A concurrent resolution (H. Con. Res. 339) expressing the sense of the Congress regarding the Bureau of the Census on the 100th anniversary of its establishment.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc, and that the motion to reconsider be laid upon the table, without intervening action or debate.

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

The concurrent resolution (H. Con. Res. 339) was agreed to.

The preamble was agreed to.

MAJOR LYN McINTOSH POST OFFICE BUILDING, FRANK SINATRA POST OFFICE BUILDING, TOM BLILEY POST OFFICE BUILDING, HERBERT H. BATEMAN POST OFFICE BUILDING, BOB DAVIS POST OFFICE BUILDING, FRANCIS BARDANOUVE POST OFFICE BUILDING, NORMAN SISISKY POST OFFICE BUILDING, VERNON TARLTON POST OFFICE BUILDING, RAYMOND M. DOWNEY POST OFFICE BUILDING

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Calendar No. 305, H.R. 1432; Calendar No. 332, S. 1222; Calendar No. 334, H.R. 1748; Calendar No. 335, H.R. 1749; Calendar No. 336, H.R. 2577; Calendar No. 337, H.R. 2876; Calendar No. 338, H.R. 2910; Calendar No. 339, H.R. 3072; Calendar No. 340, H.R. 3379.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will proceed en bloc.

Mr. DODD. Mr. President, I ask unanimous consent that the bills be read a third time en bloc; that the motions to reconsider be laid upon the table en bloc; that the consideration of these items appear separately in the RECORD, without intervening action or debate; that any statements relating thereto be printed in the RECORD.

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

The bills (H.R. 1432, H.R. 1748, H.R. 1749, H.R. 2577, H.R. 2876, H.R. 2910, H.R. 3072, H.R. 3379) were read the third time and passed.

The bill (S. 1222) was read the third time and passed, as follows:

S. 1222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF FRANK SINATRA POST OFFICE BUILDING.

The facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, shall be known and designated as the ''Frank Sinatra Post Office Building''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the Frank Sinatra Post Office Building.

RECOGNIZING SOCIAL PROBLEM OF CHILD ABUSE AND NEGLECT

Mr. DODD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 132, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 132) recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD.

The resolution (S. Res. 132) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 132

Whereas more than 3,000,000 American children are reported as suspected victims of child abuse and neglect annually;

Whereas more than 500,000 American children are unable to live safely with their families and are placed in foster homes and institutions;

Whereas it is estimated that more than 1,000 children, 78 percent under the age of 5 and 38 percent under the age of 1, lose their lives as a direct result of abuse and neglect every year in America;

Whereas this tragic social problem results in human and economic costs due to its relationship to crime and delinquency, drug and alcohol abuse, domestic violence, and welfare dependency; and

Whereas Childhelp USA has initiated a ''Day of Hope'' to be observed on Wednesday, April 3, 2002, during Child Abuse Prevention Month, to focus public awareness on this social ill: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that—

(A) all Americans should keep these victimized children in their thoughts and prayers;

(B) all Americans should seek to break this cycle of abuse and neglect and to give these children hope for the future; and

(C) the faith community, nonprofit organizations, and volunteers across America should recommit themselves and mobilize their resources to assist these children; and

(2) the Senate—

(A) supports the goals and ideas of the ''Day of Hope''; and

(B) commends Childhelp USA for its efforts on behalf of abused and neglected children everywhere.

CORRECTIONS IN ENROLLMENT OF H.R. 2356

Mr. DODD. Mr. President, I ask unanimous consent that the Senate turn to the immediate consideration of H. Con. Res. 361.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 361) directing the clerk of the House of Representatives to make corrections in the enrollment of the bill, H.R. 2356.

There being no objection, the Senate proceeded to consider the concurrent resolution.

• Mr. McCONNELL. Mr. President, I am in support of the unanimous consent for the adoption of H. Con. Res. 361 making technical corrections to H.R. 2356 passed by the Senate yesterday.

Several weeks ago, I met with Senator McCAIN to discuss a list of 12 technical corrections to H.R. 2356. Of those 12 items, we were able to come to an agreement in principle on 6. After weeks of negotiations between my staff, and the staffs of Senator McCAIN and Senator FEINGOLD, we have before us today the fruit of our labor. I thank them and their staff, specifically Jeanne Bumpus and Bob Schiff, for their hard work and persistence in making these minor corrections.

The items contained in this concurrent resolution are a compilation of technical corrections sought by me, and corrections sought by the Senators from Arizona and Wisconsin. In fact, the independent expenditure reporting correction was raised by FEC Commissioners Brad Smith and Dave Mason and advanced by the staff of my colleagues from Arizona and Wisconsin. I applaud my colleagues for addressing this technical issue and will ask consent that a letter from Commissioners Mason and Smith outlining technical issues with H.R. 2356 for the Senate to consider be included in the RECORD. Similarly, the correction to the citation to the Immigration and Nationalization Act was raised by the FEC. Shays-Meehan inadvertently cited the definition of ''advocates'' rather than ''lawfully admitted for permanent residence.''

These technical corrections clarify some other important points: Respecting the primacy of State law in financing State and local party buildings; continuing to allow members to transfer excess campaign funds to party committees without limit; ensuring that we do not change the rules for 2002 candidates engaged in a run-off, recount, or election contest; providing for direct member challenges to the constitutionality of H.R. 2356; and providing a sunset provision for expedited review in the D.C. court so that plaintiffs who live on the west coast do not forevermore have to come to Washington, DC, to challenge provisions of the act.

However, I remain strongly opposed to the underlying H.R. 2356 and believe its disparate treatment of individuals, parties, groups, corporations, and labor unions runs afoul of our fundamental constitutional rights. By singling out national party committees and chilling their speech at the State and local level, this legislation ensures the end of ''national'' party committees and the beginning of ''federal'' party committees. Further, the broadcast gag

provisions in the bill are not only unprecedented in scope, but haphazard in applicability. I will ask consent that 5 additional items be included in the RECORD which highlight the egregious constitutional and practical problems with this legislation.

Again I thank Senator MCCAIN and Senator FEINGOLD for their efforts on this concurrent resolution and commend the House for their swift action on this concurrent resolution.

I ask to have additional material printed in the RECORD.

The material follows.

FEDERAL ELECTION COMMISSION,
Washington, DC, February 25, 2002.

Hon. MITCH MCCONNELL,
Ranking Member,
Senate Committee on Rules.

DEAR SENATOR MCCONNELL: You have asked for comments on provisions of H.R. 2356 that appear sufficiently problematic in enforcement or interpretation as to require legislative clarification. We urge Congress to consider ways to address these issues which could otherwise hinder our ability to effectuate the will of the Congress or to administer the Federal Election Campaign Act.

We note that we have had only a few days to review the House-passed version of H.R. 2356, so the list below may not be exhaustive of all desirable technical and clarifying changes.

1. Should the Commission regulate Internet web pages or e-mail as ''Public Communication''? The proposed new definition of ''Public Communication'' (proposed Part 22 of Section 301 of the FECA [2 USC 431]) includes ''any other form of general public political advertising.'' The Commission has treated Internet web pages available to the public and widely-distributed e-mail as forms of ''general public political communication.'' Thus, the new definition combined with the Commission's established interpretation of the FECA could command regulation of Internet and e-mail communications. Congress should clarify whether it intends for the Commission to regulate publicly-available web pages and widely-distributed e-mail as forms of ''Public Communication.''

2. Does Congress intend to prohibit state or local political parties from making contributions to state or local PACs? Proposed new Section 323(d) prohibits contributions by national state or local political parties to 527 organizations other than political parties, ''political committees,'' and authorized committees of state and local candidates. Since the term ''political committee'' as used in the FECA is limited to Federal (e.g. FECA-registered) political committees, Congress may wish to clarify whether it intends to prohibit state and local political parties from making state-permissible (non-Federal) contributions to state-registered political committees.

3. Does Congress intend to prohibit Federal Officeholders from appearing at fundraising events for state an local candidates? Proposed new Section 323(e) prohibits raising of non-Federal funds by Federal officeholders, except for state or local party committees or for the official's own campaign for state or local office. Congress may wish to clarify whether it intends to allow Federal officeholders to appear at fundraising events for authorized committees of state or local candidates.

4. Does Congress intend to exempt non-Federal amounts spend on ''Federal Election Activity'' (''Levin Amendment'' funds) from state reporting requirements? Section 453 of the FECA pre-empts state law ''with respect to election to Federal office.'' This provision prohibits states from imposing reporting requirements additional to those of the FECA. Section 103 of H.R. 2356 requires state and local parties to disclose to the FEC non-Federal amounts expended for a share of ''Federal Election Activity.'' Thus, these funds reported to the FEC as ''Federal Election Activity'' would presumably be exempt from state reporting requirements. The ''Levin'' funds must be ''donated in accordance with state law'' (but not ''reported'' pursuant to state law). However, if these funds are not reported to relevant state agencies, the FEC will have difficulty determining whether they were ''donated'' in accordance with state law. Congress should clarify whether it intends to exempt non-Federal amounts spent on ''Federal Election Activity'' from state reporting requirements, or to require dual (Federal and state) reporting.

5. Does Congress intend to repeal the requirement that Independent Expenditure reports be received (rather than ''filed'') within 24 hours? Just over a year ago Congress revised the FECA to require that last-minute Independent Expenditure reports be received by the Commission within 24 hours. Previous provisions required filing by mail, which sometimes resulted in a several day delay in receipt of ''24 hour'' reports. Section 212 of H.R. 2356 would impose additional reporting requirements for Independent Expenditures. However, Section 212 appears to be based on the pre-2000 version of the FECA and thus, presumably inadvertently, would have the effect of repealing the recently-imposed requirement that 24-hour reports be received within 24 hours. Similarly, Congress should consider whether personal expenditure notifications under Sections 304 and 319 of H.R. 2356 must be received or merely filed within 24 hours. (See item 6 below for additional comments on Sections 304 and 319)

6. Does Congress intend to repeal the requirement that reports of Independent Expenditures in support of or opposition to Senate candidates be filed with the Secretary of the Senate? Section 212 (discussed above) in restating the Independent Expenditure reporting requirements also omits the provision in 2 U.S.C. 434(c) providing for Senate-related reports to be filed with the Senate, and requires all Independent Expenditure reports to be filed with the FEC. Congress may wish to consider whether this change is intended.

7. Are the existing and proposed new ''coordination'' provisions intended to be read consistently? Section 202 of H.R. 2356 treats an electioneering communication ''coordinated'' with a candidate or party as a contribution to that candidate or party. Earlier versions of H.R. 2356 included a definition of ''coordination,'' but that definition was deleted in preference to retention of the existing statutory rule addressing ''cooperation, consultation or concert'' (441a(a)(B)(i)). Congress should harmonize the terminology between existing subparagraph (B) and proposed new subparagraph (C) of this section, lest confusion arise as to whether Congress intended a common regulatory standard to apply. Similarly, Congress should clarify the relationship between ''expenditures'' addressed in subparagraph (B) and ''electioneering communications'' addressed in proposed new subparagraph (C). We are also concerned that the instruction (Section 214(c) of H.R. 2356) that a new coordination regulation ''not require agreement'' could be read so broadly as to encompass virtually any communication whatsoever (even ''disagreement'') between candidates and persons making expenditures of electioneering communications.

8. Does Congress intend to punish inadvertent solicitations of foreign nationals? Section 303 of H.R. 2356 helpfully strengthens the ''foreign money ban.'' It appears that Congress intends to hold foreign nationals strictly liable for violations of this provision. However, the provision also prohibits ''solicitation, acceptance or receipt'' of funds from a foreign national, read most naturally to apply even when the solicitor is unaware that the contributor is a foreign national. Thus, candidates signing direct mail fundraising appeals could be held in violation of this provision if the mailing list included the name of a foreign national Congress should consider instead prohibiting the ''knowing solicitation, acceptance or receipt'' of foreign national funds. The ''knowing'' standard is distinct from ''knowing and willful,'' thus, this change would protect genuinely inadvertent solicitations while still distinguishing between simple and aggravated violations.

9. Does Congress intend for the FEC to audit all self-financing candidates and their opponents? The ''millionaire'' amendments (Sec. 304 and 319 of H.R. 2356) include eight variables (two of which will change as often as daily). Section 304 additionally provides for graduated increases in contribution limits.

We are concerned that candidates who may be entitled to benefit from this provision will be prevented from doing so because of both its complexity and the lag time between personal expenditures and resulting increases in contribution limits. The complexity will also make it difficult and costly for the Commission to enforce, likely requiring an audit of every campaign in which this provision comes into play. (The Commission currently has resources to audit approximately two Senate campaigns per election cycle. At least twelve Senate campaigns would have been affected (by triggering or being eligible for increased contributions) had these provisions been in effect for the 2000 elections.)

The distinction between primary and general elections could allow wealthy candidates (particularly in states with late primaries) to spend unlimited funds attacking a prospective general election opponent during the primary without triggering increased contributions limits. Similarly, wealthy candidates might contribute excess funds during the primary and carry them over to the general election, making potentially unlimited amounts of personal funds available without triggering increased contribution limits. Further, the intended application of the ''gross receipts'' factor (Section 316) is unclear: Are the gross receipts figures from June 30 and December 31 added together, or combined, compared or applied in some other fashion? A provision with a higher initial threshold, fewer offsetting factors, and a non-graduated response (similar to the House provision) might strike a better balance among the goals of aiding candidates, limiting the size of contributions and reasonable simplicity of application.

Finally, the provisions require candidates benefiting from increased contributions limits to return unspent funds within fifty days of the election. However, the bill requires reports on the disposal of these contributions ''in the next regularly scheduled report after the date of the election.'' For general elections, this date would fall only thirty days after the election, and for many primaries, the relevant date would be less than thirty days following the primary. Thus, committees would be required to report on how they had disposed of funds before they are required to dispose of them. Congress should consider requiring the ''disposal report'' in a report due sixty days or more (allowing fifty days for return of excess contributions and some time to complete the report) after the relevant election.

10. Does Congress intend to extend the Commission's ''allocation window'' during the soft money transition period? A floor amendment to H.R. 2356 clarified that the national party soft money transition rule (Section 402(b)) is not intended to allow parties to pay ''hard money'' debts with soft money. However, the statutory provision allowing payment of debts through December 31, 2002 would appear to override the Commission's regulation which requires that party committees make non-Federal reimbursements to their federal accounts between 10 days before and not later than 60 days after expending funds. Congress may wish to clarify whether it intends for national party committees to comply with the Commission's existing allocation regulations (including the 70-day allocation window) during the transition period.

11. Does Congress intend for the expedited Judicial Review and exclusive jurisdiction provisions of Section 403 to apply in perpetuity? Section 403 provides for a special three-judge District Court panel and expedited appeal to the Supreme Court for any constitutional challenge to the Act. However, by not limiting the provision to initial challenges (brought within a specified period), Section 403 would require convening of a three-judge panel and expedited appeal to the Supreme Court for actions filed years in the future. All such future challenges would have to be filed only in the District of Columbia, and circuit court review would be permanently foreclosed. Special FECA procedures governing constitutional challenges enacted in 1971 and 1974 have been employed in the Third Circuit and District of Columbia in the past two years. Congress may wish to set a time limit for these special judicial review provisions and allow normal judicial procedures to govern constitutional claims raised in subsequent years.

Sincerely,

DAVID M. MASON,
Chairman.
BRADLEY A. SMITH,
Commissioner.

[From the Detroit News, Mar. 15, 2002]

DONATIONS DON'T SEEM TO CHANGE VOTES

(By John R. Lott Jr.)

A lot of politicians have been explaining the money they have gotten from Enron. When U.S. Rep. John Dingell (D-Mich.), the powerful ranking Democrat on the House Energy and Commerce Committee, was asked about the donations he received, he said: ''when somebody gives me money, they, I assume, are supporting one thing: good government. And that's what they got, and that's what Enron got.''

In recently passing new campaign finance regulations, public interest groups and the press insist that donors supposedly only give money to politicians to buy influence. There is little doubt that campaign contributions and voting records often go together. But few mention that this relationship might simply reflect that donors only support candidates whose views they share.

Fortunately, there are cases where we can separate these two motives. Consider a retiring politician. He has little reason to honor any ''bribes,'' for re-election is no longer an issue. Even if earlier there were corrupting influences from donations, the politician would now have freedom to vote according to his own preferences. Therefore, if contributions are bribes to make the politician vote differently from his beliefs, there ought to be a change in the voting record when the politician decides to retire.

Yet, this proves not to be the case. Together with Steve Bronars of the University of Texas, I have examined the voting records of the 731 congressmen who held office for at least two terms during the 1975 to 1990 period. We found that retiring congressmen continued voting the same way as they did previously, even after accounting for what they do after their retirement or focusing on their voting after they announce their retirement.

Despite retiring politicians only receiving 15 percent of their preceding term's political action committee (PAC) contributions, their voting pattern remains virtually the same: They only alter their voting pattern on one issue out of every 450 votes.

If anything, these statistically insignificant changes even move in the wrong direction. Retiring politicians are slightly more likely to favor their former donors. This makes no sense if contributions had been buying votes.

The voting records also reveal that politicians are extremely consistent in how they vote over their entire careers. Those who are the most conservative or liberal during their first terms are still ranked that way when they retire. Thus the young politician who does not yet receive money from a PAC does not suddenly change when that organization starts supporting him.

The data thus indicate that politicians vote according to their beliefs, and supporters are giving money to candidates who share their beliefs on important issues.

A reputation for sticking to certain values is important to politicians. This is why political ads often attack policy ''flip-flops'' by the opponent—if a politician merely tells people what they want to hear, voters lack assurance that he will vote for and push that policy when he no longer faces re-election. Voters instead trust politicians who show a genuine passion for the issues.

If donations were really necessary to keep politicians in line, why would individual donors ever give money to a politician who is running for office for the last time? If politicians simply took positions to get elected, why would voters ever elect such a politician who would then be able to vote anyway that he likes?

Proponents of campaign finance reform have managed to claim the mantle of dislodging the entrenched political establishment. But, in fact, the reverse is true: Allowing large contributions is instead the key to letting new faces into politics. Existing federal and state donation limits have entrenched incumbents, who can rely on voters' greater familiarity with them as well as use their government resources to help them campaign and generate news coverage.

It is very difficult for challengers to raise numerous small donations. Incumbents have an advantage here, as they have had years to put together long mailing lists as well as making a wide array of contacts. Allowing large donations would make it easier for newcomers to raise a large sum from a few sources. The long start required for fundraising mean that if a candidate falters, it is virtually impossible for other candidates to enter in at the last moment.

For example, Sen. Eugene McCarthy, nicknamed ''Clean Gene,'' would—under current restrictive rules—not have been able to challenge Lyndon Johnson for the presidency in 1968. He relied on six donors who bucked the party establishment and almost entirely financed his campaign. McCarthy raised as much money (after adjusting for inflation) as George W. Bush has so far in the last election, but Bush has had to raise the money from 170,000 donors.

George McGovern's 1972 presidential primary campaign only succeeded because of extremely large donations from one person, Stuart Mott.

Donation limits have reduced the number of candidates running for office; cut in half the rate at which incumbents are defeated; given wealthy candidates an advantage, raised independent expenditures; increased corruption of the political process; as well as led to more ''negative'' campaigns. More of the same will follow if we continue the path of stricter and stricter campaign ''reform.'' The Enron case is no more relevant to advancing campaign finance than the hopes that new rules will somehow make campaigns more competitive.

[From the Washington Post, Feb. 15, 2002]

NOW, THE UNINTENDED CONSEQUENCES

(By David S. Broder)

It was a famous victory. The campaign finance bill now has passed both the House and Senate and likely will become law with President Bush's signature.

The bill has one great virtue. It will end the ugly and indefensible practice of federal elected officials extorting six-figure contributions to their political parties from corporations, unions and wealthy individuals. it is clear and definitive about doing that, and it will be effective.

Beyond that, the consequences of the bill the Senate approved last year and the House passed early Thursday morning are probably not what supporters have been led to believe. The optimism of the backers is exceeded only by the folly of the House Republican leadership, which must be grateful today of fraudulent Republican amendments so nakedly intended to kill the bill. Their tactics give hypocrisy a bad name.

Still, parts of the bill are probably unconstitutional, and other parts largely unworkable or unenforceable. As with previous campaign finance legislation, it is likely to have big unintended consequences.

For example, the Democrats who furnished the bulk of the votes for passage may be dismayed to learn that in the view of Michael Malbin, the widely experienced head of the nonpartisan Campaign Finance Institute, the bill hands President Bush an enormous advantage in his 2004 reelection campaign.

Here's why: In 200, when Bush rejected public financing of his race for the Republican nomination, he assembled a record treasury of ''hard money'' contributions (limited to $1,000 per person) from family friends, Texas supporters and allies in the business world. As an incumbent president, he can probably double or triple his take, while at the same time avoiding the spending limits that go with public financing.

No Democratic challenger is likely to be in a position to reject the taxpayer subsidies, and in a serious contest, on the accelerated calendar Democrats recently adopted, all the Democrats may well hit their spending limit by mid-March. In the past, the winner could turn to the Democratic National Committee and ask it to finance waves of TV ads from its ''soft money'' account at least until August, when the convention formally made him the nominee and a Treasury check for the autumn campaign arrived.

If this bill becomes law, Malbin points out, the Democrats will have no federal soft money account; their nominee may well be off the air and invisible for five months, while Bush dominates the political debate.

Another unintended consequence may well be to shift the flow of soft money from national parties to state and local parties. Contrary to the impression left by many editorials, this bill does not make all soft money contributions illegal. The amendment sponsored by Michigan Democratic Sen. Carl Levin allows state and local parties to receive individual soft money contributions of up to $10,000 a year ($20,000 per election cycle), as long as they do not spend the money on ads for federal candidates.

Theoretically, one wealthy individual could drop $1 million or more into his favorite party, by writing separate checks to 50 state or local party headquarters.

You can call this a giant loophole or a wise provision to support grass-roots activity, but it goes against the centralizing forces in our politics—which have strengthened not just recent presidents but congressional leaders of both parties.

When the national parties do less for their presidential nominees and their congressional candidates, those men and women become even more individual political entrepreneurs.

It is perhaps not a coincidence that all four of the sponsors—Sens. John McCain and Russ Feingold, Reps. Chris Shays and Marty Meehan—are notable for their maverick tendencies. It is likely this legislation will breed more of their kind.

Finally, the issue the opponents of this bill tried without success to raise its effect on the relative power of interest groups and political parties. The most dubious parts of the measure are those regulating ''issue ads'' that non-party groups run during election campaigns. These provisions implicate basic First Amendment rights of expression, and if the courts find them unconstitutional, then the net effect may well be to empower interest groups while restricting the parties' participation in campaigns.

Interest groups are as American as apple pie. But their agendas are, by definition, narrower than those of the broad coalitions called Republicans and Democrats. It will not help our politics to magnify the power of narrow interests at the expense of the two-party system.

[From the American Prospect, Mar. 25, 2002]

WITH VICTORIES LIKE THESE . . . THE GLARING INADEQUACIES OF SHAYS-MEEHAN

[By Ellen S. Miller]

What a cruel twist of fate: campaign finance reform that benefits Republicans and big money.

The Shays-Meehan bill is back-to-the-future reform: legislation that takes us back to just before 1980, when there was no ''soft money'' but still a huge imbalance in the influence of the big contributors over the rest of the population. Under the terms of the bill that passed the House, the national parties' committees can no longer raise soft money—the unlimited and unregulated contributions that totaled $498 million in 2000. A very good thing, that. But the tradeoff to eliminate this most notorious campaign finance ''loophole'' will actually enhance the power of wealthy special interests, for it loosens a whole series of strictures on hard-money donations—and hard money has already eclipsed soft. Total hard-money contributions to candidates, political action committees (PACs), and parties in the 2000 election cycle came to $1.8 billion, nearly three times the soft-money total.

To ease shock to big-money politics, Shays-Meehan contains three separate increases in the amounts that individual donors can give in regulated hard money, plus a huge exemption that enables campaigns to sidestep the limits altogether. The first increase involves the aggregate contribution limit for individuals. The legislation nearly doubles it to $95,000 per two-year election cycle. The second hike is in what individuals can give to national political parties, which rises from the current $20,000 per cycle per party committee to $57,500. Within these limits, the bill also provides for another dramatic increase: the amount individuals can give to House and Senate candidates doubles to $2,000 per election.

But say that a self-funding multimillionaire candidate is running for office, as is frequently the case these days. Should that happen, Shays-Meehan raises the cap on individual donations to that candidate's opponents from $2,000 to $12,000. Another limit—that imposed on the political parties for their coordinated expenditures to supplement the campaigns of party candidates within the states—is lifted altogether.

Politically, this provision could prove more unsettling for the Democrats than for the Republicans. While only five of the 19 federal legislative candidates who spent $1 million or more of their personal money in 2000 won their races, four of them were Senate Democrats—three of them newcomers (Jon Corzine of New Jersey, Mark Dayton of Minnesota, and Maria Cantwell of Washington) and one returning (HERB KOHL of Wisconsin).

So who would gain power from these fixes? To understand just how off kilter this reform is, you have to understand one primary factor: Today, less than one-tenth of 1 percent of Americans make a contribution of $1,000 to candidates, but these 340,000 individuals accounted for fully $1 billion of the $2.9 billion in hard and soft money that politicians, PAC, and parties banked in 2000. Most of this money comes in large bundles from the ''economically interested''—executives and business associates who've been armed-twisted into supporting a corporation's electoral favorites.

Under the new legislation, those bundles will only grow larger. Republican Senator John McCain of Arizona admitted to being embarrassed recently by the disclosure that he took 431,000 from individuals associated with the now bankrupt telecommunications firm Global Crossing as he argued their case before the Federal Communications Commission. Just how tainted would be feel if he got double that amount (allowable under the new limit) from them the next time he runs for president?

After all these years of struggle, why did reformers settle for so little?

In fact, after more than a decade of seeing their more ambitious ideas come to naught even as the amount of money in politics grew exponentially, reformers and their editorial-board allies felt that they desperately needed a win. According to Derek Cressman of USPIRG (the only campaign-finance-reform organization to oppose the bill), Kentucky's Republican Senator ''Mitchell McConnell wore down the reform movement by defeating stronger legislation year after year. Legislators kept compromising and the watchdogs let them do that.'' As a result, the reform package grew steadily weaker. ''I can't think of any other legislation that's had a tough fight that ended up actually rolling things back,'' Cressman says. ''This bill could have passed easily 10 years ago.''

Speaking not for attribution, some reformers admit that forward movement—even if only one small step forward—became their goal. A second factor, perhaps perversely, was the Democrats' growing proficiency at raising big money themselves—a skill that may have lulled them about the political ramifications of Shays-Meehan. Buoyed by near-parity with the GOP in soft money fundraising, the Democrats generally—and party chairman Terry McAuliffe particularly—came to believe that they could complete in the hard-money game, too. That made the bill's tradeoff between hard money and soft money acceptable.

As the proposed reforms grew steadily more modest, their appeal to the center and center-right grew. Moderate Republicans in the Senate and the House took the lead and the Democrats stood back to let them carry the fight. A seemingly enlightened segment of the business community, some of whom were executives tired of being dunned for six-figure checks, jumped on the bandwagon out of their own self-interest. The scope of reform dwindled until hardly anything remained at all.

There should be nothing surprising in the spectacle of White House Press Secretary Ari Fleisher trying to steal credit for the bill on behalf of his boss. And why shouldn't Bush sign it? Shays-Meehan favors Republicans. The GOP outraised the Democrats in the 2000 cycle $466 million $275 million; and in just released figures for the current election cycle, the Republicans are leading the democrats in hard money $131 million to $60 million. Moreover, Shays-Meehan certainly favors the incumbent president in his 2004 campaign. Bush is a hard-money dynamo: In 2000 he raised $103 million in hard-money donations for the primaries alone, while sitting veep Al Gore raised a paltry $46 million in hard money. Worse yet, signing Shays-Meehan helps to inoculate Bush from the taint of Enron's political money. Nonetheless, Bush taking credit for campaign finance reform, notes Public Campaign analyst Micah Sifry, is ''like Harry Truman claiming credit for sparking the nuclear-disarmament movement by dropping the bomb on Hiroshima.''

But this dubious victory may hold the seeds of more sweeping changes. One thing is certain: The kind of incremental reform that the House has enacted is far from the kind of dramatic change that can actually renew people's faith in our political system. But passing Shays-Meehan at least clarifies the challenge. For years, progressives have endorsed public financing, specifically public financing that covers both primary and general elections. The AFL–CIO has long supported it, and recent converts include the NAACP, the ACLU, the Sierra Club, and the National Organization for Women. The small state experiments in Maine and Arizona have shown what a huge difference it can make. Activists on the national front are poised to move forward. The next victories are likely to come at the state level in judicial elections. Spurred by the American Bar Association's endorsement of full public financing for judicial races, activists in North Carolina, Wisconsin, and Illinois are moving to change their state laws. Public financing of campaigns for the legislature, though further down the road, is most likely in Minnesota, New Mexico, and Connecticut.

Now that soft-money reform is off the table, it's time to focus on the real deal.

ACLU CAMPAIGN FINANCE POSITION PROTECTS FREE SPEECH

[Statement of Nadine Strossen, ACLU President, Ira Glasser, ACLU Executive Director, and Laura W. Murphy, ACLU Legislative Director]

WASHINGTON.—Nine former leaders of the American Civil Liberties Union today released a statement saying that they have changed their positions on campaign finance and now disagree with legal scholars, Supreme Court Justices and the ACLU's longstanding policy to seek the highest constitutional protection for political speech.

In their statement, these leaders argue that the Supreme Court misread the First Amendment in 1976 when it issued its ruling in *Buckley* v. *Valeo*, which struck down legislative limits on campaign expenditures in a holding that reflected many legal precedents and has been repeatedly reaffirmed. Our former ACLU colleagues say that our opposition to current legislation allows members of Congress to hide behind an unjustified constitutional smokescreen.

We are untroubled by the questions they raise and believe that it is they who allow members of Congress and President Clinton to hid behind so-called reforms that are both

unconstitutional and ineffective. As long as measures like McCain-Feingold or Shays-Meehan are allowed to masquerade as reform, neither Congress nor President Clinton will get serious about adopting true reform, which we believe lies in the direction of fair and adequate public financing.

Just last year, we offered Burt Neuborne, a former ACLU Legal Director and one of the principal opponents of our campaign finance policies, the opportunity to argue his position before the ACLU's 83-member National Board. After hours of debate and discussion, Neuborne completely failed to shift the ACLU Board to his view. Many Board members in fact argued that Neuborne's position was in direct conflict with the First Amendment rights that form the foundation of our democracy. Ultimately, the one Board member who had offered a motion to radically alter our long-standing policy withdrew it rather than allowing it to come to a vote.

Yet our former ACLU colleagues persist, offering sweeping proposals that would constitute a wholesale breach of First Amendment rights and that ignore the real-world impact of limits on speech. They speak approvingly of efforts to impose ''reasonable limits on campaign spending'' without saying specifically what such regulations would do. But when we look at those consequences it becomes clear that current campaign finance measures would do immeasurable damage to political speech. The devil, as the cliché goes, is in the details.

A key provision of both McCain-Feingold and Shays-Meehan would, for example, establish limits that effectively bar any individual or organization from explicitly criticizing a public official—perhaps the single most important type of free speech in our democracy—when the official is up for re-election within 60 days. If that kind of law had governed the recent New York City mayoral election, it would have effectively barred the ACLU (and other non-partisan groups) from criticizing incumbent Mayor Giuliani by name on the subject of police brutality in the wake of the horrific Abner Louima incident precisely during the pre-election period when such criticism is most audible. That prohibition would have gagged us even though the ACLU has never endorsed or opposed any candidate for elective office and is barred by our non-partisan structure from doing so. Similarly, anti-choice groups like the National Right to Life Committee would be effectively barred from criticizing candidates who support reproductive freedom. Yet such criticism of public officials is exactly what the First Amendment was intended to protect.

In contrast, there are many reform measures the ACLU supports that would protect and increase political speech. These include instituting public financing, improving certain disclosure requirements, establishing vouchers for discount broadcast and print electoral ads, reinstating a tax credit for political contributions, extending the franking privilege to qualified candidates and requiring accountability of and providing resources to the Federal Elections Commission. None of these proposed reforms would run afoul of the First Amendment.

Still, our former ACLU colleagues press proposals that would inevitably limit political speech. We continue to shake our heads, wondering how such measures can be regarded as ''reforms'' by anyone who is genuinely committed to the First Amendment.●

Mr. DODD. I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements regarding this matter be printed in the RECORD.

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

The resolution (H. Con. Res. 361) was agreed to.

ORDERS FOR MONDAY, APRIL 8, 2002

Mr. DODD. I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 3 p.m. Monday, April 8; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the energy reform bill.

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

ADJOURNMENT UNTIL 3 P.M. MONDAY, APRIL 8, 2002

Mr. DODD. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the provisions of H. Con. Res. 360.

There being no objection, the Senate, at 3:58 p.m. adjourned until Monday, April 8, 2002, at 3 p.m.

NOMINATIONS

Executive nominations received by the Senate March 22, 2002:

FEDERAL EMERGENCY MANAGEMENT AGENCY

ANTHONY LOWE, OF WASHINGTON, TO BE FEDERAL INSURANCE ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE JO ANN HOWARD, RESIGNED.

DEPARTMENT OF STATE

PAULA A. DESUTTER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (VERIFICATION AND COMPLIANCE), VICE OWEN JAMES SHEAKS.

FEDERAL MINE SAFETY AND HEALTH ADMINISTRATION

STANLEY C. SUBOLESKI, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING AUGUST 30, 2006, VICE MARC LINCOLN MARKS, TERM EXPIRED.

DEPARTMENT OF JUSTICE

DEBRA W. YANG, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE CENTRAL DISTRICT OF CALIFORNIA FOR A TERM OF FOUR YEARS, VICE ALEJANDRO N. MAYORKAS, RESIGNED.

FRANK DEARMON WHITNEY, OF NORTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR A TERM OF FOUR YEARS, VICE JANICE MCKENZIE COLE, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 22, 2002:

DEPARTMENT OF THE TREASURY

KENNETH LAWSON, OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

VICKERS B. MEADOWS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DIANE LENEGHAN TOMB, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

KENNETH M. DONOHUE, SR., OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

NATIONAL CREDIT UNION ADMINISTRATION

JOANN JOHNSON, OF IOWA, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR A TERM EXPIRING AUGUST 2, 2007.

DEBORAH MATZ, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL CREDIT UNION ADMINISTRATION BOARD FOR A TERM EXPIRING AUGUST 2, 2005.

ENVIRONMENTAL PROTECTION AGENCY

J. PAUL GILMAN, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

DEPARTMENT OF COMMERCE

JAMES R. MAHONEY, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.

DEPARTMENT OF VETERANS AFFAIRS

DANIEL L. COOPER, OF PENNSYLVANIA, TO BE UNDER SECRETARY FOR BENEFITS OF THE DEPARTMENT OF VETERANS AFFAIRS FOR A TERM OF FOUR YEARS.

ROBERT H. ROSWELL, OF FLORIDA, TO BE UNDER SECRETARY FOR HEALTH OF THE DEPARTMENT OF VETERANS AFFAIRS FOR A TERM OF FOUR YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF AGRICULTURE

NANCY SOUTHARD BRYSON, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF AGRICULTURE.

DEPARTMENT OF LABOR

VICTORIA A. LIPNIC, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF THE TREASURY

RANDAL QUARLES, OF UTAH, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY.