenacity, perseverance, and stubbornness in making this event happen. They have been very committed to their cause, and I compliment them for that. I like to see my colleagues and friends who have very strong beliefs work to enact legislation to implement those beliefs. They have done that today. They will be successful today. I congratulate them and compliment them.

I also compliment my friend from Kentucky, Senator MCCONNELL, as well as Senator GRAMM, for their tenacity in opposing this particular legislation. I happen to agree with them on the substance of the issue. It is great to see a deliberative body, a body that is able to have friendships that are very strong and opinions that are very strong, express itself and do so in the form of debate and with significant discussion. We have done that. We have done it, frankly, over the course not just of this legislative session, but over 2 or 3 years.

Looking at the substance of this legislation, we have had a great debate. We have had good leadership. We have had very dedicated individuals who have committed a great portion of their legislative career either promoting or opposing this legislation. It has been good for the body. It has been a good debate on strong issues—strong issues because we are dealing with the Constitution.

When we are sworn to take the office of a U.S. Senator, we are sworn to uphold the Constitution. It is not done lightly. It is done by every Member of the Senate.

The Constitution says that Congress shall make no law respecting establishment of religion or prohibit the free exercise thereof or abridging the freedom of speech.

Our forefathers believed so strongly about this particular section, it is the first amendment. If you read the papers at the time, some of our forefathers thought that wasn't necessary; it was almost a given. Others said: No, we need to make sure we have the fundamental freedoms of religion, speech and assembly. Let's make it the first amendment, even though it is self-evident. So they did. This was the first amendment to the Constitution.

Now we are going to be telling some groups: Wait a minute you can influence ads or have involvement in campaigns, but if you want to say Senator GRAMM from Texas is the best Senator ever, you have to do that in a particular way.

Well, you can only do that with certain kinds of money, but not other kinds. Maybe you think he is the worst Senator and you want to run an ad that says that. Some groups are going to have a hard time doing that. They are going to have to abide by a host of new legalities. We are infringing on free speech, in my opinion; though that will ultimately be contested in court.

I happen to have faith and confidence in the judicial branch. It will be a very interesting argument before the Supreme Court, and I have no doubt that my colleagues from Arizona, Wisconsin, Kentucky and Texas, and perhaps from Oklahoma, will witness that argument before the Supreme Court. It may be one of the most exciting and interesting hours of debate before the highest court in the land. I look forward to that. I won't dwell on it much further. I think the bill has a constitutional problem. I think we are, in some ways, infringing and impeding free speech.

I want to talk about a few other components in the legislation. In some ways, I think the bill was improved from the way it left the Senate. When this bill left the Senate, it had a provision that said politicians get lower broadcasting rates—the so-called Torricelli amendment. I opposed that amendment vigorously, but I lost on the floor of the Senate. I am pleased to say the provision was removed in the House. I didn't think we should pass campaign reform, act as if we are doing great things, then have people find out that politicians get preferential rates over others.

I find the bill faulty when it says we are going to ban soft money, but with an effective date that is after the next election. If we are going to do it, shouldn't it be immediate? Now you are going to see a little splurge of spending, with groups trying to raise all the soft money they can. I also find the bill to be faulty from the standpoint that it will limit soft money going to local parties, but not soft money and other funding going to interest groups that will certainly try to influence elections. My guess is that we will hamper or reduce the influence and effectiveness of national parties. However, now you will soon have a lot of special interest groups that will grow in their influence, that will raise a lot more money, that will enhance their get-out-the-vote efforts, et cetera. So you are going to have a multiplication of special interest groups, where their power will grow, where they will be outside the national party effort, but they will be independent—maybe—and they will be very much trying to influence elections.

So instead of having, more or less, two major political parties, you may have a multitude of special interest groups with a lot of money trying to influence elections. We will have to see. I think you can win elections if you have the best candidates, no matter what the rules are. So it is in the interest of both parties to recruit the best candidates, and may the best candidates win.

One other comment where the bill falls short, and where I tried to fix this on the floor and was not successful. Unfortunately, we didn't make sure that all political contributions were voluntary. It bothers me to think we are going to have campaign reform and still have millions of Americans who are compelled to contribute to campaigns against their will, with which they don't agree, which they are opposed to; that is still the law of the land. It should not be, but it is. We could have fixed it and we did not. So to have, in this day and age, people who are compelled to contribute to organizations who make contributions to political parties against their will, I think is wrong. And then to say, yes, they can file for a refund, and maybe get some of it back eventually, after the election, after the money has been used for the purpose with which they disagree, is not a satisfactory solution. Nobody should be compelled to contribute unless they agree to it in advance, including any political cause with which they disagree. They should not be compelled to contribute to an organization or political party unless they agree with it. We didn't fix that in this legislation, unfortunately. I hoped we could pass legislation that I could be supportive of and which would meet the constitutional test. I don't believe this particular bill does.

I don't think this bill is the end of the world, as some have indicated. We will let the courts decide whether or not it is constitutional. The bill has some positive provisions. I think indexing or updating the hard money

amount, allowing individuals to contribute more is a positive change. So I compliment our colleagues for that. It has some other sections dealing with running against a millionaire candidate, and so on. I think those are good sections as well. So it is not all wrong. I do hate to pass anything that would curb an individual's or group's ability to participate in the election process.

Regretfully, I will be voting against this bill—again, with no angst or anxiety against the proponent. I compliment them for their efforts and their success today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I yield to the Senator from Arizona such time as he may require.

Mr. McCAIN. Mr. President, I thank the Senator from Oklahoma for his kind remarks about those of us who support legislation that he opposes. It is typical of his generosity and spirit. I thank him very much.

I also want to thank my friend from Wisconsin, about whom I will speak later on today. As always, he contradicts Harry Truman's old adage that ''if you want a friend in Washington, go out and buy a dog,'' because he is a very dear friend, and it has been one of the great privileges of my life to get close to him. It is a privilege knowing a truly honest man.

Mr. President, we have reached, at long last, the point when meaningful reform in our campaign finance laws is within our reach; in fact, it appears to be imminent. Although some of the measure's detractors have argued that the American public doesn't care about this issue, I think the outpouring of public support proves otherwise.

In an online poll conducted by Harris Interactive, 65 percent of those polled favored campaign reform to ban soft money. While my colleague from Texas, who spoke earlier, was correct in saying that we are determined, he is incorrect in asserting that we are a determined minority. In a CNN/Time poll last March, 77 percent of Americans described the current way in which candidates for Federal office raise money for campaigns as either ''corrupt'' or ''unethical.''

There has been some shrill media opposition to this bill, particularly in the weeks since the House approved it by a vote of 240 to 189. The support for campaign finance reform that is reflected in newspapers around the country, I think, more accurately reflects the public sentiment on the issue. Mr. President, I ask unanimous consent that several articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 17, 2002]

BUSH 2000 ADVISER OFFERED TO USE CLOUT TO HELP ENRON

(By Joe Stephens)

Just before the last presidential election, Bush campaign adviser Ralph Reed offered to help Enron Corp. deregulate the electricity industry by working his ''good friends'' in Washington and by mobilizing religious leaders and pro-family groups for the cause.

For a $380,000 fee, the conservative political strategist proposed a broad lobbying strategy that included using major campaign contributors, conservative talk shows and nonprofits to press Congress for favorable legislation. Reed said he could place letters from community leaders in the opinion pages of major newspapers, producing clips that Reed would ''blast fax'' to Capitol Hill.

''We are a loyal member of your team and are prepared to do whatever fits your strategic plan,'' Reed wrote in an Oct. 23, 2000, memo obtained by The Washington Post. ''In public policy,'' he wrote, ''it matters less who has the best arguments and more who gets heard—and by whom.''

The memo offers a glimpse into the relationship between Enron and the influential conservative, who was first recommended to the company in 1997 by Karl Rove, now a senior adviser to President Bush. Reed, head of the Altanta-based consulting firm Century Strategies, is the former executive director of the Christian Coalition and current chairman of the Georgia Republican Party.

Reed has drawn criticism for his 1997 work on one Enron issue, a Pennsylvania deregulation matter, but Century Strategies Vice President Tim Phillips said yesterday the firm's relationship with Enron continued until October 2001, when it ended by ''mutual agreement.''

Phillips said Enron never finalized the specific lobbying job outlined in Reed's memo, but he declined to answer questions about what tasks Reed did carry out for the Houston company. Reed did not return phone calls.

Last month Judicial Watch, a conservative watchdog group, asked for a federal investigation into whether Rove arranged the 1997 Enron contract to avoid paying Reed from Bush campaign funds. Others have questioned whether the Bush camp had hoped to ensure Reed's allegiance during the early days of the campaign.

Enron has offered little information about its dealings with Reed, one of many prominent political figures and commentators the company cultivated ties with before it collapsed in bankruptcy late last year. Rick Shapiro, the Enron vice president to whom Reed addressed the memo, declined to comment.

Reed's influence has escalated over the last decade. He claims credit for helping Bush win several key presidential primary victories, and he has served as an adviser to members of Congress. Since 1997, when Reed opened Century Strategies, his consulting clients have included political candidates and corporations with interests in Washington. He dropped Microsoft Corp. as a client in 2000 after charges that he had lobbied Bush on behalf of the software company while bush was governor of Texas.

The seven-page memo to Enron illustrates for the first time how Reed pitches his services to major corporations and how he draws on alliances he forged during ideological battles fought alongside conservative religious leaders. It also shows how political consultants have increasingly brought tactics once seen only in campaigns into the legislative arena.

Enlisting Reed's aid would have been in character with Enron's strategy of aligning itself with high-visibility political figures and pundits. Those who have accepted pay from Enron for their advice and other help include Bush economic adviser Lawrence B. Lindsey, Weekly Standard editor William Kristol, economist Paul Krugman, CNBC commentator Larry Kudlow, U.S. Trade Representative Robert B. Zoellick and incoming Republican National Committee chairman Marc Racicot.

Reed referenced his previous Enron work in the October 2000 memo, noting Enron had seen his ''capabilities at work in the 1997 effort in Pennsylvania,'' where Reed helped Enron build support for electricity deregulation. ''Since that time, we have built a formidable network of grass-roots operatives in 32 states,'' he wrote.

Reed offered to mobilize that network in an effort to deregulate the electricity market. At the time, Enron was seeking open access to the nation's power grid so it could compete with traditional utilities.

Reed's memo stresses that his firm's ''long history of organizing these groups makes us ideally situated to build a broad coalition'' benefiting Enron. He said Enron's arguments for deregulation were less important than commanding attention by enlisting the aid of elected officials' friends and supporters.

''There are certain people—a friend or family member, key party person, civic or business leader, or major donor—whose correspondence must be presented to the [elected] official for his personal reading and response,'' Reed wrote.

Such prominent figures could act as surrogates for Enron while pressing lawmakers to rewrite statues, Reed said.

''We have the capacity to generate dozens of high-touch letters from an elected official's strongest supporters and the most influential opinion leaders in his district,'' he wrote. ''Elected officials and regulators will be predisposed to favor greater market-oriented solutions if they hear from business, civic, and religious leaders in their communities.''

Reed's memo said his organization had a record of harnessing the ''minority community'' and the ''faith community'' to support his clients.

Reed proposed two lobbying strategies, one costing $177,000 and the other $386,500.

''I will assume personal responsibility for the overall vision and strategy of the project,'' he wrote. ''I have long-term friendships with many members of Congress.''

Reed proposed sending 20 ''facilitating letters'' to each of 17 members of the congressional commerce committees that handle deregulation. Under the proposal, Enron would pay Reed's firm $170,000 for generating the letters, each signed by a third party.

Reed asked Enron to pay his firm $25,000 to generate letters to the editors of newspapers, each signed by a prominent figure. ''These op-eds and letters are then blast faxed to elected officials, opinion leaders and civic activists for use in their own letters and public statements.'' He said his firm had recently ''placed'' opinion pieces in The Washington Post and the New York Times.

A $79,500 telemarketing campaign would have cold-called citizens and offered to immediately patch them through to Congress.

''For one recent client, we generated more calls to a U.S. Senate office than had been received since impeachment'' of President Bill Clinton, he wrote. ''The result was a major victory for the client.''

Finally, Reed said he had enjoyed ''great success'' in using conservative news-talk programs to spread his clients' message to ''faith-based activists.''

''Our public relations team has extensive experience booking guests on talk radio shows, and has excellent working relationships with many hosts,'' he wrote, proposing a $30,000 fee.

''We look forward to working with Enron,'' he said.

[From the Washington Post, Mar. 19, 2001]

WHY THIS LOBBYIST BACKS MCCAIN-FEINGOLD

(By Wright H. Andrews)

As a Washington lobbyist for more than 25 years, I urge Congress to make a meaningful start on campaign finance reform and pass the McCain-Feingold bill. While many lobbyists privately express dismay and disgust with today's campaign finance process and are in favor of reforms, most have not expressed their views publicly. I hope more lobbyists will do so after reading this ''true confession'' by one of their own.

I am not an ivory-tower liberal, nor do I naively believe we can or should seek to end the influence of money on politics. I have engaged in many activities most reformers abhor, including: (1) making thousands of dollars in personal political contributions over the years, (2) raising hundreds of thousands of dollars, including ''soft money,'' for both political parties and (3) counseling clients on how to use their money and ''issue ads'' legally to influence elections and legislative decisions. Why, then, does someone like me now openly call for new campaign finance restraints, at least on ''soft'' money and ''issue'' advertising? Quite simply because, as a Washington insider, I know that on the campaign finance front things have mushroomed out of control. In the years I have been in this business I have seen our federal campaign finance system and its effect on the legislative process change dramatically—and not for the better.

I believe that individuals and interests generally have a right to use their money to influence legislative decisions. Nevertheless, I know that lobbyists, legislators and the interests represented increasingly operate in a legislative environment dominated by the campaign finance process, and its excesses are like a cancer eating away at our democratic system.

There is no realistic hope of change until Congress legislates. I readily admit that I will continue, and expand, my own campaign finance activities—just as will most of my colleagues—until the rules are changed.

Right now there is an ever-increasing and seemingly insatiable bipartisan demand for more contributions, both ''hard'' and ''soft'' dollars. The Federal Election Commission has reported that overall Senate and House candidates raised a record $908.3 million during the 1999–2000 election cycle, up 37 percent from the 1997–1998 cycle. The Republican and Democratic parties also raised at least $1.2 billion in hard and soft money, double what they raised in the prior cycle. Soft-money donations from wealthy individuals, corporations, labor groups, trade associations and other interests have shown explosive growth. In addition, millions of dollars in unregulated ''non-contribution'' contributions are being plowed into the system through ''issue ads.''

Today's levels of political contributions and expenditures are undercutting the integrity of our legislative process.

Ironically, congressional lobbyists in general are better, more professional, more ethical and represent more diverse interests than in the past. Our elected officials today also are generally honest, hard-working and well-meaning. But millions of Americans are convinced that lobbyists and the interests we represent are unprincipled sleazeballs who, in effect, use great sums of money to bribe a corrupt Congress.

Many citizens believe that using money to try to influence decisions is inherently wrong, unethical and unfair. While supporting reforms and recognizing citizen's concerns, I disagree; I find little problem with political interests seeking to influence elected officials through contributions and expenditures at moderate levels, provided this is publicly disclosed and not done on a quid-pro-quo basis. The First Amendment allows every individual and interest to use its money to try, within reason, to influence Congress. And influence comes not just from political contributions; it also comes from using money, for example, to hire lobbyists, purchase newspaper ads and retain firms to generate ''grass-roots'' support.

I nonetheless think the time has come to temper this right. We have reached the point at which other interests and rights must come into play. Campaign-related contributions and expenditures at today's excessive levels increasingly have a disproportionate influence on certain legislative actions. Unlimited ''soft'' money donations and ''issue ad'' expenditures in particular are making a joke of contribution limits and are allowing some of the wealthiest interests far too much power and influence.

Moreover, the ability of legislators to do their work is being reduced by the demands of today's campaign finance system. Many, especially senators, now must devote enormous amounts of time to fundraising.

Any significant new campaign finance limits that Congress adopts will have to survive certain challenges in the Supreme Court. If Congress carefully crafts legislative restrictions, the court will, I believe, uphold reasonable limits by following reasoning such as it used in the Nixon v. Shrink Missouri Government PAC case, in which it noted that ''the prevention of corruption and the appearance of corruption'' is an important interest that can offset the interest of unfettered free speech.

Some lobbyists continue to support the present campaign finance system because their own abilities to influence decisions, and their economic livelihoods, are far more dependent on using political contributions and expenditures than on the merits of their causes. Others feel strongly that virtually no campaign contribution and expenditure limits are permissible because of the First Amendment's protections. And some, like me, believe additional restraints on campaign finance are required and allowable if properly drafted.

As to those in the last category, I invite and encourage them to work with me in Lobbyists for Campaign Reform, a coalition to urge Congress to pass meaningful campaign finance reforms, starting with the basic McCain-Feingold provisions.

[From the Washington Post, Mar. 5, 2002]

JUST DO IT

The Senate has already voted once in favor of campaign finance reform legislation; now it's time to step up again and finish the job. Last month House reformers won passage of their version of the bill, fighting off ''poison pill'' amendments to produce legislation that the Senate could accept without a conference. Since that vote, even two senators who oppose the bill have acknowledged that it's time to move ahead on this issue: Sens. Gordon Smith (R–Ore.) and Ben Nelson (D–Neb.) said they won't support a filibuster to block the measure. But Kentucky Republican Sen. Mitch McConnell, a leading opponent, continues to seek delay. Today he is expected to ask Senate Republicans to help him hold up consideration of the bill until he can win approval of a package of what he describes as technical amendments. But Republicans shouldn't go along. Sen. John McCain (R–Ariz.) says it's time to bring the measure to a vote, and he's right. Stop the foot-dragging. Majority Leader Tom Daschle ought to bring the House bill to the floor as soon as possible. Senators should approve it, rejecting any amendments that would force a conference, and the president should sign it. The bill, as we've said before, doesn't solve every problem or close every loophole. Some needed reforms aren't addressed; other problems will doubtless arise as time goes on. But this measure takes on the trouble that's dragging down the system right now: the exponential growth of unregulated ''soft-money'' donations from corporations, unions and wealthy individuals. This flood of money, nearly $500 million in the 2000 election cycle, eats away at public trust by creating the sense that those big-money donations aim to buy access. It creates an atmosphere in which at least some businesses feel obliged to contribute in order to protect their interests. It blows away the limits that the 1974 campaign finance law attempted to impose on the influence of the wealthiest donors.

This is a system that needs changing. The bill would do that by banning soft-money contributions to national parties and taking federal candidates out of the business of soliciting big soft-money gifts for political parties. A majority of both houses is on record in support of these reforms. It's now up to the Senate to make sure the effort doesn't falter. End the delaying tactics. Just do it.

[From the Washington Post, Feb. 11, 2002]

ARMAGEDDON

We don't see it in quite the same apocalyptic terms as Speaker Dennis Hastert, who likened this Wednesday's House vote on campaign finance reform to Armageddon. But the vote is plenty important. Lawmakers can wash some $500 million in big-money contributions out of the federal system: the cash from corporations, unions and wealthy individuals that was supposed to be banned from individual campaigns but that parties and officeholders have learned to use for the benefit of specific candidates. These are the funds that often come from players who give to both sides in a contest, contributions clearly aimed at buying access to officeholders. It's long been clear that this corrupting flood should be stanched. The House has recognized it twice before, when members passed essentially the same legislation that will be before them on Wednesday. Now they need to summon the courage to do it again, when it counts.

It's because the vote actually matters that it might feel like the end of the world to Mr. Hastert. He and other Republican leaders are putting on the pressure, warning Republican members that the GOP stands to lose its majority in the House if this reform becomes law. Of course Rep. Tom Davis of Fairfax, who chairs the Republican House campaign committee, has been arguing the opposite, pointing out that his party has a big lead in raising the $1,000 contributions that would remain legal and taunting Democrats that they're the ones who would be hurt by reform. The truth is that incumbents on both sides of the aisle are addicted to the big bucks and, like all addicts, they'll say anything to safeguard their supply—including pretending to favor reform while they look for a hundred different ways to derail it. But most legislators also know that their dependence on big-money lobbyists hurts democracy and curdles public attitudes toward government. Reform will prevail if members who supported it before stay the course. ''There are a hundred ways to defeat this bill.'' Rep. Christopher Shays (R-Conn.) told reporters last week. ''But only one way to win.''

He ought to know: He's been down this road before. Reformers have been trying unsuccessfully to rein in the soft money system for many years. The bill he and Rep. Martin Meehan (D-Mass.) sponsored passed the House in 1998 and 1999. In both those years

the leadership tried to block a vote. Both times supporters began the unusual maneuver of gathering signatures for a discharge petition to require the measure to be brought before the House; leaders compromised when the petitions looked likely to succeed, and voluntarily scheduled votes. This year Speaker Hastert threw up the barricades again, only this time he didn't move until supporters actually obtained the required 218 signatures, a majority of the House. Local Republican Reps. Connie Morella, Wayne Gilchrest and Frank Wolf deserve credit for signing the petition despite the opposition of their own party leaders. Now the bill will come to the floor under a complicated rule that allows consideration of two substitute measures and a series of amendments.

The procedure may be complex, but the goal is simple: Pass the Shays-Meehan bill in a form that will allow the Senate, which has already passed a companion measure, to accept it without a conference committee. A vote that leads to any other outcome is a vote to kill campaign finance reform. That means members must reject the alternative proposed by Rep. Robert Ney (R-Ohio) and unfortunately cosponsored by Democratic Rep. Al Wynn of Prince George's County. That bill purports to cap soft money contributions rather than ban them outright, but it is sham reform. Its limits are so high that it would have permitted 80 percent or more of the soft money donations made in the last campaign cycle. Members must also reject ''poison pill'' amendments that would derail the bill in the Senate. And no one can get away with claiming that he or she is voting against Shays-Meehan because amendments approved in the Senate have made the reform bill too weak. The alternative to this bill is no real reform at all. And that's not an alternative that anyone, least of all voters, should accept.

[From USA Today, Feb. 15, 2002]

CAMPAIGN REFORM, AT LAST

Thanks, Enron.

Twenty-seven years after Watergate-era reforms sought to curb the clout of megabuck money in politics, Congress finally voted Thursday to close a loophole that has allowed the law to be flouted since 1988.

Following on last year's Senate passage of a similar bill, the victory is sweet. But it required a bitter, uphill fight against House leaders who shamelessly fought to keep a half-billion-dollar stream of ''gifts'' pouring in.

Ironically, reformers probably have the corporate scoundrels at Enron to credit for their success. For more than a decade, Republicans and Democrats, the House, Senate and White House took turns killing campaign reform. Twice in the late 1990s, House-passed reforms were blocked by Senate filibusters. Last year, the House sidetracked a Senate-passed reform bill.

This time, defenders of the seamy status quo were counting on an about-face by colleagues who previously had postured as reformers, confident changes would never become law.

Enron made that politically impossible. The company clearly enjoyed exceptional clout in energy-policy decisions and appointments, even though the $6 million Enron and its executives showered on federal politicians during the past decade didn't place it at the top of the list of generous special pleaders.

Still, Enron's outrageous abuse of investors and employees, coupled with its exceptional political charity—greasing the treasuries of 95% of the Senate and 67% of the House—made it a poster child for the sordid intersection of money and politics.

The long-overdue reform would largely prohibit what's called ''soft money''—dollars from corporations, labor unions and wealthy individuals that are given to political parties, then funneled into federal campaigns to avoid Watergate-era contribution limits. They made up the bulk of Enron's giving.

Reform still faces hurdles: repassage in the Senate over a filibuster threat and President Bush's equivocations. Even if the victory stands, those determined to keep buying what's euphemistically called ''access'' to politicians—access that ordinary folk don't have—are already testing new evasions.

The ultimate answer is public financing, allowing qualified candidates to run without pandering themselves to monied interests. Four states are trying that now.

But closing the outrageous loophole for special interests is a vital first step in restoring democracy to the democratic process.

Mr. MCCAIN. Mr. President, following the cloture vote, assuming the outcome of the vote is what I hope and believe it will be, I will again seek recognition to offer further comments on what I consider to be one of the most critical legislative measures on which I have had the privilege to work. Today's vote, as reflected in these and other countless newspaper articles and editorials, is about curbing the influence of special interests. Now is the time to enact real reform and return the power to the people and restore their faith in the Government.

Mr. President, next to me—the next speaker—is a person who played a very key and vital role in the formulation of this legislation. A lot will be written about how this 7-year odyssey came to an end. One of the chapters in that book will be the time when Senator THOMPSON, the Senator from Tennessee, and Senator FEINSTEIN, the Senator from California, engaged in delicate operations. The bill was basically dead when they began those negotiations. I won't go into the details of them. But through a near miraculous turn of events, because of the dedicated efforts of Senator THOMPSON and Senator FEINSTEIN, we reached an agreement on crucial parts of the bill, and we were able to move forward. I will be grateful to my friend from Tennessee for many reasons, but that is only one of them in the long list of debts that I owe him. I thank my friend from Tennessee, who will speak next.

I yield the floor.

Mr. FEINGOLD. Mr. President, I thank the Senator from Tennessee as well. He was there from the very beginning. He has been incredibly helpful on the floor and in negotiations. I yield him such time as he may require.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I thank my colleagues from Wisconsin and Arizona. Their leadership in this matter has been noted many times. It cannot be stressed too much.

It is another indication that people who are intent on doing something they believe is good for the country can, if they are willing to spend a few years on it, take something that has apparently little support and wind up having substantial support.

We are about to see that happen, and Senator MCCAIN and Senator FEINGOLD are to be congratulated for leading the fight, taking the slings and arrows, and doing something that I think is going to wind up benefiting our political system, this institution, and, most importantly, what we are supposed to be about more than anything else, benefiting the Nation.

It has been pointed out that there are problems with this legislation. It is pretty extensive. No doubt the opponents of this legislation are correct in that. I know of no legislation of this type that is not complex and without problems.

It has been pointed out there will probably be some unintended consequences. No doubt that is correct.

It has been pointed out that people will start from day 1, after this is over, looking for loopholes, looking for the soft spots. ''You cannot do anything about money,'' they say. And there is no doubt people will be looking for loopholes.

They even say that certain portions are unconstitutional. They are probably correct about that. Fortunately, we have a clause that will not cause the rest of the bill to fall. I believe the major portions of the bill and the more important parts of the bill are constitutional, according to decisions the Supreme Court has already made.

I am willing to concede those points. Those points are not unusual or indigenous to this bill. They are things we see all the time. Once we get through the meat grinder, the legislative process, we rarely come with a perfect piece of legislation. This has an awful lot of good in it, and it is going to do some good.

The argument that we will have to change it in another 20 years does not concern me that much. We had legislation that worked in this area for about 20 years, and it did a pretty good job. Then we had to change it, and that is what we are doing now. There is nothing wrong with that. There is nothing to be afraid of with regard to that.

We have to keep in mind the history—where we have been—to know where we are going. It is true that loopholes developed in the law. That is what we are about today. It has been said of the last law that was passed in 1974, major legislation, that it was a failure. I disagree. That law was a public financing system for Presidential elections, and it was pretty much an even playing field. The candidates spent about the same amount of money. There was not any scandal, Democratic or Republican, during that period of time. Sometimes the incumbent won, sometimes the challenger won. To me, that is the United States of America. That situation prevailed for approximately 20 years.

In the 1990s all that changed. We had an administration that was willing to

take chances with the law and legal interpretations that no one, until that point, was willing to take. We had a regulatory environment in which decisions were made that were inconsistent, contradictory, complex, and hard to understand.

If we put all that together, we wind up with the result we have today. But we should not denigrate the fact that we can legislate in this area to some good effect.

I have spent a lot of time in this Chamber talking about reasons we should not regulate in many areas. I believe the government closest to the people is the best. I believe in our principles of federalism. I believe State and local governments should step up and assume the responsibilities they traditionally have had in this country for 200 years. I believe all of that. But surely the most conservative of us must recognize that there are certain areas which are within the Federal province.

Certainly national defense comes to mind. Recently we have been working on our national parks and what is happening to them. Those are responsibilities the Federal Government has taken on. We have taken on the responsibility of our infrastructure and items of that nature.

I believe the election of Federal officials falls into that category. If we as a body cannot take a look at our system, why it is working and not working, and legislate in that area, I do not know in what area we can properly regulate. I have no problem stepping up to the plate, as we did in 1974, and saying we are going to place some limitations on contributions and we are going to have a system of Presidential campaigns where we are not going to have millions and millions of dollars of soft money pouring in from unions and corporations throughout this Nation. It worked for a good period of time, and we are about to do something that is going to work for another good period of time.

It is important that we keep in mind the nature of the problem we are trying to address. We are not federalizing something that does not pertain to the Federal Government. We are not creating some new regulatory scheme. We probably cannot get all the regulations under the current system in this Chamber. They are complex. They are confusing. They are extensive. We already have that system.

Explain to me the rules that pertain to what the State parties can do vis-a-vis the national parties. They can trade money back and forth, percentages for this, percentages for that. It would take the brain power of a nuclear scientist to figure it out. That is the current situation. So we should not be bashful about stepping up, recognizing the problem, and believing we can do something about it. It is our responsibility to do something about it.

What is that problem? The problem simply is this: We have gone from a situation in this country where we financed our Federal campaigns with small contributions and a lot of people to a system where we are more and more dependent on huge entities giving tremendous amounts of money and a future that points toward fewer people being involved in the process.

We have gone from a situation where the maximum contribution solicited was $1,000 to a situation where those raising the money would consider themselves foolish if they spent too much time on raising those hard dollars when they can pick up the phone to these big outfits and raise it many times that. You are not a player anymore unless you have $20,000, $30,000, $40,000, $50,000, or $100,000.

The same entities pick up our expenses for the convention. There is a tremendous amount of money now coming into play that was not there a short time ago. We have a system now that benefits the politicians and benefits the parties, and we try to make folks think it is our birthright. It has not always been that way. It is a recent creation, and it is not a good creation.

Why is it not good? It is not good to have legislators or Presidents be too dependent on people for whom they are supposed to be making laws that affect their lives. When the very people who have legislation before you are coming to you with greater and greater amounts of money for your political campaign, that creates a potential conflict of interest that we simply do not need. It does not look good. The American people think, the average Joe on the street thinks, that with that much money being paid to that few people, they are expecting something for it.

The PRESIDING OFFICER. Time has expired. Twenty-six seconds remain in opposition.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senator from Tennessee have 30 additional seconds.

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

Mr. THOMPSON. I appreciate that, Mr. President. I will wind up by saying we have a chance to address this constant scandal waiting to happen. We are making headway to do something that will reduce the cynicism in this country that will help this body, that will help us individually, and will trade increased hard money limits for the reduction of soft money, a tradeoff that will help challengers reach a threshold credibility when they want to challenge us in these races.

So I commend my colleagues for this legislation. There is much more good in this than ill, and I think it will help this institution and ultimately this country.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank my colleague from Tennessee for all his support and his excellent statement.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Mr. President, I want to add my voice to the many this morning who have spoken with some relief and satisfaction and confidence about the outcome of the vote. There are many who can take credit for the success we are about to experience, but none more than the colleague who is sitting to my left, Senator FEINGOLD. He and Senator MCCAIN have been extraordinary in their persistence and their willingness to negotiate, to compromise but yet to hold fast to the principles that make this legislation worthy of its passage and historic in its nature.

We are concluding one of the most important debates we will have had in this Congress. Thomas Paine, the famed revolutionary, once offered an explanation for why corrupt systems often last so long. He said:

> A long habit of not thinking a thing wrong gives it a superficial appearance of being right and raises, at first, a formidable cry in defense of custom.

That is certainly true of the way we pay for campaigns in this country. Our reliance on special interest money to run political campaigns is such an old habit that for a long time it had the superficial appearance of being right. But not anymore. The American people understand that special interest money too often influences who runs, who wins, and how they govern.

While there is still a vocal minority who deny it, a clear majority of this Congress and an overwhelming majority of the American people know our current campaign finance system is broken. Now is the time to fix it.

Almost 1 year ago, the Senate passed the McCain-Feingold campaign finance reform bill. At the time, we had 2 solid weeks of debate and we passed a good, strong bill. Opponents of reform in the House used every argument and excuse, every imaginable ploy, to stop the bill from becoming law.

For a while, it looked as if they had won, but 1 month ago the reformers turned the tide. The House passed the Shays-Meehan bill, and the President has indicated he will sign it. Now it falls to the Senate, which started this process, to finish it, and today with this vote we will.

I am a realist. I know this bill does not address every flaw in our system, and I know there are those who are already looking for ways to work around this bill. But as Senator FEINGOLD has often said, it does show the public we understand the current system does not do our democracy justice.

It curbs some of the most egregious injustices. It bans soft money, the unlimited, unregulated contributions to political parties. It curbs issue ads, those special interest ads that clearly

target particular candidates in an attempt to influence the outcome of an election. It calls for greater disclosure and increases penalties for violation of the law.

Often those who are the loudest and decry the abuses of our current system are the staunchest defenders of that system.

If you really are outraged by the abuses, you need to fix the system that invites them. If you want to fix the system, now is the time to do it. There are those who have argued and will continue to argue that in an attempt to make things better we will only make things worse. But since its founding, the goal of America has been to strive for that more perfect union our Founders envisioned.

To say we should not attempt to make things better begs the question: ''Is what we have now good enough?'' Is it ''good enough'' that half of the government has to recuse itself from an investigation of a failed company because it spread around so much money to those who were involved, to so many people in that community? Is it ''good enough'' that in every election the amount of money spent goes up and the number of people voting goes down? Is it ''good enough'' that the current system is more loophole than law?

If we look at the rising tide of money in politics, the influence that money buys and the corrosive effect it has on people's faith in government, the answer, then, is clearly no.

Ours is a government ''of the people, by the people, and for the people.'' It is not a government of, by, and for some of the people.

With this vote, we stand on the verge of putting the reigns of government back into the hands of all people. We owe that in large measure to the stewardship and commitment of our colleagues, Senators MCCAIN and FEINGOLD. Time and again, they have refused to compromise their principles in the face of incredible pressure, but time and again they have acted in the national interest rather than their respective partisan interests. So I thank them for their service to our Republic and to the Senate.

It has taken us a long time to get to this point. The last time Congress strengthened our political system by loosening the grip of special interest money was 1974, more than a generation ago. Congress may not have another chance to pass real campaign reform for yet another generation, long after most of us will have left.

Passing this bill will likely have a profound impact on each of us for the rest of our time here, and none of us can be absolutely sure what that impact will be. But we know this: The status quo is not acceptable and today it will end. The currency of politics should be ideas, not dollars. It is time for us to start putting the currency back into circulation.

After years of debate and months of delay, let us do this one final thing. Let us take the power away from special interests and give it back today to the American people where it belongs. We can do that today. The time is now.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 12:50 has arrived. Under the previous order, the clerk will report the motion to invoke cloture.

The senior assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Calendar No. 318, H.R. 2356, a bill to provide bipartisan campaign reform:

Russell D. Feingold, Tom Daschle, Tim Johnson, Byron L. Dorgan, Bob Graham, Daniel K. Inouye, Joseph R. Biden, Jr., Patty Murray, James M. Jeffords, Jeff Bingaman, Debbie Stabenow, Max Baucus, E. Benjamin Nelson, Harry Reid, Richard J. Durbin, Jon Corzine, Thomas R. Carper.

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

The question is, Is it the sense of the Senate that debate on H.R. 2356, an act to amend the Federal Election Campaign Act of 1971, shall be brought to a close?

The yeas and nays were ordered under rule XXII. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 68, nays 32, as follows:

[Rollcall Vote No. 53 Leg.]

YEAS—68

Akaka	Durbin	Lugar
Baucus	Edwards	McCain
Bayh	Feingold	Mikulski
Biden	Feinstein	Miller
Bingaman	Fitzgerald	Murray
Boxer	Frist	Nelson (FL)
Breaux	Graham	Nelson (NE)
Byrd	Grassley	Reed
Cantwell	Hagel	Reid
Carnahan	Harkin	Rockefeller
Carper	Hollings	Sarbanes
Chafee	Inouye	Schumer
Cleland	Jeffords	Smith (OR)
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Corzine	Kyl	Thompson
Daschle	Landrieu	Torricelli
Dayton	Leahy	Warner
Dodd	Levin	Wellstone
Domenici	Lieberman	Wyden
Dorgan	Lincoln	

NAYS—32

Allard	Bunning	DeWine
Allen	Burns	Ensign
Bennett	Campbell	Enzi
Bond	Craig	Gramm
Brownback	Crapo	Gregg
Hatch	McConnell	Shelby
Helms	Murkowski	Smith (NH)
Hutchinson	Nickles	Thomas
Hutchison	Roberts	Thurmond
Inhofe	Santorum	Voinovich
Lott	Sessions	

The PRESIDING OFFICER (Mr. CORZINE). On this vote, the yeas are 68, the nays are 32. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, is it correct that there are now going to be 3 hours of debate on the bill equally divided?

The PRESIDING OFFICER. The Senator is correct.

Mr. FEINGOLD. Mr. President, we are enormously gratified by the vote on cloture. We know that some Members who don't even support the underlying bill thought it was appropriate and correct to bring the debate to a close at this point. We thank all of our colleagues for such a tremendous showing of support to bring this issue to a conclusion.

With that, I am very pleased to yield 7 minutes to one of the strongest supporters of this legislation and a tremendous ally, the Senator from New York.

Mr. SCHUMER. Mr. President, I congratulate my colleagues, the Senators from Arizona and Wisconsin, as well as our majority leader, for the great job they have done. We even reached more than two-thirds. So if they ever change the law, go back to the old filibuster law, we will still have an ability to win this vote. My hat is off to both Senators for their focus, their steadfastness, and for their great victory today.

I rise in strong support of this bill on the campaign finance system. It has been a long time in coming, but we are now on the verge of making history. With this vote, we are one giant step closer to a new era of campaign finance, a new era of voter confidence in our government, and a new era of better and stronger democracy.

Again, I thank everyone, particularly Senators MCCAIN and FEINGOLD, and Senator DASCHLE, for their unyielding leadership and their dedication to seeing these reforms enacted. It takes more than you can even imagine to get something such as this done. Senators, you did it. Our Nation owes you our thanks.

We all know that soft money is slowly but inexorably poisoning the body politic. One hundred years ago, we outlawed corporate contributions to campaigns; we thought we did. Twenty-five years ago, we outlawed unlimited giving to campaigns, or believed we did then, too. But today soft money makes a mockery of all three of these rules. The $450 million in soft money raised by the two parties in the last election doubled the amount given in the 1996 election. It had no limit, but the size of the donors' bank account was obviously intended to influence Federal elections.

We have to restore the system of regulated contributions. If we don't, the cynicism and distrust and lack of engagement that are already so pervasive will continue to spread. Our citizens are increasingly tuned out from our democratic process. Voter turnout for the 1998 election was 36 percent, the lowest turnout for a nonpresidential election in 56 years. In presidential elections, turnout has declined 13 percent since 1960.

We all know that banning soft money won't cure all of this by itself, but it will help restore the impression and the reality that politics is more than a game played by and for only those who can afford to give.

This bill creates new requirements that will ensure the integrity of our campaign system. It bans national parties from raising and spending soft money. It bans Federal candidates and officeholders from raising soft money. It bans State and local parties from using soft money to pay for TV ads and election activities that mention specific candidates. It bans corporate and union funding of sham issue ads prior to elections, and it requires disclosure of individual and group donations for these ads.

Opponents of campaign finance reform claim this bill will harm grassroots politics because the spending limits will force the national parties to focus on national candidates and not on the local candidates. The bill's opponents have it wrong. Campaign finance will strengthen our grassroots political system by breaking the parties' reliance on a handful of very wealthy contributors and forcing them to build a wider base of small donors and grassroots supporters everywhere.

In addition, the bill includes a narrow exemption so that local political parties can raise a limited amount of soft money.

There are some who believe this infringes on the first amendment. I cannot believe the Founding Fathers thought that the right to put the same commercial on 5,112 times was intended to be protected by the first amendment. No amendment is absolute—not the first, not the second, not any of them. This seems to me to be a reasonable limitation.

In fact, I hope the Supreme Court will reconsider Buckley v. Valeo so that we can go further in terms of reform because this bill takes us almost as far as you can get given the constraints of Buckley. And that seems to me to be one of the worst decisions rendered by the Supreme Court in the last 25 years.

We take an important step by voting for campaign finance reform. I hope we will complete the job, either this week or next month, of strengthening our electoral system by passing electoral reform as well.

Chairman DODD has been heroic in his efforts to get the bipartisan bill finalized and back to the Senate floor. I will do everything I can to help him meet that goal. Once we have enacted this legislation and election reform—one that shuts down loopholes in financing of campaigns and the other that modernizes the actual voting mechanisms; one limiting some influence from the top, the other increasing influence at the bottom—we will have brought our democracy into the 21st century and made it stronger and more vital than it has been in years.

The first step, today's step, is to vote for campaign finance reform. I urge my colleagues to join me in doing what we all know is the right thing: to support this bill and to remove soft money from our elections.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I have permission from Senator MCCONNELL to yield myself 10 minutes.

Mr. LEVIN. Mr. President, I ask unanimous consent that following the Senator from Iowa, I be recognized for 10 minutes, as authorized by the Senator from Wisconsin.

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

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise to explain my opposition to this bill but also to point out that I voted for cloture because it is quite obvious that we have reached closure on this bill, and we might as well get to final passage and move on.

I could just as well vote yes and look like a reformer, but looking at it cynically and looking at the history of the 1974 legislation, previous reform attempts have evolved into a money machine for politics. Congress meant to reform the process in 1974, but it has been proven that legally money is going to find its way in to support political speech. I could find a way to rationalize voting yes on this bill to look like a reformer.

Still, down the road there are going to be people who are very astute at finding a way within the law to spend money in the support of political speech. Because the democratic process in the United States is so central to our way of life, there should not be any impediments whatsoever put in the way of getting political ideas adequately explored, particularly during a Presidential election. I am not going to look like a reformer. I am going to vote no on this legislation. And the reason is this: I see people get worked up about the fact that candidates spend large sums of money in their campaigns—I will use myself as an example. Every sixth year my campaign might spend roughly $2.3 million to get reelected. My campaign does. My junior partner from Iowa has generally spent about $6.5 million. But whether it is $2.5 million or $6.5 million, it is all spent to promote ideas. That is what our form of government is all about—the expression of ideas and the implementation of ideas. What is wrong with that? But to do so, I might spend, let's say, $2.3 million, to be reelected.

Now, why do people get all worked up about $2.3 million, when you watch the Super Bowl commercial on Super Bowl Sunday, and one 30-second commercial costs about $2.3 million? Are we ready to say that it is OK on one Sunday afternoon out of a year that it is OK for commercial free speech, for people to spend $2.3 million for a 30-second ad, and it is wrong for a candidate and his supporters for a whole year of an election to spend approximately that amount of money? No.

I think political speech is even more important than commercial free speech, and that we ought to do everything we can to perpetuate more political free speech than we do, instead of trying to curb it.

It is quite obvious that I think we should not pass this legislation. The American people deserve an open system—one that shines in the full light of day on campaign contributions, and that ought to be the ruling force—not the amount of money.

At the same time, we should make it easier for citizens to become engaged in the electoral process. However, the campaign finance bill before us contains fatal flaws. The one I am going to mention has been talked about so much that I almost do not need to repeat it. That is the most egregious problem with this legislation—the provision that limits the free speech of some organizations 60 days before an election. Whether it is an individual or an organization, why curb discussion of any political issue in America? Groups from across the political spectrum would be prohibited from communicating their views if they even refer to a candidate for Federal office. I don't think we should put a damper on any organization speaking at any time in the United States about political ideas, but especially 60 days before an election. Limiting political discourse at election time solves nothing and it curbs the advancement of democracy.

It also goes against the grain of one of our most fundamental rights, the right of freedom of speech. Political speech is what the authors of the Bill of Rights were talking about, although it has been expanded way beyond political speech, to even cover commercial speech.

But I also believe that the complete ban on soft money in this bill goes too far. Political parties raise this money to finance voter registration drives, get out the vote activities, and communications about issues that parties stand for. These are essential functions of a political party. They are also activities that increase voter participation.

Effective limitations on soft money are necessary to reduce real and perceived corruptions in the system, but a complete ban would undermine the role of national political parties. Who is going to fill the void in the process if we tie the hands of the parties? The

Democrats have always relied upon labor unions to man phone banks and get people to the polls. That would not change the result of this bill. The Republicans, however, don't have an external organization to fall back on. Republicans rely on the party to build and mobilize their grassroots network. This bill takes the Republicans' organizational ability and cuts it off at the knees, but it leaves the other party untouched. They have legitimate ideas that ought to be explored, but so do we. That is hardly a balanced approach.

A big reason why soft money spending has increased in the first place is the limitations on campaign contributions by individuals. The cap on individual donations has been frozen at the same level since 1974. This made the individual contributions work less and less over the years.

I am pleased that this bill increases the individual contribution limit amount and indexes it for inflation. It is high time we put more emphasis back on individuals by individual citizens instead of corporations or unions.

On the other hand, the new prohibitions on soft money will simply cause an increase in spending on other areas. For instance, spending on issue ads can impact a campaign but is not regulated. Some have advertised the new restrictions as getting the money out of politics, but they don't get the money out of politics—or they don't get rid of the money in politics. They only shift it from one place to another.

In fact, this point is illustrated by an article that appeared in Roll Call, February 21, entitled ''House Democrats Make Plans to Circumvent Campaign Reform.'' This article described a promise that was made, apparently, by the House minority leader to a group of Democratic Members. He assured them that he would help raise money for certain outside groups aligned with the Democrats, despite the new fundraising restrictions that he supported. These groups can then turn around and use this money to run unregulated issue ads to the benefit of Democrat candidates. This example belies the contention that a soft money ban will solve the problem of money in politics.

The best method of combating the influence of money in politics is to require full disclosure of campaign donations. I don't care even if it is to the penny. We can try to regulate ethical behavior by politicians, but the surest way to cleanse the system is to let the Sun shine in. We must allow the voters to hold candidates accountable.

I have been a longtime advocate of comprehensive disclosure requirements. In fact, this bill contains several positive reforms. It increases the number of times candidates have to report contributions to the FEC, and it makes report information more accessible to the public. This bill also increases penalties for campaign finance law violations and provides for tough new sentencing guidelines. These are precisely the sorts of reforms of which we should be doing more. However, some of the purported reforms in this bill simply won't work and may even be counterproductive. I am not the only one to spot the problems in this bill.

Recent editorials in the two largest newspapers in the State of Iowa highlight many of the same concerns I have just outlined.

Many attempts were made in both the House and the Senate to fix the problems with this bill, but to no avail.

If this bill passes in its current form, I believe we will have lost an important opportunity to enact a balanced and sensible package of real reforms to our campaign finance system. Therefore, I must reluctantly vote against the final passage of this bill.

Mr. President, I ask unanimous consent to print several editorials and an article in the RECORD.

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

[From the Cedar Rapids (IA) Gazette, Feb. 22, 2002]

NOT MUCH ''REFORM'' IN CAMPAIGN FINANCE BILL

How much reform will actually emerge from campaign finance legislation now being fine-tuned in Washington?

One has to wonder, given comments by Rep. Jim Nussle, R–2nd District, to the Gazette editorial board Monday. On the morning of its final vote, Nussle observed, he felt ''Shays-Meehan no longer looked like Shays-Meehan.''

One provision ''that was snuck in, in the middle of the night'' said the reforms don't apply to the 2002 election. ''If it's so bad, and so corrupting and so illegal and so rotten, then let's get rid of it,'' Nussle said. But that stayed in, so that makes me suspicious.

''The other thing that makes me suspicious is that you can borrow against soft money. You can borrow hard money with your soft money, and after the election, pay off your debt of hard money, with soft money. That was another exception.'' Soft money refers to unlimited and unregulated donations to national political parties. hard money, which falls under federal regulation, involves contributions by individuals to candidates or a party committee. ''Now all these parties are going to be borrowing money,'' Nussle said.

That didn't get much attention, Nussle continued, ''because Shays-Meehan has now become a slogan. You either vote for Shays-Meehan or you're against campaign finance reform.''

The final version of Shays-Meehan allows either party to build or buy a building, ''even though only one party is going to do this,'' Nussle continued: ''You can't do that now. You can't do any of those activities now, but they're all made exceptions as part of this bill.''

Nussle believes in full disclosure. That's the Gazette's long-held view. (He also said he doesn't use, raise or need ''soft money.'')

Nussle claims to be one of only 13 in Congress who fully disclose contributions, ''following the letter of the law.''

''I've always thought that maybe it should be the 13 of us who write the bill and not the other 400–500 and whatever that would be, because, quite honestly, unless you're willing to follow the law, you don't have much standing to complain about the law.'' Good point.

Reform? Change? No way. This legislation is only so much post-Enron chest-thumping—an attempt to appear to be doing something. Money, meanwhile, will just find new routes to intended targets. Had Congress enacted real measures to better assure that voters know who's contributing to who, at least then you'd have a basis on which to judge candidates.

[From the Des Moines Register]

CAMPAIGN ''REFORM'' WON'T WORK

While members of the U.S. House of Representatives engaged in what Speaker Dennis Hastert called political ''Armageddon'' over campaign finance last week, most Americans were riveted by a scandal unfolding at the Winter Olympics.

It's worth considering how the two events are alike, and how they are different. While both politics and sports would be ruled by merit, not money, the question is who makes the decisions.

What drew extra attention to the Olympics was the allegation of misconduct in the judging of the figure-skating competition. But putting aside the issue of possible corruption, the question is whether medals should be awarded by a panel of judges or by applause meters. Obviously, experts should make the call.

In the case of American-style democracy, however, the applause meter is supposed to rule, but a lot of people believe the meter is broken by the corrupting influence of campaign money. Legislation designed to fix it was passed by the House in the small hours of the morning Thursday.

But it no cure, and could make matters worse.

The Shays-Meehan campaign finance ''reform'' is advertised as preventing ''special interests' from buying influence in Congress. It would, among other things, ban ''soft money'' given to national political parties to evade the limits on contributions to individual candidates.

Like previous efforts to ''reform'' campaign financing, this one would simply channel the money into a different pocket. Just as the post-Watergate cap on individual contributions led to political-action committees and soft money. Those with the will and the wallet to influence the political process will find a way around this legislation, too, if it becomes law.

Meanwhile, the bill adds to the already burdensome regulatory bureaucracy that terrorizes the poor candidate who does not have an army of lawyers and accountants to figure out the rules. For incumbents with big treasuries, however, there is much to like in this bill: It doubles the amount an individual may give to a candidate for federal office, and it would prohibit ''special interest'' groups from putting ''attack ads'' on TV within two months of election day.

Besides raising obvious constitutional questions, this bill is wrong in principal. If people desire to spend their own money on a political candidate or a cause, they have that right under the First Amendment. ''Special interest'' include ordinary people in groups, whether it's the National Rifle Association or the National Abortion Rights Action League.

The law stops short of banning independently wealthy individuals from using their own money to get themselves elected. Why shouldn't someone with the same resources be able to put his or her money on someone else?

It is naive to believe it possible to legislate good behavior by politicians. Instead, let the democratic applause meter do its work: Give citizens quick and easy access to campaign-finance reports, and if they don't like what they see, they can boo the rascals off the ice.

[From Roll Call, Feb. 21, 2002]

HOUSE DEMS MAKE PLANS TO CIRCUMVENT CAMPAIGN REFORM

(By Alexander Bolton)

As comprehensive campaign finance reform nears its expected enactment, House Democratic lawmakers have already adopted strategies for redirecting the flow of large contributions to outside groups aligned with their party, a move they hope will help them regain control of the Chamber.

House Minority Leader Dick Gephardt (D–Mo.) has assured African-American members of his caucus that he will raise money for groups such as the National Association for the Advancement of Colored People (NAACP) and the Southwest Voter Project to pay for their voter registration and get-out-the-vote operations.

Reform legislation sponsored by Reps. Chris Shays (R–Conn.) and Marty Meehan (D–Mass.) that passed the House last week bans soft money but allows federal lawmakers to raise funds in $20,000 increments for outside organizations as long as those groups are ''nonpartisan.'' The loose restrictions would allow party leaders to direct hundreds of thousands of dollars for such groups.

Though the NAACP is officially nonpartisan, many Republicans believe it is closely allied with the Democratic Party. One GOP operative said Gephardt's plans are a cynical attempt to exploit legal loop-holes for political gain.

''It's disgusting they're crying for reform when they're already cutting deals with tax-exempt organizations like the NAACP that were playing politics in the 2000 election,'' said Matt Keelan, a prominent Republican fundraiser who has approximately 20 clients in the House.

Keelan and many other Republicans are still steamed over an NAACP-funded ad from the 2000 campaign that reminded black voters of the racially motivated murder of James Byrd Jr. They feel it was an implicit attack on then-Gov. George Bush's commitment to civil liberties, and one of the reasons Bush garnered few votes from the black community.

Other Democrats say they will also raise funds for outside groups to turn out the party's base on Election Day.

''I would formulate voter education and registration projects that would be funded by people like myself,'' said Rep. Alcee Hastings (D–Fla.). ''We can go to all the people that we know. There's no limit on nonprofit organizations.''

''The Democratic Party has to do that as well,'' Hastings added.

Gephardt pledged to raise the funds for outside groups last week during a private meeting with Reps. Jim Clyburn (D–S.C.), Bennie Thompson (D–Miss.), Lacy Clay (D–Mo.), Earl Hilliard (D–Ala.) and Carolyn Cheeks Kilpatrick (D–Mich.), who were wavering in the support for the Shays-Meehan legislation.

A representative from the NAACP also attended the meeting.

Republicans say the ability of outside groups to continue campaign activities on behalf of the parties is one of the reasons Shays-Meehan is unfair.

''The bill still does not create a level playing field,'' said Rich Bond, former chairman of the Republican Party. ''An inherent advantage has been given to outside groups that are predominantly Democratic.''

Clyburn, a onetime opponent who voted for the bill, said he switched his position because of Gephardt's assurances. Clay and Kilpatrick also voted for the bill.

However, some lawmakers were not convinced that outside groups could replace the party's grassroots activities, activities that will be curtailed by a soft-money ban.

''I've been involved in too many elections in my lifetime to leave questions unanswered to the point where I have to just take people at their word,'' said Thompson, referring to Gephardt's promise. ''The opportunity for [minority] participation and the opportunity for [minorities to participate in] elections in the South has been hard fought for.''

''I was not satisfied enough with what was on the table at the time to change my vote,'' he added. ''There were not enough specifics to give me comfort.''

Thompson's spokesman, Lanier Avant, said that state parties do not have the resources to mobilize voters.

''We have no confidence in the state parties to fund those efforts,'' Lanier said. ''We need the national soft dollars.''

''We'll see if [Gephardt] comes through on his word to redirect his money to the NAACP,'' he added.

Rep. Harold Ford Jr. (D–Tenn.), a supporter of Shays-Meehan and member of the Congressional Black Caucus, said that anxiety over minority voter turnout was unfounded.

''I believed all along those activities would not be harmed or undermined,'' said Ford.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, our Federal election finance laws are totally broken and a sizeable majority of the Members of Congress know the time has come to fix them. Enough is enough. We have had enough of the soft money loophole—with its contributions of unlimited dollars that fuel campaigns despite laws which are intended to strictly limit contributions to candidates. We have had enough of the candidate ads disguised as issue ads and paid for with money outside the statutory limits. And, we have had enough of the solicitations by our elected officials and the officers of our national political parties, soliciting huge sums of money by offering insider access to government decisionmakers.

In the 1970s, we passed laws to limit the role of money in Federal elections. Our intent was to protect our democratic form of Government from the corrosive influence of unlimited political contributions and the appearance of corruption which can be created when large sums of money are solicited by and for officeholders and candidates.

We wanted to ensure that our Federal elected officials are neither in reality not in perception beholden to special interests who are able to contribute large sums of money to candidates and their campaigns. Our election laws were designed to protect the public's confidence in our democratically elected officials.

For many years those laws worked fairly well. The limits they set seemed clear. Individuals weren't allowed to give more than $1,000 to a candidate per election or $5,000 to a political action committee, or more than $20,000 a year to a national party committee or $25,000 total in any one year. Corporations and unions were prohibited from contributing to campaigns, except through regulated and limited political action committees.

That is the law on the books today.

Yet over the past few years, we have see almost geometric growth of contributions of hundreds of thousands of dollars, even millions of dollars, from individuals, corporations, and unions, and even contributions from foreign sources. How is that possible, we ask.

Our pretty good law—setting limits on the size and source of contributions—had gaping holes punched in it, the largest of which is the soft money loophole. That is the loophole that allows parties to raise unlimited amounts of money from individuals as well as corporations and unions so long as they use the money for activities that don't expressly, explicitly advocate the election or defeat of a candidate. That's why you have a $1.3 million contribution to the Republican National Committee from just one company or a $450,000 contribution from one couple to the Democratic National Committee.

Yet, the Supreme Court in Buckley was clearly aware of the likelihood of persons trying to evade the limits by giving huge sums to the parties to help candidates. This is apparent in the Court's discussion in upholding the $25,000 overall limit under current law. In describing the legitimacy for the overall $25,000 limit, the Court called it ''a modest restraint,'' serving to ''prevent evasion of the $1,000 contribution limitation by a person who might otherwise contribute massive amounts of money to a particular candidate through the use of unearmarked contributions to political committees likely to contribute to that candidate or huge contributions to the candidate's political party.'' Those words precisely described a potential evasion of the intended limits on contributions to candidates by giving to parties. The Court explicitly said it was constitutional to stop it. But that evasion of our intent is exactly what is happening today with the soft money loophole, and that is exactly what this bill will stop.

So the Supreme Court saw clearly the possibility of efforts to get around the $1,000 contribution limit per election, and it ruled in Buckley that Congress had properly sought to prevent that by imposing the $25,000 overall cap on contributions from any individual in any calendar year. What the Court did not see, and what we did not see at the time, was the end run around contribution limits by using the soft money loophole.

The Federal Election Committee's recent figures show the tremendous growth in soft money fundraising. It reports that during the year 2001—a nonelection year—Democratic national party committees reported $69 million in soft money contributions or 26 percent more than in 1999; Republican national party committees reported $100 million in soft money contributions or 68 percent more than in 1999. The FEC states that soft money contributions have more than doubled for both national parties since 1997. The loophole

has destroyed the law. There are no effective limits.

How do the parties attract large soft money contributions? Often they offer access—access to decisionmakers in return for tens or hundreds of thousands of dollars. The parties advertise the sale of access for huge sums. It's blatant. Both parties do it—openly.

Large contributors to the DNC got to attend one of dozens of coffees with the President in the White House. Large contributors to the Republican Party were entitled to have breakfast with the Republican congressional leadership and lunch with the Republican Senate and House committee chairman of the contributor's choice. There are dozens and dozens of examples like this. The record is chock full of them, and should anyone want specific examples, I refer them to the six volume report in 1997 by the Governmental Affairs Committee on the state of our campaign finance system. That investigation collected ample evidence of soft money contribution of hundreds of thousands even millions of dollars destroying the contribution limits in federal law and creating the appearance of corruption in the public's eye.

Look at one case that surfaced in our 1997 hearings—the case of Roger Tamraz, a large contributor to both parties, who became the bipartisan symbol for what is wrong with the current system. Roger Tamraz served as a Republican Eagle in the 1980s during Republican administration and a Democratic trustee in the 1990s during the Democratic administration. Tamraz was unabashed in admitting his political contributions were made for the purpose of obtaining access to people in power. Tamraz showed us in stark terms the all too common product of the current campaign finance system—using unlimited soft money contributions to buy access. And despite the condemnation of Tamraz's activities, when asked at the hearing to reflect on his $300,000 contribution to obtain access, Tamraz said, ''I think next time. I'll give $600,000.''

Do these large money contributions create an appearance of improper influence by big contributors? In Buckley v. Valeo, the Supreme Court answered for the American people—it found an appearance of corruption created from the size of the contribution alone without even looking at the sale of access. The Court in that case upheld contribution limits as a reasonable and constitutional approach to deterring actual and apparent corruption of federal elections in the Buckley case. Here is what the Court said:

> It is unnecessary to look beyond the Act's primary purpose—to limit the actuality and appearance of corruption resulting from large individual financial contributions—in order to find a constitutionally sufficient justification for the $1,000 contribution limitation. Under a system of private financing of elections, a candidate lacking immense personal or family wealth must depend on financial contributions from others to provide the resources necessary to conduct a successful campaign. To the extent that large contributions are given to secure political quid pro guos from current and potential office holders, the integrity of our system of representative democracy is undermined. Of almost equal concern is . . . the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions. Congress could legitimately conclude that the avoidance of the appearance of improper influence ''is also critical . . . if confidence in the system of representative government is not to be eroded to a disastrous extent.''

The Court went on to say:

> And while disclosure requirements serve the many salutary purposes discussed elsewhere in this opinion, Congress was surely entitled to conclude that disclosure was only a partial measure and that contribution ceilings were a necessary legislative concomitant to deal with the reality or appearance of corruption inherent in a system permitting unlimited financial contributions, even when the identities of the contributors and the amounts of their contributions are fully disclosed.

The Buckley Court repeatedly endorses the concept that contributions without limits, alone, are enough to create the appearance of corruption and to justify the imposition of limits.

For instance, the Buckley Court said:

> Not only is it difficult to isolate suspect contributions but, more importantly, Congress was justified in concluding that the interest in safeguarding against the appearance of impropriety requires that the opportunity for abuse inherent in the process of raising large monetary contributions be eliminated.

Selling access in exchange for contributions would only take the Court's concerns and justification for limits a step further.

What do these unlimited soft money contributions allow the parties to do? They allow them to pay for ads which they claim are ads about issues, but in reality, they're ads clearly intended to help elect or defeat candidates.

In Buckley, the Supreme Court held that we could put limits on electioneering-type communications under specified circumstances. The Court said that Congress could limit contributions for those communications that ''in express terms advocate for the election or defeat of a clearly identified candidate for federal office.'' In one of the most famous footnotes of a Supreme Court case, the Court tried to describe what it meant by its finding, citing what has come to be known as the seven magic words and phrases: ''communications containing . . . words . . . such as: 'vote for,' 'elect,' 'cast your ballot for,' 'Smith for Congress,' 'Vote against,' 'defeat,' 'reject.'" So long as these types of words are not used in a communication, a television ad for instance, the Court held, the communication would not be subject to contribution limits.

Over time, the parties have developed ads which avoid these types of words but which by anyone's estimation are promoting the election or defeat of a candidate.

Listen to this ad from the Republican National Committee on behalf of then Presidential candidate Bob Dole.

> Mr. Dole. We have a moral obligation to give our children an America with the opportunity and values of the nation we grew up in.
>
> Voice Over. Bob Dole grew up in Russell, Kansas. From his parents he learned the value of hard work, honesty and responsibility. So when his country called, he answered. He was seriously wounded in combat. Paralyzed, he underwent nine operations.
>
> Mr. Dole. I went around looking for a miracle that would make me whole again.
>
> Voice Over. The doctors said he'd never walk again. But after 39 months, he proved them wrong.
>
> A Man Named Ed. He persevered, he never gave up. He fought his way back from total paralysis.
>
> Voice Over. Like many Americans, his life experience and values serve as a strong moral compass. The principle of work to replace welfare. The principle of accountability to strengthen our criminal justice system. The principle of discipline to end wasteful Washington spending.
>
> Mr. Dole. It all comes down to values. What you believe in. What you sacrifice for. And what you stand for.

That ad was called an ''issue ad'' and paid for with the unlimited contributions of soft money to the Republican National Committee. That is viewed as permissible under current law because that ad does not explicitly ask the viewer to vote for or support Bob Dole. It just spends its whole time extolling him before election day. If it added words at the end that say what the ad is all about, ''Vote for Bob Dole,'' it would be treated as a candidate ad, not an issue ad, and would be subject to the hard money limits; that is, it could only be paid for with contributions subject to limits. Any reasonable person who hears that ad knows it is an ad supporting the candidacy of Bob Dole. It is not an ad about welfare or wasteful government spending. It should have to be paid for with regulated or hard money contributions. But that is not the case today. It will be the case when we pass McCain-Feingold.

The Democrats avail themselves of the same loophole. In the 1996 Presidential campaign, the Democratic National Committee ran ads on welfare and crime and the budget which were basically designed to support President Clinton's reelection. At our hearings on the campaign finance system, Harold Ickes was asked about these DNC ads and the extent to which the people looking at the ads would walk away with the message to vote for President Clinton. ''I would certainly hope so,'' he said. ''If not, we ought to fire the ad agencies.''

To get around the reasonable limits of the 1974 law, parties and candidates seized on the Buckley Court's seven magic words by arguing if any election activity was not expressly for the election or defeat of a candidate—that is it did not include those seven magic words—then it was outside the scope of the law's limits. In a terrible irony then, the Buckley case unwittingly contained the seed—the seven magic words test—for undermining the law.

The McCain-Feingold bill will address the subterfuge of sham issue ads, and does so in a clear, direct manner that will not subject it to concerns of vagueness, which need to be foremost in our minds when addressing matters of free speech. The bill would require any radio or television ad that refers to a clearly identified candidate that is broadcast within 60 days of a general election or within 30 days of a primary election to be treated as an ad seeking to influence the outcome of an election and therefore paid for with funds subject to contribution and disclosure limits. The bill would require any national party running such an ad to pay for that ad with hard money. Any nonparty group running such an ad that costs $10,000 or more a year would have to identify itself as the sponsor of the ad, disclose the cost of the communication and disclose the names and addresses of its donors of $1,000 or more.

The bill does not prohibit such ads from being aired by nonparty groups with unregulated money; it only requires disclosure of the sponsoring group's major contributions if the group spends over $10,000 on such ads. This is a very reasonable and modest limitation on political advocacy. It is very clear in order to withstand charges of ambiguity. And it addresses the reality. Any reasonable person knows when seeing these sham issue ads that they are really about electing or defeating the candidates named in them.

The research by the Brennan Center confirms that for us.

First, the Brennan Center found that of the 57,863 ads aired by non-party groups in the final 60 days of the 2000 election where a candidate was mentioned, only 331—or less than 1 percent—were genuine issue ads ''primarily aimed at providing information on a policy matter.'' That means that 99 percent of the group-sponsored ads were in fact ads to promote or defeat the election of a candidate.

Second, the Brennan Center study found that of the ads actually run by candidates and paid for with hard money specifically on behalf of their election or defeat, only 9 percent used the seven magic words and phrases identified by the Supreme Court. That is compelling evidence that the magic words identified by the Supreme Court are not a complete test of what constitutes electioneering ads. More is at work here than just the seven magic words identified by the Supreme Court.

Some argue that if we only close the soft money loophole to political parties, the money we cut off to the parties will be redirected to special interest groups. I believe it will not happen that way because candidates and public officials running for reelection and their agents will not be allowed to solicit it, the parties will not be allowed to raise it, and the contributors will not be able to buy access to us with it. This bill would prohibit a candidate or office holder from soliciting soft money for private organizations running issue ads. Will contributors of these large sums want to buy access to the Sierra Club or the National Rifle Association? Dubious. Will they be able to buy access to us through these unlimited contributions to third parties? No. If that were to occur, then it would be in direct violation of the law. Under this soft money ban, public officials and candidates will be out of the soft money fundraising business, and that's a very important step we will be taking with this legislation. The official with power, and the candidate seeking to be in a position of power, won't be able to solicit huge sums of money and sell access to themselves for their campaign or for outside groups.

We have been here before—trying to pass campaign finance reform, trying to stop the explosion of soft money. Three years ago I asked this body the question: ''Will it be different this time?'' It was not. But this time the answer is it will. We are going to pass this legislation, send it to the President, and respond to the vast majority of the American people who want it.

In doing so, we are hopefully going to change politics in America. No one really knows which party in the end is going to be advantaged or disadvantaged by the changes we are making to the law today. But we know for certain that the body politic itself will be dramatically benefitted. That is because we will be taking the solicitation of big money by people in power and people seeking power out of American politics and with it will go the appearances of favoritism and corruption.

The political landscape will change when this bill takes effect. It will be filled with more people and less influence; more contributors and smaller contributions; more democracy and less elitism. This is a good decision by Congress for the country, and we have those persistent and hardy souls like Senator MCCAIN, Senator FEINGOLD, Congressman MEEHAN, and Congressman SHAYS to thank, as well as inspiring citizens like Granny D who walked across the country to make her case, and the members of the coalitions in each of our States, like the Michigan Campaign Finance Network.

It is not often that we get the opportunity to legislate in a way that will so dramatically affect the core of how we operate. This is that time, and I am privileged to have worked for this bill's passage and to vote to send it to the President of the United States for enactment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Mr. President, will the Senator yield to me for just a brief time? I do not want to encroach on Senator MCCONNELL's right to speak at this time, but will the Senator yield me 2 minutes?

Mr. LEVIN. Mr. President, I am sure Senator FEINGOLD would be happy to yield a couple of minutes if he were present. So on his behalf, I yield 3 minutes to the Senator from Mississippi.

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

The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased Congress is making this effort to reform the campaign finance laws. When the last election resulted in a Senate that was evenly divided between Republicans and Democrats, it occurred to me there could not be a better time for the Senate to take up this legislation and try to write a bill that improved our Federal election finance laws. It is a subject with which we are all very familiar. It makes it very difficult, therefore, for the Senate to work on an issue such as this.

We are all biased in one way or the other because of experiences we have had, but my experience was, as a candidate for Congress in the early 1970s, at a time when we had passed the first major reform of Federal election laws, that the 1972 elections were the first real test of the reforms. Some of the law had been ruled unconstitutional, but virtually every candidate had to report, for the first time, where he was getting the money he was spending in his election and how he was spending it. These reports had to be made to the Federal Election Commission. A copy had to be filed with the secretary of state in the State where one was a candidate.

As to disclosure, people had a right to know where the money was coming from to support candidates, and how they were spending it, who they were giving the money to, if they were giving money to people, or if they were buying ads. Whatever was being done with the money, it had to be reported.

What has happened over time is others have become so involved in the process—organizations, parties, other individuals, buying ads, getting involved, spending money, raising money, to influence the outcome of elections—the people have lost their right to know. It has been taken away from them by the way the law has worked in practice.

So this is an effort to address that in a meaningful way, to require disclosure by groups that are buying ads to influence the outcome of elections, how they are raising their money, who is behind this.

When one watches a TV ad, they do not know who bought it. If a candidate buys it, the people know. If a candidate for office buys an ad in the paper, there has to be a disclaimer showing who bought it. Everybody in the country now is involved, but nobody knows who these folks are because they use names such as the Good Government Committee.

The whole point is, there is a lot that needs to be changed. This bill is an important first step in making some changes that are long overdue. I am glad I was able to support the cloture motion to bring the debate to a halt.

We have had an opportunity to fully discuss it in the Senate. The House has taken its time for discussion. It has been a tough battle, but we have produced a bill now and it is time to pass it and send it to the President.

The Court is going to have an opportunity to review it. If there are unconstitutional provisions, those will be struck down, and there may be some in this bill. It is not a perfect bill, but it is time to pass the bill because it accomplishes some actions that are long overdue and that will help the election process.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that the time remaining between now and 2 p.m. be divided between Senators CANTWELL and JEFFORDS.

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

The Senator from Washington.

Ms. CANTWELL. Mr. President, I campaigned on the issue of transforming our election process and said repeatedly I would make it a top priority in the Senate. It was a tremendous experience last year to participate in the debate on this legislation and assist Senators MCCAIN and FEINGOLD with the passage of this legislation from the Senate the first time. It took an extra year to get this bill through the House and send it to the President, but my wait has been nothing like that of the wait of the Senators from Arizona and Wisconsin who have endured repeated efforts through the years. I want to give them my heartiest congratulations for an extraordinary accomplishment that is truly in the public's interest.

Campaign finance is at the heart of every issue we deal with in Congress. From energy, to health care, to gun control, to bankruptcy, political interest groups that use money to make their agenda heard all too often are larger than the public's interest in framing the debate. This legislation will move the debate closer to the public.

This bill is about slowing the ad war. It is about calling sham issue ads what they really are. It is about slowing political advertising and making sure the flow of negative ads by outside interest groups does not continue to permeate the airwaves. Ninety-eight million dollars worth of these ads ran in the 2000 election by narrowly focused special interest groups based out of Washington, DC. This legislation will change that and again focus these debates more on the public agenda. This bill also stops the unlimited flow of corporate contributions, or soft money, that contributed to the volume of ad wars in the 2000 election.

This bill forces all of us—candidates, parties, and groups that seek to influence the outcome of elections—to play by the same rules and raise and spend money in lower amounts.

This is a banner day for Congress. This bill is a huge step forward in the right direction. There is much more work that needs to be done in reforming our political system. I am glad this day has finally come, and I urge my colleagues to support this very important legislation that has endured because of the hard work of two Senators.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise today with a sense of pride that the Congress will soon pass comprehensive campaign finance reform. It has been a long time in coming, and the perseverance of Senators MCCAIN and FEINGOLD should be recognized as the reason we are here today. I would especially like to thank my colleague, Senator SNOWE, for all her hard work and leadership in developing the language in this bill, the so-called Snowe-Jeffords provisions, which is a full and fair solution to the proliferation of electioneering communications.

The last time Congress passed comprehensive campaign finance reform I was running for the House of Representatives for the first time. That campaign was waged between me and my opponent door-to-door, meeting the voters, standing on the street corner talking to the voters, or debating the issues at public forums. Our constituents knew who we were, what we stood for, and who was saying what about whom.

Fast forward 28 years and today a campaign is waged on television and radio, many times by people and groups who the voters do not know. The Americana people deserve better from their candidates and campaigns. This bill, soon to be law, will make many needed changes to our campaign finance system and reconnect the electorate with their candidates for federal office.

I am especially proud of the provisions in this legislation that reform the law concerning broadcast advertisements near an election that escape even minimal disclosure by not using the ''magic words.'' These electioneering communications are cleverly and clearly seen by the electorate to be trying to influence their vote, but the true nature of the sponsors and funding for these advertisements remain cloaked in the veil of secrecy. The American public deserves to know who is trying to influence their vote, and the Snowe-Jeffords provisions will provide them this necessary information.

We will hear from some speakers during this debate that they are absolutely certain these provisions are unconstitutional and will be struck down by the court. I wish I could guarantee to my colleagues that these provisions will be found to be constitutional by the Supreme Court, but I am not so foolhardy as to predict the outcome of any case before the Supreme Court. I can, however, assure my colleagues that we have examined the important court decisions, talked to legal scholars, and reviewed the research on the topic to craft a provision that we believe will withstand constitutional scrutiny by the Supreme Court.

A recently released study on the 2000 elections by the Brennan Center For Justice clearly demonstrates the need for the Snowe-Jeffords provisions, and the care we took in crafting these clear and narrow requirements. In the 2000 elections approximately $629 million was spent on television advertising for federal elections. This represents an all-time high. Even looking at the amount spent just on Congressional races, the $422 million spent in 2000 overwhelms the $177 million spent just 2 years earlier. That gives you an idea of what is occurring.

The ''magic words'' standard created by the Supreme Court in 1976 has been made useless by the political realities of modern political advertising. Even in candidate advertisements, what many would say are clearly advertisements made to convince a voter to support a particular candidate, only 10 percent of the advertisements used the ''magic words.'' Parties' and groups' use of the magic words is even smaller, with as few as 2 percent of their ads using the magic words. By not using these ''magic words,'' these advertisements escape even the most basic disclosure and keep the public in the dark about who is trying to influence their vote.

One of the most important findings of this comprehensive study of television advertising during the 2000 elections is that the Snowe-Jeffords provisions are exceptionally well crafted and not too broad. Of the 50,950 group issue advertisements featuring federal candidates aired during the relevant time period, only 331 were about a genuine issue or bill pending before Congress. States another way, the Snowe-Jeffords provision correctly identify 99.4 percent of the advertisements as electioneering in nature and subject to the restrictions of the provision. I do not know how the opponents of this provision can say, faced with this empirical data, that our provision is too broad in nature.

It is important that the public know the background and facts behind the Snowe-Jeffords provisions. Material on this provision can be found at www.senate.gov/jeffords/03202002cfr.hjml.

I ask unanimous consent that some additional material concerning the Snowe-Jeffords provision be printed in the RECORD.

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

CAMPAIGN FINANCE REFORM—FACT & FICTION

(Based on findings from Buying Time 2000: Television Advertising in the 2000 Federal Elections)

1. Fiction: Shays-Meehan would cut out genuine issue speech.

Facts:

Of all the group ads that would have been captured had the Shays-Meehan 60-day test

been in effect in the 2000 general election, exactly three unique ads, accounting for a tiny 0.6% of all spots, were perceived as genuine issue advocacy.

In 1998, the comparable statistic was two unique ads.

Only 3% of all group ads perceived to be genuine issue ads mention a candidate.

Beyond that, the Shays-Meehan test closely tracks the actual prevalence of electioneering ads: 79% of electioneering ads by groups are captured by the 60-day test.

2. Fiction: The ''magic words'' test adequately distinguishes election-related speech from issue advocacy.

Facts:

Candidates, themselves, who are indisputably engaged in electioneering, used magic words only 10% of the tie in 2000 (4% in 1998).

97% of ads perceived to be electioneering did not use magic words, in both 1998 and 2000.

All political party ads were perceived to be electioneering, even though political parties use magic words only 2.3% of the time. (In 1998, 95% were electioneering, but only 1.2% used magic words.)

The magic words test is not nearly the bright line adherents believe it to be: Numerous ads in 2000 were hard to classify as express advocacy or not.

3. Fiction: Genuine issue advocacy peaks closer to an election, becasue that is when voters are most attuned to the issues.

Facts:

The number of genuine issue ads actually declines close to the election, but electioneering spikes: about half (51%) all genuine issue ads occur in the four-month period between April and July, while only 19% occur in the two months before an election.

The percentage of group-sponsored political ads that mention candidates increases from 12% during the first half of the calendar year, to 50% in July and August, to 61% in September, to 69% during the rest of the election cycle. (The comparable statistics in 1998 were 34% in the first half of the year, 62% in July and August, 82% in September, and 95% during the rest of the cycle.)

4. Fiction: Soft money is needed for party-building and voter-mobilization activities.

Facts:

Only 8.5 cents of every soft money dollar is spent on activities that might even remotely be considered voter mobilization, while 38 cents on the dollar is spent on media and issue advocacy.

100% of all political party ads are perceived as electioneering (93% in 1998).

92% of all political party ads never so much as mention the name of the political party (85% in 1998).

The political parties are spending so much money on TV ads, all depicting candidates, that they actually outspent the candidates themselves in the 2000 presidential election—$81 million to $71 million.

Party spending on House races ($43 million) was targeted only to competitive races—a mere 48 races in all. A third of all that spending ($14 million) was reserved for six House races.

5. Fiction: Soft money is used to enhance the prospects of candidates of color.

Facts:

Less than 7% of spending by parties on advertising in connection with House races went to races involving candidates of color.

Of the 42 races in which the Democratic Party aired television ads, just three involved candidates of color. None of those three were among the top recipients of party advertising.

6. Fiction: Shays-Meehan will unfairly trap unwary bit players, like unsophisticated individuals and small grassroots groups.

Facts:

At least 98.5% of the political advertising in 2000 was sponsored by political parties, corporations, unions, and major national organizations.

EXECUTIVE SUMMARY OF BUYING TIME 2000: TELEVISION ADVERTISING IN THE 2000 FEDERAL ELECTIONS

SUMMARY OF KEY FINDINGS

1. Approximately $629 million was spent on television advertising by all candidates, parties, and groups in the 2000 federal elections. This figure represents an all-time record spent on political advertising. Even when looking at just congressional races, the $422 million spent in 2000 far exceeds the $177 million spent on political television ads in the 1998 congressional elections.

2. The magic words standard that some use to distinguish express advocacy from issue advocacy has no relation to the reality of political advertising. None of the players in political advertising—candidates, parties, or groups—employ magic words such as ''vote for,'' ''vote against,'' ''elect,'' or anything comparable with much frequency in their ads. Only 10% of candidates ads ever used magic words, and as few as 2% of party and groups ads used magic words.

3. Special interest groups increased their expenditures of political advertisements nine-fold since 1998, breaking all previous records. Conservatively estimated, special interest groups spent about $98 million on political television ads in 2000—more than 58% of that spending went for electioneering issue ads.

4. Parties made record-breaking use of issue advocacy in the 2000 elections. In addition to spending more on television advertising relative to the presidential general election than the candidates themselves, political parties primarily aired issue ads rather than ads using magic words in order to sidestep federal campaign finance laws limiting the amounts and sources of contributions.

5. All of the so-called party issue ads, bar none, were electioneering in nature. None of these party ads qualified as genuine issue ads. The proportion of party ads that were positive in tone dropped since 1998, from 28% to 24%.

6. Genuine issue advocacy by groups is overwhelmed in the final 60 days of an election and is replaced by electioneering issue ads. Approximately 86% of group-sponsored issue ads aired within 60 days of the 2000 general election were electioneering issue ads rather than genuine issue ads.

7. A legislative proposal (the Snowe-Jeffords Amendment) to establish a test for express advocacy based on whether an ad identifies a candidate within 60 days of the general election would be a substantial improvement over the magic words test. If the Snowe-Jeffords 60-day bright-line test had been in place in 2000, only a fraction (less than 1%) of ads subject to financial disclosure would have been genuine issue ads.

Preserving the integrity of the American campaign finance system requires constant vigilance. Each election cycle brings new innovations in campaign finance evasion as parties, candidates and groups strive to bend the system to their benefit. At times the existing rules and regulations seem more like fiction than fact, and new reforms at the federal level seem doomed before they are even proposed. However, public opinion has started to catch up with those who have for years taken advantage of the system in the pursuit of electoral success. Regardless of refined legal or policy distinctions in types of advertisements, the public is keenly aware that most political ads are indeed electioneering ads and that the political players are sidestepping federal campaign finance laws. The legal community has begun to catch up, recognizing the futility of the magic words test and taking steps to draft a more sophisticated standard for regulating electioneering. Political scientists, too, have drafted new laws and have responded to the dearth of information about the nature and scope of electioneering issue ads by conducting studies to shed light on this once-secretive tool.

Combining the insights from these three communities adds to the likelihood that public policy will emerge that is grounded in common sense, legal expertise, and scholarship. The shared effort of citizens, lawyers, and political scientists working hand-in-hand with legislators creates room for optimism about a system few deny is in dire need of repair.

Mr. JEFFORDS. I yield the floor.

The PRESIDING OFFICER (Mrs. CARNAHAN). Under the previous order, the Senator from Kentucky is recognized.

Mr. MCCONNELL. How much time do I have?

The PRESIDING OFFICER. Seventy-nine and a half minutes.

Mr. MCCONNELL. Madam President, I yield myself whatever time I may consume within that time period.

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

Mr. MCCONNELL. Madam President, I begin by citing the ultimate campaign reform: The first amendment to our Constitution. It says Congress shall make no law—no law—abridging freedom of speech or of the press. I refer to freedom of the press because it is the robust exercise of that freedom which has brought us today to assault the freedom of speech. Over the past 5 years, the New York Times and the Washington Post have joined forces to publish an editorial an average of every 5½ days on campaign finance reform.

To buy that editorial space in the New York Times or the Washington Post, it would cost $36,000 and $8,000, respectively, for each editorial. Multiply that amount by the number of editorials of each paper, and it equals a total value of $8 million in unregulated soft money advertising that frequently mentions Federal candidates. Of course, that type of corporate, big media, soft money expenditure will not be regulated in this new law.

Why is the press, the institution that has unlimited free speech, so interested in restricting the speech of everyone else? Let's take a closer look. The unconstitutional issue ad restrictions in this bill purport to limit advertising within proximity to an election. However, it does not, interestingly enough, apply to newspaper ads. So the already powerful corporations that control the news—and, in many instances, the public policy—in America will get more power and more money under this new law. One has to wonder why that blatant conflict of interest has not been more thoroughly discussed in a debate about the appearance of such conflicts.

Outside groups such as Common Cause have devoted many years and millions of dollars to lobbying this

issue in the House and in the Senate. Why not? Their fundraising will explode if this bill passes. They no longer have to compete with party committees for soft dollars. Shays-Meehan permits every Member of the House and the Senate to raise soft money for these outside groups.

The bill we are about to pass allows Members of the House and Senate to raise soft money for these outside groups. I am told this unlimited, undisclosed, unregulated soft dollar fundraising has, in fact, already begun.

Although the facts about the provisions of this bill are almost always misrepresented, the driving mantra behind the entire movement is that we are all corrupt or that we appear to be corrupt.

We have explored corruption and the appearance of corporation before in this Chamber. You cannot have corruption unless someone is corrupt. At no time has any Member of either body offered evidence of even the slightest hint of corruption by any Member of either body. As for the appearance of corruption, our friends in the media who are part and parcel of the reform industry continue to make broad and baseless accusations.

It has been reported that the reform industry spent $73 million from 1997 to 1999 on this issue. Of course, that was all soft money. These are all soft dollar expenditures used to fuel negative perceptions of Federal officeholders and candidates. Scandal, or perceived scandal, sells papers and gets viewers. In the nonstop competition to be the next Woodward and Bernstein, the reform industry relentlessly works to raise questions in our minds.

In short, I believe the appearance of corruption is whatever the New York Times says it is. Add to that, cash-strapped, scandal-hungry newspapers and unlimited foundation donations to the reform industry, and you are in full-scale corruption mode. The actual facts are rarely relevant.

I request that these two articles documenting the hypocritical actions of the reform industry be printed in the RECORD.

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

[From the National Review, Feb. 12, 2000]

THE CAMPAIGN-FINANCE SMEAR

(By Rich Lowry)

No one has done more to create an ''appearance'' of corruption in politics than campaign-finance reformers.

A typical complaint of campaign-finance reformers is that politics is too negative and dishonest.

One might expect therefore that advocates of reform would feel some obligation not to be so negative in the way they depict politicians, or at the very least to be truthful when they do decide to ''go negative'' against political opponents.

Alas, no one has done more to create an ''appearance'' of corruption in politics than campaign-finance reformers who ignore or distort facts to make reckless charges of corruption.

Consider The American Prospect, which has a heavy-breathing editorial in its most recent issue decrying how corporations have supposedly stolen away our democracy.

''By buying politicians,'' The American Prospect writes of Enron, ''a favored corporation promoting a new kind of scam simply purchased immunity from regulatory oversight.''

Note that there is no ''seems,'' or ''appears,'' in this sentence. It is an outright assertion of bribery, in the cause of promoting corporate fraud.

Given the gravity of this charge, it would be nice if there were some evidence for it.

What the Prospect offers is Wendy Gramm, who ''as chief commodities regulator under Bush I, slipped in a midnight rule-change after the 1992 election to exempt Enron's trades from oversight.''

''She was rewarded,'' according to the Prospect, ''with a seat on the Enron board and hundreds of thousands of dollars in income.''

Sounds pretty sinister. Except the Prospect conveniently neglects to spell out what exactly was involved in this ''Enron exemption.''

Actually, it wasn't an Enron-specific matter but a ruling that affected a whole new class of trades—nine other companies lobbied for it—that was coming to the fore in the early 1990s.

Here's USA Today (apparently a more nuanced and sophisticated source than the Prospect) on the rule: ''Despite the appearance of a trade-off, even Gramm's critics concede that the commission's ruling was a smart move. The energy derivatives market was growing rapidly, and there were worries that without an exemption, the Chicago Board of Trade might sue anyone selling an energy derivative outside of its centralized market.''

I frankly don't know enough about derivatives to say with any assurance whether the Gramm ruling was a mistake or not, but it's obviously a subject of dispute. So, before condemning Wendy Gramm for her venal motives, it would be nice to hear some arguments about why she was wrong.

The Prospect offers none.

Maybe the Prospect thinks that the Chicago Board of Trade, which opposed this move, was right. But wouldn't Gramm then have simply been doing the bidding of another moneybags interest out to protect its business, the Chicago Board of Trade?

This is why the campaign-finance reformers, on their own terms, can always win the argument—there are well-heeled interests on all sides of most disputes in Washington, so someone can always be portrayed as selling out to some interest or other.

But the Prospect's treatment of Wendy Gramm is almost responsible compared to the way it smears her husband: ''When Enron needed another favor in 2000, her husband, Sen. Phil Gramm of Texas, got yet another regulation waived.''

As far as I can tell, this is a regurgitated charge that Ramesh Ponnuru has already dissected on NRO: ''Public Citizen had Gramm 'muscling through' the offending provision. In fact, Gramm had almost nothing to do with it.

''He didn't write it: It came to the Senate from the House, where it was part of a bill that passed by a large margin. He didn't usher it through the Senate: It was considered by the Agriculture Committee, of which he was not a member, rather than the Banking Committee, which he chaired. Indeed, Gramm blocked the bill that included the provision for several months because he objected to other provisions. He did, however, eventually vote for the bill, like most congressmen. It included the offending provision, which had hardly been altered during the legislative process.''

So, what's so amazing about the Prospect smear is that it's a discredited one. The Washington Post, the Philadelphia Inquirer, and the Atlanta Journal-Constitution have already run corrections for repeating this charge.

I called American Prospect editor Robert Kuttner to try to ask him if he's going to do the same. He didn't return my call. But it will be interesting to see if the Prospect, which makes such a fuss in its editorial about ''corporate accountability,'' cares as much about journalistic accountability. [Ed. note—someone from the Prospect has e-mailed saying that they will correct this.]

All this really amounts to what campaign-finance reformers call ''mud slinging.'' That's why I can't understand why McCainiacs and other campaign-finance reformers say they want to raise the level of public discourse, when they so relentlessly run it down by imputing corrupt motives to everyone in Washington.

In the case the Prospect, however, this isn't quite accurate—it wants to impute nasty motives not to everyone, but to conservatives in particular.

''The ideology of deregulation,'' it writes, ''provided cover for the cronyism.''

This is rather extraordinary, to say in effect that a whole way of looking at the world—a viewpoint based on philosophy and ideas—is really only a cover for corruption. Not only is this a stilted, cynical, and false charge, it is ideologically loaded.

Nowhere in its editorial does the Prospect excoriate the Clinton administration for signing the Kyoto treaty, something that meant a lot to Enron. That's because regulation is presumed to be public spirited, even if an evil corporation is pushing for it.

Part of the liberal motive for campaign-finance reform is clearly to try to systematically prevent American companies from protecting themselves from government regulation. It will be a corruption-free world, in short, only when liberals get everything they want.

Until then, smear away.

[From the National Review, Mar. 11, 2002]

THE GAGGERS AND GAG-MAKING

HYPROCRISY AMONG THE CAMPAIGN-FINANCE REFORMERS

(By Bradley A. Smith)

It's a common scene in Washington. Lobbyists representing powerful, well-financed special interests sit behind closed doors with members of Congress drafting legislation. Outside Washington, their dollars finance TV ad campaigns in the districts of wavering House members, hoping to pressure them into supporting the bill. Highly technical and complex legislation is then unveiled in the middle of the night, and most members of Congress have no time to read it before debate begins the next morning. Efforts by grassroots groups to amend the bill to protect their members are rebuffed, and though the bill contains provisions that even its sponsors admit are probably unconstitutional, such objections are shunted aside.

You may think this is a description of a special interest trying to benefit from some arcane budget bill, but in fact it is a description of the Shays-Meehan campaign-finance-regulation bill that passed the House in the wee hours of February 14. The passage of Shays-Meehan shows that those who think campaign-finance reform will reduce the influence of money in politics are mistaken.

Supporters of campaign-finance regulation like to portray themselves as an underfunded, scrappy grassroots coalition. However, a study conducted last year for the

American Conservative Union by election-law attorney Cleta Mitchell found that groups dedicated to promoting campaign-finance reform spent over $73 million over the three-year period from 1997 through 1999. By comparison, the Center for Responsive Politics (CRP), one of the most prominent campaign-finance-reform organizations, lists total political spending by the ''mortgage banking'' industry at under $12 million, and by ''Health Services and HMOs'' at under $14 million, for the four-year period from 1997 through 2000. Even the dreaded drug manufacturers contributed just $28 million over that four-year period, or 40 percent of that spent in just three years by groups promoting campaign-finance regulation. Yet the campaign-finance regulators always portray these industries as colossally and harmfully big spenders.

Actually, Cleta Mitchell's study understates the spending by campaign-finance-reform groups. It does not include spending by many of the groups' affiliated 501(c)(4) committees, and misses some significant groups completely. To give just one example, it does not include spending by the National Voting Rights Institute (NVRI), which describes itself as ''a prominent legal and public education center in the campaign finance reform field.'' NVRI, which argues that private campaign contributions violate the Constitution, is frequently quoted in the New York Times and other major papers. Meanwhile, the CRP overstates industry giving, as it includes in its figures individual contributions by any person employed by a company in the industry, and in certain cases even contributions by the employee's spouse. Thus, if the non-working spouse of an Enron employee earning $45,000 a year gave $200 to the campaign of George W. Bush, the CRP reports that as both an ''Enron'' contribution and a contribution from the ''energy/natural resources'' industry.

Arguably, money is the only thing that has kept the issue of campaign-finance regulation alive. With public-opinion polls consistently showing that campaign-finance reform is of little interest to the public, most of the groups advocating reform rely on six- and even seven-figure grants from giant foundations such as Ford, Carnegie, and Joyce for funds. With the notable exception of Common Cause (which has a budget of about $10 million a year), these groups usually have a few individual supporters. Such individual support as they do have comes almost entirely in the form of large gifts from a handful of politically liberal multi-millionaires, such as George Soros and Silicon Valley entrepreneur Steven Kirsch.

These groups respond that their money does not represent ''special interests.'' But their scorekeeping belies this claim. Surely if a $200 contribution by the wife of a mid-level Enron employee is ''special interest'' money, so are the six-figure expenditures made to promote campaign-finance reform by investment banker Jerome Kohlberg. Similarly, the Pew Charitable Trusts, to take just one example, have given considerably more in grants to advocate campaign-finance regulation than Enron gave in soft money to advocate energy deregulation. And these foundations and groups have other interests that are advanced by silencing their opposition. Pew, for example, also advocates environmental regulation and funds Planned Parenthood. If it can quiet political opposition from business and National Right to Life, it benefits. While one might describe foundations such as Pew, or organizations such as CRP, as disinterested entities concerned with the public welfare, one might just as accurately describe them as unaccountable organizations with lots of money and no members. Even Common Cause, the one reform group with a membership base, is small fry compared with other groups. With some 200,000 members, it describes itself as a ''citizen's lobbying organization.'' But it describes the National Rifle Association, which has over 4.2 million members, as a ''special interest.'' Indeed, many corporations represent hundreds of thousands or even millions of individual shareholders and employees. Why aren't they ''citizen lobbies''?

CYNICAL CAMPAIGN, CYNICAL TOWN

Pro-reform organizations have used their massive war chests to run one of the most cynical campaigns in the history of cynical Washington. Even though corporations and unions are prohibited from making contributions directly to candidates, a casual observer looking at CRP's website without reading the fine print would conclude that the largest direct contributors to every member of Congress are corporations and unions. This is because of the center's practice of attributing contributions by individuals to their employers. Another trick, in an apparent effort to inflate the perception of corporate influence, is to lump together contributions made over many years. Thus, organizations such as Common Cause and the CRP routinely issue press releases and studies showing huge corporate contributions, significant portions of which occurred as much as a decade ago. In some cases, more than half the Congress has turned over in the intervening years. Yet another misleading tactic is to lump together all contributions by ''industries.'' So a 1997 Common Cause report on the influence of the ''broadcast industry'' listed total contributions from the ''industry'' over a ten-year period. No allowance was made for the fact that many of the contributions went to individuals no longer—or perhaps never—in Congress or for the fact that the ''broadcast industry'' is hardly monolithic: Affiliates often quarrel with networks, networks with one another, radio with television, and so on. The reform organizations also frustrate any sense of perspective. In the current frenzy over Enron, for example, it is not mentioned that Enron's total soft-money contributions constitute a minuscule fraction of 1 percent of total soft money raised over the period cited.

Meanwhile, virtually every legislative action can be and is portrayed as a sellout or payback to some ''special interest.'' So if Enron got a favorable regulatory ruling over opposition from the Chicago Board of Trade, it was a payback to Enron. But since the Board of Trade is also a powerful interest, any ruling the other way would not have been portrayed as a victory for principle or a defeat for Enron, but as a payback to the Board of Trade. All roads lead to corruption. That politicians might actually be acting on convictions or keeping campaign promises is given no credence. Few have worked harder to convince the American people that their representatives are corrupt, and their votes and participation meaningless, than the campaign-finance reformers. That they have done so on the flimsiest of evidence only adds to the shame.

The Enron scandal, which pushed Shays-Meehan over the top, is a perfect example. Reformers gleefully argued that the Enron bankruptcy proved that Shays-Meehan was necessary, with no evidence that Shays-Meehan could have prevented it. Even Rep. Shays admitted that Enron is going to have access ''by the fact of who it is and what it does'' (its money aside). Reform advocates misleadingly claim that over 250 members of Congress have received ''Enron'' contributions, when in fact they mean that those members have received contributions from people who worked for or owned stock in Enron. They do not mention that Shays-Meehan does not limit these contributions, and in fact raises the ceiling on them.

Then too, Shays-Meehan was supported down the homestretch by a television ''issue advertising'' campaign funded by the Campaign for America (CFA), a creation of Jerome Kohlberg. These ads ran in the congressional districts of wavering congressmen. In addition, CFA operated phone banks in 30 congressional districts. This campaign was paid for with unregulated soft money. In a classic example of ''free speech for me but not for thee,'' most of that spending would remain legal under Shays-Meehan.

However, the heart of the operation to pass Shays-Meehan was not grassroots lobbying, but old-fashioned Washington lobbying. Though supporters had been pushing the bill since the 107th Congress first met in January 2001, and though the sponsors had been gathering signatures on a discharge petition to force the bill to the floor since July, they still spent the evening before the opening of the House debate, and part of the day on which the bill was being debated, redrafting the legislation. According to press reports, pro-reform lobbyists, including former McCain 2000 counsel Trevor Porter, Democracy 21's Fred Wertheimer, and Don Simon of Common Cause, drafted key portions of the bill, at times working out of offices in the Capitol. The final version of the complex, 86-page bill was unveiled a few minutes before midnight.

The bill, as it emerged from this redraft, included a highly technical provision allowing parties to pay off hard-money debts incurred before the 2002 elections (hard money being limited contributions from individuals and PACs, which may be used for any purpose) with soft money (unlimited contributions from corporations, unions, and wealthy individuals, which normally cannot be used to expressly advocate the election or defeat of specific candidates). The provision favored Democrats, who have plenty of soft money but are short on hard money. Republican operatives cried foul and charged that the provision was an intentional effort to benefit the Democrats. The more likely explanation is that it was simply an error caused by the haste of last-minute drafting. But imagine the outcry these same ''reform'' groups would have raised had lobbyists for any other interest helped draft a bill, and accidentally included a technical error beneficial to the bill's primary supporters in Congress. Would the reformers have given the drafters the benefit of a doubt? Never. The error briefly jeopardized the bill and drew a veto threat from the White House, before supporters used a parliamentary maneuver to change the language before the final vote.

WHERE THE FAT CATS SIT

Assuming it becomes law, the bill will not end the influence of money in politics, but instead will drive such influence further underground. A glimpse of the future may have occurred at a dinner last October that raised $800,000 for the Brennan Center, a pro-reform group. Co-chaired by pro-reform senators Hillary Clinton and Charles Schumer, and featuring Sen. John McCain, the dinner was underwritten by corporate donors, who were solicited to attend. Sponsors included over two dozen large law firms with Washington lobbying practices, plus such corporations as Coca-Cola, Philip Morris, and, naturally, Enron. If money is truly corrupting, corporations hoping to curry favor with officeholders might decide that support for such groups is a wise idea, or officeholders might ''suggest'' that corporations with business before their committees make donations to such groups. Shays-Meehan limits the right of federal officeholders to solicit money for

political parties and other groups, but specifically allows lawmakers to continue to solicit funds for entities such as the Brennan Center.

Beyond that, the bill will probably strengthen special interests, benefit incumbents, and harm grassroots politics. The limits on soft-money contributions mean that corporations and unions may be pressured to do more independent spending to help their legislative allies. This will give these interests more control over the process, and will reduce the historical role of parties in brokering diverse and often competing interests. The limits on issue ads in the 60 days before an election will mean that such ads will run earlier, making campaigns longer and putting a greater premium on early fundraising. This will benefit incumbents, even as it requires them to spend more time raising funds. True grassroots politics—spontaneous political activity by individuals and groups—suffers from regulation and has been on the decline ever since the Federal Election Campaign Act was first passed in 1971. The added complexity of this bill will probably kill off such activity altogether. Indeed, Federal Election Commission chairman Davis Mason says that the incredible complexity of the bill is likely to lead to ''invidious enforcement, singling out disfavored groups or causes'' and ''subjecting regulated groups to harassment by political opponents.''

However, the giant foundations that have financed the drive for reform will remain untouched. So will the recipients of their largesse, such as Democracy 21 and the Center for Responsive Politics, and the lobbyists of Common Cause. Big-business lobbyists also emerge unscathed—indeed, corporations may devote more resources to lobbying. But groups that rely less on lobbying and more on campaign support to candidates, grassroots organizing, and issue ads to rally public support will suffer.

But that, too, is a common Washington story.

Mr. MCCONNELL. With no basis in fact or reality, the media consistently and repeatedly alleges that our every decision can be traced back to money given to support a political party. I trust that every Member in the Chamber recognizes how completely absurd, false, and insulting these charges are. We have been derelict in refuting these baseless allegations. I doubt we will ever see a headline that says 99 percent of Congress has never been under an ethics cloud. That is a headline we simply will not see.

Each Member is elected to represent our constituents. We act in what we believe is the best interest of the country and, obviously, of our home States. Does representing the interests of our State and our constituents lead to corruption or the appearance of corruption? These allegations are not an attack on us, they are an attack on representative democracy.

What we are talking about today is speech: the Government telling people how, when, and how much speech they are allowed. This wholesale regulation of every action of every American anytime there is a Federal election is truly unprecedented.

The courts have consistently upheld the free speech rights of individuals and of parties. Even in the most recent case of Colorado II, the Court made clear that parties are not to be treated any worse than any other organization in the protection of constitutional rights. This legislation falls far short of that charge. The Shays-Meehan bill weaves a bizarre web of restrictions and prohibitions around parties and candidates while simultaneously strengthening the power of outside groups and the corporations that own newspapers.

This legislation is remarkable in its scope. Indeed, this legislation seeks no less than a fundamental reworking of the American political system. Our Nation's two-party system has for centuries brought structure and order to our electoral process. This legislation seeks, quite literally, to eliminate any prominence for the role of political parties in American elections. This legislation favors special interests over parties and favors some special interests over other special interests. It treads on the associational rights of groups by compelling them to disclose their membership lists to a greater extent than ever before contemplated. It hampers the ability of national and State parties to support State and local candidates. It places new limits on the political parties' ability to make independent and coordinated expenditures supporting their candidates.

Many of these provisions are directly contrary to existing Supreme Court precedent.

Let me repeat that. Many of the provisions in this bill that is about to pass the Senate are directly contrary to existing Supreme Court decisions.

Equally remarkable is the patchwork manner in which this legislation achieves its virtual elimination of political parties from the electoral process. It seeks to achieve a pernicious goal via a haphazard means, and the real loser under this legislation is the American voter, who no longer can rely on the support of a major political party as an indicia of what that candidate stands for.

So let me walk you through how this legislation will affect all of us. First, let's look at the national parties. Shays-Meehan will eliminate nearly 50 percent of the fundraising receipts of the national parties. National parties will be forced to conduct their wide array of Federal and State party activities with only half the revenue. Shays-Meehan will eliminate 90 percent of the cash on hand of the national parties. If Shays-Meehan were law in 2001, the total cash on hand for all six national party committees would have dropped from $66 million to $6 million.

Let's go over that one more time. If Shays-Meehan had been in effect last year, the total cash on hand for the six national party committees would have dropped from $66 million down to $6 million: For the three national Republican committees it would drop from $56 million down to $19 million; and for the three national Democratic Party committees, from $10 million down to a debt of $13 million.

So, on this chart behind me, you can see on the reality of what Shays-Meehan does. You can see that for the national party committees last year, the year 2001, their actual cash, both hard and soft. You can also see what kind of cash on hand they would have under Shays-Meehan with the soft money eliminated.

You see the Republican National Committee would have gone from $34 million down to $16 million; the Democratic National Committee from $2 million down to a $10 million debt; the National Republican Senatorial Committee from $12 million down to $7.5 million, the Democratic Senatorial Committee from $4.1 million down to a debt of $50,000, the Republican Congressional Committee from $9.6 million to a debt of $4.3 million, and the Democratic Congressional Committee from $3.5 million down to a debt of $3 million.

What does that all mean? That means this bill eviscerates the national party committees. It singles out six national committees out of all the committees that may exist in America and takes away a huge percentage of their receipts. By eliminating so-called soft money, or non-Federal money, national party support for State parties and local candidates will be dramatically reduced if not entirely eliminated in the next cycle.

The national Republican Party committees gave $130 million to State parties and $13 million to State and local candidates in soft money in the last cycle, the 2000 cycle. The national Democratic Party committees gave $150 million to State parties—more than the national Republican Party committees did—$150 million to State parties and $6 million to State and local candidates in non-Federal money. Where will all the soft money go? Where will it all go?

It is going to go to outside groups. We, the Members of the Congress, will be able to raise it for them. The soft money will also go to the newspapers because they can sell advertising in proximity to the election when no one else can.

Let's go over that one more time. We are taking this money away from the parties, shifting it to outside groups, and restricting their ability to spend it on advertising in any media, except newspapers. No wonder the newspapers are for this bill. This is a great deal for them. Not only are they unregulated in their speech—and they should be, I defend their right to have unregulated speech—but their business managers are going to be pretty excited about this bill as well. It is going to be a windfall for them.

Let's take a look at coordinated versus independent expenditures under this bill. Shays-Meehan significantly limits party support of Federal candidates as well. We just talked about the impact on the State and local level, but Shays-Meehan also significantly limits party support of Federal candidates, people such as us. Under this

bill, parties are prohibited from engaging in both independent and coordinated party expenditures after a candidate has been nominated. The bill treats all party committees, from State and local to the national party, as a single committee. So let's take a look at how this works.

If the Atlantic City Republican Party makes a $500 independent expenditure on behalf of a Senate candidate in New Jersey, the party is then prohibited from making a permissible $900,000 coordinated party expenditure in New Jersey. If you are scratching your head wondering about this, let's go over it one more time.

The Atlantic City Republican Party in New Jersey makes a $500 independent expenditure on behalf of a U.S. Senate candidate in New Jersey. Then the national party committee is prohibited from spending the permissible $900,000 coordinated that we have been allowed to do for a quarter of a century.

The impact is even more severe for Presidential candidates. If a local party anywhere in America makes a $300 independent expenditure on behalf of a Presidential candidate, the nominee of that party will lose the entire party coordinated expenditure—roughly $13.7 million in 2000. Remember, even though the Presidential race is usually publicly funded after the convention, there is an amount of money that both national parties are able to spend on behalf of the Presidential candidate after the convention.

In 2004, the Democratic and Republican Presidential nominees are going to have to police every local committee in America. It is a big country, 50 States, incredible number of municipalities and party committees up and down the system. If any one of them makes a $300 independent expenditure on behalf of the Presidential candidate, then the candidate loses $13.7 million.

My colleagues on the other side of the aisle have spent time in New Hampshire lately. There are a number of aspiring Presidential candidates over there on the Democratic side. They ought to read this provision very carefully because, if they get the nomination, some errant Democratic local chairman somewhere in America who decides to go out and be helpful—or maybe to be mischievous if he is not in favor of the nominee—and makes an independent expenditure of $300, he could cost the nominee close to $14 million in coordinated expenditures in the general election.

This is fraught with the potential for mischief. One thing we know about politics, if mischief is possible, mischief will occur. I think we can stipulate that.

Now let us look at what Shays-Meehan does to party conventions.

Shays-Meehan will end national party conventions as we have known them. The soft money ban covers the committees that are created to host these grand events. In 2000, the Federal convention grant from the Treasury of the United States was $14 million for each major party. That is also about the same amount that was spent on security alone at each of the conventions. The rest of the money needed to put on the two conventions came in soft dollars. All of that will be gone.

Looking at the conventions in 2004, if you are chairman of the Democratic National Committee, or the Republican National Committee, you will be confronted with a very difficult decision: Do you want to put on a 4 day convention with 80 percent less funding? Or do you want to spend hard dollars that would otherwise be used to help elect the President to pay for the convention? All the soft money that you used to put on the convention the last time is now gone.

Come to think of it, maybe a middle-size town like my hometown, Louisville, might qualify to hold a convention. That would probably be a short convention with very few people at it. Louisville could make a pitch for both the Democratic and Republican Conventions in 2004. The parties will be able to spend only $15 million. It will probably only last for a day or two. There might be fewer people there. We could probably handle that in our hotels. It is always a bit of a stretch to put all the people up in hotels during Kentucky Derby time of the year. But we might be able to work that out. This could be a windfall for cities of roughly a million across America.

But do we really want to skinny down the conventions, or eliminate the conventions? I know a lot of our colleagues don't particularly like going to them. It is a nonstop event from morning until night. But if you are a precinct worker out in Oregon and have worked in the party trenches over the years and you get to be a delegate, it is a big deal. It is something you will remember the rest of your life. It is the only opportunity you will ever have to meet the county chairmen from some county in South Carolina on the other side of the country. It is the one time every 4 years that we have truly national parties where Republicans and Democrats from all over the country come together to nominate their candidate for President. Even though there has not been any suspense at the conventions for a long time, I can tell you the delegates who come to the Republican Convention—and I believe the delegates that go to the Democratic Convention—think it is a wonderful opportunity to participate in something that is important for America. Unfortunately, we may have seen the end of the conventions as we know them because this bill takes away about 80 percent of the funding of the national conventions.

In case you think that national conventions might be run through State parties, Shays-Meehan also closes that option by allowing the use of soft money only for State, district, or local political conventions. Perhaps the outside groups will step in and fill the gap. We will be able to raise money for them, or maybe even the unrestricted media will somehow find a way to fill the gap.

Now, what will be the effect of this new legislation on Federal officeholders and candidates? Shays-Meehan federalizes our every action and our every conversation. The big losers under this bill are State and local candidates and our State parties. Under Shays-Meehan, we can only raise money for State and local candidates within the hard money limits and restrictions, which is $2,000 per election.

Let me explain to my colleagues how that will work. In 39 States, statewide candidates are currently allowed to receive more than $2,000 per election, and some of them allow corporate contributions to candidates.

For example, the individual contribution limit in Wisconsin for a Governor's race is $10,000 per election. But Federal officeholders and candidates will only be able to raise $2,000 per election for the Governor's race. This bill federalizes our involvement in State and local races as well.

In Virginia, under state law, there are no contribution limits or restrictions for State and local candidates. But under this bill, Federal officeholders and candidates will only be able to raise $2,000 per election for statewide candidates.

Again, in Virginia—which allows unlimited individual corporate and union contributions directly to candidates with full disclosure—if Senator WARNER or Senator ALLEN wanted to be involved in the Governor's race over there, they would be in a difficult position going to a fundraiser that they didn't sponsor, because it would have to be limited to $2,000 contributions for the candidate.

This bill federalizes the involvement of Senators and Congressmen in State and local races by making our rules apply to them no matter what the State law is. Under Shays-Meehan, we can only raise soft dollars for State parties within the hard dollar limits and restrictions, and $10,000 from individuals. But 40 States allow State parties to receive more than $10,000 per year. Some of them even allow corporate contributions to State parties.

For example, in Arizona, there is no limit on the amount an individual can contribute to a State party's State account. Federal officeholders and candidates will only be able to raise $10,000 per year for that State account, even though that is not Arizona State law.

In Illinois, there are no contribution limits or restrictions on contributions to a State party's State account.

But Federal officeholders and candidates who are involved in raising money for the State party State account in Illinois will only be able to raise $10,000 per year no matter what the Illinois law is.

But have no fear, my colleagues. The House has provided us with an alternative. We may not be able to do it for

State parties except within the Federal regulations, but we can raise unlimited soft money from any source for outside groups so long as their primary purpose is not voter registration, voter identification, get out the vote, and generic campaign activity. Make sure the group's primary purpose is issue advocacy, and then raise as much as you can from anyone you can. Don't worry. It will never be disclosed.

The perverse effect of this is that we can do a lot more for an outside group than we can do for our own State party in our home State. Under this bill, if you fancy voter registration, voter identification, get out the vote, and generic campaign activity, you can raise $20,000 per year from individuals from any outside group specifically for those activities. All that money is soft money.

Let us go over it one more time.

If a Federal officeholder wants to raise money for a State party, Federal rules apply. But if a Federal officeholder wants to raise money for an outside group, its wide open. So there won't be any less soft money raised around here. My prediction is there will be more soft money around. It will just be raised for outside groups rather than for the party.

Let us take a look at the effect on State and local parties. State and local party operations are impacted dramatically by Shays-Meehan. This bill eliminates the national parties as a source of non-Federal support for their State activities. But it also heavily restricts how they operate.

Last year, we addressed in a limited way the problem of this bill federalizing generic voter registration and get-out-the-vote drives. The so-called Levin amendment was adopted by a voice vote in the Senate to incorporate that change.

However, the House has placed such extensive restrictions on the fundraising and spending by State parties for voter activities that the so-called Levin provision is now virtually meaningless. State parties will be forced to use only hard-dollar, Federal dollars, to benefit State and local candidates.

Shays-Meehan prohibits party transfers, joint fundraising, fundraising by us for the State account, and also prohibits State parties from broadcasting generic, ''Vote Republican,'' or ''Register Democrat'' messages.

Not only are we the big losers under the House scheme, but State and local candidates who run in Federal election years suffer as well. State and local candidates who are running in Federal election years—that happens all the time, all the time, all across America. The big winners, yet again, are the outside groups and, of course, the news media.

As for hard-dollar contributions to State parties, Shays-Meehan actually lowers the total amount of hard money that an individual can contribute during a 2-year election cycle to State parties. Shays-Meehan creates a $37,500 per-cycle annual aggregate sub-limit that individuals can contribute to State parties. Under current law, if an individual were so inclined, he could give $50,000 per cycle in hard dollars to State parties. So we are actually going backward, and this is at a time when State parties are forced to do much more with much less.

Let's look at the effect on State and local candidates. National parties will be extremely limited in their ability to not only make contributions to State and local candidates, but also to promote issues of State and local importance in conducting voter drives. Members of Congress are similarly restricted in what assistance we can provide the State and local candidates.

Shays-Meehan even regulates the conduct of State and local candidates—from fundraising to advertising. State and local candidates will be forced to burn campaign funds to retain lawyers to guide them through the myriad State, and now Federal, regulations on their State and local campaigns.

Now, let's take a look at the outside groups and compare the outside groups to the national party committees.

Make no mistake about it, soft money will exist, and it will thrive under Shays-Meehan everywhere, except at the party committees.

Here are a few short examples: Corporations, labor unions, and outside groups will continue to use 100-percent soft money to run issue ads. We have no idea how much they spend because corporations and labor unions do not disclose these details about their soft money. But, national parties will be forced to use 100-percent hard dollars. Corporations, labor unions, and outside groups will continue to use soft money to raise the hard money for their PACs.

Let me repeat that. Corporations, labor unions, and outside groups will continue to use soft money to raise the hard money for their political action committees. But national parties will be forced to use 100-percent hard money because there will no longer be any soft money for the parties to raise hard money.

As we all know, direct mail has high overhead, very high overhead. The national party committees will not only have to build their buildings with hard dollars, and put on their conventions with hard dollars, they will also have to do their direct mail fundraising with 100-percent hard dollars. But corporations, labor unions, and outside groups will use 100-percent soft dollars, even to raise hard money for their political action committees. Corporations, labor unions, and outside groups will even continue to use soft money for activities such as voter registration and get-out-the-vote efforts.

According to news reports, the AFL–CIO plans to raise dues 60 percent to fund their $35 million effort this year. Again, we have no idea how much soft money the unions spend because they do not disclose it. National parties will have to use all hard dollars to do the very same thing that corporations, labor unions, and outside groups will be able to spend 100-percent soft dollars doing.

Stand-alone PACs, such as EMILY's List, for example, will continue to raise and spend a mix of hard and soft money, but not national parties. They will only be able to raise and spend hard dollars.

What about us Members? Members will still be allowed to maintain leadership PACs—that is good—and even have a soft dollar account for those PACs. So Members of Congress will be able to have leadership PACs that raise both hard and soft dollars. But national parties will only be able to raise and spend hard dollars.

The bottom line is this bill does not take money out of politics, it just takes the parties out of politics.

Now let's look at issue ad restrictions. The Shays-Meehan issue ad provision muzzles political speech based solely upon the timing of the speech. A person or a group must report to the Government whenever they mention the name of a candidate in any broadcast, cable, or satellite communication within 30 days of a primary or 60 days of a general election. Corporations and labor unions are totally censored during that period. The censorship extends to nonprofit corporations such as the Sierra Club and the NAACP on the left, and the National Right to Life Committee and the NRA on the right.

Let me use a recent example of how this provision will work. Just this past week, within 30 days of the primary, the American Civil Liberties Union ran two issue advertisements in Illinois. One was a broadcast radio ad, the other was a newspaper ad.

If this legislation is passed today, the radio ad falls within the issue ad prohibitions and restrictions, so it could not be run, however, the newspaper ad is not affected. So in the following ad—run just this past week by the ACLU in Illinois—on the radio, the female announcer said:

> [We're] waiting for our Congressman, Dennis Hastert, to protect everyone from discrimination on the job.
>
> As Speaker of the House, Representative Hastert has the power to stop the delays and bring the Employment Non-Discrimination Act—ENDA—up for a vote in Congress. It's about fairness. It's time to ensure equal rights for all who work, including lesbians and gay men, and make sure that it's the quality of our work that counts, and nothing else.

And later in the ad, the male announcer says:

> Protecting workers from discrimination, or more delays?

And the female announcer says:

> Take action now. Send Speaker Hastert a letter urging him to support fairness and bring ENDA to the floor. . . .

That is the radio ad. Under Shays-Meehan, it cannot be run.

But alas, a newspaper ad, under this bill, could be run.

The newspaper ad says:

> Speaker of the U.S. House of Representatives, Rep. Hastert has the power to stop the

delays and bring the Employment Non-Discrimination Act—ENDA—up. . . .

And on and on.

It is exactly the same as the radio ad. So under Shays-Meehan, if your ad is on the radio, you cannot run it; if your ad is in the newspaper, you are OK.

This kind of arbitrary and capricious stifling of political speech is the essence of the issue ad restrictions in this bill. Both advertisements are issue speech. Both advertisements ran at the same time. However, only one advertisement invokes the jurisdiction of a newly created speech police.

I ask unanimous consent that an ACLU press release be printed in the RECORD.

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

ACLU DOUBLE PLAY: NEW AD BLASTS WORKPLACE DISCRIMINATION AGAINST GAYS, SHOWS FLAWS IN CAMPAIGN FINANCE LEGISLATION

WASHINGTON.—In a move that both showcases the problem of workplace discrimination in America and the constitutional flaws of campaign finance legislation, the American Civil Liberties Union today began running a series of radio and newspapers issue ads that would be outlawed under a campaign finance bill likely to soon become law.

The advertisements are running in the Chicago media market and urge Speaker of the House Dennis Hastert, who represents a suburban Chicago district, to use his position to bring the Employment Non-Discrimination Act to a full vote in the House.

''This is a dramatic double play,'' said Laura W. Murphy, Director of the ACLU's Washington National Office. ''Not only have we highlighted the urgency of making employment non-discrimination a top priority in Congress, but the ads also demonstrate in practice how campaign finance legislation will effectively gag political speech.''

The ACLU has long advocated a system of public financing as a means of increasing access to the political process without impinging on protected political speech. The ACLU's ad, which Murphy argued is both completely non-partisan and politically essential, is a perfect example of the beneficial political speech that would be silenced by the Shays-Meehan bill that the Senate is expected to take up on Monday.

The ads, because they are being broadcast during a 30-day window before a primary election, would be forbidden if the Senate passes and President Bush signs the Shays-Meehan bill. The ACLU has long been a vigorous opponent of the measure and its Senate counterpart, the McCain-Feingold bill, because they would curb political speech.

''Ironically, our radio ads would be outlawed by the bill,'' Murphy said, ''but our virtually identical newspaper ads that are running on Monday would continue to be acceptable.''

The ACLU said that passage of ENDA would guarantee that individuals could not be discriminated against in the workplace based on their real or perceived sexual orientation. The ads urge listeners and readers to visit the ACLU's website—http://www.aclu.org/ENDA—where they can learn more about the provisions of ENDA and send a free fax to Speaker Hastert urging action in the House on the proposed legislation.

''It's important to remember that the ACLU would not be the only group impacted by the new law,'' Murphy said. ''This ad could just as easily be something from the NRA, Common Cause or the Right to Life Committee. The censorship in Shays-Meehan wouldn't be discriminating.''

Mr. MCCONNELL. Reformers apparently are not concerned by the fact that this provision flies in the face of more than a quarter of a century of court decisions striking down such attempts to restrict issue speech. The FEC will be the speech police to track these ads, something that will prove nearly impossible to enforce in a Presidential election year when there will be only a couple of months without censorship somewhere.

Remember, in a Presidential election year, the primaries are going on at different times beginning in Iowa and going through the season. Since this bill cracks down on issue speech within 30 days of a primary, somewhere in America you will be within 30 days of a primary when you are running for President. So the blackout period will be in effect somewhere virtually throughout the entire year.

For those who dare to speak within the 30- to 60-day window—30 days before the primary or 60 days before the general election—they will have to report to the FEC. However, unlike every political committee registered with the FEC, the regulated speakers will only have to report receipts of $1,000 or more, not $200 or more as is required of other committees. Therefore, very few donations will end up being disclosed.

Conveniently for the Washington Post and the New York Times, the restriction and disclosure provisions apply only to broadcast ads and not to print ads. So, once again, we have sort of a capricious selection of preferred media—restrictions on the broadcast media but no restrictions on the print media. No wonder the newspapers are so enthusiastic about this legislation, not just on the editorial page but over in the business department. The newspaper business managers all across America are cheering for this bill.

By focusing only on broadcast media, this restriction allows unions to continue their efforts with unregulated and undisclosed soft money. The breadth of this provision may also restrict communications via the Internet and other high-tech modes of communication which are satellite based.

There are loopholes, of course, for outside groups. Reformers claim this bill will increase disclosure and shine the light on big money in politics. This is, of course, not true. Unions will continue to funnel hundreds of millions of dollars of hard-working union member dues into the political process without ever disclosing one red cent.

Last spring during the Senate debate, in a moment of rank hypocrisy, the Senate voted to reject a provision that simply required corporations and unions to disclose all of their political activities, just their political activities. It was voted down in the Senate.

Interestingly, the AFL–CIO just voted to increase, by 60 percent, the mandatory contributions collected by the unions from their members. These are mandatory contributions—these are not voluntary. In fact, in increasing the mandatory contributions, the unions eliminated all voluntary contributions.

In the 2000 cycle alone, unions contributed $83 million to political campaigns—that we know about. We will never know how many hundreds of millions of dollars the unions spent on many of their political activities because it is never reported. This bill does nothing to address that problem.

I submit two articles for printing in the RECORD. One is entitled ''The Organized Labor Loophole,'' and the other is entitled ''AFL–CIO To Boost Mandatory Donations.'' I ask unanimous consent that they be printed in the RECORD.

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

[From the Washington Times, Mar. 16, 2002]

THE ORGANIZED LABOR LOOPHOLE

For several years, there has been much hysteria about how soft money has corrupted the political process. Democrats, self-serving media organizations and Sen. John McCain (the Keating Five-tainted presidential aspirant whose campaign was trounced by George W. Bush) have been shedding crocodile tears over soft money. As it happens, during the 1999–2000 electoral cycle, each of the two major political parties raised about $250 million in soft money from corporations, unions and individuals. Every dime of those evenly divided soft-money donations was publicly disclosed. Any interested voter was free to make his own informed judgment about the source and the size of the soft-money contributions the parties received.

The real scandal involving soft money, however, relates to the fact that labor unions have been laundering the dues of their members through their union treasuries and into the coffers of the Democratic Party. This, despite the fact that voter-exit polls have revealed that nearly 40 percent of union workers and members of their households have voted for the Republican presidential candidate since 1980. Yet, even this scandal pales in comparison to the hundreds of millions of dollars in indirect and in-kind contributions that labor unions routinely make on behalf of the Democratic Party. These sorts of contributions are, of course, never disclosed. Indeed, labor economist Leo Troy of Rutgers University has testified before Congress that unions regularly spend and estimated $500 million during each two-year cycle to elect Democrats. Yet, only a relatively small portion of these funds—specifically, the soft-money donations and the contributions from political action committees (PACs)—are disclosed.

The audacious operations of the National Education Association (NEA) demonstrate precisely how scandalous labor's gambit has been. As the Landmark Legal Foundation has meticulously documented in several complaints filed with the IRS and the Federal Election Commission, the nonprofit, tax-exempt NEA has literally spent tens of millions of dollars since 1994 on political operations. Each year, however, according to Form 990 that is required by the IRS, the Washington-based NEA claims that not a dime of its resources is expended on political matters. Since at least 1994, Form 990's line 81a, where the NEA is required to ''[e]nter the amount of political expenditures, direct or indirect,'' has been blank. Anyone who reviews Landmark's complaints, which are

available on its web site (landmarklegal.org), can appreciate how staggering the NEA's annual violations truly are.

While Landmark has concentrated on the NEA's national affiliate, the Heritage Foundation has attempted to review Form 990s filed with the IRS by teachers unions representing the 100 largest, public-school districts and the 50 representing them at the state level. These included affiliates of both the NEA and the American Federation of Teachers (AFT), the other major teachers union.

By law, these NEA and AFT affiliates are required to provide copies of their most recently filed Form 990s to anyone requesting them. In fact, many affiliates refused Heritage's request. Nevertheless, apart from the contributions by their PACs, only two of the 63 Form 990s examined by Heritage reported any ''political expenditures, direct or indirect'' on line 81a. (National Education of New York and the Hawaii State Teachers Association reported ''direct or indirect'' political expenditures of $69,272 and $136,285, respectively—political spending, if Landmark's review of the NEA's national affiliate is any guide, that is probably drastically understated.) Equally revealing was the fact that those forms showed average-annual-dues income exceeding $4.1 million, while expenditures for collective bargaining—a union's principal purpose—averaged a mere $103,000.

Once Senate Republicans cast the deciding, filibuster-proof votes to ban soft money, which, in practice, Republicans have used to balance the ''under-the-radar'' political spending by labor unions on behalf of Democrats, those GOP senators will have nakedly exposed themselves to the loophole-smashing tactics of a labor-Democratic cabal.

[From the Boston Globe, Feb. 27, 2002]

AFL–CIO TO BOOST MANDATORY DONATIONS, HOPES TO SPEND $35M ON NOVEMBER ELECTIONS

(By Sue Kirchhoff)

NEW ORLEANS.—John Sweeney, AFL–CIO president, said yesterday labor leaders plan about a 60 percent increase in mandatory contributions for political activities in order to help the organization meet its goal of pouring $35 million into get-out-the-vote and advertising efforts before the November elections.

The proposal, which faces a final vote in May, was one in a series of efforts by the AFL–CIO executive council, meeting in New Orleans, to regroup in the face of a recession that has hit workers hard. There are splits among unions over specific issues, such as an energy bill now moving through the Senate, and unease that labor has won few victories despite its enormous financial support of Democrats.

New figures released yesterday showed an increase in union membership in 2001, but the gains were nowhere near the goal of recruiting a million workers a year. The AFL–CIO membership rose by about 326,000 to 13.25 million. Most of the increase, however, was due to affiliation with existing unions. The AFL–CIO, which has consolidated some offices, said it would shift dozens of workers to political activities and union organizing. Union leaders approved an economic agenda that focuses on health care, retirement security, and jobs, and made it clear that a candidate's willingness to actively support union organizing efforts would be a key factor in endorsements and financial support.

''We will advance an economic agenda for working families. If we don't do it, no one will,'' said Sweeney, attacking the Bush administration for what he called ''shameful'' insensitivity toward workers.

But labor's antagonism toward the White House does not extend to all Republicans. Asked at a news conference whether his goal was to elect a Democratic Congress, Sweeney said carefully, ''It's fair to say that we want a House that's controlled by supporters of the working-family agenda.'' He said moderate Republicans had been willing to work with unions.

Other union leaders emphasized their desire to focus on issues, not party orientation. Union efforts are expected to overwhelmingly favor Democrats, but more Republicans may get support than in the past. With 36 governors races this year, unions plan to focus more of their effort on state activities.

''They're [Democrats] getting nervous as we talk about being issue-driven because no one likes to compete,'' said Andrew L. Stern, president of the Service Employees International Union, the nation's largest. His group has weathered criticism for supporting, among other issues, a health proposal by New York's Republican governor, George Pataki.

Labor Secretary Elaine Chao, who was received ''politely'' during private meetings, underscored White House efforts to make inroads with select unions, such as the Teamsters, which has split with Democrats to support a Republican plan to drill in the Arctic National Wildlife Refuge. As the Senate opens debate on the energy bill, autoworkers say they are also worried about proposals to increase fuel-efficiency standards.

''I'm very much committed to fostering a good working relationship with labor, but that has to be a two-way street,'' Chao said. She promised the unions she would carefully review a new lawsuit against the poultry industry over ergonomics. The suit was announced yesterday.

Currently, the AFL–CIO funds political activities through a 6.5-cents-per-month assessment on workers and voluntary contributions from member unions. Under the proposal, the mandatory assessment would increase to 10.5 cents, but the voluntary fund-raising would stop. The change, which would take effect in July, would contribute $3.5 million of the forecast $35 million for this election cycle. That total includes $12 million, however, that has already been spent on political activities. Union officials said there was fund-raising fatigue and the desire to have more stable funding.

Mr. MCCONNELL. Let's take a look at the media. One of the largest loopholes in this bill is reserved for the media. I ask unanimous consent that the full text of George Will's February 25 column from Newsweek and his March 10 column from the Washington Post be printed in the RECORD at this point.

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

[From Newsweek, Feb. 25, 2002]

VIRTUE AT LAST! (IN NOVEMBER)

(By George F. Will)

Presidential Press Secretary Ari Fleischer, pioneering new frontiers of fatuity, says some parts of the Shays-Meehan campaign-finance bill please his boss and others do not. ''But ultimately the process is moving forward, and the president is pleased.'' Ultimately, in Washington, the celebration of ''process'' signals the abandonment of principle.

President Bush's abandonment of his has earned him at least $61 million (see below) and the approval of The New York Times. It praises his ''positive role'' and gives him ''considerable credit'' for the passage of the bill, which has received so much supportive editorializing from the Times, in news stories and editorials, that it should be called Shays-Meehan-Times.

What pleased the Times is that Bush did next to nothing to discourage—in fact Fleischer issued a statement that encouraged—passage of a bill chock-full of provisions that Bush, who swore an oath to defend the Constitution, has said violate the First Amendment. Two years ago he affirmed this principle expressed by Supreme Court Justice Clearance Thomas: ''There is no constitutionally significant distinction between campaign contributions and expenditures. Both forms of speech are central to the First Amendment.'' When asked about the principle that it is hostile to First Amendment values to limit individuals' participation in politics by limiting their right to contribute, he said, ''I agree.'' Asked if he thinks a president has a duty to judge the constitutionality of bills and veto those he considers unconstitutional, he replied: ''I do.''

Now he seems ready to sign Shays-Meehan-Times. Why? Could it have something to do with the fact that the bill raises from $1,000 to $2,000 the limit on individuals's contributions to House, Senate and presidential candidates? Candidate Bush got $1,000 contributions from 61,000 people. If he can get just that many to give $2,000—for a sitting president, that should be a piece of cake—the bill that he says ''makes the system better'' will be worth an extra $61 million to him in 2004.

The ardent-for-reform Washington Post—the bill should have been called Shays-Meehan-Times-Post—baldly asserts (talk about the triumph of hope over experience) that the bill ''will slow the spiral of big-money fundraising.'' Actually, the 2003–04 election cycle probably will see the normal increase in political spending. The difference will be that in the next cycle much more of the political giving will be more difficult to trace. The soft money that Shays-Meehan-Times-Post bans—contributions to parties—must be reported. Henceforth much of that money will go to independent groups that will not have to report the source of the money that finances their issue advertising.

One of the bill's incumbent-protection measures says that a candidate whose opponent is very wealthy can receive contributions larger than $2,000. But the Supreme Court has held that the only constitutional justification for limiting political contributions is to prevent corruption or the appearance thereof. So this bill claims, in effect, that the appearance of corruption from a large contribution varies with the size of one's opponent's wallet.

Another incumbent-convenience provision makes it much more difficult for independent groups—labor unions, corporations, nonprofit entities (individuals are another matter; see next paragraph)—to run ads that so much as mention a House, Senate or presidential candidate within 30 days of a primary or 60 days of a general election—if effect, after Labor Day.

In the name of protecting regular people from rich people, the bill has this effect: A millionaire can write a check for $1 million and run a political ad that the National Rifle Association or the Sierra Club could not run using $1 contributions from 1 million individuals.

Most representatives who voted for the bill probably do not know half of what is in it. They cannot know. No one will know until there have been years of litigation about Federal Election Commission regulations issued to ''clarify'' things. What, for example, if meant by ''coordination''? Consider.

There are dollar limits on contributions to candidates, but not on spending for political

advocacy by independent individuals or groups—unless they are coordinated with the candidate. In that case they are counted as contributions to the candidate, and thus limited. The bill says coordination includes ''any general or particular understanding'' between such an individual or group and a candidate. If proper law gives due notice of what is and is not permitted, this is not the rule of law.

Opinion polls invariably show negligible public interest in campaign-finance reform, but almost every congressional district has at least one newspaper hot for reform. Media cheerleading for the bill has been relentless. For example, NBC's Katie Couric, advocating passage of what should be called the Shays-Meehan-Times-Post-Couric bill, wondered whether Enron's collapse would make ''people say, 'Enough is enough! This has got to happen!' '' The media know that their power increases as more and more restrictions are imposed on everyone else's ability to participate in political advocacy.

The bill repeals the politicians' entitlement to buy advertising at the lowest rate stations charge any buyer. This will mean hundreds of millions of dollars of extra revenue for broadcasters. Is this a reward for the media's support? Is there an appearance of corruption here? Never mind. But note this. Repeal of the entitlement is another gift from incumbents to themselves. Challengers usually have less money, so they will be most hurt by higher ad rates.

The bill's authors say soft money is (a) scandalous and (b) not to be tampered with until after they have re-elected themselves. That is, they refused to ban soft money until they have spent all that their parties have raised and will frenetically raise until November. It is going to be that kind of year.

[From the Washington Post, Mar. 10, 2002]

A MATTER OF APPEARANCES

(By George F. Will)

The New York Times and The Washington Post are guilty of corruption. To be precise, they probably are guilty only of the appearance of corruption, as they define it. But as they so frequently tell us, the appearance of corruption is the equal of actual corruption as a justification for campaign finance reform, for which they have tirelessly campaigned.

The Supreme Court has said that preventing corruption or the appearance of it is the only constitutional justification for limits on political contributions, most of which finance the dissemination of political speech. So advocates of the House-passed Shays-Meehan campaign finance reform bill and of its close cousin, the Senate-passed McCain-Feingold bill, pretend (we shall come in a moment to what they are really doing) that their aim is merely to prevent corruption and—this is more important because it is more ubiquitous—the appearance of it.

Well. Shays-Meehan, which the Senate will accept as a replacement for McCain-Feingold, no longer contains a provision that is in McCain-Feingold that would have strengthened the requirement that television stations sell time to candidates at the low rates the stations charge their best customers. The House dropped this provision from the bill.

Broadcasters lobbied hard for this action, which will be worth many millions of dollars to television stations. But that probably was not the primary reason the House did it. Nor was the reason just gratitude for the media's cheerleading for Shays-Meehan. Rather, the House probably did it primarily to help incumbents: Challengers usually have less money and hence are hurt more by high broadcasting rates.

However, our concern is not with the motives of the House in removing the provision, but with the appearance the removal creates regarding two passionate advocates of Shays-Meehan. The New York Times Co. owns eight network-affiliated television stations, and The Washington Post Co. owns six such stations. Shays-Meehan is potentially a windfall for both companies. Gracious.

The Times and The Post incessantly instruct their readers that the appearance of corruption exists when someone who has benefited an elected official with a campaign contribution then benefits from something the official does. But contributions are not the only, or even the most important, benefits that can be conferred upon elected officials. The support by powerful newspapers for a political official's legislation can be much more valuable to the politician than the maximum permissible monetary contribution ($2,000 under current law, $4,000 after Shays-Meehan becomes law) to his campaign.

It probably would be unfair to ascribe the Times' and The Post's support for Shays-Meehan to corruption. But it would be no more unfair than are the Times, The Post and other reform advocates in routinely impugning the motives of politicians who are conservative (or liberal) and hence support particular conservative (or liberal) policies after, but not because, they have received contributions from people who support those policies.

Stil, the appearance of corruption on the part of the Times and Post, which are exquisitely sensitive about (other people's) appearances, is compounded by this fact: The media, which comprise the only intense constituency for campaign finance reform, advocate expanded government regulation of all political advocacy except that done by the media.

Many reformers' ostensible concern about the appearance of corruption is just for appearances. The politicians' real concern is to silence their critics. Recently John McCain gave the game away.

He was discussing the bill's provision that puts severe—for many groups, insuperable—impediments on any group wanting to run a broadcast ad that so much as refers to a candidate within 30 days of a primary or 60 days of a general election. He said: ''What we're trying to do is stop''—note that word—''organizations like the so-called Club for Growth that came into Arizona in a primary, spent hundreds of thousands of dollars in attack ads. We had no idea who they were, where their money came from.''

McCain's attack was recklessly untruthful. He knows perfectly well what the club is—a mostly Republican group formed to support fiscal conservatives. The only ad the club ran—a radio ad—contained not a word of attack: It was an entirely positive endorsement of a candidate's views, and it did not mention or even refer to anyone else. All contributions to the club over $200 are disclosed.

But on one matter McCain, who wishes he could criminalize negative ads, was candid. He—like the Times and Post—is trying to stop others from enjoying rights they now enjoy.

Mr. McCONNELL. Shays-Meehan restricts the free speech rights of individuals, parties and groups, but not the media. The issue ad restrictions are so onerous that many individuals and groups will choose not to speak. But, of course, the media will still be free to speak their mind.

I ask unanimous consent that an article by Pete du Pont, former Governor of Delaware, entitled ''Just A Gag? Congress Prepares To Repeal Freedom Of Speech,'' be printed in the RECORD at this point.

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

[From the Wall Street Journal, Feb. 13, 2002]

JUST A GAG?

(By Pete Du Pont)

The anti-First Amendment crowd is at work in Washington this week, attempting to limit political speech during election campaigns. Their vehicle is the Shays-Meehan campaign-finance bill, and their goal is to drive the money out of politics—even if it requires driving free speech out of political campaigns.

Rep. Harold Ford (D., Tenn.) wondered on television last summer why ''any organization regardless [of whether] they are Democrat or Republican, conservative or liberal, [should] be allowed to come in and influence the outcome of elections solely to advance some narrow interest of theirs.''

Why should they be allowed? Because the First Amendment says it's their right. Because the framers of the Constitution believed, as James Madison and Alexander Hamilton argued in Federalist No. 51, that the civil rights of citizens in the new republic depended on the voices of many interests being heard. And because if only candidates and the establishment media are allowed to speak in the 60 days before an election—which is the intent and effect of the Shays-Meehan bill—ordinary people will be all but voiceless and powerless in the crucial period during an election.

No doubt members of Congress think that is a good idea, because it is much easier to get re-elected if your opponent lacks the resources to mount an effective campaign. What elected official wants groups interested in some issue mucking about in his voting record and being able to air what they find in prime time?

But the question under debate is whether people of similar beliefs—be they anti-death-penalty liberals or pro-life conservatives, unions or corporations or nonprofits—may pool their resources to increase their political impact by talking on television about issues and candidates in the 60 days (the only days that really count) before an election.

Shays-Meehan says no; journalists can talk on television or radio, but others interested in an issue cannot. But the First Amendment is very clear that our opinions as citizens and the opinions of the press are equally protected. (''Congress shall make no law . . . abridging the freedom of speech, or of the press.'') And so was the U.S. Supreme Court in Buckley v. Valeo, the definitive and unanimous 1976 campaign-regulation decision: ''The concept that the government may restrict the speech of some elements in our society in order to enhance the relative voice of others is wholly foreign to the First Amendment.''

What Shays-Meehan (and its Senate counterpart, McCain-Feingold) does is restrict the speech of challengers and enhance the speech of incumbents; it restricts the speech of citizens and thus enhances the speech of the media on issues they care about.

In an earlier column, I discussed some of the difficulties of political speech bans. But consider the actual effect of McCain-Feingold: Planned Parenthood and People for the American Way, the National Rifle Association and Americans for Tax Reform, your local Stop the Highway or Cut Property Taxes Committee—all of them among Rep. Ford's ''narrow interest'' organizations—would be forbidden to use their resources to

run ''electioneering communications'' after Labor Day in an election year. But every newspaper and television station in your town and state could still support or denigrate every candidate every day. Why would any sensible person vote to limit the speech of individuals and organizations but not that of the media, which have as many opinions and biases as each of us does?

When McCain-Feingold was before the Senate last March, 40 senators voted for Sen. Fritz Hollings's proposed constitutional amendment that would exclude campaign speech from the protection of the First Amendment. As wrongheaded as it is, it is at least honest. Shays-Meehan's supporters propose to achieve the same result by stealth, for they know full well that a constitutional amendment has no chance of passing.

It is hard to imagine anything worse for the republic than to have campaign speech regulated, supervised, watched, controlled and authorized or prohibited by an agency of the national government. Our Founding Fathers carefully wrote the right to express our views on the issues of the day into the Constitution, and we should make sure it is not written out.

Mr. McCONNELL. Many of Shays-Meehan's restrictions on political discussion by outside groups only apply to discussions in the broadcast media—not in the print media. If you happen to own a newspaper, or happen to be a newspaper, then these restrictions do not apply.

It is no mystery why the New York Times and the Washington Post have joined forces to run an editorial in favor of campaign finance reform once every 5½ days for the last 5 years. More than once a week, every week, for the last 5 years. The newspapers are huge winners under this bill—they have a blatant conflict of interest—which I don't recall reading about on any of their editorial pages. Nor do I recall seeing any news stories in their papers about their blatant conflict of interest and what big winners they are financially as a result of the passage of this bill.

Let's take a look at fundraising for outside groups. The largest loophole for outside groups is that we in Congress can raise soft money for them. This huge loophole was literally added at the 11th hour over in the House in order to secure enough support for this bill so that it would pass in the House of Representatives. This bill shuts off money to political parties but turns the spigot wide open on contributions to outside interests.

What the reformers don't tell you is that the soft money contributed to the national parties was already fully disclosed. Our friends up in the press gallery and the American public knows how much soft money the parties received. It has been disclosed for years. But for some reason, the reformers believe a system of raising undisclosed soft money for outside groups is better; it is better to allow Members of Congress to raise undisclosed soft money for outside groups than to allow Members of Congress to raise disclosed soft money for political parties. If you can make any sense of that, give me a ring sometime.

The parties will be replaced by an underground network of outside groups for whom we can raise unlimited, undisclosed sums of soft money. Let me be clear: There are numerous groups for whom Members can raise unlimited, undisclosed corporate and union soft money. Let me give you some names: Common Cause, the Sierra Club, the NAACP, NARAL, and NOW. This is a great day for them, a banner day for them.

Now there are other loopholes in Shays-Meehan for specific outside groups. Let's take a look at Indian tribes. In the 2000 cycle, Indian tribes contributed almost $3 million to Federal political campaigns. They used their general treasury for contributions, independent expenditures, and to run issue ads. This bill does not cover any of their activities.

A recent article from Fox News concluded that Indian tribes could soon contribute more money than any other interest group in America.

I ask unanimous consent that the full text of that article be printed in the RECORD.

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

NATIVES SLIP THROUGH BIG LOOPHOLE IN CAMPAIGN FINANCE

(By Katie Cobb)

LOS ANGELES.—Native American groups, or sovereign tribes that live alongside other U.S. citizens but are subject to several exemptions from U.S. tax and other laws, are getting another break in the campaign finance reform law meant to reduce the impact of special interests on political campaigns.

''They are basically just reaching into the till that is full of business and gambling money and writing checks to politicians and political parties,'' said Jan Baran, an elections law attorney.

While most special interest groups will lose their ability to donate soft money and are limited to low caps on direct contributions if and when the campaign finance bill is enacted, tribes which participate in the $5 billion a year Indian gaming industry will not be subject to the same rules.

An existing rule by the Federal Elections Commission already exempted tribes from the same contribution limits that apply to other Americans. But lawmakers, who had an opportunity to close the loophole during recent debate on the measure, decided to leave the exemption in place.

''Under the current law, individuals have an overall cap of $25,000 a year that they can give to candidates and federal political committees. Indian tribes don't have that overall aggregate cap,'' said Ken Gross, a former council for the FEC.

The exemption allows Indian tribes to donate the maximum amount to every single candidate running for federal office, easily totaling hundreds of thousands of dollars in cash each election cycle.

''They have a big pot of money to use and make political contributions and as long as they distribute it on a per candidate or per committee basis within the limits, there is no cap on how much they can spend so they are in a good position,'' Gross said.

And give they do. During the 1994 election cycle, Indian gaming groups gave more than $600,000 to federal candidates and political parties. In 1996, they gave close to $2 million and during the 2000 cycle, nearly $3 million. Millions more went to state candidates.

''We have taken a long time. We suffered a lot because we didn't understand this political process and now that we have learned the process and we have a level playing field, we have got to be treated fair,'' said Erine Stevens, chairman of the National Indian Gaming Association.

The exemption could put Indian tribes in a position to donate more than any other single interest group in America.

Politicians don't seem to mind. Lawmakers don't appear in a hurry to close the loophole during a House and Senate reconciliation conference. And if the bill is signed into law by the President, Indian groups can start cashing in their chips.

Mr. McCONNELL. Let's take a look at the trial lawyers. Shays-Meehan does not cover trial lawyers who organize as partnerships—which most lawyers do these days—rather than corporations. Lawyers gave more than $112 million in the 2000 election cycle alone. They are free to run issue ads at any time without restriction. This bill does nothing to change that.

Madam President, I ask unanimous consent that a copy of an editorial by James Wooton on this matter be printed in the RECORD.

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

[From the Washington Times, Feb. 27, 2002]

CAMPAIGN FINANCE LAWYER LOOPHOLE

(By James Wooton)

A great irony could emerge from the 107th Congress: The purportedly populist campaign finance reform bill being considered by Congress would stifle debate on legal reform—a vital consumer and shareholder issue—while creating a loophole for the most powerful special interest in Washington: plaintiffs' class action lawyers.

As it relates to independent expenditures and issue advertisements, these bills don't cover trial lawyers because lawyers commonly take their compensation as individuals and, therefore, are not treated as ''corporations'' subject to the restrictions in the legislation. Whether or not they intend it, the bill's authors would grant a license to these trial lawyers, who ante up tens of millions of dollars in campaign contributions a year and, in doing so, would further empower a new class of wealthy individuals with an aggressive political agenda. The Shays-Meehan/McCain-Feingold bills unwittingly step into a major public-policy battle between plaintiffs' trial lawyers and the U.S. business community in a way that's certain to produce a clear loser: The American public. Legal reform is a concept abhorred by these lawyers because it would rein in the filing of frivolous lawsuits and put a lid on the lottery-like legal fees that have made some trial lawyers fabulosuly rich. They remember well the bullet they dodged when President Clinton vetoed the 1996 Federal Products Liability bill. Since that bill's demise, the trial bar has been rewarded handsomely: The total of the top 10 jury verdicts increased twelvefold from 1997 to 1999.

Because legal reform could help curb the ''lawyer tax'' that increases the cost of consumer goods and services by $4,800 annually for a family of four and degrades the value of investments, the public has a lot at stake in this battle.

Today, personal injury lawyers already are on top of the world. Freshly infused with the expectation of billions in fees from tobacco

litigation, they are investing heavily in Senate elections to build a barrier against any future legal reforms. If lawyers were ranked among industries, they would be No. 1 on the list of donors to political campaigns. According to the Center for Responsive Politics, lawyers contributed more than $110 million in the 2000 election cycle, $77 million of which went to Democrats. Members of the Association of Trial Lawyers of America alone gave $3.6 million to federal campaigns over the same period.

The battle over legal reform takes place on many fronts, from electing or selecting reform-minded officials, to educating the public about the need for reform, to engaging in grass-roots and legislative lobbying and, ultimately, to enacting reform legislation. To be sure, personal injury lawyers and American businesses both engage in these activities. Unfortunately for the public, Shays-Meehan/McCain-Feingold would hobble American businesses involved in this debate while leaving trial lawyers armed to the teeth.

For instance, the legislation would impose a gag rule, prohibiting corporations from running broadcast issue ads that even mention the name of a candidate for a 60-day blackout period before a general election and 30 days before a primary. Personal injury lawyers would face no such obstacle.

Shays-Meehan/McCain-Feingold contains other booby traps that could confound business efforts to inspire needed reforms to our legal system. A gag rule, for example, would bar corporations from running ads that simply ask viewers to ''Call Senator Jones and urge him to support legal reform bill X.'' During the blackout period, corporations would even be prohibited from running ads that name the principal sponsors of this bill.

Undoubtedly these are unintended consequences of Shays-Meehan/McCain-Feingold. The fact is that the courts are more solicitous of the free speech rights of individuals than corporations. Although some campaign reform advocates have expressed disdain for the greedy plaintiffs' bar and supported legal reform, the campaign finance bills would give more power to personal injury lawyers while crippling the business community's efforts to restore sanity to our civil justice system. Any congressional supporters of common-sense legal reform should be wary of a bill that could significantly empower the plaintiffs' trial bar to block these needed reforms.

Mr. MCCONNELL. Let's take a look at a specific provision of this bill. The provision on ''coordination.''

In addition to protecting the American people's right to free speech and association, the first amendment protects the rights of Americans to petition their Government for redress of grievances. This right is essential to our representative democracy.

We meet with constituents and with citizens groups—who in this debate are simply referred to as ''special interests''—to help determine how best to effectuate the wishes of the American people. We meet with these folks every day. Our meetings with fellow Americans is thus one of the most important things that occurs in the democratic process.

The Shays-Meehan ''coordination'' provision affects our ability to meet with constituents and citizen groups. There is a danger posed by an overbroad coordination standard in this bill. By subjecting candidates, officeholders, and citizens groups to civil and criminal liability for innocuous—and, indeed, necessary—contacts, the ''coordination'' provisions in Shays-Meehan do great damage to the constitutionally protected right of Americans to petition their Government for the redress of grievances.

The Shays-Meehan coordination provisions repeal existing FEC regulations on coordination, and they direct the agency—they order the agency—to promulgate new ones. In doing so, the bill ties the FEC's hands by specifically prohibiting the FEC from issuing regulations that require ''agreement'' or ''formal collaboration'' before subjecting a candidate, officeholder, or citizens group to civil or criminal liability for a ''coordinated communication.''

Let's sum it up. In other words, Congress is prohibiting the FEC from drafting coordination regulations that meet the constitutional requirement of being neither vague nor overly broad. We have, by this act, given instructions to the Federal Election Commission that they cannot draft regulations that meet a constitutional requirement of being neither vague nor overly broad. This bill seeks to shut down the process of interacting with constituents.

Citizens groups and candidates will be subject to prosecution if the Government deems an otherwise lawful ''issue communication'' to be a prohibited corporate contribution simply because groups have met with candidates or officeholders about public policy issues and then run ads on those issues.

For example, if a Member meets with a group about legislation that both the Member and the group support, and the group then runs ads promoting that legislation or those policies, someone—anyone—could then file a complaint charging that the Member and the group ''coordinated'' the communication.

Because Shays-Meehan bars the FEC from requiring that there be an agreement or formal collaboration to establish that the ad was coordinated, a group and a candidate can be liable for receiving and making, respectively, prohibited contributions. It will not matter that the Member disagrees with the ad or even that he did not know anything about it. It won't make a bit of difference.

Instead of requiring an actual agreement or formal collaboration before liability can be established, Shays-Meehan allows the Government to use simple presumptions to show ''coordination'' when, in fact, it may not exist.

Citizens groups, both on the left and on the right, oppose Shays-Meehan's coordination provisions. These groups recognize they will face intrusive and costly investigations, prosecution, civil fines, and penalties, and even criminal liability—even criminal liability—simply because they meet with Members and candidates about issues and then promote a policy agenda that happens to overlap with the Member's policy agenda.

I ask unanimous consent that letters from the National Right to Life, the NRA, the American Civil Liberties Union, and the NAACP opposing the coordination provisions in Shays-Meehan be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL RIGHT TO LIFE COMMITTEE
AND NATIONAL RIFLE ASSOCIATION,
March 19, 2002.

Re Coordination Minefield in Section 214 of H.R. 2356.

Senator MITCH MCCONNELL,
Ranking Minority Member, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: Under current law, no relationship of ''coordination'' exists unless there is an actual prior communication about a specific expenditure for a specific project which results in the expenditure being under the direction or control of a candidate, or which causes the expenditure to be made based upon information provided by the candidate about the candidate's needs or plans.

However, Section 214 of the Shays-Meehan bill (H.R. 2356), in the form passed by the House on February 14, 2002, would obliterate that clear rule, and replace it with a new standard for ''coordination'' that would place incumbent lawmakers, advocacy groups, and unions at great legal risk for engaging in cooperative or parallel activities in support of common legislative goals—or even merely for transmitting information about an incumbent lawmaker's position on public polity issues.

Section 214 of the bill explicitly nullifies the current Federal Election Commission (FEC) regulations governing ''coordination.'' The bill commands the FEC to develop new regulations that *''shall not require agreement or formal collaboration to establish coordination.''* [emphasis added] The bill goes on to dictate a number of issues that must be addressed in new regulations.

''SUBSTANTIAL DISCUSSION'' TRAP

Section 214 requires new ''coordination'' regulations that must, among other things, address ''payments for communications made by a person *after substantial discussion* about the communication with a candidate. . .'' [emphasis added]

Many groups submit questionnaires to members of Congress and other ''candidates,'' some of them covering many different specific issues. Other groups use standardized forms by which a candidate can ''pledge'' to endorse a certain legislative initiative—for example, the balanced budget amendment, or the Equal Rights Amendment, or ''a ban on soft money.'' These written inquiries are often accompanied by written or verbal communications intended to convey why the position(s) advocated by the group are good public policy, worthy of the support of a lawmaker or would-be lawmaker. But even completing the questionnaire or pledge alone could be sufficient to constitute ''substantial communication,'' since the lawmaker presumably returns the document to the group with the clear understanding that the group intends to convey his or her position to members of the public.

If the group does so by means that cost money, the group may soon be the target of a complaint that it made an illegal campaign ''contribution,'' due to the ''coordination'' that occurred between the lawmaker and the group. Moreover, as explained below,

if the group's spending constituted an illegal corporate ''contribution,'' then the member of Congress has also ''received'' an illegal corporate contribution (and, no doubt, committed another violation by failing to report this ''contribution''). Such a complaint may well do the incumbent lawmaker both legal harm and political harm, even though he did no more than convey his position(s) to a group of interested citizens.

Here is another example of ''substantial discussion'' that could lead to legal difficulties for a group (and for an incumbent lawmaker). Early in a congressional session, representatives of six groups met with Senator Doe to discuss what language they, and he, will use to collectively promote Doe's landmark bill to ban widgets. The six groups then spend money to communicate with the public, including Senator Doe's constituents, regarding the urgent need to enact the ''Doe-Jones Widget Ban Act.'' The campaign manager for the senator's challenger then files a complaint, alleging that the groups have a ''coordinated'' relationship with Doe, and therefore the expenditures promoting Doe's bill are actually ''contributions'' to Doe's campaign. The legal consequences for the groups could be grave, because ''contributions'' by incorporated groups and unions have long been illegal.

But the consequences for the incumbent lawmaker could be equally grave, because if the groups' expenditures to promote his bill are deemed to be ''contributions,'' then he also has violated three provisions of law: (1) he has received illegal ''contributions'' from corporations or unions; (2) he has received ''contributions'' in excess of the $2,000 limit; and (3) he has failed to report the ''contributions'' that he received from the groups.

''COMMON VENDORS'' TRAP

The bill also commands that the FEC's new regulations must address ''payments for the use of a common vendor.'' This provision is a license for regulations under which both members of Congress and groups would be at constant risk of entering into a ''coordination'' relationship merely because they both purchase services from the same pollster, ad agency, or other ''common vendor.'' Under such a regulation, a group can establish ''coordination'' with a member of Congress without the lawmaker being able to prevent it, or even knowing about it until after the fact. On the other hand, a member of Congress could unilaterally make it more difficult for numerous groups of their right to express themselves about his record, merely by making purchases from the leading vendor or vendors of certain services (e.g., mailing houses, pollsters) in a given area.

The bill also requires the new regulations to address communications made by ''persons who previously served as an employee of a candidate or a political party.'' The bill contains no time limit on the ''disability'' that would result from such prior employment. The bill's language would permit, for example, the FEC to write regulations under which involvement in a group's public communications by someone who had worked for a political party years earlier would automatically ''coordinate'' all federal candidates of the same political party who is discussed in that group's communications to the public.

POLITICAL ACTION COMMITTEES

Above, we have described ways in which a member of Congress could unwittingly and unknowingly become ''coordinated'' with an incorporated group or union, and thereby be charged with receiving illegal ''contributions.'' There is an additional consequence once this has occurred: If the political action committee (PAC) connected to the ''coordinated'' corporation or union expends more than $5,000 on any activities in support of the lawmaker (or in opposition to his opponent)—even without any prior knowledge or involvement by the candidate—then those contributions also would also be regarded as illegal ''contributions.'' This is because once the parent corporation or union is deemed to have become ''coordinated'' in any of the ways outlined above, its connected PAC also becomes ''coordinated'' and thus loses its legal right to make independent expenditures in excess of $5,000 to support or oppose any candidate—and the candidate is guilty of ''receiving'' an illegal contribution if the PAC makes such expenditures.

Consequently, a Member of Congress could easily become guilty of violating federal election law if he unknowingly becomes ''coordinated'' with a group, and the group's PAC subsequently makes expenditures over $5,000 without the Member's prior knowledge, much less consent.

In closing, we believe that the coordination provision (Section 214) in the Shays-Meehan bill infringe upon our First Amendment right to free speech and right to petition the government for redress of grievances. Therefore, we strongly oppose this provision.

Respectfully,

DAVID N. O'STEEN,
Executive Director, National Right to Life Committee.

CHARLES H. CUNNINGHAM,
Director, Federal Affairs, National Rifle Association.

AMERICAN CIVIL LIBERTIES UNION AND NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Washington, DC, February 27, 2002.

Senator RUSS FEINGOLD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINGOLD: At your earliest convenience we would like to meet with you and your staff to discuss the coordination provisions of the House-passed version of the Shays-Meehan bill (H.R. 2356) that the Senate may soon take up.

We believe that Section 214 (provisions on coordination) will have a chilling effect on our ability to communicate with Members of Congress and our constituencies about important issues that arise in the legislative context. Because the provisions are so vaguely worded, we also think that the Federal Election Commission (FEC) will have the ability to subject groups to unwarranted investigations to determine if our motivation is really to affect the outcome of legislation or to affect the outcome of a campaign.

Shays-Meehan substantially changes current law by explicitly nullifying the current (and clear) FEC regulations governing ''coordination.'' Under current law, no relationship of ''coordination'' exists unless there is an actual prior communication about a specific expenditure for a specific project, which results in the expenditure being under the direction or control of a candidate. In addition, under current law coordination exists if the expenditure is made based upon information provided by the candidate about the candidate's needs or plans.

Under Section 214 of the Shays-Meehan bill the FEC is directed to issue regulations that cover communications we have with federal candidates. These new regulations ''shall not require agreement or formal collaboration to establish coordination.'' Another part of Section 214 states that the new FEC regulations should address ''payments for communications made by a person after substantial discussion about the communication with a candidate . . .'' We think that these vaguely worded directives concerning our activities could cause legal nightmares for our groups and the candidates with whom they work.

The ACLU and the NAACP often meet with members of Congress to learn about their positions on issues. After those meetings we sometimes decide to assist them (or lobby against them) on their legislative initiatives. After these conversations our groups may decide to convey the substance of these meetings through mass communications such as full page advertisements in newspapers, mass mailings, radio ads and the like. If we spend money to engage in these communications, we could be the target of a complaint accusing us that we made an illegal campaign ''contribution'' due to the ''coordination'' that occurred between the lawmaker and our groups. Indeed we have often been asked by a lawmaker to mobilize our grass roots on an amendment or bill that they may be offering. This has happened numerous times on issues ranging from civil rights laws to welfare reform. Just because we work closely with a Senator or Representative on a policy issue does not mean that we are secretly trying to endorse a particular candidate for re-election. But the new Section 214 provisions of Shays-Meehan will make our activities suspect and prone to investigation and perhaps sanctions by the FEC.

Candidates are also very much at risk as a result of the new coordination language. If the FEC deems that our groups' issue communications really amount to an illegal contribution to a candidate, then the candidate can be fined by the FEC for accepting an ''illegal'' contribution.

Without completely eliminating this provision, we hope that you will make adjustments in the language of this statute before the Senate takes up the bill later this week. The coordination provisions should not be so vague that they lead to the regulation of communications that are constitutionally protected and are not designed to support or oppose a candidate for federal elective office.

Thank you for your consideration of this urgent request.

Sincerely,

LAURA W. MURPHY,
Director, ACLU.

HILLARY SHELTON,
Director, NAACP.

Mr. McCONNELL. I urge these groups and others who are concerned about their ability to continue to promote issues to join me in challenging the overbroad ''coordination'' provisions in this bill.

The proponents of this legislation urge that the result I have described to you is not what they have intended. They have inserted into the RECORD a clarification of how they envision their coordination provisions to operate.

However, neither a colloquy nor legislative history can change clear statutory language. If the drafters did not intend the troubling result I have described, then they should have used different language, or accepted my offer to modify the provision, which is one of the items I discussed with the Senator from Arizona early on in our discussions about the technical corrections to this bill. Instead, they insisted on directing the FEC to find ''coordination,'' when there is no agreement to coordinate.

Madam President, I ask unanimous consent that additional documents

from individuals and groups across the political spectrum, which highlight the fundamental problems with this legislation, be printed in the RECORD.

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

[From the Washington Post, Feb. 13, 2002]

IT'S NOT REFORM, IT'S DECEPTION

(By Robert J. Samuelson)

''Washington think'' is less about logic than political hustle. If you favor something, you attach it to a popular cause—say, homeland security. If you oppose something, you attach it to an unpopular cause—say, Enron. Bear this in mind as the House debates the Shays-Meehan ''campaign finance reform'' bill, named after sponsors Christopher Shays (R-Conn.) and Martin Meehan (D-Mass.). The Enron scandal (it's said) demonstrates the corruptness of big political contributions and the need for an overhaul. The argument, though highly seductive, is complete makebelieve.

Only by the lax standards of ''Washington think'' would anyone treat it seriously. It's all innuendo: Enron collapsed because some executives behaved unethically; Enron executives also made political contributions; therefore, the contributions are tainted and the system is rotten. In reality, Enron would have collapsed even if its executives hadn't contributed a penny. The connection between the bankruptcy and political giving is fictitious. Perhaps contributions bought Enron some influence in shaping the White House's energy plan. But given Bush administration's pro-market views, does anyone truly believe the energy plan would have been much different without Enron?

The real lesson is that when Enron desperately needed help, its contributions bought no influence at all. In the 1999–2000 election cycle, Enron, its executives and employees made about $2.4 million in contributions, says the Center for Responsive Politics. Republicans got 72 percent, Democrats 28 percent. That's a lot of money—but not compared with total contributions. In the 2000 election, all House and Senate candidates raised more than $1 billion. Bush and Gore raised $193.1 million and $132.8 million. Political parties and committees raised hundreds of millions more.

Even if Enron deserve help (it didn't), few politicians would have risked public wrath by rushing to its aid. What this episode actually shows is that the breadth of contributions insulates politicians against ''undue'' influence by large donors. Since the early 1980s, the details of campaign fundraising and spending have changed enormously. But the debate's basic issues have stayed the same and can be distilled into a few questions:

Is campaign spending too high? No. In 2000, all campaigns—including state and local elections and ballot referendums—cost about $3.9 billion, according to the forthcoming book ''Financing the 2000 Election'' from the Brookings Institution. This is less than four one-hundredths of 1 percent of our national income. It's less than Americans spend annually on flowers ($6.6 billion in 1997).

Do contributions systematically favor one party over another? No. Since the early 1980s, politics has become more—not less—competitive. The closeness of the Bush-Gore election and the present congressional split (Republican House, Democratic Senate) attest to that. Candidates need to raise a threshold of contributions to campaign effectively. But more money doesn't guarantee victory. The Brookings book cites many cases where poorer candidates won. In Michigan, incumbent Republican Sen. Spencer Abraham spent $13 million but lost to Debbie Stabenow, who spent $8 million.

Do rich contributors control Washington? No. Sure, the wealth sometimes get underserved tax and regulatory breaks. But generally they're fighting a rear-guard defense against higher taxes and more regulations. Even after Bush's tax cut, the wealthiest 10 percent of Americans pay roughly half of all federal taxes. Most government benefits (for Social Security, Medicare, Medicaid, food stamps) go to large middle-class or poor constituencies.

Are big campaign contributions a large source of discontent? No. In a recent ABC News-Washington Post poll, respondents rated the government's top 10 priorities. ''Campaign finance'' finished last, with 14 percent. Last April—before terrorism and the declaration of a recession—it was also last, with 15 percent.

Do restrictions on campaign contributions curb free speech? Yes. Because modern communication—TV, mailings, phone banks, Internet sites—requires money, limits on contributions restrict communication. If communication isn't speech, what is it? The Supreme Court mistakenly blessed some contribution limits in Buckley v. Valeo (1976) but also equated free speech with free spending. As long as the court maintains that free speech involves free spending, putting more restrictions on contributions to political candidates and parties is self-defeating. It simply encourages outside groups (unions, industry associations, environmental groups) with their own agendas to increase campaign spending to influence elections.

The true parallel between Enron and campaign finance is one that ''reformers'' avoid. Enron's cardinal sin was deception. The company evaded clear financial reporting. Similarly, ''campaign finance reform'' fosters continuous deceptions. Because politics requires money and is fiercely competitive, every new restriction on contributions inspires ways around the limits—evasions that, though legal, are denounced as ''abuses.'' Why should writing laws that predictably invite evasion be considered a good or moral act?

If Shays-Meehan becomes law, the cycle will continue. It bars most ''soft money'' political contributions and restricts some ''issue ads'' before elections. The Supreme Court might toss out some or all of the new limits as unconstitutional. If it doesn't, political operatives will skirt the restrictions. Opinions are divided on which party might benefit. Perhaps neither. Whatever happens, Shays-Meehan will hardly take big money out of politics. The only way to have true ''reform'' without this legislated hypocrisy is to amend the Constitution and place limits on the First Amendment. Somehow a distinction would have to be created between ''spending to communicate'' and ''communicating.''

To make this case would be difficult. In this reporter's opinion, it would also be undesirable. It would stifle political competition and sow resentment. But perhaps reformers can convince the American public otherwise. If they think campaign money is fundamentally corrupting democracy, honesty compels them to take the amendment route. Until they acknowledge that, they will be guilty of the same sins as Enron's executives. They will be describing the world as they wish it to be seen, not as it actually is. Here lies the geninue Enron analogy.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, February 13, 2002.

DEAR REPRESENTATIVE: We, the undersigned organizations and individuals, represent a diverse array of non-profit public policy advocacy groups. We have a shared belief that your upcoming vote on Shays-Meehan today will create an important record of your stand on the First Amendment rights of issue advocacy groups in the United States. We urge you to oppose this legislation because it contains unwarranted and unconstitutional restrictions on our free speech rights.

We have heard a great deal about so-called ''sham issue ads'' and the need to regulate such advertising. Until now in the United States, under our First Amendment, we have had the right to express our views through advertising about national issues and about federal elected officials before, during and after elections. Clearly most of Congress realizes that it would be unconstitutional to silence an individual who wants to take out broadcast advertising during this same period; consequently, Shays-Meehan does not silence wealthy individuals. But Shays-Meehan does silence groups like ours that are collectively supported by millions of small contributors who band together to make their views known.

Proponents of Shays-Meehan argue that their bill does not silence our groups. They are wrong. Sections 201, 203, and 204 of H.R. 2356 (like its Senate counterpart) contain unconstitutional restrictions on broadcast, cable and satellite issue ads. The net effect of these provisions is to ban many of our national groups and their affiliates, and all other 501(c)(4) advocacy corporations (but not PACs) from funding TV or radio ads that even mention the name of a local member of Congress for 30 days before a state's congressional primary or runoff, and for another 60 days before the general election. This restriction applies to any ad that ''can be received'' by 50,000 or more ''persons,'' including minors, within a district—which covers nearly any TV or radio ad, since few persons do not possess TVs and radios.

These restrictions would have widespread impact on issue advocacy throughout the even number years in particular. For example, even today (February 13, 2002) if the bill were law, groups such as Common Cause and Campaign for America would be banned from running a TV or radio ad today in California (March 5th primary) or Texas (March 12th primary) saying simply ''Call Congressman Jones to urge him to vote for the Shays-Meehan bill.'' In effect, groups are being cut out of the dialogue on major national issues.

The Supreme Court has repeatedly held that only express advocacy, narrowly defined, can be subject to campaign finance controls. Shays-Meehan redefines express advocacy in a way that covers our legitimate speech, which is not telling voters to vote for or against a particular candidate. If we dare applaud, criticize or even mention a candidate's name during this 30 day/60 day ''blackout'' period, we would have to create a PAC where donor names would have to be disclosed to the FEC in a way never before upheld by the courts.

We believe that no group that wants to express its views through broadcast ads should be forced to bear the significant and costly burden of establishing a PAC just to comment during this period. Separate accounting procedures, new legal compliance costs and separate administrative processes would be imposed on these groups—a high price to exercise their First Amendment rights to merely mention a candidate's name or comment on candidate records. Moreover, having a PAC would by definition make the organization a participant in partisan politics. Rather than risk violating this new requirement, absorbing the cost of compliance or being forced to take partisan stands during elections, it is very likely that some groups will remain silent.

It is clear that the intent and net effect of Shays-Meehan is to shut down legitimate, constitutionally protected issue advocacy. Are you voting to do this to groups who represent millions of Americans? We urge you to reject this approach. Please vote against Shays-Meehan.

Sincerely,

Laura W. Murphy, Director, ACLU Washington Office; Joel Gora, ACLU Campaign Finance Counsel, Professor of Law, Brooklyn Law School; David N. O'Steen, Executive Director, Douglas Johnson, Legislative Director, National Right to Life Committee; Gregory S. Casey, President & CEO, BIPAC (Business Industry Political Action Committee of America); R. Bruce Josten, Executive Vice President, U.S. Chamber of Commerce; Charles H. Cunningham, Director, Federal Affairs, National Rifle Association Institute for Legislative Action.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, February 12, 2002.

DEAR REPRESENTATIVE: On behalf of the American Civil Liberties Union we are writing to express our opposition to the Shays-Meeham bill, the Bipartisan Campaign Reform Act of 2001, H.R. 2356 as originally introduced and in its subsequent permutations.

Shays-Meehan (in all its various iterations) would:

Unconstitutionally restrict robust political speech by average citizens prior to federal elections (issue advocacy restrictions).

Place restrictions on soft money contributions that support issue advocacy activities (partial bans on soft money).

Create draconian penalties for non-partisan interactions between groups and federal candidates (so-called coordination).

Shays-Meehan penalizes people of moderate means who want to band together to make their voices heard throughout the year, before during and after federal elections. These bills protect incumbents, wealthy individuals, PACs and the press. We have enclosed a fact sheet that presents our objections to Shays-Meehan in more detail.

We urge all members of Congress to vote against this legislation.

Sincerely,

LAURA W. MURPHY.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC.

ACLU CAMPAIGN FINANCE REFORM FACT SHEET

WHY SHOULD MEMBERS OF CONGRESS VOTE AGAINST H.R. 2356, THE SHAYS-MEEHAN BILL?

1. Shays/Meehan is patently unconstitutional.

The American Civil Liberties Union believes that key elements of Shays-Meehan violate the First Amendment right to free speech because the legislation contains provisions that would:

Violate the constitutionally protected right of the people to express their opinions about issues through broadcast advertising if they mention the name of a candidate.

Restrict soft money contributions and uses of soft money for no constitutionally justifiable reason.

Chill free expression by redefining it as ''coordination'' through burdensome reporting requirements and greatly expanded FEC investigative and enforcement authority.

H.R. 2356 would burden and abridge the very speech that the First Amendment was designed to protect: political speech.

2. Shays-Meehan would have a chilling effect on issue advocacy speech that is essential in a democracy. H.R. 2356 contains the harshest and most unconstitutional controls on issue advocacy groups. The bill contains:

A virtual ban on issue advocacy achieved through redefining express advocacy in an unconstitutionally value and over-broad manner. The Supreme Court has held that only express advocacy, narrowly defined, can be subject to campaign finance controls. The key to the existing definition of express advocacy is the inclusion of an explicit directive to vote for or vote against a candidate. Minus the explicit directive or so-called ''bright-line'' test, the Federal Election Commission (FEC) will decide what constitutes express advocacy. Few non-profit issue groups will want to risk their tax status or incur legal expenses to engage in speech that could be interpreted by the FEC to have an influence on the outcome of an election.

A black-out on broadcast, cable and satellite issue advertising before primary and general elections. The bill's statutory limitations on issue advocacy would force groups that now engage in issue advocacy—including non-profit corporations known as 501(c)(4)s—to create new institutional entities in order to ''legally'' speak within 30 days before a congressional primary or runoff and 60 days before a general election. This restriction applies to any ad that ''can be received'' by 50,000 or more ''persons,'' including minors, within a district—which covers almost all TV or radio ads, since few persons do not possess TVs and radios. If a group wanted to take out a broadcast, cable or satellite ad during this period they would have to create a PAC where donors would have to be disclosed to the FEC in a way never before sustained by the courts. The opportunities that donors now have to contribute anonymously (a real concern when a cause is unpopular or divisive—see NAACP v. Alabama) would be eliminated.

Being forced to establish a PAC as a condition of commenting on campaign issues could entail a significant and costly burden for many non-profit organizations. Separate accounting procedures, new legal compliance costs and separate administrative processes would be imposed on these groups—a high price to exercise their First Amendment rights to comment on candidate records. Moreover, forcing an organization to take a partisan position is antithetical to the mission of groups like the ACLU that are fiercely non-partisan. It is very likely that some groups will remain silent rather than risk violating this new requirement or absorbing the cost of compliance. The only individuals and groups that will be able to characterize a candidate's record on radio and TV during this 60 day period will be the candidates, wealthy individuals, PACs and the media. Further, members of congress need only wait until days before a primary or general election (as they often do now) to vote for legislation or engage in controversial behavior so that their actions are beyond the reach of public comment and, therefore, effectively immune from citizen criticism.

3. Shays-Meehan redefines ''coordination with a candidate'' so that heretofore legal and constitutionally protected activities of issue advocacy groups would become illegal.

If the ACLU decided to place an ad lauding—by name—Representatives or Senators for their effective advocacy of constitutional campaign finance reform, that ad would be counted as express advocacy on behalf of the named Congresspersons and, therefore, would be prohibited if the ACLU had prior discussions with that member about those issues. An expanded definition of coordination is disruptive of proper issue group-candidate discussion.

4. Shays-Meehan would impermissibly limit soft money.

Unprecedented restrictions on soft money would make national parties less able to support grassroots activity, candidate recruitment and get-out-the-vote efforts. Restrictions on corporate and union contributions to parties not only trample the First Amendment rights of parties and their supporters in a manner well beyond any compelling governmental interest but they also dry up funds that expand political participation. Further, Shays-Meehan would ban all contributions from parties to non-profit organizations. Political parties frequently give money to non-profit groups to facilitate voter registration and issue-based voter mobilization efforts. These restrictions threaten the very survival of non-profit organizations that exist for these purposes, and will likely further suppress voter turnout by student and minority groups. Political parties are the mainstay of our democracy and they require funds for their electoral and issue advocacy activity. Any concern with large contributions to political parties may be addressed through the less drastic alternative of disclosure.

5. Shays-Meehan does not do anything to ''Big Money'' in politics except push money into other forms of speech that are beyond the reach of the campaign finance laws.

The Shays-Meehan bill contains misguided and unconstitutional restrictions on issue group speech and, as a consequence, further empowers the media to influence the outcome of elections. None of the proposals seek to regulate the ability of the media—print, electronic, broadcast or cable—to exercise its enormous power to direct news coverage and editorialize in favor or against candidates. This would be clearly unconstitutional. However, if the sponsors of Shays-Meehan have their way, the only entities that would be free to comment in any significant way on candidates' records would be the media, wealthy individuals, PACs and the candidates themselves. Corporations and unions need only to purchase media outlet if they want to have influence over candidates—their wealth and influence will not be abated by these so-called ''reforms.'' Why, then, does Shays-Meehan attack, burden and seek to effectively eliminate only citizen group advocacy?

6. Shays-Meehan makes it harder for ethnic and racial minority, women and non-mainstream voices to be heard prior to an election.

What would happen, for example, if a candidate runs racist, sexist or homophobic ads during the last days of an election and interest groups like the NAACP, NOW or the National Gay and Lesbian Task Force wanted to criticize that candidate by name? Unless they undertook the complicated process of forming a PAC, they would risk violating the issue ad restriction in HR 2356 (the Shays-Meehan bill). Any broadcast ads decrying the candidates behavior that uses the name or likeness of a candidates 30 days before a primary or 60 days prior to a general election—even ads that do not endorse or oppose the candidates—would have to be funded through new disclosed dollars only, not existing non-profit funds. Further, the Shays-Meehan restrictions on soft money would dry up dollars that parties need to conduct voter registration and education, issue and platform development and the like.

7. It creates a ''Big Brother'' governmental regime for political speech.

This bill would permit the creation of a huge Federal Elections Commission apparatus that would be in the full-time business of determining which communications are considered unlawful ''electioneering'' by citizens and non-profit groups. None of the major proposals have funds to train or defend citizens or interest groups under the proposed new regulatory regime. Yet the Shays-Meehan legislation contains harsh penalties for failure to comply with the new laws.

8. How does the Shays-Meehan bill compare to the Ney/Wynn bill, H.R. 2360?

The Ney/Wynn bill is far less constitutionally flawed than Shays/Meehan in that it regulates issue advocacy and soft money less restrictively. But Ney/Wynn is still problematic legislation in that it imposes unwarranted regulation of issue advocacy thought registration, reporting and disclosure. It creates a kind of ''Free Speech Registry'' for any organized criticism of incumbent politicians. A group would still have to register with the FEC if it sends written, Internet and broadcast communications. These very same kinds of regulations have been struck down by the federal courts (See United States v. National Committee for Impeachment, 469 F.2d 1135 (2d Cir. N.Y. 1972) and American Civil Liberties Union v. Jennings, 366 F. Supp. 1041 (D.D.C. 1973)). The Ney/Wynn bill would adversely affect issue group publications such as an ACLU Civil Liberties Voting Index unless it was communicated only internally to members). Such a communication would be subject to onerous and burdensome regulations. Although both bills embody the flawed limit-driven approach to political speech, the Shays/Meehan bill is far more constitutionally onerous.

Shays-Meehan is unconstitutional, unwise and ineffective legislation. The ACLU urges Representatives to vote against H.R. 2356.

Mr. MCCONNELL. Although this legislation will pass today, I am confident the Supreme Court will step in to defend the Constitution.

I commend the proponents of this bill for acknowledging the serious constitutional questions that are wrapped up in this legislation and for providing an expedited route to the Supreme Court for an answer to these questions. I am consoled by the obvious fact that the courts do not defer to the Congress on matters of the Constitution, and they should not.

Today is a sad day for our Constitution, a sad day for our democracy, and for our political parties. We are all now complicit in a dramatic transfer of power from challenger-friendly, citizen-action groups known as political parties to outside special interest groups, wealthy individuals, and corporations that own newspapers.

After a decade of making my constitutional arguments to this body, I am eager to become the lead plaintiff in this case and take my argument to the branch of Government charged with the critical task of interpreting our Constitution.

Today is not a moment of great courage for the legislative branch. We have allowed a few powerful editorial pages to prod us into infringing the First Amendment rights of everybody but them. Fortunately, this is the very moment for which the Bill of Rights was enacted. The Constitution is most powerful when our courage is most lacking.

Madam President, I congratulate Senator MCCAIN and Senator FEINGOLD for their long quest on behalf of this legislation and also Congressmen SHAYS and MEEHAN.

I particularly thank my devoted staff, who have been deeply involved in this issue—some of them going back to the late 1980s. The Minority Staff Director of the Rules Committee, Tam Somerville, was with me in 1994 when we had the last all-night filibuster in the Senate. It was on this issue. That was a time when we really did get out the cots because we really meant to use them, not just to have a photo op. Hunter Bates, my former Chief of Staff and the former Chief Counsel of the Rules Committee, has been a tower of strength on this issue and will still be, hopefully, involved in our effort as we go forward in the courts. Brian Lewis, my Chief Counsel at the Rules Committee, has been an invaluable member of this team. He is a very skillful lawyer, with a good political sense as well. He also has been deeply involved in the election reform issue, which Senator DODD and I hope to move in the coming weeks. Leon Sequeira, my Counsel at the Rules Committee who works with Brian, is sitting to my right. He is also a valuable member of our team and a terrific lawyer who has made important contributions to this debate.

John Abegg, my Counsel in my personal office, is another bright lawyer, well steeped in the first amendment, who has made an important contribution.

Chris Moore and Hugh Farrish of the Rules Committee staff have also been helpful to me in this effort.

I say to all my staff who have worked on this issue, you make me look a lot better than I deserve, and I thank you so much for your outstanding work, not just for me but for the principles involved in this important debate.

In conclusion, this may be the end of the legislative chapter of this bill, but a new and exciting phase lies ahead as we go to court to seek to uphold the Constitution and protect the rights of individuals, parties and outside groups to comment and engage in political discourse in our country.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER (Ms. LANDRIEU). The Senator has 18½ minutes.

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

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Madam President, I ask that the time be charged to both sides during the quorum call, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. MCCONNELL. Madam 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. Madam President, the Senator from Pennsylvania wishes to address this issue. I yield him 10 minutes if he needs it. If he does not, we will reserve the remainder of the time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair.

Madam President, first and foremost I congratulate the Senator from Kentucky. He is truly a lawyer for the first amendment and for the Constitution of the United States. I listened to most of his remarks. They are about as thorough a discourse on this issue as I have heard. There is not much for me to add, but I will make a couple of comments about what I think we are doing today and the impact it is going to have on the political system.

Assuming this is all held to be constitutional—and I agree with my colleague from Kentucky, I have grave doubts whether that will be the case, but assuming it will all be held constitutional, this will do several things.

No. 1, I got to the Senate and the House of Representatives as a challenger. I came out of nowhere in almost both those situations. I did it the hard way. I had support basically from only one special interest group: the Republican Party. That was it.

In my first race for Congress, I was outspent 3½ to 1. I think I got $10,000 in PAC contributions. I was a nobody. I was a guy who was knocking on doors. The Republican Party said: We will help him a little bit; we will get the folks organized to help out. And they gave me a little money. Guys like me are going to have a lot harder time getting to the Senate or the House of Representatives. None of the special interest groups was fighting for me because they did not think I had a chance. They are going to be the ones to hold the power now.

Political parties are not going to have the resources to support challengers. I heard this comment among my colleagues over and over—it is this frustration level, and I do not mean to point fingers and I will not, but I hear this frustrating comment from my colleagues who support this bill: I am sick and tired of all these people playing around in my election. I am tired of all these outside groups running ads in my election.

Well, excuse me. Excuse me. Gee, I did not realize when I ran for office that this was my election. You see, I thought this was an election for the Senate or, before that, for the Congress. I certainly did not believe I had ownership of this election. But I will tell you, in private meetings, over and over I hear this comment: I am sick and tired of all these people, all these speeches—speeches meaning ads—all these folks attacking me in my election; I want control back over my election.

''My election.'' If you do not think this is an incumbent protection plan, I guarantee you have not been listening. This is all about protecting incumbents. Do my colleagues think we are going to pass something which helps folks who run against us? How many folks are going to say: I like being here, but I want to give the guy who takes me on a better shot at me? I can guarantee if my colleagues read this bill, there is no way they can see that.

All you bothersome people out there in America who believe you have some right to participate in my election, it keeps you at home. You just stay home. Leave me alone 60 days before my election so I can do what I want to do and tell the people what I want to tell them.

That is the first thing this does—it shuts you up because—you know what?—you are an annoyance. You guys go out there and say things I do not like, I do not agree with, and it may not be true, so we are just going to shut you up. That is the first thing this bill does.

The second thing this bill does is it destroys political parties. One of the great things about this country is that we have had a stable two-party system. Travel around the world and look at other democracies and see fragmented governments, all these very narrow parties. We do not have that in America. We have two very broad mainstream parties. People say that does not leave room for dramatic advances in ideological thought at one end of the spectrum or the other end. That may be true, but it has served this country pretty well.

What we are doing with this bill is shifting power from those broad, mainstream parties that support people not because of any litmus test on the issues, but support them because they run under the broad banner of center or right of center if you are Republican, or center or left of center if you are a Democrat. We are now going to replace that with very highly specialized interests that I believe in the end will begin to develop parties, although not in a formal sense, but begin running candidates because of their ability to funnel undisclosed money to those candidates. We will begin to see more fringe players on the horizon. We may even see many elected.

If we look again at Europe and other places, other democracies, in many cases these fringe or extreme parties tend to hold the balance of power. It is not a very constructive thing at all for this country.

I do not know what possesses someone to think that political parties, for all their good or all their bad, are somehow negative for this country; that having political parties supporting their candidates is somehow bad, is somehow destructive to our political process when, in fact, it is just the opposite. Political parties protect us from extremism by their support of more mainstream ideas.

So this bill destroys, in most respects, political parties and their ability to have influence on elections. It shuts up you. It shuts up you, the average voter in America. It says you need not participate in what we are doing.

Who is the greatest beneficiary? Well, obviously, I mentioned before the greatest beneficiary is the incumbent or the person with incredible deep pockets who can spend their money. Those are the great beneficiaries. If you have a lot of money or you happen to be in here—I got mine, too bad about you—you are going to be OK in this legislation.

I do not know that I would necessarily wave the banner of reform and say that is the end result of this process.

Who else is going to benefit? Senator MCCONNELL mentioned this, too. The greatest beneficiaries are the folks who do not have to shut up 60 days before the election. The greatest beneficiaries are candidates and the media. The media is a huge winner.

All of you, Americans, unless you have a newspaper or a radio station or a television station, have to sit on the sidelines when people begin to focus on elections 60 days before. Not the media. If all of you are quieter, their voice naturally becomes louder because it is the only voice out there other than the candidate. Of course, those supporting this measure want to shut you up anyway.

So we now have a system where candidates and the media become the dominant voices in our political structure, and the average American is shut out. And this is reform.

I argue that what we are doing is a direct assault on the first amendment. If one has any doubts about that, in the Senate, at least the last two times that I recall that we debated this issue, there was an amendment offered to McCain-Feingold to amend the Constitution to allow these provisions to be constitutional. Think about this. In the Senate, there was an amendment offered to, in essence, amend the first amendment of the Constitution so this bill would be seen constitutionally.

Over a third of the Senate voted to limit political speech in the Constitution, which brings me to the point I have made many times. I guarantee if we had a vote right now on the first 10 amendments to the Constitution, the Bill of Rights, in the Senate they would not pass, because we know better. We want to keep this power with us, not the people.

Those first 10 amendments were there to protect you, Mr. and Mrs. America; not us, Mr. and Mrs. Senator.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SANTORUM. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. How much time do we have remaining?

The PRESIDING OFFICER. Sixty-one minutes.

Mr. FEINGOLD. I thank the Chair. Now I am delighted to yield 5 minutes to one of the earliest supporters of this legislation from the State, more than any other State at this time in our history, that represents campaign finance reform and somebody who worked every day for 5 or 6 years to make this happen, the Senator from Maine, Ms. COLLINS.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Thank you, Madam President.

Today we stand on the threshold of an accomplishment that for many years had seemed unachievable. We are here because of the tenacious leadership, advocacy, and courage of Senators JOHN MCCAIN and RUSS FEINGOLD. How well I remember, after being elected in 1996 and sworn in in early 1997, Senator FEINGOLD coming and meeting with me. He had with him a pile of papers, everything I had ever said on the issue of campaign finance reform. So he knew well I had pledged to the people of Maine my determination to reform our campaign finance laws.

We talked, and I said to him: This sounds very good. How many other Republicans do you have on this bill?

He paused and he said: You mean other than JOHN MCCAIN?

I said: Yes.

He said: Well, there is FRED THOMPSON.

I was delighted to sign on as the third Republican to support the McCain-Feingold bill. I wish to pay tribute to my friend RUSS FEINGOLD for his persistence, for his attention to detail, and for never giving up the fight. He and Senator MCCAIN are true heroes.

It is wonderful to be here today. The growth and support for campaign finance reform among members of my party underscores the importance of the legislation and the increasing realization that our campaign system was out of control. My home State of Maine has a deep commitment to preserving the integrity of the electoral process, to opening the doors to public office to many more citizens, and to ensuring that all Mainers, indeed all Americans, have an equal political voice.

In many communities in Maine, this is the season for town meetings, town meetings in which all citizens are invited to debate the issues with their neighbors and to make decisions. This is unvarnished, direct democracy. It is a tradition where those who have more money do not speak any louder or have any more clout than those who have less money. It is a tradition that has made Maine a State that values political participation from all of its citizens.

Maine's tradition of town meetings and equal participation rejects the notion that wealth dictates political discourse. Maine's citizens feel strongly about reforming the campaign finance system, as do I.

Soft money has become the conduit through which wealthy individuals, labor unions, and corporations have been able to evade the campaign contribution limits, as well as the ban on direct corporate and union contributions. The problem with soft money was painfully evident during the 1997 hearings held by my friend and colleague, Senator FRED THOMPSON, before the Committee on Governmental Affairs. We heard from individual after individual who testified about giving

hundreds of thousands of dollars in order to buy access. One gave $325,000 to the Democratic National Committee in order to secure a picture with the President of the United States. Another was the infamous Roger Tamraz, who testified the $300,000 he donated to gain access to the White House was not enough and that next time he was prepared to double the amount he would give.

According to the Congressional Research Service, soft money donations nearly doubled in the 2000 election cycle, from $262 million in 1996 to $488 million in the year 2000. Other estimates set the explosion in soft money donations at even higher levels.

Just two Presidential elections ago, soft money contributions totaled $86 million. At the same time, during this period, regulated hard money donations, which all of us wish to encourage to get individuals more involved in the political process, grew by only about 10 percent.

The Federal Election Campaign Act of 1971 has served our country well in many aspects, but the loopholes in the law have swallowed the rules themselves. If left unchecked, soft money threatens to swamp our campaign finance system, and that is why this legislation we are on the threshold of clearing today is so important.

I am also pleased the bill includes an amendment that Senator WYDEN and I offered to raise the level of discourse in campaign ads. Our amendment requires that candidates be clearly identified when they or their authorized committees air negative advertising. When a candidate launches an ad that refers directly to an opponent, whether it is a high-minded discussion of policy differences or a vicious attack on an opponent's character, the candidate should be required to stand by his ad and not hide behind a committee that may not include the name of the candidate.

Our amendment requires the candidate to clearly identify himself or herself as the sponsor of the ad, thus putting an end to disingenuous stealth attack ads.

Finally, I pay tribute to a principled opponent of this legislation, Senator MCCONNELL. We could not disagree more on the substance of this issue, but I respect his tenacity and the strength of his convictions.

The problems in our country campaign finance system are well known. Today, finally, at long last, due to Senator RUSS FEINGOLD and Senator JOHN MCCAIN, we are going to make tremendous progress. I am delighted to have been part of this fight. I am so pleased we are on the verge of sending this landmark legislation to the President of the United States for his signature.

Mr. FEINGOLD. Madam President, I thank the Senator from Maine for her kind words and her courageous leadership on this issue. It is so fitting that the next speaker is the other Senator from Maine. Without Maine, without these Senators, we would not be winning this battle today. That is all there is to it. My hat is off to the State of Maine.

I yield 7 minutes to the senior Senator from Maine.

Ms. SNOWE. I thank Senator FEINGOLD.

Madam President, I am delighted to be here this afternoon to join my colleague from Maine, Senator COLLINS, in support of this campaign finance legislation that clearly will be landmark law for campaign finance in the beginning of this new century.

Ms. SNOWE. Mr. President, I rise today in support of this landmark campaign finance reform bill that has passed the House of Representatives and is before us today. That bill, the so-called ''Shays-Meehan'' bill, of course is very close to the McCain-Feingold campaign finance reform legislation that we passed in this body last April.

As I have said before, this bill reminds me of that old Beatles song, ''The Long and Winding Road.'' Because, for certain, the road to this day has been marked by long stretches of nothingness, interrupted periodically along the way by dangerous curves, rock-slides, pot holes, jersey barriers, you name it.

And while there were times it looked as though we might fly off the cliff, never to be seen again—or that we might run head-long into one of the myriad procedural roadblocks placed before us here we are, finally at the doorstep of real and meaningful campaign finance reform for the first time in a quarter century.

Without question, we never would have arrived here safely if not for the extraordinary skills of the two men at the wheel—Senators JOHN MCCAIN and RUSS FEINGOLD. Their names have become synonymous with campaign reform, and with good reason. No one has devoted more of themselves to this cause. No one has poured more effort, energy and innovation into bringing about necessary changes in the way in which we finance campaigns in this country.

We say it all the time in this body, but these two truly have worked tirelessly for the success of this legislation. And I can tell you I've been privileged to work with them in trying to forge a bill that will not only address a huge portion of the problem we face, but also a bill that can pass the Congress and be signed into law.

In that light, I also want to recognize and commend Representatives SHAYS and MEEHAN, whose fight in the House reminds me of the story of Hercules' battle with the Hydra—a serpent with nine-heads, one of which was immortal. But Hercules won out by burying that last, immortal head just as Congressmen SHAYS and MEEHAN won out over the multi-faceted offensive of procedural hurdles and killer amendments that was thrown at them. I congratulate them both.

And before I go any further, I also thank my good friend and colleague, Senator JEFFORDS, who has been steadfast and instrumental in helping to forge the compromise language in this bill that has now come to be known as ''Snowe-Jeffords.'' I can't tell you the countless hours and incredible effort he and his staff have put in to develop and hone this language in consultation with leading reformers and constitutional scholars, and I deeply appreciate his commitment to advancing the cause of campaign finance reform.

Indeed, I have never been more optimistic that reform will become reality. The fact of the matter is, the House and Senate are now both on record in support of reform, having passed two bills that achieve the same objectives and goals. And so now the time is upon us. The time has arrived for us to lay aside procedural gymnastics and put away the arcane legislative amendment trees and pass this bill and send it to the President of the United States.

Today, I want to speak to the pressing need for reform . . . the reasons why this bill fits the bill . . . and why I believe in both the effectiveness and constitutionality of what we are about to do.

First, I do not think there can be any doubt that we have a system of financing campaigns in this country that is out of control. And it is out of control in a very literal sense because some critical loopholes have been exploited that takes an entire and ever-growing universe of money out from under the umbrella and enforcement mechanisms of federal election laws and into the realm of ''anything goes.''

Well, the ''if it feels good, do it'' approach to financing campaigns in America must come to an end, because it is making a mockery of our election laws. We've all heard by now the story of soft money, and what it represents money that is raised and spent outside the purview of federal election law, even though it unquestionably effects the outcome of Federal elections.

That's the fundamental reason why it's time for soft money to go. Because it's no longer about building up the parties something I have absolutely no problem with whatsoever. It's about money that's being raised in unlimited amounts from unlimited sources to elect candidates for Federal office—something for which we already have well-established rules—rules that are being flouted on a grand and disturbing scale.

This soft money must be incredibly effective in what it does, because every year the parties come more and more under its spell. Just ten years ago, during the Presidential election cycle of 1992, soft money accounted for just 17 percent of total receipts by the two major political parties. But in the last election cycle, that number skyrocketed to 40 percent. To put it another way, the $86.1 million in soft money raised by the two parties in 1992

increased by well over 500 percent in the 2000 elections.

And just think about this—the total amount of soft money raised by both parties in the first half of this current election cycle—$160.1 million—is more than twice the $67.4 million raised in 1997, the first year of the most recent non-presidential cycle. Even more telling is the fact that the current numbers are almost 50 percent more than the $107.2 million raised in 1999—and that was during a Presidential election cycle, when fundraising is typically higher. Where will we be in 10 years, Mr. President? In 20 years?

The amount of money is staggering. But just as bad is the complete lack of accountability assigned to it—even though it is being used to affect the outcome of Federal elections.

No wonder there is a strong sense that campaigns in this country have spiraled out of control. There is a strong sense that elections are no longer in the hands of individual Americans. As the old saying goes, perception becomes nine tenths of reality. And the reality is, we have a system in need of an overhaul.

That's why one of the most critical components of this bill bans soft money for the national parties. But to do that alone is simply not enough. We can't just shut off the flow of soft money to parties and call it a day. We also must close off the use of corporate and union treasury money used to fund ads influencing Federal elections. That's the only way we can claim to have enacted truly balanced and fair reform.

As far back as 1997, I worked to address this thorny issue—how do we ensure freedom of speech while also ensuring the integrity of our election laws? And what I eventually developed in partnership with Senator JEFFORDS and noted constitutional scholars is an easily understandable, narrowly drawn, constitutional method of applying disclosure and restrictions on the sources of funding for electioneering ads masquerading as so-called ''issue ads.''

What we are talking about are broadcast advertisements that are influencing our Federal elections and, in virtually every instance, are designed to influence our Federal elections. Every focus group and every study group that has been conducted over the last few years proves this, and I'll detail those studies later. And yet, no disclosure is required and there are none of the funding source prohibitions that for decades have been placed on other forms of campaigning.

Why is this so? Because they don't contain the so-called ''magic words'' like ''vote for candidate x'' or ''vote against candidate x'' that make a communication what is called ''express advocacy,'' and therefore, subject to Federal law requiring disclosure and requiring that the ad be paid for with hard money.

These ads must be extraordinarily effective, because their use has exploded within the last decade. According to a 2001 report from the Annenberg Public Policy Center, which has been studying this trend almost since its inception in the 1996 election cycle, in the past three cycles we have seen spending on issue ads go from about $150 million in 1996, to about $340 million in 1998, to over $500 million in 2000. One hundred million of that was spent in the last 2 months alone. And there is not one dime of disclosure required on any of it.

It's time we closed this loophole. It's time to remove the cloak of anonymity. Otherwise, we are saying that it really doesn't matter to the election process. That we should not know who is behind these types of commercials that are run 60 days before the election, 30 days before a primary, whose donors contribute more than $1,000. We ought to have disclosure on these ads where there currently is no disclosure. And that's what the Snowe-Jeffords provision in this bill does, in simple, straightforward and unambiguous terms.

Here's how it works. First, it requires disclosure on individuals and groups running broadcast ads within 30 days of a primary and 60 days of a general election that mention the name of a Federal candidate and are distributed from a broadcaster or cable or satellite service and is received by 50,000 or more persons in State or district where Senate/House election occurs. And the disclosure threshold is high $1,000 which incidentally is five times the contribution amounts candidates are required to disclose.

And second, it prohibits the use of union or corporate treasury money to pay for these ads, in keeping with longstanding provisions of law. Corporations have been banned from direct involvement in campaigns since the Tillman Act of 1907. Unions were first addressed in the Smith-Connally Act of 1943 and the prohibition was finally made permanent in 1947 with the Taft-Hartley Act.

And these laws have stood because the Court has recognized—as recently as 1990 as this quote from Justice Marshall in the Austin versus Michigan Chamber of Commerce decision shows—''the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form, and that have little or no correlation to the public's support for the corporation's political ideas.''

Now, the Snowe-Jeffords provision has been around for a while, and during that time I have heard some pretty outrageous and flat-out false statements made about it, and I would like to take this opportunity to set the record straight on what it does and doesn't do. Indeed, it was said on the floor last March, in defense of an amendment to remove the Snowe-Jeffords language from the bill an attempt that failed by a vote of 28–72 I might add that:

> American citizens would be prohibited from discussing on television or radio a candidate's voting records and positions within 60 days before a general election or 30 days before a primary . . . the 'political speech police' would be saying that you cannot mention a candidate's name; you cannot criticize that candidate by name . . . if you are part of a citizens group wanting to enter the political debate and engage in meaningful discourse, using the most wide-sweeping medium for reaching the people which is TV, under this provision you cannot do that. You simply cannot enter the debate using television or radio as a mode of communication.

Mr. President, this is a gross mischaracterization of Snowe-Jeffords.

Individuals are free to run ads saying whatever they want whenever they want and unions, corporations and nonprofit 501(c)4 groups can simply form political action committees to which individuals voluntarily contribute up to the amount allowed by law to run ads mentioning a candidate near an election. So it absolutely can be done.

I have also heard it said that the result of this provision would be essentially be little or no political speech during the 60 day period before an election. But that simply isn't true. Again, so-called issue ads run on television and radio only, 30 days before a primary and 60 days before a Federal election, that mention a Federal candidate's name, and are seen by the candidate's electorate, would be subject to disclosure—and could not be funded by corporate or union general treasury funds or union dues. And this only applies if you run more than $10,000 of these kind of ads during a calendar year. So we will never effect small groups.

The most important, bottom line components to this legislation are disclosure, and a requirement that these so-called issue ads that are really campaign ads be funded from voluntary, individual contributions just like any other campaign ad.

Let me now give you a quick example of exactly what kinds of ads we would cover, and what ads wouldn't be touched at all. First, the electioneering ad—it doesn't specifically say ''vote for'' or ''vote against'' so-and-so—something that would automatically bring it under current law.

''We try to teach our children that honesty matters. Unfortunately, though, Candidate X just doesn't get it. Candidate X urged her employer to buy politicians and judges with money and jobs for their relatives. Candidate X advocates corruption . . . call Candidate X. Tell her government shouldn't be for sale. Tell her we're better than that. Tell her honesty does matter.''

Under current law, because this ad doesn't use the so-called magic words, there is no disclosure required on these ads and there are no source prohibitions whatsoever. And we're told by our opponents that we're just supposed to throw up our hands and say, ''Oh well, we all know what these ads are doing, but there's not a thing we can do about it.''

Now, here is a real issue ad that wouldn't be covered at all by Snowe-Jeffords in any way, shape or form. It says:

(Woman): ''We can't pay these bills, John.''

(Man): ''Prices are as low as when my dad started farming.''

(Woman): ''It's bad, alright.''

(Man): ''Farmers are suffering because foreign markets have been closed to us and our own government won't even help.''

(Woman): ''I hear the Thompsons are going to have to quit farming after four generations.''

(Man): ''I can't even bear to think about it.''

(Announcer): Tell Congress we need a sound, strong trade policy. Call 202–225–3121.

And there are graphics on the screen that show the phone number, that direct viewers to tell Congress that we need to pass initiatives like ''IMF Funding'' and ''Sanctions Reform'', and they give the number for the Capitol switchboard. Again, this is a pure issue ad that we wouldn't touch.

Now, some of our opponents have said that we are simply opening the floodgates in allowing soft money to now be channeled through these independent groups for electioneering purposes. To that, I would say that this bill would prohibit members from directing money to these groups to affect elections, so that would cut out an entire avenue of solicitation for funds, not to mention any real or perceived ''quid pro quo''.

Furthermore, I find it both interesting and remarkable that in many cases our opponents who are making this claim on the one hand are at the same time claiming that we're choking off free speech. That the provision ''restricts citizen speech'' by ''severely limiting the sources of money that can be used for such speech'', as FEC Commissioner Bradley Smith wrote in a Wall Street Journal piece on March 20, 2001. So my question is, which is it? Is it opening the floodgates, or is it choking off speech? Because you can't have it both ways.

Opponents have also referred to the NAACP versus Alabama Supreme Court case to say that our disclosure provisions are unconstitutional. And I want to take this opportunity to refute what is yet another misrepresentation.

The fact of the matter is, NAACP was about the disclosure of an entire membership list of a black civil rights organization in Alabama in the 1950's. The law struck down in that case forced the NAACP in Alabama, an issue advocacy organization, to disclose all of its members or to leave the State. I hope no one would suggest that's equitable to today. The bottom line is, we only require disclosure of major donors. And there is no guaranteed right to anonymity when it comes to campaigning. In fact, the court has said time and again that disclosure is in the public interest because it gives the public details as to the nature and source of the information they are getting.

The fact is, any group may be entitled to an exemption from electioneering disclosure laws if it can demonstrate a reasonable probability that compelled disclosure will subject it members to threats or reprisals. But the need for these kinds of limited exceptions don't make the general disclosure rules contained in Snowe-Jeffords unconstitutional.

I want to reiterate to my colleagues that the language in this bill was carefully and narrowly crafted in consultation with noted constitutional scholars and reformers. In doing so, the provision was based on the precept that the Supreme Court has made clear that, for constitutional purposes, campaigning which make no mistake, these ads do—is different from other speech. It builds upon bedrock legal and constitutional principles, extending current regulation cautiously and only in the areas in which the first amendment is at its lowest threshold, such as disclosure and prohibitions on union and corporation spending.

It also was crafted to keep with the spirit of the Supreme Court's requirements that any laws we pass that might have an impact on speech not be overly vague or substantially overly-broad. In fact, let me quote from a scholar's letter from the Brennan Center dated March 12, 2001, which was signed by 70 law professors and scholars from all over the country in support of the constitutionality of McCain-Feingold in general and of this provision specifically.

In the letter, they say, ''the Court did not declare that all legislatures were stuck with these magic words—in other words, the terms like ''vote for'' or ''vote against'' that denote whether or not an ad contains express advocacy, and therefore is currently subject to regulation—or words like them, for all time. To the contrary, Congress has the power to enact a statute that defines electioneering in a more nuanced manner, as long as its definition adequately addresses the vagueness and overbreadth concerns expressed by the Court.''

And the fact of the matter is, Mr. President, we do address those two concerns, and we do so very well. No wonder then that every living person to have served as ACLU President, ACLU Executive Director, ACLU Legal Director, or ACLU Legislative Director—with the exception of current leadership—has signed onto a letter supporting our approach. Every single one of them.

Already I have established how our provision is not even remotely vague. As that Brennan Center scholars' letter says that was signed by 70 scholars, ''Because the test for prohibited electioneering is defined with great clarity, it satisfies the Supreme Court's vagueness concerns. Any sponsor will know, with absolute certainty, whether the ad depicts or names a candidate and how many days before an election it is being broadcast. There is little danger that a sponsor would mistakenly censor its own protected speech out of fear of prosecution under such a clear standard.''

As for the issue of overbreadth—that we'd be capturing all kinds of ads that aren't electioneering—well, the evidence belies those claims. Just consider how well this test works when compared to what's going on in real life. In the final 2 months of an election, 95 percent of the issue ads Annenberg studied in the top 75 media markets mentioned the names of candidates.

They do it because they know what's effective. These people don't spend umpteen amounts of dollars on ads hoping that maybe they work. They know their message is clear. And they know that using the name of Federal candidates in their ads near the election is an effective way of influencing the election. That's why Snowe-Jeffords keys in on the naming of candidates as one of the triggers of our disclosure regulations.

And the numbers bear out how effective the ads really are. In the final two months before the 2000 election, 94 percent of all the televised issue ad spots were seen as making a case for or against a candidate by the Annenberg study. Ninety-four percent. Now, what was the content of these ads? Well, in the final 2 months of the election, fully 84 percent of those ads seen as electioneering ads were also seen as having an attack component. Over 8 out of every 10 ads were attacking—not comparing or offering information but attacking.

But perhaps most compelling is a recent joint study between the Brennan Center and Kenneth Goldstein of the University of Wisconsin and Jonathan Krasno, visiting fellow at Yale. The report specifically studied issue ads within the context of the Snowe-Jeffords test, during the 2000 elections and in the top 75 media markets.

And you know what they found? They found that just one percent of all those ads run during the year that were viewed as actual genuine issue ads and mentioned Federal candidates were captured by our provision. In other words, of all the so-called issue ads that ran last year and mentioned Federal candidates, 99 percent of those that ran in the last 60 days were seen as electioneering ads. If you had any test that was accurate 99 percent of the time, I believe you'd say that was a pretty good test.

I must emphasize once again that the Supreme Court has never said there is one single, permissible route to determine if a communication is influencing a Federal election. And to explain why that is the case, let me refer to a column written by Norman Ornstein, who was instrumental in developing the Snowe-Jeffords provision along with numerous other constitutional experts.

He said, in 1974, ''the Supreme Court rejected as overly broad the 1974 Congressional decision to include in its regulatory net any communication 'for the purpose of influencing' a Federal election. Instead, the court drew a line between direct campaign activities, or 'express advocacy', and other political speech. The former could be regulated, at least in terms of limits on contributions; the latter had greater first amendment protection.

''How to define express advocacy? The High Court in a footnote gave some suggestions to fill the resulting vacuum and to define the difference between the two kinds of advocacy. Express advocacy, the justices said, would cover communications that included words such as 'vote for,' 'vote against,' 'elect,' or 'defeat.' The Court did not say that the only forms of express advocacy are those using the specific words above. Those were examples.''

The bottom line is, Buckley versus Valeo is in effect the law of the land because Congress has not superseded it by filling the vacuum in the quarter century that followed. In other words, since 1976, Congress has not passed a law concerning campaign financing, and so hasn't sent any new law to the Court because we haven't done anything in the last quarter century. So the Court has no guidepost. If Congress acts, the Supreme Court will give its due deference to what we do on behalf of protecting our system of elections.

We well know what has happened in the quarter century since. We have seen the kind of development and evolution of these ads—we have a record of how they are seen to be influencing Federal elections. This is a monstrosity that has evolved in terms of the so-called sham ads that are having a true impact on our election process in a way that I do not think the Supreme Court could foresee back in 1976 and we, as candidates, could not possibly envision. Well, now we will.

This is a narrowly crafted, well-vetted provision that is vital if we are to say with a straight face that we have done something to enact real campaign finance reform. Again, I'm pleased to have been able to work so closely with Senators MCCAIN and FEINGOLD and others in helping make campaign finance reform both comprehensive and meaningful. This will be a victory for the United States Senate, but most of all a victory for the voters of America.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I thank the Senator from Maine for the critical role she has played in this effort and the victory we are about to have.

Now I have the pleasure of yielding to the Senator from Connecticut, who I must say is the person most responsible for what was actually the first piece of campaign finance reform legislation in decades, the bill that addressed the 527 problem. He then was a magnificent candidate on our party for Vice President. Despite his national prominence on that issue, and the wonderful job he did on that, and the heartbreaking loss, he didn't waste any time. He came right back in his own modest way, as a team player, and worked with us to help us pass this bill. I am grateful for that and just think he is a class act.

I am happy to yield 7 minutes to the Senator from Connecticut, Mr. LIEBERMAN.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank my friend and colleague from Wisconsin for his extraordinary leadership and for his very gracious words, which I appreciate personally.

With the vote on final passage of the McCain-Feingold/Shays-Meehan bill about to occur, we are fast approaching the end of an incredible odyssey, one that, while perhaps not as long as that of the mythical Odysseus, has certainly been every bit as challenging, suspenseful, and epic.

Time and again, the efforts to reform our campaign finance system have faced ruin as its proponents have been forced to sail between their own versions of Scylla and Charybdis, required to resist their own special calls of the Sirens.

But, due to the incredible tenacity and profound principle of our leaders in this struggle, Senators MCCAIN and FEINGOLD, Congress has found the strength to reach our own Ithaca here today, and to finally try to clear our house of suitors seeking special favors at the expense of the greater good. For that extraordinary leadership, I thank Senator FEINGOLD and I thank Senator MCCAIN. They have made an enormous difference.

I must say, in some senses I joined this odyssey—though I had been interested in it before—but I joined it with a new sense of commitment in 1997, when the Governmental Affairs Committee conducted its year-long investigation into campaign finance abuses in the 1996 Federal elections. With the passage of time, the shock of that investigation's revelations have started to fade. But it is critical that we remember them because they represent precisely what is most wrong with the system we plan to change and precisely what helped to begin in full force the effort that is about to reach a successful conclusion.

We should not forget the cast of characters that we all became familiar within those investigations, hustlers such as Johnny Chung—remember the name—who compared the White House to a subway saying:

You have to put coins in to open the gates.

Or Roger Tamraz, who told us that he didn't even bother to register to vote because he knew that his huge donations would get him so much more than the vote would.

These men were on the margins. Though they never got what they wanted for their money, their stories and the many more like them contributed to the cynicism too many Americans have about their elected leaders and the skepticism they have about their own ability to influence their Government.

Johnny Chung, Roger Tamraz, and all the rest may have been unusual in the unsophisticated bull-in-a-China-shop way in which they tried to play the system. But their essential insight, if I can call it that, that big dollar donations buy the access that enables you to get what you want, is one that does pervade our political culture. That insight is shared and acted upon daily by the mainstream special interests whose soft money donations have exponentially dwarfed those of the 1996 investigation's and 1997 election's most colorful characters, who use the access they buy to try to mold the Nation's policies and agenda in their own image.

The result has been a system that often leaves the average person disempowered, disinterested, and disengaged from our political process where the average person's annual income, in many cases—mostly doesn't even approach the cost of the ticket to our political parties' most elite fundraising events. This causes the average people, the majority, to continually question why their leaders are taking the actions they take. It causes those of us in public life to work, too often, under a cloud of suspicion, with our citizenry wondering whose interests are being served.

The demise of the Enron Corporation in the last several months is but the most recent example of this phenomenon. It is, I know, regularly stated that Enron is a corporate scandal but not necessarily a political one. That at this moment is quite literally true. It is too early to conclude whether anyone in Government did anything inappropriate or illegal for Enron. But I do know that a company with an ultimately insecure and unethical business model run by individuals of shakier business ethics yet, repeatedly found an open door to the offices of the politically powerful—in no small part, I presume, because of the millions of dollars of political donations the company made.

So this is not Enron's political scandal alone. It is all of ours. That is probably why the Enron scandal may have given this noble effort the final boost it needed to make it to Ithaca.

All of us have been hurt by it. Politicians are under suspicion, legitimate legislative causes have been tarnished only because Enron once supported them, and the American people whose confidence in the integrity of our system has been shaken.

Fortunately, the Senate is about to act to make the system better. None of us is under any illusion that the enactment of this bill will make our system pristine, or eliminate totally the impact of money on politics. As has often been said, money, like water, always seems to find a new place to flow

through our political system. But this bill will have an impact. It will be a very good one. That impact will result from the closing of the large soft money loophole that has been allowed to open up in the post-Watergate campaign finance reform laws.

Before yielding the floor, I would like to point with pride to one other part of this bill. This bill includes an amendment that Senator THOMPSON and I have been working on since shortly after the conclusion of the Governmental Affairs Committee's 1997 investigation. That amendment resulted from our frustration that some of the worst actors in the 1996 scandals, individuals who clearly broke the law and were convicted for breaking it, escaped without significant punishment. The reason? The criminal provisions of our campaign finance laws just are not strong enough.

Our amendment remedies that by authorizing felony charges for violations of the Federal Election Campaign Act, expending FECA's statute of limitations, and directing the U.S. Sentencing Commission to promulgate a specific guideline for sentencing for those who violate our campaign finance laws.

The combination of these changes will put teeth into our campaign finance laws and ensure that those who willfully violate them will not again escape without serious consequences.

Finally, I thank Senator FEINGOLD for his reference to the so-called 527 legislation that we worked on together and passed in the Senate. It is a sad irony that on this very day, when we are about to pass the McCain-Feingold/Shays-Meehan bill, the House Ways and Means Committee has adopted a version of 527 which really guts it. I hope my colleagues in the Senate will not accept that undermining of that important campaign finance law.

In sum, for too long we have watched our Nation's greatest treasure, our commitment to democracy, be pillaged by the ever escalating money chase. It is time to say enough is enough. It is time to restore political influence to where our Nation's founding principles say it should be: with the people, with the voters. That is what this proposal will do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Senator from Ithaca—I mean the Senator from Connecticut, for his very fine remarks. I would be remiss if I did not say the occupant of the chair, the Senator from Louisiana, pledged her support at a very critical time, and stood with us all the way through this debate. I thank her for her help on this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

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

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. MCCONNELL. Madam President, I yield 7 minutes of my 8 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

SOFT MONEY BAN AND SHAM ISSUE ADS

Mr. MCCAIN. Madam President, I rise as the sponsor of the campaign finance reform bill that was passed last year by the Senate and a few weeks ago by the House, and is currently before the Senate one final time. We have worked for a number of years now for what is before us today: The opportunity to pass significant campaign finance reform legislation and send it to the President for his signature.

Over these years, many have explained why it is imperative that we fix our campaign finance laws, close loopholes that have been exploited to the point of making a mockery of our laws, and put an end to the corrupting influence of big money on our democracy.

I would like to address the two central provisions of our bill—the soft money ban and the provisions dealing with sham issue ads. Working with our friends in the House, we have drafted a bill that promotes important first amendment values, promotes enhanced citizen participation in our democracy, is workable, and is carefully crafted to steer clear of asserted constitutional pitfalls.

Anyone who reads this bill and the debates should come away with the clear understanding that Congress approached this task with a fealty and dedication to the Constitution, and with a desire to get it right. We are acting today to fix a real problem and have made our best effort to do so in a way that will be upheld by the courts.

This bill represents a balanced approach which addresses the very real danger that Federal contribution limits could be evaded by diverting funds to State and local parties, which then use those funds for Federal election activity. At the same time, the bill does not attempt to regulate State and local party spending where this danger is not present, and where State and local parties engage in purely non-Federal activities. We will not succeed in closing the soft-money loophole unless we address the problem at the State and local level. We do this, however, while preserving the rights and abilities of our State and local parties to engage in truly local activity.

In order to close the existing soft money loophole and prevent massive evasion of Federal campaign finance laws, the soft money ban must operate not just at the national party level but at the State and local level as well. We have authority to extend the soft money reforms to the State and local level where it is necessary, as it is here, to protect the integrity of Federal elections. Closing the loophole is crucial to prevent evasion of the new Federal rules.

As we all know, state party spending may not always clearly divide between Federal and non-Federal purposes. For example, when a State party conducts a ''get-out-the-vote drive,'' it benefits both its Federal and non-Federal candidates. Consequently, if the State party committee pays for the drive with soft dollars, the committee is using federally prohibited contributions in connection with a Federal election to benefit federal candidates.

Currently 14 States, Arkansas, California, Florida, Georgia, Idaho, Illinois, Maine, Missouri, Nebraska, Nevada, New Mexico, Utah, Virginia and Wyoming, allow unlimited contributions—that would be barred at the Federal level—from individuals, unions, PACs, and corporations. In addition, 36 States do not restrict soft money transfers from national parties to State and local parties. To illustrate the size of these transfers, in the 2000 election, the national Democratic Party funneled approximately $145 million and the Republican Party transferred $129 million to their affiliated State parties to take advantage of the State parties' ability to spend a larger percentage of soft money on advertisements featuring Federal candidates.

The reports issued by the majority and minority of the Senate Governmental Affairs Committee charged with investigating campaign finance abuses in the 1996 elections illustrate the extent to which the coffers of Federal and State political parties are intertwined. In 1996, the State parties spent money they received from the national parties on advertisements considered key to their Presidential candidate's election. The Minority Report makes clear that State parties often act as mere conduits, exercising no independent judgment over the ads. For example, in an internal memo discussing how to run so-called issue ads using soft money that would benefit Senator Dole's campaign, an RNC official wrote: ''Some have voiced concern that buying through the State parties could result in a loss of control on our part. There is absolutely no reason to be concerned about this.'' The bottom line is, whatever the technical niceties, soft money is being spent by State parties to support Federal campaigns. In fact, much of the soft money spent in the 2000 elections to support Federal campaigns was spent by State parties.

Congress has a compelling interest in ensuring that State parties do not use backdoor tactics to finance Federal election campaigns in this way. It has an interest in ensuring that Federal elections activities are paid for with funds raised in a non-corrupting manner and in accordance with the Federal guidelines.

State parties receive soft money to influence Federal elections in the form of direct contributions to State parties and transfers from national parties for this purpose. Much of this money is then spent on television advertisements attacking or promoting Federal candidates and other activities that we all know are designed to, and do, influence Federal elections. State parties

also use soft money to fund ''party building activities,'' such as get-out-the-vote and voter registration drives. But, again, all of us know that these activities, while vitally important to our democracy, are designed to, and do have an unmistakable impact on both Federal and non-Federal elections. Currently, State parties pay for these activities using a mixture of hard and soft money pursuant to allocation formulae set by the Federal Election Commission. But current allocation rules have proven wholly inadequate to guard against the use of soft money to influence Federal campaigns.

While national parties will no longer be able to transfer soft money to State parties, some State parties will still be able to receive large contributions from corporations, labor unions, and wealthy individuals, subject to state laws. So unless we close the loophole at the State and local level, we will be right back to the unacceptable situation of having non-Federal money—large contributions from corporations, labor unions and wealthy individuals—used to affect Federal elections. That is because, one, many States allow unlimited contributions from individuals, unions, PACs, corporations and national parties to State and local parties; and two, we know from experience that State parties are spending massive sums of soft money to influence Federal elections.

Thus, if left unregulated, or merely subject to existing FEC allocation rules, State and local party activity presents the opportunity for massive evasion. Restrictions on the raising of soft money by Federal candidates and officeholders do not, on their own, prevent evasion of the soft money ban. There will always be persons clearly associated with Presidential or other Federal candidates, but not covered by these provisions, who can raise soft money for state parties to funnel into Federal elections. In addition, those who seek to avoid Federal contribution limits can make huge contributions to State and local parties in order to assist particular Federal candidates.

Current law, of course, requires that State and local parties spend exclusively hard money when they engage in certain activities that affect Federal elections. For example, if a State party were to run an ad expressly advocating the election of a Federal candidate, the party would have to pay for the ad with hard money. The bill simply applies this same principle to an additional category of activities, defined as ''Federal election activity,'' that, in the judgment of Congress, also clearly affect Federal elections. By contrast, as the bill makes clear, activities that affect purely non-Federal elections are left unregulated by the bill, and remain subject to the applicable State law.

Some argue that the soft money given to State parties is used only for ''party building'' that is wholly unrelated to any activity that in design or practice influences Federal elections. This is demonstrably false. The fact is, much of the soft money that goes to State parties is spent on activities that influence Federal elections. In the 1996 Presidential election, for example, State parties spent many millions of dollars on television ads that promoted their Presidential candidates. The money for these ads, moreover, in many cases was either transferred from the national parties or contributed by donors directly to the State parties.

Some have also argued that the Federal Government lacks the constitutional authority to regulate the collection and use of funds by State and local parties. There can be no serious doubt, however, that the Federal Government has the constitutional authority to regulate activity that affects Federal elections, and that soft money is used at the State and local level for this purpose. In fact, existing law already prohibits State and local parties from using soft money to explicitly support a Federal candidate. All that the bill does is extend this existing law to close existing loopholes, thereby ensuring that activities that actually influence Federal elections are subject to Federal limitations and rules, while leaving purely State and local campaign activities by State parties subject to applicable State law.

Finally, the argument that the bill would somehow undermine the status of State and local parties and prevent them from conducting grassroots campaign activities is similarly incorrect. If anything, the massive influx of soft money from the national parties has turned State and local parties into mere pass-through accounts for the national parties and for large, direct contributions from corporations, unions and wealthy individuals. If anything, the bill will return the State and local parties to the grassroots and encourage them to broaden their bases and reach out to average voters.

It is a key purpose of the bill to stop the use of soft money as a means of buying influence and access with Federal officeholders and candidates. Thus, we have established a system of prohibitions and limitations on the ability of Federal officeholders and candidates to raise, spend, and control soft money.

The bill prohibits Federal officeholders, Federal candidates, their agents, and entities they directly or indirectly establish, finance, maintain or control, from soliciting, receiving, directing, transferring or spending funds in connection with an election for Federal office, including funds for any Federal election activity, unless such funds are ''hard money.''

Furthermore, it prohibits Federal officeholders, Federal candidates, their agents, or entities they directly or indirectly establish, finance, maintain or control from soliciting, receiving, directing, transferring or spending funds in connection with a non-Federal election from sources prohibited from making ''hard money'' contributions. It likewise prohibits such individuals and entities from soliciting, receiving, directing, transferring or spending funds—in connection with a non-Federal election—from individuals or Federal PACs that are in excess of the ''hard money'' amounts permitted to be contributed to candidates and political committees by individuals and Federal PACs.

These provisions break no new conceptual grounds in either public policy or constitutional law. This prohibition on solicitation is no different from the Federal laws and ethical rules that prohibit Federal officeholders from using their offices or positions of power to solicit money or other benefits. Indeed, statutes like these have been on the books for over 100 years for the same reason that we're prohibiting certain solicitations to deter the opportunity for corruption to grow and flourish, to maintain the integrity of our political system, and to prevent any appearance that our Federal laws, policies, or activities can be inappropriately compromised or sold.

For example, the Ethics Reform Act of 1989 generally prohibits Members of Congress or Federal officers and employees from soliciting anything of value from anyone who seeks official action from them, does business with them, or has interests that may be substantially affected by the performance of official duties. No one could seriously argue that this prohibition is without a compelling purpose. The same holds true here. We are prohibiting Federal officeholders, candidates, and their agents from soliciting funds in connection with an election, unless such funds are from sources and in amounts permitted under Federal law. The reason for this is to deter any possibility that solicitations of large sums from corporations, unions, and wealthy private interests will corrupt or appear to corrupt our Federal Government or undermine our political system with the taint of impropriety.

The solicitation rules in the bill are also consistent with Federal criminal laws that prohibit Congressional candidates and incumbents, among others, from knowingly soliciting political contributions from any Federal officer or employee or from any contractor who renders personal services. It is also directly akin in purpose to the Federal criminal law that prohibits any person from soliciting or receiving any political contribution in any Federal room or building occupied in the discharge of a Federal officer's or employer's duties.

The rule here is simple: Federal candidates and officeholders cannot solicit soft money funds, funds that do not comply with Federal contribution limits and source prohibitions, for any party committee—national, State or local.

This, of course, means that a Federal candidate or officeholder may continue to solicit hard money for party committees. A Federal candidate or officeholder may solicit up to $25,000 per

year for a national party committee from an individual.

Similarly, the Federal candidate or officeholder may solicit up to $15,000 per year for a national party committee from a PAC.

Under the bill, a Federal candidate or officeholder may solicit hard money donations for State party committees to spend in connection with a Federal election, including for voter registration and GOTV activities, of up to $10,000 per year from an individual and up to $5,000 per year from a PAC.

In addition, a Federal candidate or officeholder may solicit money for a State party to spend on non-Federal elections. The amount, however, would be subject to the Federal limits and source prohibitions. Therefore, a Federal candidate or officeholder may solicit up to $10,000 a year from an individual and $5,000 a year from a PAC for a State party's non-Federal account, even if that same individual or PAC has already given a similar amount to the State party's Federal, or hard money, account.

State parties must fund ''Federal election activities,'' including voter registration or get-out-the-vote drives, with hard money, except for certain non-Federal funds that may be used pursuant to the ''Levin amendment'' to fund such activities. The Levin amendment, however, expressly provides that Federal candidates and officeholders may not solicit the non-Federal funds to be spent under the Levin amendment.

One important restriction in the bill applies to fundraising for so-called Leadership PACs, which are political committees, other than a principal campaign committee, affiliated with a Member of Congress. A Federal officeholder or candidate is prohibited from soliciting contributions for a Leadership PAC that do not comply with the Federal hard money source and amount limitations. Thus, the Federal officeholder or candidate could solicit up to $5,000 per year from an individual or PAC for the Federal account of the Leadership PAC and an additional $5,000 from an individual or a PAC for the non-Federal account of the leadership PAC. The Federal officeholder or candidate could not solicit any corporate or labor union treasury contributions for either the Federal or non-Federal accounts of the PAC. Moreover, under the bill, a Federal candidate or officeholder could not directly or indirectly establish, finance, maintain or control a PAC that raises or spends contributions that do not comply with these limits. Nor could a Leadership PAC controlled by a Federal candidate or officeholder spend funds from its non-Federal account on Federal election activities or in connection with a Federal election.

The bill also restricts fundraising for state candidates. A Federal officeholder or candidate may solicit no more than $2,000 per election from an individual for a State candidate and no more than $5,000 per election from a PAC for a state candidate. These limits correspond to the Federal hard money source and amount limitations for contributions to Federal candidates. Moreover, a Federal officeholder or candidate may not ask a single individual to donate amounts to all state candidates in a 2-year election cycle that in the aggregate exceed $37,500, which corresponds to the aggregate amount of ''hard money'' that individuals may donate to all Federal candidates over a 2-year cycle.

The bill also restricts fundraising for certain other 527 organizations. A Federal officeholder or candidate may not solicit more than a $5,000 donation in a calendar year from an individual or a PAC for a non-party 527 that is not a Federal committee or State candidate's campaign committee. Furthermore, a Federal officeholder or candidate may not ask a single individual to donate amounts in a 2-year election cycle to multiple 527's of this nature that in the aggregate exceed $37,500—which corresponds to the aggregate amount of ''hard money'' an individual may donate to PACs over a 2-year cycle.

Proposed new section 323(e)(4)(B) of the Federal Election Campaign Act authorizes the only permissible solicitations by Federal candidates or officeholders for donations to a 501(c) organization whose principal purpose is to engage in get-out-the-vote and voter registration activities described in new section 301(20)(A)(i)&(ii) of the Federal Election Campaign Act. The new section also authorizes the only permissible solicitations for a 501(c) organization that can be made by Federal candidates or officeholders explicitly for funds to carry out such activities.

In these instances, a Federal candidate or officeholder may solicit only individuals for donations and may not request donations in an amount larger than $20,000 per year. Section 323(e)(4)(B) applies only to 501(c) organizations. The section does not authorize any such solicitations for other entities, and it does not authorize solicitations for funds to be spent on so-called ''issue ads.''

Thus, a Federal officeholder or candidate may not solicit corporate or union treasury donations, or donations from an individual of more than $20,000 per year, for a 501(c) tax-exempt organization where the principal purpose of the organization is to engage in get-out-the vote or voter registration activities as defined in new 2 U.S.C. section 431(20)(A)(i)&(ii). Likewise, a Federal officeholder or candidate may not solicit corporate or union treasury donations or donations from an individual of more than $20,000 per year for any 501(c) tax-exempt organization where the solicitation is explicitly to obtain funds for the organization to engage in such activities.

Conversely, the bill permits a Federal officeholder or candidate to solicit funds without source or amount limitation for a 501(c) tax-exempt organization that is not an organization whose principal purpose is to engage in get-out-the-vote or voter registration activities as defined in new 2 U.S.C. section 431(20)(A)(i)&(ii), provided that such solicitation is not specifically to obtain funds for the organization to engage in Federal election activities or activities in connection with elections.

For example, the bill's solicitation restrictions would not apply to a Federal candidate soliciting funds for the Red Cross explicitly to be used for a blood drive—as this is not an organization whose principal purpose is to engage in get-out-the-vote or voter registration activities and the solicitation is not expressly to obtain funds for such activities.

Finally, the purpose of section 323(e)(4) is to permit only individual candidates or officeholders to assist, in limited ways, section 501(c) organizations. This permission does not extend to an officeholder or candidate acting on behalf of an entity—including a political party.

In addition, I would like to address the growing sham issue advocacy loophole.

What are these so-called ''issue ads''? The Supreme Court in its Buckley decision made a distinction in the context of speech by individuals and entities other than candidates and political parties, between speech that promoted a candidate, which the Court called ''express advocacy,'' and speech that addressed public issues, which it called ''issue advocacy.'' The Court held that expenditures for public communications by both candidates and political parties ''are, by definition, campaign related,'' and so are always covered by the campaign finance laws, regardless of the language these ads use. With respect to ads run by non-candidates and outside groups, however, the Court indicated that to avoid vagueness, federal election law contribution limits and disclosure requirements should apply only if the ads contain ''express advocacy.'' In a footnote, the Court gave examples of express advocacy, such as ''vote for,'' ''elect,'' ''support,'' and ''defeat.'' The Supreme Court did not foreclose the possibility that ads with strong electioneering content that omitted the ''magic words'' could also be limited.

Despite the Buckley holding regarding political parties, the FEC has allowed political parties to get away with using soft money for so called ''issue ads.'' Outside groups, meanwhile, have exploited the ''magic words'' test, using it to justify advertisements that plainly support or attack Federal candidates without using the ''magic words.''

The Senate Governmental Affairs Committee investigation found flagrant abuses by both Presidential campaigns in the 1996 elections. Both Presidential candidates raised soft money to spend on sham issue ads. Both Presidential campaigns were directly involved with their party committees in

creating and running soft-money funded TV ad campaigns designed to support their candidates.

One example, an RNC commercial entitled ''The Story,'' movingly depicts Senator Bob Dole's recovery from wounds he sustained in World War II. On ABC News, Senator Dole described how the RNC disguised this ad campaign as issue advocacy: ''it never says that I'm running for President, though I hope it's fairly obvious, since I'm the only one in the picture!''

Similar abuses have occurred in congressional races. In the 2000 election, the Democratic party, DNC, DSCC and NY State Democratic Party, spent a combined $7.1 million in New York's highly contested Senate race. In one soft money-funded ad, aired in July 2000, the New York State Democratic Committee criticized Republican Representative Rick Lazio's record on prescription drugs for seniors. The ad showcased an elderly couple who were forced to return to work to pay for their medicines. The ad then accused Lazio of voting against a Medicare Drug benefit when he was a member of the House. Another New York Democratic Party soft money advertisement criticized Lazio's record on the Patients' Bill of Rights. The ad said, ''Rick Lazio voted against the real enforceable Patients' Bill of Rights. The one endorsed by nurses, doctors, the heart, lung, and cancer societies.''

In the November 1997 Special Election to fill Representative Molinari's seat, the RNC poured $800,000 into candidate-specific attack advertisements. For example, the RNC bought this so-called ''issue ad'':

> The tax bite. Today New Yorkers pay the highest taxes in the country because politicians like Eric Vitaliano keep raising our taxes. Vitaliano raised taxes on families over $7 billion. More taxes for more welfare. Welfare spending went up 46 percent. Then Eric Vitaliano took a big bite for himself, raising his own pay 74 percent. Call Eric Vitaliano. Tell him to cut taxes, not take another bite out of our futures.

Even though this was a special election with only one Republican federal candidate on the ballot, the RNC contended that these ads were issue advertisements intended to educate the voters on the Republican Party's positions.

Likewise, the California Democratic Party ran sham issue advertisements attacking Republican Steve Kuykendall, who was being challenged by former Representative Jane Harman for the 36th District in California during the 2000 Elections. One of the Democratic ads attacked Kuykendall for taking ''secret'' contributions from Philip Morris Tobacco. The ad went on to say that Kuykendall ''voted for weaker penalties for selling tobacco to minors.'' The ad ends with, ''Tell Steve Kuykendall to give the tobacco money back.''

The problem of political party soft money ads is addressed in this legislation by banning national parties from raising and spending soft money, and by requiring state parties to spend only hard money on ads that promote or attack Federal candidates, regardless of whether they contain express advocacy.

But the sham ''issue ad'' problem is not limited to political parties. In 1996, the AFL–CIO spent $35 million on a so-called ''issue ad'' campaign designed to restore a Democratic majority in the House. It ran ads in 44 Republican districts, spending an average of $250,000 to $300,000 on media in the districts of the 32 House Republicans it targeted. To counter the AFL–CIO campaign, the Chamber of Commerce organized 32 business groups to spend $5 million on a sham ''issue ad'' campaign of their own. The purpose of this spending was overtly to affect Federal campaigns, as a guide for corporate spending published the same year by the Business-Industry PAC illustrates. The guide listed ''issue advocacy'' as one of five tools ''to be used to help reelect imperiled pro-business Senators and Representatives, defeat vulnerable anti-business incumbents, and elect free-enterprise advocates.''

Federal election law has long barred unions and corporations from making expenditures in connection with Federal elections. However, by sponsoring their own putative ''issue ads,'' they circumvent this law. The Snowe-Jeffords electioneering communications provision will help restore the original intent of the law: to keep a tidal wave of union and corporate money out of Federal elections.

A comprehensive study of political ads by the Brennan Center for Justice shows just how parties and outside groups are financing campaign ads with soft money. They evade campaign finance laws prohibiting the use of soft money on campaign ads by studiously avoiding the use of the so-called ''magic words'' of ''vote for'' or ''vote against'' in such ads. But these soft money-funded ads are nonetheless patently campaign ads. Indeed, 97 percent of the electioneering ads reviewed as part of the Brennan Center's ''Buying Time 2000'' study did not use ''magic words''. The increasing irrelevance of ''magic words'' as a criteria for distinguishing between campaign ads and issue discussion is also illustrated by close examination of campaign ads run by candidates, financed with hard money. Even these hard money-funded ads used magic words only 10 percent of the time in 2000—and 4 percent of the time in 1998.

The sham issue ad subterfuge—permitting outside groups to spend supposedly prohibited soft money on campaign ads without disclosing even a dime of that spending—will continue unless Congress draws a more accurate line between campaign ads and issue ads. Clearly, even a casual observer would concede that ''magic words'' is a dramatically underinclusive test for determining what constitutes a campaign ad.

This bill would simply subject soft money-funded campaign ads that masquerade as issue discussion to the same laws that have long governed campaign ads. Under the bill, corporations and labor unions could no longer spend soft money on broadcast, cable or satellite communications that refer to a clearly identified candidate for Federal office during the 60 days before a general election and the 30 days before a primary, and that are targeted to that candidate's electorate. These entities could, however, use their PACs to finance such ads. This will ensure that corporate and labor campaign ads proximate to Federal elections, like other campaign ads, are paid for with limited contributions from individuals and that such spending is fully disclosed.

This attempt to put teeth back into our campaign finance laws is carefully crafted to pass constitutional muster. According to the Brennan Center's ''Buying Time 2000'' study, less than one percent of the group-sponsored soft-money ads covered by this provision of the bill were genuine issue discussion, more than 99 percent of these ads were campaign ads. This degree of accuracy is more than sufficient to overcome any claim of substantial overbreadth. Of course, the bill's bright line test also gives clear guidance to corporations and unions regarding which advertisements would be subject to campaign law and which advertisements would remain unregulated.

Furthermore, the bill does not explicitly or implicitly purport to depart from the Supreme Court's holding in FEC versus Massachusetts Citizens for Life, Inc., 479 U.S. 238 (1986) (''MCFL''), or any other Supreme Court precedent. In MCFL, the Supreme Court found that a nonprofit, nonstock corporation, MCFL, had violated the Federal Election Campaign Act's prohibition on the use of general corporate treasury funds by making an expenditure in connection with a Federal election, but that the act's prohibition as applied to MCFL was unconstitutional, given its unique non-business purpose and character.

MCFL was expressly formed to promote political ideas and could not engage in business activities; MCFL had no shareholders or anyone else who could make a claim for its assets or earnings; and MCFL was not established by a business corporation or labor union, and it did not accept contributions from such entities.

This legislation does not purport in any way, shape, or form to overrule or change the Supreme Court's construction of the Federal Election Campaign Act in MCFL. Just as an MCFL-type corporation, under the Supreme Court's ruling, is exempt from the current prohibition on the use of corporate funds for expenditures containing ''express advocacy,'' so too is an MCFL-type corporation exempt from the prohibition in the Snowe-Jeffords amendment on the use of its treasury funds to pay for ''electioneering communications.'' Nothing in the bill purports to change MCFL. The

definitions and provisions of this bill, like every other law, are subject to the Supreme Court's decisions.

Mr. FEINGOLD. Madam President, I thank the Senator from Arizona for his excellent presentation on the central provisions of our bill. I wholeheartedly agree with the points he has made.

WEALTHY CANDIDATES

Mr. LEVIN. Mr. President, I would like to ask my colleagues a question concerning the various new limits with respect to individual contributions to candidates in the bill. There is a general increase of the individual contribution limits, but there are also provisions that raise the possibility of additional increases if a candidate faces an opponent who spends a great deal of his or her personal fortune in a race. Can the sponsors discuss their analysis of how those provisions might affect Congress's authority to limit individual contributions?

Mr. McCAIN. I thank the Senator from Michigan for his question. The bill increases the individual contribution limit to a candidate from $1,000 to $2,000 per election. It provides, in addition, higher limits for contributions made to candidates running against opponents who spend large amounts of personal wealth. Those higher contribution limits are set forth in section 304 of the bill.

The Supreme Court in Buckley upheld the $1,000 contribution limit established by the 1974 law as a permissible measure that serves the compelling governmental interests of deterring corruption and the appearance of corruption. This ruling was in substance reaffirmed by the Court's decision in 2000 in Nixon v. Shrink Missouri PAC. It is now very well settled law that Congress has the power to set reasonable limits on individual contributions to candidates. The Court has never said that the number picked by Congress is the upper or lower limit on a reasonable determination. Indeed, it rejected the argument in Shrink, that the diminished purchasing power of the Missouri contribution limit because of inflation caused it to be an unreasonably low amount.

It is possible that someone would attempt to challenge the $2,000 contribution limit in light of the higher limits provided for some races in section 304, and to argue that both limits cannot serve the same interests of preventing corruption. Congress has concluded that contributions in excess of $2,000 present a risk of actual and apparent corruption. Section 304 does not take issue with this conclusion. In this limited context, however, Congress has concluded that the contribution limits—despite their fundamental importance in fighting actual and apparent corruption—should be relaxed to mitigate the countervailing risk that they will unfairly favor those who are willing, and able, to spend a small fortune of their own money to win election.

We believe that Congress can reasonably determine that in the case of a candidate running against a wealthy opponent and having to raise extraordinary amounts of money to keep pace with that opponent's personal spending, that the risk of actual or apparent corruption from higher, yet still limited, contribution limits is small enough to permit candidates to raise those greater contributions in those particular circumstances.

Mr. FEINGOLD. I agree with the comments of the Senator from Arizona. I believe the Court's decisions indicate that a range of contribution limits would be constitutional depending on the circumstances. Certainly, the determination through difficult negotiations in this bill that the limit should be raised to $2,000 per election, but not higher, is an indication that Congress believes that in most races contributions of greater than that amount present the appearance of corruption.

EFFECTIVE DATE

Ms. COLLINS. Madam President, when the McCain-Feingold bill passed the Senate, it was to be effective 30 days after enactment. Would the sponsors please explain the decision to change the effective date of the bill to November 6, 2002, and discuss the transition rules that apply after that date? In addition, can they please clarify their intent concerning the campaign finance rules that will govern runoff elections should there be any in 2002?

Mr. McCAIN. I thank the Senator for her question. Because of the delay in getting the bill through the House, it became clear that there would be a number of very complicated transition rule issues and implementation problems if we were to try to put the bill into effect for the 2002 elections. We reluctantly determined that it would simply not be practical to apply new rules in the middle of the election cycle. To change the rules in the middle of the campaign would have created uncertainty and potential unfairness, particularly since primaries are imminent in some States.

It is our intent, however, that the provisions of this bill will be fully in effect for the 2004 election cycle. In order to provide a certain end to the soft money system, and completely insulate the 2004 elections from that system, the bill provides for an effective date of Wednesday, November 6, 2002, the day after the 2002 elections. After that date, no further soft money will be raised. The November 6, 2002, effective date will permit an orderly transition to the new soft money free world.

Now as to the transition rules, we do allow soft money that the parties raise before November 6, 2002, to be used on expenses incurred in connection with the 2002 elections, and we intend that permission to apply to runoff elections, recounts, or election contests arising out of this year's elections as well. We also do not intend the bill substantive provisions concerning advertising, such as Title II and the ''stand by your ad provisions'', wealthy candidates, sections 304, 316, and 319, and contributions by minors, section 318, to apply to 2002 runoff elections. In addition, in the event that a runoff election occurs after November 5, 2002, the national party would—until January 1, 2003, be able to spend soft money received before November 6, 2002 to pay for the costs of non-Federal activities incurred in connection with, and before the date of, that runoff election, and the state parties could spend soft money on Federal election activities in connection with the runoff, as under current law.

On the other hand, the increased contribution limits in the bill take effect on January 1, 2003.

Mr. FEINGOLD. I agree with my friend from Arizona. Let me note, in addition, that the new effective date also helps to ensure that an expedited court challenge to the law can be resolved well before the 2004 election campaign gets underway. We recognize that a court challenge to this bill is not only likely, but inevitable. We welcome the challenge and firmly believe the courts will uphold what we have done.

In section 403, the bill provides expedited judicial review rules and rules for an orderly process of intervention in the litigation that could theoretically be filed shortly after the President signs the bill. That this will allow the litigation before a three-judge court here in Washington, DC, to have progressed substantially even before the operative provisions take effect in November. This expedited judicial review process will assist an orderly transition from the old system to the new system under this bill. Furthermore, the FEC is charged with promulgating soft money regulations well before the date that the soft money ban will take effect. In short, with enactment of the bill, promulgations of key regulations, and a prompt and efficient resolution of the litigation, we will be in a position in which a new campaign finance system can be implemented in a certain and sure fashion for the 2004 elections.

SECTION 323(F)(1)

Mr. THOMPSON. Madam President, I understand that questions have been raised about the provisions of the bill that prevent State candidates from spending non-Federal money on ads that mention Federal candidates. Can the sponsors clarify how these provisions might affect a State candidate spending money on an ad that touts that candidate having received the endorsement of a Federal candidate or officeholder?

Mr. FEINGOLD. I am pleased to have the opportunity to clarify this provision, which is one of a number of provisions in the soft money ban intended to prevent new loopholes for spending soft money from developing. New § 323(f)(1) prohibits State candidates and officeholders from spending non-Federal money on public communications that refer to a clearly identified candidate

for Federal office, regardless of whether a State candidate is also mentioned. This restriction, however, only applies to communications that promote, support, attack or oppose the Federal candidate, regardless of whether the communication expressly advocates a vote for or against a candidate.

Thus, it is not our intention to prohibit State candidates from spending non-Federal money to run advertisements that mention that they have been endorsed by a Federal candidate or say that they identify with a position of a named Federal candidate, so long as those advertisements do not support, attack, promote or oppose the Federal candidate, regardless of whether the communication expressly advocates a vote for or against a candidate. The test for whether a communication is covered by §323(f)(1) will be whether the advertisement supports or opposes the Federal candidate rather than simply promoting the candidacy of the State candidate who is paying for the communication. That will be up to the FEC to determine in the first instance, but I believe that State candidate will be able to fairly easily comply with this provision. All we are trying to prevent with this provision is the laundering of soft money through State candidate campaigns for advertisements promoting, attacking, supporting or opposing Federal candidates.

SECTION 212

Mr. LEVIN. Madam President, section 212 of the bill modifies reporting requirements for independent expenditures. Can the sponsors discuss the changes to current law that they intend to make in this section?

Mr. MCCAIN. I would be happy to explain this provision. Section 212 is intended to increase the disclosures of independent expenditures. Current law require such reports to be filed within 24 hours of the making of expenditure aggregating $1,000 or more, if the threshold amount of expenditures is reached within the last 20 days before an election. We add a provision requiring disclosure within 48 hours if independent expenditures totaling $10,000 or more are made prior to the 20th day before the election.

As part of the Department of Transportation appropriations bill for 2001, Public Law No. 106–46, Congress required that these ''24 hour reports'' be received by the Commission within 24 hours, rather than simply mailed within that time, which is the standard interpretation of the term ''filing'' in the law. We do not intend in §212 to change that requirement. Because these reports are very time sensitive, we believe they should be received by the Commission within the time period specified. Indeed, we believe that the Commission should have the authority to require any other time sensitive report required by this bill, such as the 24 hours reports required under §§ 304 and 319 also to be received within 24 hours. The ready availability of fax machines and other forms of electronic communications should make it fairly easy to comply with this requirement.

HOUSE-PASSED CAMPAIGN FINANCE LEGISLATION

Mr. FEINGOLD. Madam President, as my colleagues are aware, the House passed the McCain-Feingold/Shays-Meehan campaign finance reform bill in the early morning hours of February 14, 2002. The bill that we are debating today, and that we will pass and send to the President this week, is the exact bill that the House passed. During the debate on the bill, Congressman CHRISTOPHER SHAYS of Connecticut spoke on the floor at some length about the compelling need for the Congress to ban soft money. He related the enormous growth of soft money over the last decade and the appearance of corruption that these unlimited contributions from unions, corporations, and wealthy individuals cause. Using examples such as the Enron debacle, the Hudson Casino controversy, the tobacco industry, and the infamous Roger Tamraz, Congressman SHAYS illustrated how soft money damages public confidence in the legislative process. He includes statements from former Members of Congress of the power of money in providing access to lawmakers and the public cynicism that results when these stories become known.

Mr. SHAYS' remarks appear in the CONGRESSIONAL RECORD of February 13, 2002 at pages H351–H353. I entirely agree with Mr. SHAYS' statement. In my view, it explains very well the appearance problem that soft money creates and provides an excellent justification for the action we are about to take in this bill.

Mr. MCCAIN. I agree with my friend from Wisconsin, and I endorse Mr. SHAYS' discussion on the reasons that Congress must act to ban soft money. Let me also call to my colleagues' attention a statement that Mr. SHAYS made on February 13, 2002, concerning the functioning of the soft money ban, and in particular, the Levin amendment. The Levin amendment concerning state parties' use of nonfederal funds was added to the bill here on the floor last year. It was modified, and in my view improved, on the House side. My colleague from Wisconsin and I participated in the negotiations that yielded the final terms of the Levin amendment contained in the House bill. Mr. SHAYS explains quite well the way that the Levin amendment in the final bill is supposed to function, and the restrictions, or what some have called ''fences,'' that we hope and believe will prevent the Levin amendment from becoming a new soft money loophole. Mr. SHAYS' discussion appears in the RECORD on pages H408–H410 on February 13, 2002.

Mr. FEINGOLD. I thank the senior Senator from Arizona for highlighting that particular part of the legislative history. I also believe Mr. SHAYS does an excellent job of explaining how the Levin amendment is supposed to work. In addition, Mr. SHAYS discussed how the provisions of the bill dealing with electioneering communications permit the FEC to promulgate regulations to exempt certain communications that are clearly not related to an election and do not promote or attack candidates. I also endorse that discussion, which appears in the RECORD of February 13, 2002, at pages H410–411.

Mr. MCCAIN. I agree with my friend from Wisconsin that these statements express our intent in this bill quite well.

SECTION 301

Mr. LIEBERMAN. Madam President, can the sponsors clarify section 301 of the bill concerning the conversion of campaign funds to personal use, and in particular whether any change from current law was intended concerning the ability of candidates to transfer excess campaign funds to their parties?

Mr. FEINGOLD. Section 301 of the bill amends 2 U.S.C. section 439a to specify which candidate expenditures from campaign funds would be considered an unlawful conversion of a contribution or donation to personal use. The language continues to allow candidates to use excess campaign funds for transfers to a national, State or local committee of a political party. It is the intent of the authors that—as is the case under current law—such transfers be permitted without limitation. Furthermore, while the provision is intended to codify the FEC's current regulations on the use of campaign funds for personal expenses, we do not intend to codify any advisory opinion or other current interpretation of those regulations.

SOFT MONEY FINANCING OF STATE PARTY OFFICE BUILDINGS

Mr. THOMPSON. Madam President, I note that the bill deletes a provision of current law that permits national party committees to raise soft money to pay for their office buildings. Can the sponsors discuss the intent of the law concerning the raising of non-Federal money by State parties for their office buildings?

Mr. FEINGOLD. The Senator is correct that as part of the soft money ban, the legislation deletes language in current law expressly excluding donations to a national or state party committee specifically to finance the purchase or construction of a party office building from the definition of ''contribution.'' Accordingly, a national party committee may no longer receive non-Federal donations for the purpose of purchasing or constructing any party office building, or for any other purpose.

Likewise, Federal law will no longer allow a State or local party committee to receive non-Federal donations to purchase or construct a State or local party office building where such donations would violate that State's laws relating to permissible sources and amounts of non-Federal donations to such a party committee.

The bill does not, however, regulate State or local party expenditures of non-Federal donations received in accordance with State law on purchasing

or constructing a State or local party office building. It is the intent of the authors that State law exclusively govern the receipt and expenditure of non-Federal donations by State or local parties to pay for the construction or purchase of State or local party office buildings. Thus, non-Federal donations received by a State or local party committee in accordance with State law could be used to purchase or construct a State or local party office building without any required match consisting of Federal contributions.

CLARIFYING TERMS IN THE BILL

Ms. COLLINS. Madam President, I would like to ask the sponsors a question concerning the term ''refers to'' in certain provisions of the bill. I have heard the argument made that the definitions of ''Federal election activity'' and ''electioneering communication'' are somehow vague because they are defined to include a communication that ''refers to a clearly identified candidate for Federal office.'' Can the sponsors address that argument?

Mr. FEINGOLD. I would be happy to respond to my friend from Maine, and I appreciate her question. In the bill, the phrase ''refers to'' precedes the phrase ''clearly identified'' candidate. That latter phrase is precisely defined in the Federal Campaign Election Act to mean a communication that includes the name of a federal candidate for office, a photograph or drawing of the candidate, or some other words or images that identify the candidate by ''unambiguous reference.'' A communication that ''refers to a clearly identified candidate'' is one that mentions, identifies, cites, or directs the public to the candidate's name, photograph, drawing, or otherwise makes an ''unambiguous reference'' to the candidate's identity.

SECTION 213

Mr. THOMPSON. Madam President, I would like to ask the sponsors to explain section 213 of the bill concerning independent and coordinated expenditures made by party committees. Can the sponsors also discuss how this provision is consistent with the Supreme Court's decision in the Colorado cases?

Mr. McCAIN. I would be happy to respond to the Senator's question. Section 213 of the bill allows the political parties to choose to make either coordinated expenditures or independent expenditures on behalf of each of their candidates, but not both. This choice is to be made after the party nominates its candidate, when the party makes its first post-nomination expenditure—either coordinated or independent—on behalf of the candidate.

This provision is entirely consistent with the Supreme Court's rulings in the two Colorado Republican cases. In the first of those cases, the Court held that a party had a constitutional right to make unlimited independent expenditures, using hard money funds, on behalf of its candidates. But of course, those party expenditures must be fully and completely independent of the candidate and his campaign. The second Colorado Republican case held that Congress may limit the size of coordinated expenditures made by parties on behalf of their candidates, in order to deter corruption and the appearance of corruption that could result from unlimited expenditures that are coordinated.

This provision fully recognizes the right of the parties to make unlimited independent expenditures. But it helps to ensure that the expenditure will be truly independent, as required by Colorado Republican I, by prohibiting a party from making coordinated expenditures for a candidate at the same time it is making independent expenditures for the same candidate. We believe that once a candidate has been nominated a party cannot coordinate with a candidate and be independent in the same election campaign. After the date of nomination, the party is free to choose to coordinate with a candidate, or to operate independently of that candidate. If it chooses the former, it is subject to the limits upheld in Colorado Republican II. If it chooses the latter, it is free to exercise its right upheld in Colorado Republican I to engage in unlimited hard money spending independent of the candidate.

Section 213 provides, for this purpose only, that all the political committees of a party at both the state and national levels are considered to be one committee for the purpose of making this choice. This will prevent one arm of the party from coordinating with a candidate while another arm of the same party purports to operate independently of such candidate. This provision is intended to ensure that a party committee which chooses to engage in unlimited spending for a candidate is in fact independent of the candidate.

Mr. FEINGOLD. I agree with the Senator from Arizona's answer to the question from the Senator from Tennessee.

SECTION 214

Mr. LIEBERMAN. Madam President, I would like to ask the sponsors a question concerning section 214 of the bill, which deals with coordination. Some concern has been expressed about this provision by outside groups that participate in the legislative process through lobbying and grassroots advertising and also participate in electioneering through their PACs, or currently, through sham issue ads. Can the sponsors explain what is intended by section 214, and answer the concerns expressed by some of these organizations?

Mr. FEINGOLD. I would be happy to address this question, and I thank the Senator from Connecticut for raising it. It is important that our intent in this provision be clear.

The concept of ''coordination'' has been part of Federal campaign finance law since Buckley versus Valeo. It is a common-sense concept recognizing that when outside groups coordinate their spending on behalf of a candidate with a candidate or a party, such spending is indistinguishable from a direct contribution to that candidate or party. Accordingly, such coordinated spending by outside groups is, and should be, treated as a contribution to the candidate or party that benefits from such spending. As such, it is subject to the source and amount limitations under federal law for contributions to federal candidates and their parties. An effective restriction on outside groups coordinating their campaign-related activities with federal candidates and their political parties is needed to prevent circumvention of the campaign finance laws.

The bill bans soft money contributions to the national political parties, which totaled $463 million during the 2000 election cycle. Specifically, under the bill, corporations and unions can no longer donate amounts from their treasuries to the national parties, and wealthy individuals can no longer write six-figure checks to the national parties. The legislation shuts down the soft money loophole in order to prevent the corruption and unseemly appearances that arise when national parties and Federal officeholders solicit unlimited donations from special interests and then spend those donations to support federal candidates.

Absent a meaningful standard for what constitutes coordination, the soft money ban in the bill would be seriously undermined. In the place of outside special interests donating six-figure checks to the national parties to be spent on Federal elections, these entities could simply work in tandem with the parties and Federal candidates to spend their own treasury funds—soft money—on federal electioneering activities. This would fly in the face of one of the main purposes of the bill to get national parties and Federal candidates out of the business of raising and spending soft money donations.

Unfortunately, based on a single district court decision, the Federal Election Commission's current regulation defining when general public political communications funded by outside groups are considered coordinated with candidates or parties fails to account for certain types of coordination that may well occur in real-world campaigns. The FEC regulation is premised on a very narrowly defined concept of ''collaboration or agreement'' between outside groups and candidates or parties.

This current FEC regulation fails to cover a range of de facto and informal coordination between outside groups and candidates or parties that, if permitted, could frustrate the purposes of the bill. For example, if an individual involved in key strategic decision-making for a candidate's political advertising resigned from the candidate's campaign committee, immediately thereafter joined an outside organization, and then used inside strategic information from the campaign to develop the organization's imminent soft

money-funded advertising in support of the candidate, a finding of coordination might very well be appropriate. The FEC regulation, however, would find coordination neither in this circumstance nor in various other situations where most reasonable people would recognize that the outside entities' activities were coordinated with candidates. This would leave a loophole that candidates and national parties could exploit to continue controlling and spending huge sums of soft money to influence federal elections.

The dangers of coordinated soft money spending were noted by Senator FRED THOMPSON during his Committee's review of 1996 election activity. The Minority Report of the Senate Committee on Governmental Affairs states:

> The fact that coordination of soft money spending and fundraising has become commonplace and expected should be examined by Congress. By permitting such coordinated efforts to raise soft money and spend it on political activities that advance the interests of presidential campaigns, the federal election laws create a tremendous loophole to both contribution limits and spending limits. As the Chairman [Senator Thompson] has acknowledged:
>
> Acceptance of this activity would allow any candidate and his campaign to direct and control the activities of a straw man . . . . For such activity, these straw men could use funds subject to no limit and derived from any source . . . . If the interpretation is that this is legal and this is proper, then we have no campaign finance system in this country anymore.

To remedy this problem, the bill requires the FEC to reexamine the coordination issue and promulgate new coordination rules. These rules need to make more sense in light of real life campaign practices than do the current regulations. The bill accordingly repeals this FEC regulation and requires that the Commission promulgate a replacement regulation. The bill does not change the basic statutory standard for coordination, which defines and sets parameters for the FEC's authority to develop rules describing the circumstances in which coordination is deemed to exist.

Section 214 directs the FEC to promulgate new regulations on coordinated communications and lists four specific subjects that the FEC must address in those new regulations. It does not dictate how the Commission is to resolve those four subjects.

On one issue, section 214 does direct the outcome of the Commission's deliberations on new regulations. The current FEC regulations say that a communication will be considered to be ''coordinated'' if it is created, produced or distributed ''after substantial discussion'' between the spender and the candidate about the communication, ''the result of which is collaboration or agreement.'' This standard is now contained in 11 C.F.R. § 100.23(c)(2)(iii).

The FEC's narrowly defined standard of requiring collaboration or agreement sets too high a bar to the finding of ''coordination.'' This standard would miss many cases of coordination that result from de facto understandings. Accordingly, section 214 states that the Commission's new regulations ''shall not require agreement or formal collaboration to establish coordination.'' This, of course, does not mean that there should not be a finding of ''coordination'' in those cases where there is ''agreement or formal collaboration.'' But it does mean that specific discussions between a candidate or party and an outside group about campaign-related activity can result in a finding of coordination, without an ''agreement or formal collaboration.''

Existing law provides that a campaign-related communication that is coordinated with a candidate or party is a contribution to the candidate or party, regardless of whether the communication contains ''express advocacy.'' Accordingly, the bill provides that an ''electioneering communication'' that is coordinated with a candidate or party is considered a contribution to the candidate or party.

Mr. MCCAIN. If the Senator from Wisconsin would yield, let me elaborate a bit on his discussion, with which I completely agree, and address the specific concern raised by some of these groups.

It is important for the Commission's new regulations to ensure that actual ''coordination'' is captured by the new regulations. Informal understandings and de facto arrangements can result in actual coordination as effectively as explicit agreement or formal collaboration. In drafting new regulations to implement the existing statutory standard for coordination—an expenditure made ''in cooperation, consultation or concert, with, or at the request or suggestion of'' a candidate—we expect the FEC to cover ''coordination'' whenever it occurs, not simply when there has been an agreement or formal collaboration.

On the other hand, nothing in the section 214 should or can be read to suggest, as some have said, that lobbying meetings between a group and a candidate concerning legislative issues could alone lead to a conclusion that ads that the group runs subsequently concerning the legislation that was the subject of the meeting are coordinated with the candidate. Obviously, if the group and the candidate discuss campaign related activity such as ads promoting the candidate or attacking his or her opponent, then coordination might legitimately be found, depending on the nature of the discussions. We do not intend for the FEC to promulgate rules, however, that would lead to a finding of coordination solely because the organization that runs such ads has previously had lobbying contacts with a candidate.

Section 214 represents a determination that the current FEC regulation is far too narrow to be effective in defining coordination in the real world of campaigns and elections and threatens to seriously undermine the soft money restrictions contained in the bill. The FEC is required to issue a new regulation, and everyone who has an interest in the outcome of that rulemaking will be able to participate in it, and appeal the FEC's decision to the courts if they believe that is necessary.

CONTRIBUTIONS BY MINORS

Ms. COLLINS. Madam President, I wanted to ask the sponsors about a provision that was not included in the Senate bill—the prohibition on contributions by minors. Can you explain the justification for this new provision?

Mr. MCCAIN. The Senator is correct that section 318 was added in the House. It is an important provision, and the Senator from Wisconsin and I supported it being included in the bill.

Under the FEC's current regulations at 11 C.F.R. § 110.1(i)(2), children under the age of 18 may make contributions to political candidates and committees as long as the child knowingly and voluntary makes the decision to contribute. In addition, the child must make the contribution out of his or her own funds, which the child is in control of, such as the proceeds of a trust or money in a savings account in the child's own name.

Unfortunately, notwithstanding these regulations, we believe that wealthy individuals are easily circumventing contribution limits to both political candidates and parties by directing their children's contributions. Indeed, the FEC in 1998 notified Congress of its difficulties in enforcing the current provision. Its legislative recommendations to Congress that year cited ''substantial evidence that minors are being used by their parents, or others, to circumvent the limits imposed on contributors.''

Accordingly, Section 318 of the bill prohibits individuals 17 years old or younger from making contributions or donations to and a candidate or a committee of a political party.

We believe it is appropriate for Congress to prohibit minors from contributing to campaigns because we agree with the Commission that there is substantial evidence that individuals are evading contribution limits by directing their children to make contributions. According to a Los Angeles Times study, individuals who listed their occupation as student contributed $7.5 million to candidates and parties between 1991 and 1998. Upon further investigation, some of these contributions where made by infants and toddlers. In another instance, the paper found that two high school sisters contributed $40,000 to the Democratic Party in 1998. When asked about the contribution, the high school sophomore answered that it was a ''family decision.''

We believe that this and other examples justify the prohibition on minor contributions that is included in the bill as a way to prevent evasion of the contribution limits in the law. In our view, this provision simply restores the

integrity of the individual contribution limits by preventing parents from funneling contributions through their children, many of whom are simply too young to make such contributions knowingly.

We recognize that many individuals under the age of 18 support candidates with great fervor and feel passionately about public issues. We do not mean to suggest that children should not be able to participate in the political system. They are free to volunteer on campaigns and express their views through speaking and writing. We simply believe that allowing them to contribute to candidates presents too great a risk of abuse, especially since the existing, more limited, FEC regulation has failed to prevent such abuse.

Mr. FEINGOLD. I thank the Senator from Arizona for his remarks on this topic. I agree that this provision addresses a serious problem of abuse that has been amply demonstrated.

Mr. MCCAIN. Madam President, I ask unanimous consent that several news reports detailing numerous instances in which wealthy individuals have circumvented contribution limits by directing their children's campaign contributions be printed in the RECORD.

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

MEMBERS CASH IN ON KID CONTRIBUTIONS

(By Alex Knott)

Nine-year-old John Baxter of Knoxville, Tenn., didn't even know that he had donated $2,000 in 1994 to Republican Fred Thompson's Senatorial campaign. Yet he's one of the 2,100 students whose names appear at the Federal Election Commission as having made campaign contributions in the 1993–94 election cycle.

The third-grader at Shannon Dale Elementary School has donated $3,000 to political campaigns since he was eight years old, according to FEC records.

''I don't know about that,'' said Baxter. ''My dad takes the money out of our accounts.'' Baxter said he's never heard of the ''Contract with America,'' and did not know whether Thompson is a Republican or a Democrat. Though many parents make donations on behalf of their children without their participation, the FEC warns that these donations are illegal unless made with the child's full knowledge.

According to Ian Stirton, an FEC public affairs spokesman, students who are minors can legally contribute funds to federal elections, ''but it says in the law that the donations must be make 'knowingly and willingly.'''

''Now for an 8-year-old to be able to make these contributions, 'knowingly and willingly,' they would be pretty precocious, but it is legal for them to do so,'' Stirton said.

''I guess I'm into politics a little,'' Baxter said. He is not alone. His older brother Joseph, 11, says that he also has made donations to a couple of campaigns recently.

''I've heard that I've given money to (GOP presidential candidate and former Tennessee Gov.) Lamar Alexander and to Fred Thompson, but I don't know how much I gave them,'' Joseph Baxter said.

Their older sisters Jennifer, 12, and Elizabeth, 14, have also made political donations. Together, the four children have donated a total of $12,000 in the last three years.

Their father, William Baxter, is the president of Holston Gases Inc. in Knoxville. He says the donations made by his children are legal because they each have accounts in their names from which the money is drawn, even though some of them are not aware of the contributions.

''We have custodial accounts set up for all our children,'' William Baxter said.

The money in the children's accounts has accumulated through inheritance and annual gifts from their parents, according to their father. William Baxter said he has control of the money in the accounts and has made some of the withdrawals for the children's political contributions.

The FEC would not comment on the specific case, but Stirton said that not only must all donations by minors be made knowingly and willingly but that the money can't be given to minors for the sole purpose of making political contributions.

''People can't just donate money in the names of others, ''Stirton said. ''It would make the laws of disclosure ineffective.''

In the past the FEC has investigated incidents in which campaign donations have been made without the named contributor's consent. No specific cases were mentioned by Stirton, but he said that parents who are found to have knowingly and willingly broken these FEC laws could face up to $10,000 in civil penalties or an amount equal to 200 percent of any contribution made.

All the donations made by the Baxter children were in amounts of $1,000 and consisted of contributions to Thompson's Sensational campaign and Alexander's presidential bid.

''It's very admirable,' William Baxter said about his family's contributions. ''I think more people should make contributions. A real change took place during the last election, and I'm glad we were a part of that change.''

Thompson's spokesman, Paul Clark, said the Baxter children may have forgotten about their donations because of their age.

''It was a year ago, and it appears that they were fully aware of the contributions,'' Clark said. ''It's not some laundering operation.''

Clark also said that Thompson's campaign officials tried to be ''extremely careful to follow FEC regulations.''

Thompson was fourth among the top ten Members to receive campaign funds from donors listed as students in the 1993–94 election cycle, with the attorney/actor-turned-politician raking in more than $25,000.

A Roll Call study of FEC records from that Sens. Ted Kennedy (D-Mass), with $63,300 in contributions; Bill Frist (R-Tenn), $43,500; and Frank Lautenberg (D-NJ), led the pack in student donations last cycle.

Rounding out the top ten were Thompson, $25,800, and Sens. Spencer Abraham (R-Mich), $25,750; Kay Bailey Hutchison (R-Texas), $25,500; Joseph Lieberman (D-Conn), $24,250; Dianne Feinstein (D-Calif), $23,900; John Kerry (D-Mass), $23,500; and Chuck Robb (D-Va), $20,250.

For attorney Loren Hershey, of Falls Church, Va., campaign giving is also a family affair. He and his three children have made 22 contributions totaling $26,000, over the last five years.

Hershey says that his children made their donations knowingly and willingly and that they ''participated in the decisions'' to make contributions to the campaigns.

Hersey's three children have donated $10,000 since 1992, including his daughter Amelia, 11, who began her generosity to politicians with a $1,000 donation to the Clinton for President Committee at the age of eight.

Amelia, who is a fifth-grader at Bailey's School for the Arts and Sciences, during the 1993–94 election cycle also made $1,000 contributions to the campaigns of Sen. Chuck Robb (D-Va) and former Rep. Leslie Byrne (D-Va).

Not all of the students listed by the FEC are minors. Some are university undergraduates, law students, and even politicians.

In the last election cycle, Maryland Lt. Gov. Kathleen Kennedy Townsend (D) donated $250 to the Senatorial campaign of her uncle, Ted Kennedy, while she was listed as a student, according to FEC documents.

Jennifer Croopnick, 24, of Newton Mass., was surprised to find out that she had donated $1,000 to Rep. Joe Kennedy (D-Mass).

''I don't know what you're talking about,'' said Croopnick, who was then a graduate student at New York University. ''I never donated money for any campaigns. I don't have much money.''

Though Croopnick said she hasn't personally donated any money for political campaigns in the past, she did offer a solution as to where the funding may have come from.

''I'm not exactly sure how those donations were made,'' she said. ''My father probably made the donation in my name.''

Croopnick's father Steven, an employee of LTC Management in Cambridge, didn't return numerous phone calls, and his wife Bonnie had no comment regarding the contribution.

A statement released last week by Kennedy's office read: ''We made a great deal of effort to make sure every contribution is proper. We have never knowingly accepted any improper contribution. We assume that when we receive a contribution, the donor knows they have made it.

''In this case, it was a donation from a 24-year-old individual. We had no reason to believe she was unaware of the contribution.''

SUNDAY REPORT; MINOR LOOPHOLE; YOUNG DONORS ARE INCREASINGLY PADDING POLITICAL COFFERS. OFFICIALS FEAR THAT CHILDREN ARE BEING USED TO EVADE ELECTION LAWS

(By Alan C. Miller, Times Staff Writer)

At age 10, Skye Stolnitz of Los Angeles contributed $1,000 to the 1996 presidential campaign of Republican Lamar Alexander. Her dad said the funds came from Skye's personal checking account.

Asher Simon was 9 years old when he gave $1,000 each to Sen. Dianne Feinstein (D-Calif.) and two other Democrats in 1994. Asher's mother said the boy ''supports candidates he agrees with.''

Lindsey Tabak, then 15, donated $20,000 to the Democratic Party in 1996. Asked about the source of the money, Lindsey said: ''I know it was in my name.'' These youngsters are part of a developing trend in the world of political money: contributors who donate generously even though they're not old enough to drive a car or register to vote. On paper at least, children and high school and college students gave a total of $7.5 million in political donations from 1991 through 1998, according to a Times study of federal election records.

In many cases, as with Skye, Asher and Lindsey, the children's donations came on the same day or about the same time that their parents gave the maximum contribution allowed under federal law.

Campaign finance experts say the practice of student giving has become one of the most blatant ways that affluent donors circumvent federal limits.

''This is an area of great abuse where you have the absurd situation of small children supposedly contributing their own money to a candidate of their own choice,'' said Donald J. Simon, executive vice president of the watchdog group Common Cause. ''Obviously, in many cases, what's going on is simply a way for the parents to beat the contribution limits.''

Parents interviewed for this story insisted that the children contributed their own

funds and were not part of any scheme to skirt federal limits. But the Federal Election Commission has regarded student giving as such a potentially serious loophole that it has urged Congress to ban donations by minors, based on the ''presumption that contributors below age 16 are not making contributions on their own behalf,'' according to the commission's 1998 legislative recommendations.

Federal law places no minimum age on donors but requires that the funds be ''owned or controlled exclusively'' by contributors and that they give ''knowingly and voluntarily.'' Also, parents are specifically prohibited from giving money to their children to make political donations.

In each election, the law allows individual donors of any age to give $1,000 to a candidate and $20,000 to a political party in so-called hard money, which can only be used to advocate the election or defeat of specific candidates. There are no contribution limits on ''soft money'' donated to the parties for a broad range of political uses.

The analysis, conducted for The Times by the independent Campaign Study Group of Springfield, Va., shows that young contributors are giving increasingly large amounts to federal candidates and campaign committees. Since 1991, donors identified as ''students'' made 8,876 federal contributions of $200 or more and in 163 instances gave $5,000 or more.

Student donors gave nearly $2.6 million for the 1996 presidential election—a 45% increase over 1992. Complete computerized data for the 1998 elections are not yet available.

The study understates the full extent of donations by minors because political committees often fail to report a contributor's occupation as required by law and donors are not asked to provide their ages. The Times identified the ages of donors through public records and interviews.

ONLY ONE PARENT FINED SINCE 1975

Youthful donors attract little scrutiny from the FEC, which is responsible for civil enforcement of U.S. election laws. The agency rarely investigates allegations arising form donations by minors: Since 1975, it has investigated and closed only four such cases, levying one $4,000 fine against a parent for donating money through a child.

Representatives for the Democratic and Republican parties said they do not solicit contributions from the children of donors.

Yet veteran campaign operatives, speaking on the condition of anonymity, said that major donors are often reminded that family members may also contribute. While professional fund-raisers are instructed to inform such donors of the legal requirements, other individuals soliciting contributions may ''forget the niceties,'' one longtime Democratic campaign advisor said. Campaign finance experts even have a name for the practice: ''family bundles.''

The sponsors of the sweeping bipartisan campaign finance bill that passed the House last year included a provision that would have banned all donations to candidates and political parties from individuals under 18. The bill stalled in the Senate. The sponsors reintroduced the legislation last month with the same proposed ban on child donors.

The Times study found at least four donors age 10 or under who gave $1,000 or more. In two additional cases that were previously reported, donors were so politically precocious that they were still in diapers.

'. . . ON BEHALF OF MY DAUGHTER'

On Jan. 25, 1996—the same day her parents made identical donations—Skye Stolnitz, then 10, gave $1,000 to the Republican presidential primary campaign of former Tennessee Gov. Alexander.

''It was my decision based on what I thought was in her best interest,'' said Skye's father, Scott A. Stolnitz, a dentist in Marina del Rey. ''I felt that Lamar Alexander at the time had the solutions for education in America, which I was very concerned about on behalf of my daughter.''

He said that the $1,000 came from Skye's checking account, which he funds. Stolnitz said that he discussed the donation with his daughter, ''even at that tender age. I told her what I was doing and why. She did not object.''

He said he was ''not aware'' of federal laws that require donors to make such decisions on their own and had no intention of exceeding contribution limits.

When young Asher Simon made $1,000 contributions to Feinstein, then-House Speaker Thomas S. Foley (D-Wash.) and then Rep. Lee H. Hamilton (D-Ind.) in 1994, both his parents also gave to the same candidates during the same election cycle, including the maximum to Feinstein and Foley. This was the only time that Asher, who is now 13, made a federal contribution, records show.

Herbert Simon, Asher's father, is a leading developer of shopping malls and, along with his brother, owns the Indiana Pacers professional basketball team. Diane Meyer Simon, a former Democratic National Committee member, said that her son ''comes from a very political family that has a long tradition of supporting candidates.''

The Simons, who own homes in Indianapolis and Santa Barbara, have donated nearly $1 million to candidates and party committees since 1991, records show.

Asher's four older siblings gave an additional $40,750. Rachel and Sarah Simon contributed the same amounts to the same candidates as Asher when they were about 14 and 12, records show.

''Whatever payments were made were in trust accounts and accounted for properly,'' said Robert F. Wagner, an attorney for Diane Meyer Simon. ''This is a very, very decent family. . . . There was no intent to do anything improper.''

The FEC permits political donations from a trust fund but requires that the beneficiary make the donation ''knowingly and voluntarily.'' The key to the propriety of such a donation is how much control the beneficiary exercises over the trust fund, election law attorneys said.

HIGH SCHOOL SISTERS GIVE $40,000 TO PARTY

Lindsey Tabak was a high school sophomore and her sister, Lauren, a senior in Livingston, N.J., when each contributed $20,000 to the Democratic Congressional Campaign Committee on Oct. 29, 1996. Twelve days earlier, their parents, Mark H. Tabak and Judy Wais Tabak, each gave the maximum legal donation to the committee.

Lindsey said her contribution ''was like a family decision that we would donate the money to the Democratic Party.''

Asked whose money it was, she replied: ''It's like the family's . . . I'm not sure where it came from. I know it was in my name.''

Mark Tabak, who manages a firm that invests in international health-care ventures, said that the money came from his daughter's trust funds, a portion of which is earmarked for political and charitable contributions. He called it ''a collective decision'' to help the Democrats try to retain control of Congress.

''I assure you that this was not a scam to bypass hard-money limits,'' Tabak said, noting that he and his wife could have given unlimited sums of soft money to the Democratic group. Political parties prefer hard-money donations because of the restrictions imposed on how they spend soft money.

Both major political parties have benefited from student donors. Since 1991, Democrats have raked in $4.3 million and Republicans received $2.7 million.

Many of the student contributors were old enough to attend college, according to public records and interviews. Some of these donors contributed to the same campaigns, in similar amounts and at the same times as their parents.

CONTRIBUTIONS OFTEN MATCH PARENTS'

Take the case of Steven P. St. Martin. The son of a wealth Louisiana attorney, he gave a total of $35,000 to various Democratic campaigns between 1991 and 1998 when he was a college and law school student. His contributions often matched those of his father, Michael X. St. Martin, his mother or his brothers, records show.

''I make my contributions completely on my own,'' said Steven St. Martin, now an attorney in Houma, La. He declined to explain the correlation between his donations and those of his family. ''It's kind of personal,'' he said.

Two estranged daughters of Dallas billionaire Harold C. Simmons alleged that their father used trust funds to make political contributions in their names without their permission. This was part of a broader lawsuit claiming that Simmons squandered the trusts on various expenses.

The trust for one daughter, Andrea Simmons Harris, gave $36,500 to Republican candidates between 1991 and 1993 when she was a student in her mid-20s, records show. Simmons and other family members usually made the maximum legal donations to the same recipient on the same day.

Simmons, who denied wrongdoing, agreed last year to pay his adult daughters $50 million each to drop the suit seeking his removal as trustee of the family fortune.

At the other end of the ''student'' spectrum are the diaper donors.

Bradford Bainum was 18 months old when he made the first of four contributions to Democratic candidates in 1992 and 1993, records show. He gave $4,000 by the time he was 2.

His father, Stewart Bainum Jr., executive of a nursing home chain and former Maryland state senator, acknowledged donating in the name of his son as well as exceeding contribution limits in a 1997 settlement with the FEC. He paid a penalty of $4,000.

This is the only time since the current campaign finance system was established in 1975 that the FEC fined a donor in a case involving contributions by a minor.

The FEC may impose penalties up to the amount of a contribution for giving in the name of another person or twice the amount if the transgression is knowing and willful. The agency may also find that a parent exceeded the contribution limit by donating through a child.

''It's not an easy area of the law to enforce,'' said Ian Stirton, an FEC spokesman. ''Somebody has to know this is going on.''

Still, the agency has acknowledged serious concerns over the practice of student giving.

Lois G. Lerner, the FEC's associate general counsel, said that, while commission members have not yet addressed this issue, the agency ''has realized in recent years that people are trying to get as much money into the process as they can and this is an area where it's pretty easy to do so.''

Parent donors may also trip over state election laws.

Al Checchi, the multimillionaire former Northwest Airlines chairman who ran for governor of California last year, acknowledged in 1997 that he arranged two contributions in the names of his children without their knowledge.

Checchi's business partner, who controlled the Checchi children's trust accounts, sent $500 checks in the names of Adam and Kristin Checchi to the 1990 gubernatorial primary campaign of Democrat John K. Van de Kamp. That same day, Checchi and his wife each gave Van de Kamp $1,000, the legal limit under California law at the time.

Checchi said the children—ages 12 and 9 at the time—were unaware of the donations. He said he did not know that such donations would pose a problem; they were returned by the campaign.

Campaign finance experts said that some parent donors, who are unfamiliar with the intricacies of election laws, may unwittingly use their children as conduits.

Kenneth A. Gross, an election law attorney and former FEC enforcement chief, said that his advice for clients is simple: ''I certainly discourage any giving by children.''

THE BOOK ON STUDENT GIVING

Contribution between 1991 and 1998:

Number of federal campaign contributions: 8,876 (Includes only contributions of $200 or more.)

Total amount contributed by students: $7.5 million.

Number of students contributing a total of $5,000 or more: 163.

Source: Federal Election Commission records.

DEEP POCKETS, SHORT PANTS

Each of these students gave the same maximum donations to federal candidates or political parties as their parents. Their parents or representatives defended the contributions, saying that the money was their children's that the youths contributed voluntarily and that the parents were not trying to evade federal limits by giving through their children.

Donor, Recipient and Parents: (Student) Skye Stolnitz (age 10*)

Amount: $1,000.

Date: Jan. 25, 1996

Donor, Recipient and Parents: (Recipient) Lamar Alexander for President

Donor, Recipient and Parents: (Parents) Dr. Scott A. Stolnitz (father)

Amount: $1,000

Date: Jan. 25, 1996

Donor, Recipient and Parents: (Parents) Cindy B. Stolnitz (mother)

Amount: $1,000

Date: Jan. 25, 1996

Explanation: ''It was my decision based on what I thought was in her best interest,'' her father said.

* * * * *

Donor, Recipient and Parents: (Student) Asher Simon (age 9)

Amount: $1,000

Date: Sept. 12, 1994

Donor, Recipient and Parents: (Recipient) Sen. Dianne Feinstein (D–Calif.)

Donor, Recipient and Parents: (Parents) Herbert Simon (father)

Amount: $1,000

Date: May 12, 1994

Donor, Recipient and Parents: (Parents) Diane Meyer Simon (mother)

Amount: $1,000

Date: Oct. 21, 1993

Explanation: Asher ''supports candidates he agrees with,'' his mother said.

* * * * *

Donor, Recipient and Parents: (Student) Lindsey Taback (age 15)

Amount: $20,000

Date: Oct. 29, 1996

Donor, Recipient and Parents: (Recipient) Democratic Congressional Campaign Committee

Donor, Recipient and Parents: (Parents) Mark H. Tabak (father)

Amount: $20,000

Date: Oct. 17, 1996

Donor, Recipient and Parents: (Parents) Judy Wais Tabak (mother)

Amount: $20,000

Date: Oct. 17, 1996

Explanation: The contribution ''was like a family decision that we would donate money to the Democratic Party,'' Lindsey said.

* * * *

Donor, Recipient and Parents: (Student) Elizabeth Heyman (age 7)

Amount: $1,000

Date: Sept. 26, 1988

Donor, Recipient and Parents: (Recipient) Sen. Joseph I. Lieberman (D-Conn.)

Donor, Recipient and Parents: (Parents) Samuel J. Heyman (father)

Amount: $2,000**

Date: Dec. 12, 1987

Donor, Recipient and Parents: (Parents) Ronnie F. Heyman (mother)

Amount: $2,000**

Date: Dec. 15, 1987

Explanation: ''The children were asked and they thought it was a great idea,'' said Michael Kempner, a spokesman for the Heymans.

* * * *

Donor, Recipient and Parents: (Student) Benjamin Lipman (age 9)

Amount: $1,000

Date: June 19, 1987

Donor, Recipient and Parents: (Recipient) Pierre S. ''Pete'' du Pont IV for President

Donor, Recipient and Parents: (Parents) Ira A. Lipman (father)

Amount: $1,000

Date: June 18, 1987

Donor, Recipient and Parents: (Parents) Barbara Lipman (mother)

Amount: $1,000

Date: June 18, 1987

Explanation: That was a way ''to expose the children to political candidates and get them involved in the process,'' Ira Lipman said.

All ages given were at time of donation

Total includes maximum contributions for both primary and general elections

Sources: Analysis of Federal Election Commission records by the Campaign Study Group, other public records and interviews

CONTRIBUTION PROPOSAL BY FEC

This is the Federal Election Commission's 1998 recommendation for legislation to prohibit contributions by minors:

Recommendation: The commission recommends that Congress establish a presumption that contributors below age 16 are not making contributions on their own behalf.

Explanation: The commission has found that contributions are sometimes given by parents in their children's names. Congress should address this potential abuse by establishing a minimum age for contributors, or otherwise provide guidelines ensuring that parents are not making contributions in the name of another.

Source: FEC Annual Report

Mr. LUGAR. Madam President, I rise today to speak on the campaign finance reform bill that is before us. I have been involved in elections for the school board, for mayor of a major city, for the U.S. Senate, and for the Republican presidential nomination. My experiences suggest that our present system is outdated and often distorted. Yet I have never believed that we should pass a bill just because it has been labeled ''reform.'' As dysfunctional as our current campaign finance system is, it can be made worse.

But in 2001, the U.S. Senate held a genuine debate on campaign finance reform that embraced multiple points of view on the issue. Amendments were considered and debated on their merits. The underlying bill changed dramatically. The Senate reached a conclusion that could not have been predicted before the debate began.

This conclusion did not correspond to the ideal system of even a single Senator. In reviewing the 28 votes that we cast on that bill, I found that I had disagreed with the position of every other Senator at least five times during the votes. I expect that most other Senators would find that they also took a unique path through the bill. We all have our own ideas about what a campaign finance system should look like. Although, I do not support every provision of this bill, on balance, I believe that it is a constructive attempt to improve a deeply flawed campaign finance system.

Even as we move to pass this bill it is important to admit the limitations of our work. The compromise bill before us will not bring an end to corruption or attempts to influence politicians improperly. We should be skeptical of both extravagant claims of success and dire predictions of disaster.

This update was necessary, in part because the lines between soft and hard money were becoming indistinguishable. The development of so-called ''victory funds'' and other schemes for transferring party soft money to candidates was undermining the meaningfulness of hard money contribution limits. In addition, soft money fundraising clearly had been linked to malfeasance in the 1996 presidential election and had assumed a role within the campaign finance structure that almost guaranteed future instances of campaign finance violations and improper influence.

The bill also takes the important step of raising contribution limits for candidates facing an opponent who commits large amounts of personal wealth to a campaign. Our current campaign finance system ensures huge advantages for independently wealthy candidates, because their personal funds are not subject to contribution limits. Parties now spend a great deal of energy recruiting millionaires to run for office, because it is the simplest way to apply millions of dollars—sometimes tens of millions—to a political race virtually free of regulation. As more restraints on fundraising are added, the incentive to recruit millionaire candidates increases. The risk is that personal wealth will become a qualification for candidacy—particularly with respect to the Senate. The millionaires amendment in this bill will not eliminate the advantage of wealthy candidates, but it will substantially reduce the current incentives that place personal wealth near the top of qualifications for candidacy.

Despite some excellent provisions, this bill will not be implemented without concern. The history of campaign

finance law does not provide optimism that restrictions aimed at preventing the entry of money into politics will succeed. Our experience has been that when one inlet for political money is closed or narrowed, that money flows into the system through other inlets. By increasing hard money limits left untouched since the mid-1970s, the bill encourages some soft money contributions to flow toward hard money, the most accountable form of political contribution. But we also will see increases in money flowing through interest groups and non-candidates who seek to influence an election but who cannot be held accountable by voters at the polls.

In addition, any campaign finance reform proposal must come to grips with the U.S. Constitution and its guarantee of freedom of speech. Protection of political speech was at the heart of the founding of our nation. We have little leeway in passing laws that regulate the amount or content of political expression. The fact that Congress is charged in the Constitution with the responsibility to hold elections does not relieve it from the requirement that it do so in a manner that is consistent with free speech.

I do not believe that it is possible for Congress to write a comprehensive campaign finance bill in this era without stimulating a Court challenge. With the passage of this bill, Congress has made a good faith attempt to improve disclosure and protections against corruption. However, even proponents should admit that this bill raises legitimate First Amendment questions that will have to be reviewed by the Supreme Court.

This bill will not be the end of the campaign finance debate. I am hopeful, however, that our experience with McCain-Feingold will improve the conduct of future debate. Too often, despite good intentions by many participants, the debate on campaign finance reform has not always been constructive. Too often the debate has centered on simplistic absolutes and cynical implications that all money is corrupting.

We know that virtually every reform proposal involves complex trade-offs between preventing corruption and protecting Constitutionally-guaranteed freedoms of political expression. Americans don't like to think in these terms because we want to believe that measures to prevent corruption and ensure freedom of speech are goals that should not be subject to compromise. We don't like the idea of having to make hard choices that might result in less freedom or more corruption.

Those who support stricter campaign finance laws should admit that many such proposals raise legitimate Constitutional questions, negatively impact First Amendment freedoms of expression, and could produce unintended consequences for political participation. Those who have supported the status quo, must recognize that our current system is seriously flawed and that campaign contributions have been corrupting in some very important cases.

Campaign finance is an issue that demands elevated debate on the nature of freedom of speech and fair elections—the most basic instruments of our democracy. Reasonable people should be able to differ on prescriptions without questioning each other's motivations or integrity. The U.S. Senate should strive to be a model of civility and reasoned deliberation on this issue.

Mr. KERRY. Madam President, today we take an important first step toward reforming our campaign finance system. After an election in which $3 billion was spent in an effort to elect or defeat candidates, we are finally taking action to attempt to make our campaign finance laws meaningful. However, there are predictable consequences from this legislation that will not be positive and will require further attention to the issue of campaign finance reform.

The money spent on the 2000 election should come as a surprise to no one. Soft money, an important target of this bill, has increased at a remarkable pace. Year after year, there has been a steady and dramatic increase in the amount of money raised and spent on elections. For example, in 1992, Democrats raised $30 million in soft money. In 1996, the Democrats more than tripled that amount and raised $107 million in soft money. In the 2000 Democrats raised $243 million in soft money.

The Republican party has consistently proven itself to have even more fund-raising prowess than the Democrats, but the trends are exactly the same, with substantial increases year after year. In 1992, the Republican party raised $45 million in soft money. In 1996, they raised $120 million in soft money. And in 2000, the Republican party raised $244 million in soft money. The American people have become almost numb to these kinds of staggering figures, and they have come to expect fund-raising records to be broken with each election cycle. And, what is far worse for our Democracy is that the public also believes that this money buys access and influence that average citizens don't have.

In addition to the overwhelming amounts of soft money that were raised and spent in 2000, hundreds of millions of dollars were also spent on so-called issue ads. Now, I'm not talking about television ads that truly discuss the issues of the day. I'm talking about ads that air just before an election that show candidates, surrounded by their families, American flags waving in the background, that tell of the candidates' service to the Nation, or heroic actions during a war. Anyone who sees an ad like this believes it is a campaign ad. But, because of a quirk in the law, even these most blatant of campaign ads are called issue ads. As such, the contributions that pay for them are unlimited and relatively undisclosed. Yet, in many cases, these ads shape the debate in a race, and they most certainly are intended to shape the outcome.

Those ubiquitous television ads are purchased by all kinds of organized special interests to persuade the American people to vote for or against a candidate. These ads, usually negative, often inaccurate, are driving the political process today. Do they violate the spirit of the campaign finance laws in this country? They certainly do. But, don't take my word for it. Listen to the executive director of the National Rifle Association's Institute for Legislative Action, who said, ''It is foolish to believe there is a difference between issue advocacy and advocacy of a political candidate. What separates issue advocacy and political advocacy is a line in the sand drawn on a windy day.''

The bill that we are sending to the President takes a step toward reform. It is important to know that it is also firmly rooted in prior laws. Federal law has prohibited corporations from contributing to Federal candidates since 1907. Labor unions likewise have been barred from contributing to candidates since 1943. In addition, the post-Watergate campaign finance law caps individual contributions at $25,000 per calendar year, and permits individuals to give no more than $20,000 to a national party, $5,000 to a political action committee, and $2,000 to a candidate. These limits were put in place after the country learned a hard lessen about the corrupting influence of money in politics.

Nowhere in these laws are there any provisions for soft money. That aberration came into play in 1978 when the Federal Election Commission gave the Kansas Republican State Committee permission to use corporate and union funds to pay for a voter drive benefitting Federal as well as State candidates. The costs of the drive were to be split between hard money raised under Federal law and soft money raised under Kansas law. The FEC's decision in the Kansas case gives parties the option to spend soft money any time a Federal election coincides with a State or local race. A creation not of Congress, but of a weak, politically motivated Federal agency, soft money is a loophole to our system that is long overdue for eradication.

Despite what the foes of this bill claim, banning soft money contributions does not violate the Constitution. The Supreme Court in Buckley versus Valeo held that limits on individual campaign contributions do not violate the first amendment. If a limit of $1000 on contributions by individuals was upheld as constitutional, then a ban on contributions of $10,000, $100,000 or $1 million is also going to be upheld. Buckley, too, said that the risk of corruption or the appearance of corruption warranted limits on individual campaign contributions. Soft money contributions to political parties can be limited for the same reason.

Like soft money, issue advocacy has a history that defies the intent of campaign finance laws. In what remains

the seminal case on campaign finance, Buckley, the Supreme Court held that campaign finance limitations applied only to ''communications that in express terms advocate the election or defeat of a clearly identified candidate for Federal office.'' A footnote to the opinion says that the limits apply when communications include terms ''such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject.'' The phrases in the footnote have become known as the ''magic words'' without which a communication, no matter what its purpose or impact, is often classified as issue advocacy, thus falling outside the reach of the campaign finance laws.

Until the 1992 election cycle, most for-profit, not-for-profit, and labor organizations did not attempt to get into electoral politics via issue advocacy. That year, one advocacy group pushed the envelope and aired what was, for all intents and purposes, a negative campaign ad attacking Bill Clinton. Because the ad never used Buckley's ''magic words,'' the Court of Appeals decided that the ad was a discussion of issues related rather than an exhortation to vote against Clinton in the upcoming Presidential election.

That ad and others like it opened the flood gates to more so-called issue advocacy in 1996, when countless special interests started overwhelming the airwaves with millions of dollars in ads that looked like campaign ads, but, because they avoided those magic words, were deemed issue-ads.

Opponents of this proposal will also argue that any effort to control or limit sham issue ads would violate the First Amendment. They argue that as long as you don't use the so-called ''magic words'' in Buckley, such as ''vote for'' or ''vote against,'' you can say just about anything you want in an advertisement. But that is simply not what the Supreme Court said in Buckley. It said that one way to identify campaign speech that can be regulated is by looking at whether it uses words of express advocacy. But the Court never said that Congress was precluded from adopting another test so long as it was clear, precise and narrow.

A final argument opponents of reform like to make is that we spend less on campaigns than we do on potato chips or laundry detergent. But I would ask the proponents of this argument whether what we are seeking in our democracy is electioneering that has no more depth or substance than a snack food commercial. Despite the ever-increasing sums spent on campaigns, we have not seen an improvement in campaign discourse, issue discussion or voter education. More money does not mean more ideas, more substance or more depth. Instead, it means more of what voters complain about most. More 30-second spots, more negativity and an increasingly longer campaign period. Less money might actually improve the quality of discourse, requiring candidates to more cautiously spend their resources. It might encourage more debates, as was the case in my own race against Bill Weld in 1996, and it would certainly focus the candidates' voter education efforts during the period shortly before the election, when most voters are tuned in, instead of starting the campaign 18 months before election day.

Shays/Meehan takes an important step that begins to tackle the problems of soft money and issue advocacy. I support this legislation that has been championed by two very able colleagues, but I would note one serious shortcoming of the bill. It won't curb the rampant spending that drives the quest for money. Unfortunately, we all recognize that creating spending limits is not a simple proposition. In the 1976 Buckley case, the Supreme Court struck spending limits as an unconstitutional restriction of political speech. An important caveat to its decision is that spending limits could be imposed in exchange for a public benefit. I wish we had at our disposal a number of bargaining chips, public benefits that we could trade in exchange for spending limits. However, unless the Supreme Court reverses itself, something I am certainly not expecting in the near future, we must accept that if we want to limit the amounts spent on campaigns, we must provide candidates with some sort of public grant.

I realize that a lot of my colleagues aren't ready to embrace public funding as a way to finance our campaigns. But it is, in my opinion, the best constitutional means to the important end of limiting campaign spending and the contributions that go with it. Ultimately, I would support a system that provides full public funding for political candidates. I will continue to support clean money as the ultimate way to truly and completely purge our system of the negative influence of corporate money. I would also support a partial public funding system as a way to wean candidates from their reliance on hard money and get them used to campaigning under generous spending limits. I offered an amendment to McCain/Fiengold that would have provided sweeping reform in the form of a partial public funding system, but I recognize that we are a long way away from enacting such a program. Nevertheless I will continue to support and work for that type of reform as a way to end the cycle of unlimited money being raised and spent on our elections.

This bill is a way to break free from the status quo. However, as with any reform measure, there are always going to be possibilities for abuse. The fact that some people will try to skirt the law is not a reason for us to fail to take this incremental movement towards repairing the system. But, it does mean we must ensure that this the first, rather than the last, step for fundamental reform. I have supported campaign finance reform for 18 years and I believe that even legislation that takes only a small step forward is necessary to begin to restore the dwindling faith the average American has in our political system. We can't go on leaving our citizens with the impression that the only kind of influence left in American politics is the kind you wield with a checkbook. I believe this bill reduces the power of the checkbook and I will therefore support it.

Mr. DURBIN. Madam President, today we are at the pivotal point where long-sought meaningful campaign finance reform is finally within reach. It's been a winding journey spanning seven years. I am pleased to have been part of the quest, and proud to have been an original cosponsor of the McCain-Feingold bills since my arrival in the Senate in January 1997.

It was a privilege to have been part of the two-week historic debate last March. As I remarked last year, the open and freewheeling debate on amendments in which we engaged was truly the United States Senate at its finest, and an experience I had hoped to enjoy when I sought this office.

This bill isn't a magic elixir. It won't cure all ills. No one has suggested it is a gleaming pot at the end of the rainbow.

Personally, I am disappointed that it doesn't include what I think is an essential ingredient of true reform: ensuring non-preemptible lowest unit broadcast rates for candidates, which this body approved overwhelmingly by a vote of 69–31 on March 21, 2001, one year ago tomorrow. Until we deal with both sides of the equation, the supply and the demand, I do not believe we will have solved the whole problem of money in politics.

But this bill does go a long way to change the system set up over 27 years ago, a system which over time has been severely exploited and eroded so far beyond the intent of Congress that the levels of unregulated soft money are growing at a far faster rate than increases in hard, regulated dollar donations.

I stand in support of this bill and urge my colleagues to join me in voting to send this bill to President Bush.

I also salute and congratulate Senators RUSS FEINGOLD and JOHN MCCAIN, valiant partners in a tireless, seven-year roller-coaster ride loaded with some spills and turns, filled with a few detours and disappointments. These two leaders are true models of how bipartisan tenacity and determination can triumph over adversity. I trust that the history books will reflect how their persistence and stewardship on this issue truly made a positive difference and profound impact.

To them, I say, thank you. The American people owe you a debt of gratitude.

Mr. KENNEDY. Madam President, as the Senate concludes debate on campaign finance reform, I want to commend Senator DASCHLE for his leadership in bringing this important issue to a successful conclusion. I thank Senator MCCAIN and Senator FEINGOLD for

their commitment and hard work in crafting meaningful, bipartisan campaign finance reform legislation.

The enormous amounts of special interest money that flood our political system have become a cancer in our democracy. The voices of average citizens can barely be heard. Year after year, lobbyists and large corporations contribute hundreds of millions of dollars to political campaigns and dominate the airwaves with radio and TV ads promoting the causes of big business.

During the 2000 election cycle alone, according to Federal Election Commission records, businesses contributed a total of $1.2 billion to political campaigns. A Wall Street Journal article reported that $296 million, almost two-thirds of all ''soft money'' contributions given in the last election, came from just over 800 people, each of whom gave an average of $120,000. With sums of money like this pouring into our political system, it's no surprise that the average American family earning $50,000 a year feels alienated from the system and questions who's fighting for their interests.

The first step in cleaning up our system is to close the gaping loophole that allows special interests to bypass existing contribution limits and give huge sums of money directly to candidates and parties. These so-called ''soft-money'' contributions have become increasingly influential in elections. From 1984 to 2000, soft money contributions have sky-rocketed from $22 million to $463 million—an increase of over 2000 percent. We cannot restore accountability to our political system, until we bring an end to soft money. McCain-Feingold does just that.

Another vital component of meaningful reform is ending special interest gimmickry in campaign advertising. Today, corporations, wealthy individuals, and others can spend unlimited amounts of money running political ads as long as they do not ask people to vote for or against a candidate. These phony issue ads, which are often confusing and misleading, have become the weapon of choice in the escalating war of negative campaigning. The limits McCain-Feingold places on these ads will help clean up the system and make it more accountable to the American people.

Although the reforms in the McCain-Feingold bill are not a magic bullet that will solve all our problems, they do represent important and long over due changes to the system. Passage of campaign finance reform legislation is also a signal to the American people that their elected representatives can and will put the interests of the people above those of wealthy special interests.

Mr. MURKOWSKI. Madam President, I rise to elaborate on my vote on H.R. 2356, the latest effort at campaign finance ''reform.'' I voted against the McCain-Feingold bill earlier this Congress, and I see little improvement in the bill we are currently debating. For this reason, I will vote against the latest attempt at campaign finance ''reform.''

I oppose this legislation on two grounds. First, the bill creates new loopholes for groups to exploit, and fails to create a level playing field in the political process. Second, the bill continues to impose unconstitutional restrictions upon every American's right to free speech and association. After 7 years of debate over this legislation, we are still left with a fundamentally flawed bill that attempts to strip away long-held protections cherished by Americans and restrict access to the marketplace of ideas.

I am particularly dismayed that the proponents of this legislation have decided to create loopholes and exceptions for 501(c)(4) organizations. Some would suggest that the bill bans ''issue ads'' from corporate and nonprofit interest groups 30 days before a primary, and 60 days before a general election. Yet, the crafters of the language have allowed non-profit advocacy groups, 501(c)(4) organizations, a free shot at candidates and limited restrictions on their poisonous ''issue ads.'' As long as their advertisement is not targeted, by name, at a political candidate, they face no restriction 60 days, or even 1 day, before an election.

These independent groups will be allowed to accept special interest contributions, and then fill the airwaves with issue ads—often distorting facts in their attempt to attack a candidate's record. While these ads will not name a specific candidate, so as to not be deemed ''targeted'' communications, they will continue to influence elections in the favor of special interest groups.

Also, I continue to object to the proponents' efforts to extinguish constitutionally protected free speech rights. The last time Congress passed through a ''reform'' bill, in 1974, the Supreme Court eviscerated a majority of the provisions. They explicitly rejected as unconstitutional efforts to have the Government regulate ''issue advocacy,'' limit independent expenditures, and mandate limits on campaign spending.

The Buckley Court wrote that:

> in a republic where the people [not their legislators] are sovereign, the ability of the citizenry to make informed choices among candidates for office is essential, for those elected will inevitably shape the course that we follow as a nation.

Participating in government—getting your voice heard, so to speak—is one of the most valuable and treasured rights that each citizen enjoys. This is particularly true when an individual or group wants to express their views during the election of those who govern.

Citizens, candidates, groups, and national parties all should have a voice in elections and government. It is at that moment, the moment when there is a true marketplace of ideas, that democracy lives up to its meaning. Any attempt to stifle comments, criticism, or expression is an attempt to limit speech. Political speech is speech, plain and simple.

Efforts to regulate political speech are the real reason we're here in the first place. Today's abuses are the natural consequence of past attempts to suppress free speech. Current campaign finance laws are complex and antiquated.

We need to be enforcing the laws that are currently on the books. We need to make sure that every political contribution is accounted for, and that disclosures are immediately posted for public scrutiny. Clearly the American public has a right to know who is paying for ads, and who is attempting to influence elections. Sunshine is what the political system needs—not restrictions on basic rights.

The debate over campaign finance ''reform'' is not over, and I look forward to swift review of this measure by the Federal judiciary. I am confident that the courts, again, will protect the rights of citizens and preserve the openness of our political system.

Mr. NELSON of Nebraska. Madam President, I rise today to talk about campaign finance reform.

As a veteran of four statewide campaigns, I believe, as many of my colleagues do, that the current campaign finance laws are—in a word—defective. Our country was founded on the principles of freedom and justice. As I see it, the present system for financing federal campaigns undermines those very principles.

I believe that in its current form, the campaign finance system tends to benefit politicians who are already in office—-some folks call it incumbent insurance. I prefer to call it a problem.

Thus, I whole-heartedly believe that the time has come for meaningful campaign finance reform. Before us today, we have a bill that purports to fix the system. Unfortunately, I do not believe the Shays-Meehan bill does the job. In fact, in some respects, I think this bill will make the current system worse.

In the effort to find a culprit for the faults in the present campaign finance system, soft money has become a scapegoat. While I agree that unlimited soft money contributions raise important questions, banning soft money to the parties would be unproductive and, ultimately, ineffective. Chances are, if we succeed at blocking the flow of soft money from one direction, it will eventually be funneled into campaigns from another.

Furthermore, some soft money contributions are used for get-out-the-vote efforts—for the promotion of voter registration and party building—valuable efforts that encourage voter participation. Though some changes were made to ease the inevitable burden on GOTV and voter registration efforts, as a practical matter, the effects will still be devastating to the political parties and their activities.

A more realistic approach in lieu of banning soft money would be to cap

the contributions at $60,000, as prescribed by the Hagel-Nelson bill that we debated and voted upon last year. I would have offered that proposal as an amendment again this year, but I can count the votes as easily as everyone else. It failed last year, 60–40. The votes simply aren't there. I dislike this bill, but I don't want to hold up the inevitable.

For that reason, I do support cloture on this bill. Although I believe it is fundamentally flawed, the bill before us should be allowed to stand or fall on its own merits—on a final vote that decides the direction this issue will take once and for all. We've been at a stalemate on this issue for too long and it is time to move on.

As an individual who has spent a lot of time on the campaign trail, I have put a great deal of thought into what I believe is the right direction for campaign finance reform. My campaign experience with one group in particular has bolstered my support for efforts to limit so-called ''issue ads.'' This organization, funded by secret, undisclosed contributors, ran issue ads throughout my campaign distorting my position on one issue, which was unrelated and irrelevant to their purported purpose. This group was accountable to no one and did not have to disclose its true agenda. Because it operated in virtual secrecy, it was impossible to hold them accountable for distorting the truth.

It only follows that I am pleased with the Snowe-Jeffords provision in the bill before us, which addresses some of the problems created by so-called issue ads funded by special interest groups and corporations. This provision will hold these groups more accountable for their ads by imposing strict broadcasting regulations and increasing disclosure requirements, effectively putting light where the sun doesn't shine in issue advocacy.

Unfortunately, as many of my colleagues have pointed out, this provision is arguably the most susceptible to being struck down as unconstitutional by the Supreme Court. If the Shays-Meehan bill had a non-severable clause that would protect it from selective dissection by the Supreme Court—which we unsuccessfully tried to include in the McCain-Feingold bill last year—I would be much more inclined to support this bill.

It now seems likely that parts of this bill will be struck down in court, creating, in effect an off-balance piece of legislation that will penalize some groups—the political parties—while giving ''issue advocacy'' groups more influence. This will alter the very basis of our political system and give disproportionate power to the least accountable groups around.

I cannot support any legislation that will not only not fix our current problems but will create new ones by putting candidates of all parties at the mercy of these shadow groups, while at the same time taking away much of their ability to respond.

Accordingly, I simply cannot vote for this bill.

Mr. CORZINE. Madam President, today the Senate approved historic legislation that will change the way we manage our democracy in the new century. The changes called for in the McCain-Feingold/Shays-Meehan legislation are long overdue and vitally important to restoring the integrity of our electoral process.

For the past several years, the amount of unregulated soft money in our campaign system has reached staggering proportions. Soft money has had the insidious effect of holding too many political candidates accountable to large individual donors rather than the people they are elected to represent. In the 1999–2000 campaign season, $495.1 million poured into the coffers of both the Democrats and the Republicans. This was a truly bipartisan problem, and now we have a truly bipartisan solution. Soft money was a scourge on our political process that we are much better off without.

Before I go further, let me express my gratitude to two brave Senators: RUSS FEINGOLD of Wisconsin and JOHN MCCAIN of Arizona. We all know that it was through their tireless work and their laser-like focus that this piece of legislation has become law. By the time I arrived in the Senate a little over a year ago, the groundwork had already been laid. The traps had already been run. Year after year, the two Senators who lent their names to McCain-Feingold came to the Senate floor to deliver stirring oratory on the importance of this legislation. But no bill was passed. They visited with their colleagues in closed-door meetings. But many Senators remained unconvinced. Now—finally—these two stalwarts can move on to other issues. McCain-Feingold has passed, and for that, they have my deepest gratitude and admiration.

As happy as I am about the passage of this legislation, I would be remiss if I did not voice my regret at the failure of the final legislation to include a provision to address the skyrocketing cost of campaign advertisements. In recent years, television networks have reaped tremendous profits by exploiting the importance of broadcast advertising in the final weeks of a modern campaign. The price of airtime has become prohibitive to cash-strapped campaigns. And the simple fact of the matter is that media costs drive campaign costs. Any solution to the campaign finance problem is fundamentally incomplete if it fails to address what drives the demand for campaign money: expensive media.

During Senate consideration of McCain-Feingold, I was proud to cosponsor an amendment introduced by the senior senator from New Jersey, Mr. TORRICELLI. That amendment would have required television networks to offer candidates for federal office commercial time that cannot be preempted at the lowest price offered to any advertiser. It is only appropriate that, in exchange for the lucrative stewardship of the public airwaves, broadcasters provide candidates access to the airwaves at a discounted rate. It is unfortunate that because Shays-Meehan does not include the Torricelli provision, the lowest unit charge amendment will not become law at this time.

But, this should not and will not be the last time campaign finance reform is debated on the Senate floor. We have many more important campaign finance issues to explore, from improving the access of candidates to broadcast media to introducing aspects of public financing into the system. I look forward to continuing to work to improve the system.

Having said that this legislation is an important step in the right direction. I was proud to support it. And I again congratulate my colleagues, Senators FEINGOLD and MCCAIN, for their outstanding leadership.

Mr. SARBANES. Madam President, last spring, after years of debate and delay, a majority of the Senate agreed with the American public that our system of campaign financing needs repair and passed a significant campaign finance reform bill. Last month, the House of Representative passed similar campaign finance reform legislation. Now the Senate has taken up this House bill, and today this body will pass a comprehensive campaign finance reform bill. This legislation is long overdue.

With every passing election cycle, money plays a greater and greater role, and we run the risk of weakening the public's trust in our democratic system of government. In short, our constituents are losing faith in our ability to serve their interests over the interests of those who contribute to our campaigns. People are growing cynical about public life. They are staying away from the polling place in increasingly large numbers, in large part due to the perception that money, rather than the popular will, drives electoral outcomes. Under these circumstances, meaningful campaign finance reform becomes necessary to protect our system of government and our way of life.

While no legislation can completely solve the problems in our campaign system, this campaign finance reform bill makes real progress in the fight against corruption. I wish to express my dismay that this issue requires a cloture vote. The Senate debated this legislation for two weeks last year, and voted 59–41 to pass it. Yet, some Republican Senators still seem bent on derailing this bill, a bill that is clearly the will of the House of Representatives, the Senate, and most importantly, the American people. After the cloture vote, the Senate will be able to do what it should have done long ago, pass meaningful campaign finance reform legislation.

Mr. DOMENICI. Madam President, I rise today to speak about campaign finance reform. I want to express my

concerns about this legislation and explain why I decided to vote for it in spite of those concerns.

I believe there are problems with the way we finance campaigns in this country. Many Americans feel there is too much money in politics. They believe this money is a corrupting influence on the politicians they send to represent them in Washington, D.C. Reports of politicians taking money from foreign sources, while already illegal, has served to strengthen the perception that money rules the political process.

The large number of extremely wealthy candidates who spend large amounts of their own money to finance their campaigns reinforces this perception. Many people believe that candidates are attempting to buy their way into office. For that reason, I am very pleased that the version we will be voting on contains my wealthy-candidate provision. By enacting this common sense provision, the playing field will be leveled for candidates who are not able to spend unlimited amounts of their own money. Instead, this legislation will raise the limits on contributions to their campaigns in proportion to the amount of personal money that the wealthy candidate spends.

Reports of large donations by corporations and unions lead many to believe that access to politicians is for sale only to the highest bidders. Many will argue that a few corrupt politicians are the problem rather than the system. I believe this is true, but for many disenchanted voters, perception is reality. Because people are disgusted with the system, many choose not to participate. Our system is lesser for that lack of participation.

It is for these reasons that I have decided to vote for Campaign Finance Reform.

When I voted for McCain-Feingold in the Spring of last year, I did so with reservations. I also expressed my hope that the House would improve on it and, if it came back to the Senate, we would have an opportunity to clear up any remaining problems.

While this legislation did pass the House, and the House did improve it in some ways, the House did not address all of my concerns. In the original Senate-passed version, we added the Levin amendment so State parties could compete with other outside groups. Unfortunately, the House weakened this provision, and now the State parties will be at a significant disadvantage when it comes to promoting candidates and issues. I think it is only fair that these two groups should be able to compete on a level playing field.

An additional concern I have with this legislation is the ''Coordination'' provision. As this legislation currently defines it, there will be a great deal of uncertainty about what is considered ''coordination'' between a candidate and parties or outside groups. I believe we should keep the current rule which requires agreement or formal collaboration to establish ''coordination.''

Perhaps my greatest concern is about the constitutionality of the provision that prohibits ''electioneering communication'' within the last 60 days of a general election or 30 days of a primary. There is very little doubt that the constitutionality of this and other provisions will be challenged shortly after this legislation is signed into law. Fortunately, the expedited review clause requires anyone who challenges the constitutionality of this legislation file suit in the U.S. District Court for the District of Columbia. A three-judge panel will decide the case and any appeal will be directly to the U.S. Supreme Court. This expedited review process will ensure that all questions about the constitutionality of this legislation will be resolved swiftly so that any unconstitutional provisions are quickly stricken.

Normally, the Senate would have the opportunity to make the small changes that most agree would make this legislation much more effective. I am disappointed that the most adamant Senate proponents of this legislation bunkered down to prevent any improvements. I understand that they are concerned about the success of this legislation should it go to back to the House or to conference. Unfortunately, this concern will probably prevent us from doing as good a job as we should have. This leaves us with two disappointing choices: send an imperfect bill to the President or do nothing at all. I will vote for this legislation because I believe in this instance we must at least take a step forward.

Mrs. FEINSTEIN. Madam President, the Senate is poised to pass H.R. 2356, the bipartisan campaign finance reform bill. The momentum for the bill is building. The President has indicated that he is inclined to sign this bill. We could be on the brink of enacting the first significant campaign reforms in a generation.

I would like to make a couple of observations: First, I want to salute the sponsors of S. 27, the Senate companion measure, Senators MCCAIN and FEINGOLD. We are considering this bill only because of the sheer force of their collective will. They have suffered innumerable set-backs pushing for this legislation over the past several years. But they never got discouraged; they never let up. Their dedication to this cause has been extraordinary.

Second, numerous public opinion polls have indicated that the American people overwhelmingly support campaign reform, but do not rank the issue as a priority. I think that's because they have grown discouraged about the likelihood of Congress passing such reform. Maybe, just maybe, we will show the American people that we are capable of beating the odds, of coming together and doing something difficult.

House Resolution 2356, the ''Shays-Meehan'' bill, is sufficiently similar to S. 27 that Senators who support campaign finance reform ought to have no hesitation voting for final passage.

Most importantly, both bills get so-called ''soft money'' out of Federal elections. The bill we are about to pass prohibits all soft money contributions from corporations, labor unions, and individuals to the national political parties or candidates for Federal office.

Furthermore, State political parties that are permitted under State law to collect these unregulated contributions would be prohibited from spending them on any activities relating to a Federal election.

The soft money ban is the most significant, and necessary, campaign finance reform we can make. Soft money threatens to overwhelm our system and the public's confidence in its integrity.

In 1988, Michael Dukakis, the Democratic candidate for President, and Vice President Bush, the Republican candidate, raised a total of $45 million in unregulated soft money donations.

Just 8 years later, President Clinton raised $124 million and the Republican candidate for President, former Senator Dole, raised $138 million.

In the 1999–2000 election cycle, Democrats raised $245 million, and Republicans raised just under $250 million.

One of the very biggest soft money donors during the 1999–2000 cycle was Enron.

In its 1976 ruling in Buckley versus Valeo, the Supreme Court upheld limits on so-called ''hard money'' campaign contributions. The Court argued that such contributions, unregulated, could lead to corruption through quid pro quo relationships, or at least the appearance of corruption, which is also harmful to a democracy.

Well, if we are worried about corruption, or the appearance of corruption, with regard to hard money contributions, which are limited and disclosed, we ought to be doubly worried about soft money contributions, which can be unlimited, and are largely undisclosed.

Fortunately, we are about to put an end to soft money contributions.

The soft money ban will work because we came to a reasonable compromise with regard to raising some of the existing hard money contribution limits by modest amounts, and indexing those limits for inflation.

I am proud that I helped to negotiate that compromise, along with the senior Senator from Tennessee and several other Members from both sides of the aisle.

The Senate voted 84–16 to approve the compromise we worked out.

Our compromise: doubles the limit on hard money contributions to individual candidates from $1,000 per election to $2,000 per election; increases the annual limit on hard money contributions to the national party committees by $5,000, to $25,000; increases the annual aggregate limit on all hard money contributions by $12,500, to $37,500; doubles the amount that the national party committees can contribute to candidates, from $17,500 to $35,000; and indexes these new limits for inflation.

So under the Thompson-Feinstein amendment to S. 27, the individual aggregate contribution limit, the amount that can be given to PACs, parties, and candidates combined, is increased from the current $25,000 per year to $37,500 per year.

That is a $75,000 per cycle limit, but only $37,500 of that can be given to candidates because all contributions to candidates are charged against the aggregate in the year of the election.

The House bill creates a $95,000 per cycle aggregate limit. Of that, $37,500 can be given to candidates and $57,500 can be given to parties and PACs. But to actually max out, an individual must contribute $20,000 of the aggregate to national party committees.

This all sounds very complicated, but the net change is that the House bill adds an additional $20,000 per cycle to the aggregate limit, but that increase is reserved for contributions national parties. That is a reasonable change.

The hard money increases will reinvigorate individual giving. They will reduce the incessant need for fund-raising. They will give candidates and parties the resources they need to respond to independent campaigns. They will reduce the relative influence of PACs.

The Thompson-Feinstein amendment, by increasing the limit on individual and national party committee contributions to Federal candidates, will reduce the need for raising campaign funds from political action committees, PACs.

Our amendment, therefore, will reduce the relative influence of PACs, making it easier to replace PAC monies with funds raised from individual donors.

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

I know that some campaign reform advocates are uncomfortable raising any hard money contribution limits by any amount.

I would argue that modest increases are imperative for the simple reason that the current limits were established under the Federal Election Campaign Act, FECA, Amendments of 1974, Public Law 93–443, and haven't been changed since. That was 27 years ago!

I have spoken previously about how the costs of campaigning have risen much faster than ordinary inflation over the past 27 years these limits have been frozen.

The advantage of modestly lifting some of the limits is that doing so will reduce the time candidates have to spend fund-raising, time better spent with, prospective, constituents.

During the 2000 election, my campaign had over 100 fund-raisers. That took time. Time to call. Time to attend. Time to say thanks. And that was time I couldn't spend doing what my constituents want me to do.

The task of raising hard money in small contributions unadjusted for inflation is just too daunting, for incumbents and challengers alike.

Particularly in the larger States such as California, where extensive television and radio advertising is imperative, it is not uncommon for Senators to begin fund-raising for the next election right after the present one ends and they often find themselves ''dialing for dollars'' instead of attending to other duties.

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.

Regrettably, one action the House took during its consideration of H.R. 2356 was to strip the provision Senator TORRICELLI successfully offered to S. 27 that entitled candidates and political parties to receive the ''lowest unit rate'' for non-preemptible broadcast advertisements within 45 days of a primary election or 60 days of a general election.

Under the House bill broadcast television, radio, cable, and satellite providers will be able to continue charging candidates and national committees of political parties higher advertising rates.

I am disappointed the House took this action but will support the bill nonetheless. A half of a loaf of bread is better than no bread.

Independent campaigns conducted by groups that are accountable to no one threaten to drown out any attempt by candidates or the parties to communicate with voters.

Spending on issue advocacy by these groups, according to the Congressional Research Service, rose from $135 million in 1996 to as much as $340 million in 1998. Then it rose again, to $509 million in 2000. Most of this money is used for attack ads that the American people have come to loathe.

It is likely that spending on so-called issue advocacy, most of which is thinly disguised electioneering, probably will surpass hard money spending, and very soon. It has already surpassed soft money spending.

Clearly, the playing field is being skewed. More and more people are turning to the undisclosed, unregulated independent campaign.

The attacks come and no one knows who is actually paying for them. I believe this is unethical. I believe it is unjust. I believe it is unreasonable and it must end.

Fortunately, the House kept intact the ''Snowe-Jeffords'' provisions regarding these sham issue ads.

The House bill defines ''electioneering communications'' as any broadcast, cable, or satellite communications which refer to a clearly identified candidate for Federal office and are made within 60 days of a general election or 30 days of a primary.

Anyone making electioneering communications costing $10,000 a year or more must disclose to the Federal Election Commission, FEC, the sponsor of the communication within 24 hours, and the names of those who contribute $1,000 or more to the sponsor within that election cycle.

The bill prohibits union or corporate treasury funds from being used for electioneering communications.

The bill we are about to pass will staunch the millions of unregulated soft dollars that currently flow into the coffers of our political parties, and replace a modest portion of that money with contributions that are fully regulated and disclosed under the existing provisions of the Federal Election Campaign Act.

People aren't concerned about individual contributions of $1,000, and I don't think they will be concerned about donations of $2,000.

No, what concerns people the most about the current system are the checks for $250,000, or $500,000, or even $1 million flowing into political parties.

These gigantic contributions are what warp our politics and cause people to lose faith in our Government and they must be halted. They give the appearance of corruption.

I represent California, which has more people, 34 million, than 21 other States combined. I just finished my 12th political campaign. For the 4th time in 10 years, I ran statewide. Running for office in California is expensive: I have had to raise more than $55 million in those four campaigns.

I can tell you from my experiences over the years that I am committed to campaign reform, and I am heartened that we are about to pass H.R. 256.

Is it a perfect bill? No. Will it be subject to challenges in court? Undoubtedly. But I think it is a strong bill and I'm optimistic that it will withstand the courts' scrutiny. And as I said earlier, it is our best chance at reform in a generation.

Campaign reform goes to the heart of our democracy. The way we currently finance and conduct our campaigns is a cancer metastasizing throughout the body politic.

It discourages people from running for office and it disgusts voters. So they simply tune out, in larger and larger numbers.

Discouragement, disgust, frustration, apathy, these feelings don't bolster our democracy, they weaken it.

We have an opportunity here, a rare opportunity, to do the right thing and pass H.R. 2356.

Mr. DODD. Madam President, today is, in fact, an historic day. As the Senate prepares to go to final passage on the McCain-Feingold/Shays-Meehan legislation on campaign finance reform, we are taking necessary action that the American people have been seeking for years.

Today's Senate action will accomplish a fundamental rewrite of our Nations Federal campaign finance laws. The Senate will approve legislation addressing what the American people believe is the single most egregious abuse

of our campaign financing system, the raising and spending of unlimited and unregulated ''soft money'' in our Federal elections.

The exploding use of soft money that permeates our campaign system is having a corrupting influence suggesting that large contributions by donors to officeholders, candidates, and political parties provide those donors with preferred access and influence over public policy.

The average voter of average means who cannot contribute thousands of dollars to campaigns has neither the access nor influence in Washington. Even the mere appearance of corruption erodes public confidence in the integrity of our electoral process and the independence of our democracy.

The use of ''soft money'' is not the only problem. This legislation is not the only answer. But it is the answer around which a majority of members could coalesce.

If the Shays-Meehan legislation does nothing else but eviscerate the soft money loophole, it would still be effective and real reform.

But my colleagues in both Chambers have accomplished much more with this legislation. I enumerate the provisions that are most important in this Senator's opinion: First and foremost, the bill essentially bans the raising, spending and transferring of unregulated and unlimited ''soft money'' by national parties in Federal elections.

The bill prohibits the use of soft money to purchase any broadcast advertisement that mentions a Federal candidate within 30 days of a primary and 60 days of a general election.

The bill prohibits the use of treasury funds of corporations, labor unions, and nonprofit interest organizations to purchase broadcast, cable or satellite television advertisements that mention a Federal candidate, target the ad to the candidate's voting population and air within 30 days of a primary or 60 days of a general election.

The bill allows an exception for the use of soft money by State and local parties to conduct get out the vote and voter registration activities that do not mention a Federal candidate so long as no single donor contributes more than $10,000 per year.

The bill deems as a contribution any communication that is coordinated with candidates or political parties. The bill also requires the Federal Election Commission to promulgate new rules on coordination.

The bill enhances full disclosure of the money flow. It requires disclosure to the Federal Election Commission within 24 hours by any one who makes an independent expenditure that is more than $10,000 for broadcast, cable or satellite ads within 20 days of a general election.

The bill increases certain contribution limits. It doubles the individual contribution limits, from $1,000 to $2,000 per election, to Presidential, Senate, and House candidates and indexes the limit to inflation;

The individual limit is increased from $20,000 to $25,000 to national committees of a political party; and

The aggregate individual contribution limit to parties, PACs, and candidates per year is increased from $25,000 per year to $95,000 per election cycle, including not more than $37,000 to candidates and $20,000 for the national party committees.

The bill triples hard-money limits for House candidates facing wealthy, self-financed candidates spending $350,000 of their own money on a campaign. Senate candidates would qualify for up to six times the individual limit depending on the amount spent by their wealthy opponents and the population of their State.

Finally, the effective date is this November 6, 2002, one day after the congressional general elections. In addition, the effective date is January 1, 2003 for any changes to the contribution limits. This means that the 2002 Federal elections will be unaffected by this new law.

As I noted previously, while I may disagree with certain aspects of a few provisions, I fully support this legislation as the best effort that Congress can make to enact real campaign finance reform.

There are two provisions, in particular, that continue to cause me some concern.

First is the so-called ''millionaire's provision'' which purports to level the playing field for candidates who face wealthy challengers. Arguably a laudable goal, the provision ignores the fact that many incumbent who face wealthy challengers have healthy campaign treasuries, sometimes amounting to several million dollars. In such cases, this provision serves mainly as an incumbent protection provision. There continues to be no recognition of the considerable war chests that some incumbents have ready for use in Federal elections. This kind of provision works against the public policy goals of campaign finance reform.

Second, although I reluctantly supported the Senate amendment to increase the individual hard money contribution limits, I did so only in the context of achieving broader reform.

Quite simply, at that time, the increase in the hard money limits was the price to be paid to gain sufficient support from our Republican colleagues for banning soft money and placing proper restrictions on so-called sham issue ads.

Of particular concern to me is the indexing of these contribution increases to inflation. That only ensures the continuing upward spiral of more money into our campaign finance system.

Notwithstanding these two concerns, I am convinced that this legislation is narrowly tailored to strike the appropriate, and a constitutionally sound, balance between the two competing values scrutinized by the Supreme Court in Buckley v. Valeo, protecting free speech and limiting the ''actuality and the appearance of corruption.''

It has been decades since Congress took similar comprehensive action with the enactment of the Federal Election Campaign Act of 1971. The one thing we cannot afford to do is wait any longer, now is the time to enact the McCain-Feingold/Shays-Meehan legislation. The American people have waited long enough.

I am privileged and honored to be part of the majority in support of campaign finance in general and this legislation in particular. In fact, there has never been a perfect campaign financing system because adjustments will always have to be made as legal and factual ingenuity outpaces the laws.

It is an issue I have supported over the years since arriving in the Congress, including my time in both the House as well as the Senate.

I stand ready to do what I can to make reform a reality in the 107th Congress.

This final debate may find its place in history, along with the Senate debate during the weeks of March 19, 2001–April 2, 2001, as one of the greatest Senate debates in the last decade, both in terms of substance and impact on our system of democracy.

I have been privileged and honored to serve as floor manager of this measure, along with the Senator from Kentucky, Senator MITCH MCCONNELL. As my colleague from Kentucky has alluded to, the stakes in this legislation are considerable for many interested parties.

I thank all of my colleagues for their patience and cooperation throughout this winding-down process and compliment them all for a difficult job well done in enacting comprehensive campaign finance reform.

First, I must acknowledge that the Senate would not be here today in this historic posture if not for the determined leadership of TOM DASCHLE. No individual Member has been more consistent in support of campaign finance reform than our leader. And, no Member has worked harder behind the scenes to hold the Democratic caucus together in support of this issue.

Majority Leader DASCHLE took several procedural actions to formally ensure timely final passage of this measure before recess. The talk of overnights and virtually ''around the clock'' sessions to accommodate a filibuster, if necessary, were not a threat but a reality. Campaign finance is serious business. It is a major priority on the majority leader's agenda.

It is only with his leadership that the Senate's work was completed by not only guaranteeing a timely vote on the legislation but also guaranteeing an opportunity for all Members to represent their views on the matter. I further compliment the majority leader for his willingness to provide the opportunity for a free debate even in the rush of final passage. This issue is of paramount importance to the continued health of this democracy.

The majority leader's handling of this winding-down process of campaign

finance debate exemplified the Senate at its best. The freeflow of ideas, the unrestricted opportunity to offer and debate amendments, and the ability of all Members to be heard are the hallmarks of this Senate, the world's greatest deliberative body.

At the same time, I must also acknowledge the powerful influence of my colleague, the ranking member of the Rules Committee, for his devotion to the principles of free speech and association. His unyielding belief that most, if not all, proposed campaign finance reforms are not only unwise, but unconstitutional.

I think all my colleagues would agree that Senator MCCONNELL is a formidable advocate for his position. While we hear from the good Senator today, we are sure to hear from him in the future, even if in a different capacity.

I congratulate my esteemed colleagues and good friends and the foremost leaders in campaign finance reform. Since 1995, the Senate leaders of campaign finance reform are Senator JOHN MCCAIN of Arizona and Senator RUSS FEINGOLD of Wisconsin. In the house, the leaders are Congressman CHRISTOPHER SHAYS of Connecticut and Congressman MARTIN MEEHAN of Massachusetts.

I acknowledge them for their vision in recognizing the powerfully negative influence of the money chase in our financing system. Their dogged persistence and patience in striving to craft a consensus on reform legislation that addresses the worst aspects of the current system is now paying off.

I must express my great respect to my colleagues in the Democratic caucus, under the very able leadership of Majority Leader DASCHLE, along with a small group of courageous Senators across the aisle, who have put aside their own short-term political interests and voted time and again in favor of comprehensive, commonsense, and badly needed campaign finance reform.

I also thank the numerous staff who have assisted in facilitating consideration of this measure, not the least of which are our Democratic floor staff, including Marty Paone, Lula Davis, and Gary Myrick, along with the outstanding democratic cloakroom staff.

I also want to extend my special appreciation to Jennifer Duck and Michelle Ballantyne of Senator DASCHLE'S staff, along with Mark Childress and Mark Patterson, who were invaluable in offering much needed expertise and guidance on bringing this legislation to final passage.

Of equal assistance with both the substance and the procedures for this legislation were the staff of Senators FEINGOLD and MCCAIN, including Bob Schiff, Ann Choiniere and Jeanne Bumpus.

I also want to acknowledge the contributions of Senator MCCONNELL'S staff, including Hunter Davis of his personal staff, and Tam Somerville, Brian Lewis, and Leon Sequeira of the Rules Committee minority staff.

Finally, I want to thank Shawn Maher and Sheryl Cohen of my personal office staff, and Kennie Gill, the Democratic staff director and chief counsel of the rules committee as well as Veronica Gillespie, my elections counsel on the rules committee staff.

This has been one of the most remarkable legislative experiences I have had the pleasure of working on during my time in the Senate. For all these reasons, I am privileged and honored to be associated with this legislation. But I must emphasize, the primary winners are all American citizens.

Mr. BENNETT. Madam President, like the Senator from Kentucky, I have done everything I could throughout my time in the Senate to see that this bill does not become law. As the Senator from Kentucky, I can count and have thrown in the towel and become somewhat philosophical about it.

I read in the newspapers about lawyers who are meeting down on K street even as we speak drawing up their alternative plan on the assumption that the President will sign this measure. It becomes very clear that the amount of money in politics will not diminish as a result of this bill. It will simply stop flowing to political parties, where it is regulated and reported, and start flowing into dark corners where we will have no idea how it is gathered. We will have no idea who is behind it, and we will see it pop up in campaigns in ways that political parties would never use.

That, I believe, is a genuine and proper aspect of the future that we face.

It makes no difference to me personally because this is an incumbent protection bill. It virtually guarantees that parties will be handicapped in their effort to recruit challengers since the parties can no longer promise the challengers the kind of support they have been giving in the past. Challengers will be thrown into the never-never land of depending upon unknown special interest groups to come in without coordination and hopefully help the challenger. But as we have seen in my own State of Utah, many times the ads run by these special interest groups actually damage the people they are supposed to help.

When the money was spent by parties, the challenger could call the party and say: Knock it off. But when it is spent by a special interest group, the challenger loses control of his campaign and is at the mercy of unknown forces and unreported money.

That, I believe, is the future. But that is not why I have been so vigorous in opposing this bill. It is not why the Senator from Kentucky has been so vigorous in opposing this bill.

We both took an oath to uphold and defend the Constitution of the United States when we came to this body. I believe that oath is the most serious statement I have ever made in this Chamber.

The Senator from Kentucky has led this fight fearlessly and courageously. The driving force has been our conviction that this bill is an affront to James Madison, Alexander Hamilton, and the others who created the Constitution and who gave us freedom of speech in the first amendment in the first place.

If you read the 10th Federalist, which I have done in this Chamber, you find that Madison lays out very specifically and very clearly how the factions can control democracy if they are not handled in a proper way. The most significant proper way to deal with the scourge of factions is to have full disclosure and full understanding of what is going on with this. With this bill, we drive political money into the dark corners.

While it is a sad day, in my view, it is nonetheless a good day. Like the Senator from Kentucky, I believe I have fought the good fight. I have lost, as has he, but I have been proud to be one of his lieutenants as he has been the captain of this fight. He is going to carry the fight on through the courts, which is his constitutional right. I believe the courts will side with him, and the positions he has taken in this debate more often than they will differ.

We will have a future. The Republic still lives. We will not see anything change for the better, in my view. And those of us who have stood on principle walk out with our heads held high.

I congratulate the other side. They have fought fair. They have fought vigorously. I have had a number of conversations with Senator FEINGOLD in which we have both expressed our affection for each other but our deep disagreement on this issue. I trust that affection will continue even as the disagreement does.

I close by paying tribute to Senator MCCONNELL for the leadership he has shown, for the valiance that he has demonstrated, and for, in my view, the constitutional loyalty and fidelity he has given the United States in this time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Madam President, I thank the Senator from Utah, who has been in every one of these debates over the last decade. He has been a stalwart, articulate supporter of the first amendment. I am grateful for his friendship and for his kind words about our work on this great cause. I assure him, as expressed, that it is not over yet. We have another day in court. I thank the Senator from Utah for his kind words.

I understand I have a minute remaining. Is that right?

The PRESIDING OFFICER. Two minutes.

Mr. MCCONNELL. Madam President, I ask unanimous consent that I be allowed to use those 2 minutes as the last speaker on this side of the issue. I don't intend to be the last speaker before the vote but the last speaker on this side of the issue.

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

The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I yield 6 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. Madam President, I thank the Senator from Wisconsin for yielding time and offer my congratulations to Senator FEINGOLD and Senator MCCAIN for an extraordinary effort against all the odds over a long period of time which brings the Senate to this moment.

Like many of my colleagues, I intend to join in only a matter of moments in voting for the most fundamental campaign finance reform to reach this Congress in several decades. It is an important moment for the Congress. It is an attempt to restore public confidence and also to give ourselves a sense of confidence.

None of us feels good about the financial pressures under which this institution operates. None of us feels good knowing that the public believes that all Americans do not stand equally in the eyes of the Senate. It is a situation that cannot endure.

Today, we decide that it will not endure. I have supported every form of campaign finance reform for each of the 20 years in which I have served in the Congress. This is the most important.

There are critical components of the legislation that I think make a great contribution: Elimination of soft money, raising the hard money limits, and the controlling of independent expenditures in the final weeks of a campaign. But I also think it is important not to raise expectations that all problems are being solved or that this is the last time our generation will need to make adjustments in the manner in which campaigns operate in America.

First, the legislative fight over campaign finance reform is about to end. The judicial fight is about to begin. All of us recognize that the attempt to control independent expenditures may not be constitutional. If the courts indeed find that this is an infringement on free speech, the delicate balance of this legislation will be broken. Soft money will have been eliminated and fundraising by the political parties will be controlled. But independent groups would largely operate without restriction. It would be regrettable. I believe the courts will be in error. But it could happen. If it happens, and if the courts rule that the control of independent expenditures is unconstitutional, there is a risk that both the political parties and Federal candidates are to be nothing more than spectators in American elections with interest groups controlling the debate, raising the funds, and distorting the process.

The challenge for this Congress, if that is the ruling of the court, is that we must return and find a way to ensure that candidates and political parties are not dominated by these independent voices.

Second, this is an extraordinary victory for the controlling of campaign fundraising in large amounts to restore some sense of equality among donors, and, more importantly, among citizens.

But the greatest unfinished aspect of the agenda in political reform is campaign spending. Campaign fundraising will never be brought into permissible limits with an acceptable demand on candidate time or amounts of money raised until the fundamental problem of campaign expenditures is addressed.

This Senate met that responsibility. By a vote of 69 to 31, the Senate voted to reduce the cost of television advertising to the lowest unit cost. It was a critical reform, because most Federal candidates will tell you, it isn't just how much money is being raised, it is the time spent raising it, the extraordinary amounts of money that need to be accumulated. And 85 percent of that money is going to television networks.

In an extraordinary act of hypocrisy, the same television networks, which have championed the cause of campaign finance reform, spent millions of dollars on lobbyists and exerted the very kind of financial pressure this legislation is intended to eliminate in saving themselves from being part of campaign finance reform.

The provisions reducing the cost of television advertising were eliminated in the House of Representatives. We must never give up on that fight. Without these provisions reducing the costs of Federal campaigns by some manner or some form, money will find its way into the political system.

In this legislation, we may vote to eliminate soft money to political parties, but if that demand remains on Federal candidates, some system will be invented or found, some loophole developed, to get the money into the system.

I am proud to vote for this legislation. But I challenge the Senate, as McCain-Feingold is passed: Make it the beginning of a reform, not the end of reform. Let us return, next year, or even in the coming months, and challenge ourselves to do better: reduce the cost of campaigns, continue to find the mechanisms to assure every American that they have an equal chance and an equal voice to be heard.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I thank the Senator from New Jersey. I certainly agree, there is much more to be done in our generation on campaign finance reform. I look forward to participating in that.

Madam President, how much time do we have remaining?

The PRESIDING OFFICER. Twenty-nine minutes.

Mr. FEINGOLD. Madam President, I yield myself such time as I need.

Madam President, I thank the many Members of this body, past and present, who have helped to bring us to this moment. Most important, as I mentioned in my other statement, the most important person I have to thank is, of course, my friend, JOHN MCCAIN.

I also thank our earliest supporters, who gave their support to the McCain-Feingold bill when it was first introduced in the 104th Congress, Senators such as John Glenn, Paul Simon, Nancy Kassebaum-Baker and Alan Simpson, who gave us crucial bipartisan support when this effort was just getting off the ground. This kind of bipartisan bill wasn't totally unprecedented. But it was pretty unusual, and the support of those distinguished Senators lent important credibility to our effort in its early days.

I particularly thank Senator CARL LEVIN for his leadership and support during every debate we have had on this bill since 1996. His insight on the substance of the issue, and on the workings of this body have been absolutely crucial to the advancement of this legislation. Senator LEVIN is as tenacious and committed as any Member of this body. We truly would not be here today if he were not on our team.

I also thank our distinguished colleague, Senator SUSAN COLLINS, for her invaluable contributions to this effort. She came on board our bill as a freshman Senator in 1997, despite tremendous pressure from her caucus. Over the years, we have met together with many of our colleagues. She has been a tireless advocate for reform, a terrific ally in this fight, and I am proud to call her a friend and a colleague.

I, again, thank Senator JOE LIEBERMAN, who has been a steadfast supporter of reform, and who helped to build crucial momentum for this legislation with his leadership on the 527 disclosure bill in the last Congress. The success of that legislation was a great breakthrough after so many years when any reform effort was stonewalled by our opponents. The day that bill passed the Senate, I remember thinking that enactment of the McCain-Feingold bill was not going to be far behind.

And, of course, the great breakthrough at the beginning of this Congress was the day when Senator THAD COCHRAN joined us in introducing this bill. I have great respect for Senator COCHRAN, and his support on this bill has been invaluable. I cannot thank him enough for his commitment to this legislation. Once he joined our effort, he was with us with every ounce of determination and grace that he brings to all of his work here in the Senate.

One of our newest Members, Senator MARIA CANTWELL, also gave us important momentum when she made campaign finance reform a central issue in her campaign, and gave this bill her strong support. After her victory, the oft repeated claim that no Senator has ever lost an election over this issue could simply no longer be made.

Senator JOHN EDWARDS and Senator CHUCK SCHUMER have both been terrific

assets on this issue, especially right here on the Senate floor. Both of them have devoted a great deal of their time, and skill as debaters, to this bill, and I am very grateful for their efforts.

The efforts of Senator OLYMPIA SNOWE and Senator JIM JEFFORDS to craft the provision on phony issue ads that came to be known as the Snowe-Jeffords legislation have been essential to this bill. They worked tirelessly to put together a balanced provision that gets at the root of the issue ad problem, and I thank them for their tremendous contribution. The Snowe-Jeffords provision is an integral part of our bill, and their mastery of this topic was invaluable to us.

I am deeply grateful to Senator FRED THOMPSON for his longstanding and steadfast support of this bill, and for his great skill and fairness in negotiating an agreement on hard money limits that the vast majority of this body could support. Without that agreement, we simply could not have moved this bill through the Senate. I also pay special tribute to Senator THOMPSON for the work he did investigating the 1996 campaign finance scandals. Senator THOMPSON cut his political teeth with his work on another great scandal in our Nation's history known as watergate, but his work in 1997 showed the Nation that the campaign finance issue is truly a bipartisan problem with a bipartisan solution. We will miss FRED THOMPSON leadership in the Senate.

I also thank Senator CHRIS DODD for his tremendous work as floor manager on the Democratic side, especially during the extraordinary and sometimes unpredictable debate we had last year. He led us through those 2 weeks with grace and humor and a fierce passion for reform that I deeply respect and for which I am deeply grateful.

I of course, thank the Democratic Leader, Senator TOM DASCHLE, and his very able staff, for everything they have done to bring about the success of this legislation. In the fall of 1997, the entire Democratic Caucus united behind this legislation, and that unity has been crucial to our success.

We are soon to have the vote on final passage because TOM DASCHLE was true to the principles of this party and led our caucus to follow through on our commitment we made to reform 4½ years ago. I am proud of the bipartisan effort we have made, but I am also proud to be a Democrat, and I deeply appreciate the solid support of my caucus on this issue.

This list of thank-yous would not be complete without thanking my own staff. They have worked tirelessly to help me move this legislation forward, and they have done so with great skill and dedication. First I thank my chief counsel, Bob Schiff, for the outstanding contributions he has made to this legislation and to the cause of reform, and for the various all- night efforts he had to put in to get this thing done. I also thank my chief of staff, Mary Murphy, and other staffers, past and present, who have worked to make this moment possible, including Kitty Thomas, Andy Kutler, Sumner Slichter, Bill Dauster, Susanne Martinez, and Tom Walls. I also thank Jeanne Bumpus, Mark Salter, Mark Buse, and other members of Senator MCCAIN's staff, past and present—in some ways it seemed as if we merged our staffs to accomplish this—and I thank them for their outstanding contributions to this bill. They have been a pleasure to work with. Many other current and former staffers from my office, and from other Senate and House offices, have also made vital contributions to the progress of this bill. Madam President, I ask unanimous consent that a list of their names be printed in the RECORD.

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

From Senator FEINGOLD's staff and former staff: Mary Bottari, Laura Grund, Ari Geller, Ben Hawkinson, Rebecca Kratz, Anne McMahon, Brian O'Leary, Mary Frances Repko, Thomas Reynolds, Mary Ann Richmond, Hillary Wenzler, Kirsten White, Trevor Miller, Brad Jaffe, Tom McCormick, Rea Holmes, Rebecca Kratz, and many others who have worked for Senator FEINGOLD and currently are on his staff.

Other Senate Staff: Linda Gustitus, Elise Bean, Andrea LaRue, Laurie Rubenstein, Michael Bopp, Mary Mitshow, Steve Diamond, Jane Calderwood, John Richter, Eric Buehlman, Hannah Sistare, Bill Outhier, Brad Pruitt, Maureen Mahon, Martin Siegel, Sharon Levin, Beth Stein, Nancy Ives, Glenn Ivey.

From the House staff: Amy Rosenbaum, Glen Shor, Dan Manatt, Paul Pimental, Katie Levinson, Alison Rak, Kristin Miller, Len Wolfsen, Kit Judge, Steve Elmendorf, George Candanis.

From the Congressional Research Service: Joe Cantor and Paige Whitaker.

Mr. FEINGOLD. Madam President, I deeply appreciate the hard work of so many Members of the other body who fought for years to pass this legislation. Of course, especially, my thanks and those of Senator MCCAIN go to Representatives CHRIS SHAYS and MARTY MEEHAN for their determination and outstanding leadership on this issue, as well as to the House Minority Leader, DICK GEPHARDT.

I also recognize the contributions made by many other House Members, including Representatives ZACH WAMP, MIKE CASTLE, LINDSEY GRAHAM, NANCY PELOSI, JIM MATHESON, HAROLD FORD, SANDER LEVIN, JIM TURNER, JIM LEACH, JIM GREENWOOD, SHERWOOD BOEHLERT, AMO HOUGHTON, NANCY JOHNSON, MARK KIRK, TOM PETRI, TODD PLATTS, MARGE ROUKEMA, ROB SIMMONS, JOHN LEWIS, CHARLIE STENHOLM, BARNEY FRANK, STENY HOYER, JOHN CONYERS, and SILVESTRE REYES, and former Representatives TOM CAMPBELL and LINDA SMITH.

Our bill also benefitted immeasurably from the incredible effort put in by outside organizations in support of this legislation. I recognize the outstanding contributions made by Fred Werthheimer and Democracy 21. I also thank Don Simon, Scott Harshbarger, Meredith McGehee, Matt Keller and the staff of Common Cause for their tireless work to pass this legislation. Joan Claybrook and the staff of Public Citizen, including Frank Clemente and Steve Weissman, made crucial contributions to the progress of this bill. I also very much appreciate the work of Jerome Kohlberg, Cheryl Perrin, and Elaine Franklin of Campaign for America and Charles Kolb and Ed Kangas of the Committee for Economic Development to move this legislation forward.

I realize that is a long list of people and organizations to thank. But it has been almost 7 years, and the praise I offer is well deserved. Without the work of these people, not just during this Congress but over many years, we would not have reached this exciting moment for reform and for our democracy.

How much time remains on our side?

The PRESIDING OFFICER (Mr. WYDEN). Twenty-one minutes.

Mr. FEINGOLD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. 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. FEINGOLD. Mr. President, it gives me enormous pleasure to yield 15 minutes for the last major comments on this bill on our side to the man who made it all happen and started the whole thing and carried it to the finish, the Senator from Arizona, Mr. MCCAIN.

Mr. MCCAIN. Mr. President, I thank my colleague and friend for yielding this time to me. I am grateful to my colleagues and the many people who have brought us to this point. This legislation will provide much-needed reform of our Federal election campaign laws.

With the stroke of the President's pen, we will eliminate hundreds of millions of dollars of unregulated soft money that have caused Americans to question the integrity of their elected representatives.

This is a good bill. It is a legally sound bill. It is a fair bill that benefits neither party but that profits our political system and that will, I hope, help to restore the public's faith in government.

So much has been said about the substance of this bill which has been hashed out literally for years and considered and reconsidered and perfected on the Senate floor in preparation for House passage. Therefore, I would like to take this opportunity to say thank you to a few people who have made this happen.

First, I extend my sincere appreciation and gratitude to my friend Senator FEINGOLD for his unwavering commitment to this cause. He has been a

wise counsel and a stalwart partner through these years, and I will forever be proud to have my name associated with him on this issue and other reform issues.

On occasion, politicians step up and match rhetoric with actions. RUSS FEINGOLD, at a time when there was about to be a flood of soft money advertising into his State in a very close and hard-fought political campaign, said no. RUSS FEINGOLD showed enormous courage because he was willing to put his political career on the line for what he believed.

I thank the majority leader, Senator DASCHLE, for his steadfast support that enabled us to pass the McCain-Feingold bill last April and to bring it back this week for a final vote. I thank the Republican leader, Senator LOTT, for his commitment to an open debate and for keeping the process fair. The majority and minority whips, Senators REID and NICKLES, have my sincere thanks as well.

Senator DODD managed our side of the debate with his typical skill and good humor. I thank Senator LEVIN as well for his critical contributions to the compromises that attracted majority support for the bill in both Houses of Congress.

I am grateful to all my colleagues, supporters and opponents alike, for their contributions to the bill and to the debate. I would like to personally thank Senate Republican supporters, particularly Senator THOMPSON whom I will miss more than I can say. His friendship and wise counsel have been not only important to me as a Senator but were a critical element in achieving the legislative result we achieved in the Senate.

To Senator COCHRAN, one of the senior Members and most well liked and respected Members of the Senate, who came on board on this issue at a time when we needed the credibility of a man of his stature, I will always be grateful. Senators SNOWE and COLLINS, I think the State of Maine can be proud of both of those Senators, including Senator SNOWE's contribution over one of the more difficult aspects of this legislation, the so-called Snowe-Jeffords amendment, without which it would not have been possible to pass this legislation.

I am grateful for the valued support of Senators SPECTER, CHAFEE, FITZGERALD, LUGAR, and DOMENICI, who gave legitimacy to our claims of bipartisan cooperation. I am grateful again, as I am so often, to Senator CHUCK HAGEL. It takes a brave and committed soul to take it upon himself, as he did a few weeks ago, to attempt to facilitate a resolution to this measure between myself and the other supporters of this bill and Senator MCCONNELL. It is in large part due to his efforts that we have that resolution today.

Senate passage of a bill, of course, is only half—or less than half, really—of the legislative battle. If it were not for the untiring work of Congressmen CHRIS SHAYS and MARTY MEEHAN, the House sponsors of this legislation, we would not be here today. I will always hold them in the highest regard for their tenacious, unrelenting commitment to our shared goal. House minority leader GEPHARDT worked many long hours to hold the support of the vast majority of his caucus, and I am greatly indebted to him.

I salute also the Members who signed the discharge petition that forced House consideration of this bill, and the brave Republicans in particular who voted for its passage.

As I told my colleague Senator MCCONNELL a few weeks ago, I won't miss our annual contests on this issue. No one in his right mind would want to continue against so formidable a foe. I can only hope, however, that should I ever find myself again in a pitched legislative battle—shy as I am of entering into them—that my opponent is as principled as Senator MITCH MCCONNELL. It has been a worthy effort by all involved, and I will always appreciate the dedication shown by all of my colleagues in their efforts to champion their beliefs.

I am compelled to mention a few indispensable supporters. In particular, I thank Fred Wertheimer of Democracy 21; all the good, dedicated folks at Common Cause: Scott Harshbarger, Meredith McGeehee, Matt Keller, and Don Simon, including Scott Harshbarger's talented and wonderful predecessor Ann McBride; Jerry Kolberg's Campaign for America; and the Committee for Economic Development. I am thankful also to Trevor Potter, a former FEC Commissioner, for his insight and sound political advice, and to Rick Davis who kept us focused on the big picture and provided invaluable strategic advice.

I can't begin to name the many thousands of people not in this Chamber who have fought so hard and long and who gathered under the umbrella of a group called Americans for Reform. I want to mention the efforts by AARP, the League of Women Voters, Public Citizen, a broad coalition of religious organizations, Carla Eudy and the staff and supporters of Straight Talk America, for their tireless contributions in this effort and the honor of their friendship. Thanks also to my friend John Weaver for his help and guidance.

I ask unanimous consent to print in the RECORD a list of the staffers of the Senators who contributed significantly to this legislative effort.

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

SENATE STAFFERS:

Senator COCHRAN—Brad Prewitt and Clayton Heil.

Senator COLLINS—Michael Bopp and Lynn Dondis.

Senator DASCHLE—Andrea LaRue and Mark Childress.

Senator DODD—Kennie Gill and Veronica Gillespie.

Senator FEINGOLD—Mary Murphy, Bob Schiff, Bill Dauster.

Senator FEINSTEIN—Gray Maxwell and Mark Kadesh.

Senator HAGEL—Chad Woff.

Senator JEFFORDS—Eric Buchlmann.

Senator LEVIN—Linda Gustitus, and Ken Saccoccia.

Senator LIEBERMAN—Laurie Rubenstein.

Senator LOTT—Sharon Soderstrom.

Senator MCCAIN—Mark Buse, Mark Salter, Brooke Sikora, Joe Donahue, and Ann Begeman.

Senator MCCONNELL—Tamara Somerville, Hunter Bates, Andrew Siff, and Brian Lewis.

Senator SCHUMER—Martin Siegel.

Senator SNOWE—Jane Calderwood and John Richter.

Senator THOMPSON—Bill Outhier, Hannah Sistare, and Fred Ansell.

Mr. MCCAIN. In particular, I thank Mary Murphy and Bob Schiff, of Senator FEINGOLD's staff, for all their work on this issue over the years. Let me also express my heartfelt gratitude to my former staffer Mark Buse, who recently left the Hill after working by my side on this issue for many years. This would not have been possible without him. I thank as well Mark's successor as Republican staff director on the Commerce Committee, Jeanne Bumpus, who, in an incredibly short period of time, became expert on the many issues involved in this legislation and was an invaluable support to me.

I also want to thank my administrative assistant and alter ego, Mark Salter, for his continued efforts not only here but in a broad variety of ways. I am grateful for his friendship.

Mr. President, the proponents of this legislation have had, and continue to have, one purpose: to enact fair, bipartisan, campaign finance reform that seeks no special advantage for one party or another. Once we complete the Senate debate and vote on final passage, it will be up to the President to take the action that his spokesmen and advisors have led us to believe he will take—to sign the bill into law. It is my hope that he will deem it appropriate to do this.

The supporters of campaign finance reform have differences about what constitutes ideal reform, but we have subordinated those differences to the common good. We all recognized one very simple truth: that campaign contributions from a single source that run to the hundreds of thousands or millions of dollars are not healthy to a democracy. Is that not self-evident? It is to the American people Mr. President. It is to the people.

The reforms I believe we are about to pass will not cure public cynicism about politics. Nor will it completely free politics from influence peddling or the appearance of it. But I believe it might cause many Americans who are at present quite disaffected from the practices and institutions of our democracy to begin to see that their elected representatives value their reputations more than their incumbency. And maybe that recognition will cause them to exercise their franchise more faithfully, to identify more closely with political parties, to raise their expectations for the work we do. Maybe

it will even encourage more Americans to seek public office, not for the privileges bestowed on election winners, but for the honor of serving a great nation. If by today's vote we make even small progress in this direction, I think we have rendered good service to our country, and I am proud of it.

I respectfully ask my colleagues for their votes in support of final passage of this bill.

I reserve the remainder of my time.

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

The PRESIDING OFFICER. Nine minutes.

Mr. FEINGOLD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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 understand I have 2 minutes left.

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCONNELL. Mr. President, regretfully, this bill is going to pass and, in all likelihood, be signed by the President. I say ''regretfully'' because, for those who wanted to reduce the amount of money in politics, this certainly will not do that. Not even close. It will dramatically take money away from the parties and then shift it to outside groups. The reason we know how much soft money the parties raise is because it is disclosed. But we will not know how much is given to the outside groups and who gives it because it is not disclosed. After this bill passes, outside groups will continue to raise unlimited amounts of soft money from all sources. In fact, Members of Congress will be able to raise unlimited amounts of soft money for those groups. It will be completely legal, and permitted by this legislation.

We could have dealt with the issue of corruption, or the appearance of corruption—and I have to say ''appearance'' because there has been no evidence whatsoever of actual corruption—we could have dealt with an appearance problem by capping soft money, just as we capped hard money 25 years ago. That would have allowed the six national party committees to still be national committees, to still be able to support State and local candidates with non-Federal dollars. But, no, we decided to completely eliminate nonfederal money to the parties only—certainly a step not required to deal with the alleged appearance of corruption.

So, first, this bill will greatly weaken the parties and shift those resources to outside groups that will continue to engage in issue advocacy, as they have a constitutional right to do, with unlimited and undisclosed soft money.

Ironically, the bill allows Members of Congress to raise that unlimited soft money for outside groups but not political parties. We are now able to do more for outside groups than we are able to do for our own political parties.

Secondly, the bill seeks to impose a gag order on groups that have the audacity to mention people like us within 60 days of an election, by saying they have to go to the Federal Government—to register with the Federal Election Commission—and raise hard dollars just so they can mention candidates like us within 60 days of an election.

For those two reasons, and for many more, I urge colleagues to vote no on final passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, thanks to the courtesy of Senator MCCAIN, it is my honor to bring the debate to a close. I will make a few brief comments and perhaps we can proceed to final passage of the bill.

First of all, I wish to indicate my respect for the Senator from Kentucky. This has been a tremendous battle. We have had in this Chamber 3 weeks in the last 2 years debating this issue. I think it has been a very good process, and I certainly take seriously his arguments. Although we may have to pursue this matter in the courts, as we have done in some other matters, it is always an honorable venture.

The main point I make, in conclusion, is that I believe in maybe 20 or 30 years people will say: You know, there was a time when Members of Congress could actually ask people for $100,000, $500,000, or a million-dollar contribution, and it was perfectly legal. I think it will remind people of the stories we have heard about how there used to be briefcases full of cash floating around this building.

It is almost unbelievable that there ever was a time in our recent history—in the last few years—when these kinds of almost inherently corrupt contributions could be given from corporate treasuries, union treasuries, or by individuals. It was a loophole that completely swallowed all the laws we had. They were imperfect laws. The hard money rules were the rules we had concerns about when we started this initiative. We wanted to fix that.

This soft money system grew in such a way that we invited some of the greatest corruption in the history of our country. So it is my hope that 25 or 50 years from now people will say: How could you have possibly had a time when unlimited contributions were allowed? I look forward to people saying that.

The reason I mention that time in the future is that, more than anything else, I care about this issue because of the young people in this country. I care about it because, believe it or not, I was once 18. I am looking at the pages here who help us. When I was 16, 17, 18, I thought maybe I would have a chance to go into politics someday. Not a single person ever said to me: Well, you have to be a millionaire or you have to be able to access $500,000 or a million-dollar contribution. I was a person of average means, so it looked to be an area that maybe I could go into, and it excited me.

Nothing has bothered me more in my public career than the thought that young people, looking to the future, might think that it is necessary to be multimillionaires or somehow have access to the soft money system, in order to participate—being able to participate as a voter and, yes, even being able to participate as a candidate as part of the American dream.

Today, we hope to return a little bit of that dream to you. Yes, someday, as JOHN MCCAIN has said, you are going to have to clean it up again because every 20 or 30 years the system needs some work.

In the name of the young people of this country, whom I know will provide the enthusiasm to support future reforms, I want to bring the debate to a close.

I yield the floor and the remainder of my time.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there are no amendments to be offered, the question is on third reading and passage of the bill.

The bill (H.R. 2356) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 60, nays 40, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—60

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

NAYS—40

Allard	Campbell	Grassley
Allen	Craig	Gregg
Bennett	Crapo	Hagel
Bond	DeWine	Hatch
Breaux	Ensign	Helms
Brownback	Enzi	Hutchinson
Bunning	Frist	Hutchison
Burns	Gramm	Inhofe

Kyl	Roberts	Stevens
Lott	Santorum	Thomas
McConnell	Sessions	Thurmond
Murkowski	Shelby	Voinovich
Nelson (NE)	Smith (NH)	
Nickles	Smith (OR)	

The bill (H.R. 2356) was passed.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER. Expressions of approval or disapproval are not permitted in the gallery.

TO CLARIFY ACCEPTANCE OF PRO BONO LEGAL SERVICES

The PRESIDING OFFICER. Under the previous order, the Senate will consider a resolution.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 227) to clarify the rules regarding the acceptance of pro bono legal services by Senators.

Mr. MCCONNELL. Mr. President, this Senate resolution S. Res. 227 is very similar to a Senate resolution passed by this body in 1996. That 1996 resolution—S. Res. 321—was passed to ensure that Senators who wanted to challenge the constitutionality of the Line Item Veto Act could do so using unlimited pro bono legal services, subject to regulations promulgated by the Ethics Committee.

It is clear that the campaign finance bill that passed today—H.R. 2356—will be challenged in court if the President signs it into law. The Senate resolution which passed today makes it clear that any Member of this body may receive pro bono legal services in connection with any action challenging the constitutionality of that law.

This body is in agreement on this issue. There is no need for debate or a vote. This new Senate resolution ensures that the Senate will continue its tradition of permitting Members to utilize unlimited pro bono legal services when challenging legislation that raises serious constitutional questions.

The PRESIDING OFFICER. Under the previous order, the resolution is agreed to and the motion to reconsider is laid upon the table.

The resolution (S. Res. 227) was agreed to, as follows:

S. RES. 227

Resolved, That (a) notwithstanding the provisions of the Standing Rules of the Senate or Senate Resolution 508, adopted by the Senate on September 4, 1980, or Senate Resolution 321, adopted by the Senate on October 3, 1996, pro bono legal services provided to a Member of the Senate with respect to any civil action challenging the constitutionality of a Federal statute that expressly authorizes a Member either to file an action or to intervene in an action—

(1) shall not be deemed a gift to the Member;

(2) shall not be deemed to be a contribution to the office account of the Member;

(3) shall not require the establishment of a legal expense trust fund; and

(4) shall be governed by the Select Committee on Ethics Regulations Regarding Disclosure of Pro Bono Legal Services, adopted February 13, 1997, or any revision thereto.

(b) This resolution shall supersede Senate Resolution 321, adopted by the Senate on October 3, 1996.

Ms. LANDRIEU. Mr. President, I begin by adding my compliments to Senators FEINGOLD and MCCAIN for their extraordinary efforts in passing and helping to usher through a far-reaching piece of legislation that will hopefully close the loopholes and help Members conduct campaigns that truly meet the spirit and intent of the reform laws we have passed over the course of the last couple of years. We need to have the kind of campaigns of which we can all be proud, ones that allow people in this Nation to express their views, yet have campaigns and financing and funding that are fully and completely disclosed. I thank them and acknowledge their work.

Mr. WARNER. Madam President, today I rise to address issues related to my vote on H.R. 2356, the Bipartisan Campaign Finance Reform Bill.

For some time President Bush has clearly indicated his willingness to sign campaign reform legislation passed by the Congress. I have great respect for his judgement and this was an important consideration in making my decision to support this legislation.

The Bipartisan Campaign Finance Reform Bill is not perfect legislation, but I believe it may be the best the Congress is able to produce. I approached both McCain-Feingold and now the Bipartisan Campaign Finance Reform Bill with an open mind and feel it is in the best interests of the nation to implement achievable reform legislation rather than hold out for perfect—and probably unattainable—reform legislation.

During each of the last two Congresses I introduced my own campaign finance reform bills—''The Constitutional and Effective Reform of Campaigns Act,'' or ''CERCA.'' My proposals have been good faith efforts to strike middle ground in this important debate and were offered as alternatives to the bills that have been debated before the full Senate in the past. The principal points in my bills were enhanced disclosure, increased hard dollar contribution limits, a cap on soft money and paycheck protection.

As chairman of the Rules Committee during the 105th Congress, I chaired twelve or more hearings on campaign reform including the funding of campaigns. My bill was a result of these 2 years of hearings, discussions with numerous experts and colleagues, and the result of over 2 decades of participating in campaigns and campaign finance debates.

My bill capped soft money thereby addressing the public's legitimate concern over the propriety of large soft money donations while allowing the political parties sufficient funds to maintain their headquarters and conduct their grassroots effort.

The Bipartisan Campaign Finance Reform Bill bans all soft money. And while I would have preferred merely to cap soft money as we already cap hard money, a total ban is the only option currently on the table.

In addition to the issue of soft money, there is the issue of raising the hard money caps. Candidates for public office are forced to spend too much time fundraising at the expense of their legislative duties.

The current individual contribution limit of $1,000 has not been raised, or even indexed for inflation for over 20 years. This situation requires candidates to spend more and more time seeking more and more donors.

The Bipartisan Campaign Finance Reform Bill increases the individual contribution limits to $2000 and indexes that limit for inflation. My campaign finance legislation contained a similar provision which ensured that a greater percentage of political contributions would be fully reported and available for all to see.

It is my firm belief that the Congress has a responsibility, in accord with the constitution, to balance the rights of those who care to participate in the political process with the desire to improve accountability and responsibility within the campaign system.

Precisely because of my concern that previous campaign finance reform proposals did not adequately respect the First Amendment Freedom of Speech, I was compelled to write my own campaign reform proposals that focused on disclosure and accountability.

Clearly, today's legislation faces constitutional challenge, however, those decisions will ultimately have to be resolved by the judicial branch of Government.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Feinstein modified amendment No. 2989 (to amendment No. 2917), to provide regulatory oversight over energy trading markets and metals trading markets.

Kerry/McCain amendment No. 2999 (to amendment No. 2917), to provide for increased average fuel economy standards for passenger automobiles and light trucks.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and