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Senate

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

PRAYER

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

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

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

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

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

To the Senate:

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

STROM THURMOND,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

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

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

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

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

BIPARTISAN CAMPAIGN REFORM ACT OF 2001

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

The legislative clerk read as follows:

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

Pending:

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

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

AMENDMENT NO. 149

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

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

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

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

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

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

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

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

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

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

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

Mr. THOMPSON. I will be glad to yield.

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

Mr. THOMPSON. I did not.

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

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

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

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

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

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

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

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

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

We talk about a couple and treating a man and a wife as the same; the wife going to do exactly what the husband says, presumably. Raise those money limits. We are talking about $100,000. This is $100,000. Why not extend it over 4 years and say $200,000? You can get the theoretical limits up as high as you wish as long as no large amounts are going to individual candidates, as long as amounts are going to parties that under the law and under all of the learned speculation about what the law will be in terms of these cases that are pending, you are still not going to be able to coordinate between the donor and the candidate. You give to the party and the party can give to the candidate, but you cannot have that kind of coordination that was suggested on the floor. That is just not the law.

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

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

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

I yield the floor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, putting more big money into politics is not reform; it is deform. Saying that an individual can contribute as much as $5,000 a year to a candidate, that an individual can contribute as much as $100,000 a year in an aggregate to different political efforts, means two things. It means, first of all, that those who run for office are going to be even more dependent on the top 1 percent of the population. Is that reform?

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

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

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

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

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

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

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

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

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

Mr. TORRICELLI. If the Senator will yield time.

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

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

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

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

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

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

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

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

Can I have order, Mr. President?

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

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

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

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

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

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

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

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

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

I believe with the Thompson amendment we will have this balanced system reducing the amount of time candidates must campaign, and sufficient hard money can be raised to be able to communicate a message. It is a workable and a balanced system. Mostly I regret we have to divide ourselves on this issue, a $500 difference between the Senator from California and the Senator from Tennessee. Even at this late moment, I wish we could bridge this gap. But I hope we can avoid coming to the conclusion that because this amendment is agreed to, somehow we have a less viable reform. This is still fundamental and comprehensive reform. It still reduces the amount of campaign expenditures and the reliance on large contributions. It is a better system under McCain-Feingold, and it is a system that now includes the support of more Members of the Senate on both sides of the aisle.

I yield to the Senator from Tennessee.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. President, how much time remains?

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

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

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

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

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

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

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

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

Mr. DODD. I apologize to the Senator.

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

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

The Senator from Wisconsin.

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

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

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

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

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

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

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

There is a sufficient second.

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

The legislative clerk called the roll.

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

[Rollcall Vote No. 53 Leg.]

Yeas—46

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

NAYS—54

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

The motion was rejected.

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

The motion to lay on the table was agreed to.

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

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

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

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

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

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

Mr. MCCONNELL. Will the leader yield?

Mr. LOTT. I will be glad to yield.

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

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

I thank the leader.

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

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

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

The PRESIDING OFFICER. Is there objection?

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

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

The PRESIDING OFFICER. The Senator from Tennessee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. THOMPSON. My understanding is that under ordinary rules, absent overall agreement, if the Feinstein motion to table does not carry, it would leave the Thompson amendment not tabled and the Feinstein amendment not tabled. Ordinarily, I would have the right to come in at that point with a motion or perfecting amendment. I am told because we are operating within the confines of an overall agreement, that right is no longer there. So we are operating on the basis of what is fair and what is expeditious.

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

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

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

Mr. LOTT. I yield the floor.

AMENDMENT NO. 151 TO AMENDMENT NO. 149

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

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

Strike all after the first word and insert the following:

104. CLARITY IN CONTRIBUTION LIMITS.

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

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

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

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

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

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

For purposes of this paragraph, if any contribution is made to a candidate for Federal office during a calendar year in the election cycle for the office and no election is held during that calendar year, the contribution shall be treated as made in the first succeeding calendar year in the cycle in which an election for the office is held.''.

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

(1) in paragraph (1)—

(A) by striking the second and third sentences;

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

(C) by adding at the end the following:

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

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

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

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

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

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

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

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

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

''(25) ELECTION CYCLES.—

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

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

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

''(9) For purposes of this subsection—

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

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

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

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

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

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

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

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

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

(2) by adding at the end the following:

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

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

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

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

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

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

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

McCain-Feingold keeps the $1,000 limit, keeps the limit on PACs at $5,000. State and local parties are doubled to $10,000 per calendar year. National parties remain the same at $20,000 per calendar year. And the aggregate limit that an individual can contribute to all of the above is $30,000 a calendar year, or $60,000 a cycle.

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

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

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

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

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

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

Let me give some examples of how the cost of campaigning has soared since that thousand dollar limit was established three decades ago. The bulk mailing permit rate in 1974 was 6 cents per piece. Today it is 25 cents per piece. If you send out mail, that is a substantial increase in cost. In 1990, when I ran a gubernatorial campaign in California, a 30-second television spot run in the Los Angeles media market at 6 o'clock at night cost $1,800, one spot. Last year, when I ran for reelection to the Senate, the same spot cost $3,000. That is a 67-percent increase in the cost of one television spot in 10 years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Let me conclude.

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

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

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

That is a very deep concern to me.

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

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

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

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

The PRESIDING OFFICER. The Senator from Mississippi.

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

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

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

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

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

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

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

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

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

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

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

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

It is easy to understand. It is substantially less than the index amounts would be if you took inflation into account from 1971 when the act was first created. Over $3,000 would be reflected if we had indexed those amounts in 1971; so that the amount of an individual contribution could be limited now, if it were indexed for inflation, at about $3,300-something instead of $1,000 as it is now.

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

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

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

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

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

The PRESIDING OFFICER. Sixteen and a half minutes.

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

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

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

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

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

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

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

Mr. President, I yield the floor.

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

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, I congratulate the Senator from California for at least moving in the right direction, recognizing that the cost of campaigns has gone up dramatically.

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

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

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

Mr. MCCONNELL. Right.

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

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

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

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

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

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

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

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

Mrs. FEINSTEIN. Yes.

Mr. MCCONNELL. To the parties.

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

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

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

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

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

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

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

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

The distinguished occupant of the Chair experienced the wrath of Mr. Kohlberg in 1998 as he spent half of $1 million trying to defeat the junior Senator from Kentucky. People such as Mr. Kohlberg are going to be the wave of the future. There is a common misconception that people of great wealth are Republicans. In fact, they are overwhelmingly liberal Democrats, people such as Mr. Kohlberg.

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

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

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

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

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

Mr. MCCONNELL. Right.

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

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

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

Mr. MCCONNELL. I do.

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

Mr. MCCONNELL. I do, too.

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

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

May I ask a question?

Mr. MCCONNELL. I believe I have the floor.

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

Mr. MCCONNELL. I yield for a question.

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator has 28½ minutes.

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

The PRESIDING OFFICER. The Senator from California is recognized.

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

The PRESIDING OFFICER. The Senator has 15 minutes.

Mrs. FEINSTEIN. Mr. President, I am hopeful Senator SCHUMER will come to the floor as soon as possible. Let me make a couple of comments to the remarks the distinguished Senator from Kentucky just concluded. I very much appreciate his comment about the political parties. On our side of the aisle, when you are in public office, there is concern about asking individuals to contribute large amounts of money to a party, period, and that this uses power unwisely. What McCain-Feingold does is it eliminates the soft money aspect of that powerful use of request. You can't ask someone to contribute $500,000 to the party or $1 million to the party or $100,000 to the party. You are essentially limited to the $35,000 per election to go to the party. There are some on our side who don't like that because they say it is too big a request. I don't happen to believe that it is. I also don't happen—well, some are willing to do that and others are not willing to do it.

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

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

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Kentucky.

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Nevada is recognized.

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

Mr. MCCONNELL. How much time do I have?

The PRESIDING OFFICER. The Senator has 26 minutes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

My view is that the No. 1 thrust of McCain-Feingold in eliminating soft money was to prevent these large sums of money from going to candidates. If 441(a)(d) is lifted, those large sums of money will continue. True enough, McCain-Feingold does other things with corporate and labor union contributions, and true enough, no one can give, say, $½ million to a candidate through the party, which they can do today, but the limits would be so astoundingly high that they would almost make a mockery of the $1,000 or $2,000 limit that we are talking about on individual contributions.

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

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

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

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

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

I understand my friend from Kentucky has a much broader interpretation, but it is a constitutional limitation if what you are sanctioning is related to the reward. Clearly, the proposal we have made in the Schumer part of this amendment is related: Go over the limit and you do not get low-cost TV time. Stay within the limit and you get low-cost TV time. There could not be a clearer relationship because most of this money is used, at least in every campaign I have seen, for television time.

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

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

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

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

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

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

I hope we will support it.

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

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

The Senator from California.

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

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

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

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

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

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

The Feinstein-Schumer provision will increase the individual contribution limit from $1,000 to $2,000. It does not increase the amount an individual can give to political parties. The aggregate individual limit in the Feinstein amendment reduces the amount an individual can give to a party from $20,000 per year to $17,500 per year. Even if the Supreme Court declares party coordinated expenditure limits unconstitutional, the Colorado case we were just talking about, parties must still abide by them or lose the broadcast discount.

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

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

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

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

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

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

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

Velazquez v. Legal Services Corporation was decided just this year. I urge my colleagues to have someone take a look at that case and explain to me why the principles of that case don't clearly set out or establish that we just can't do this constitutionally. They held in that case that Congress can't condition legal services grants on a lawyer's inability to challenge the constitutionality of welfare reform. That is an unconstitutional restriction of the first amendment rights of that lawyer, even though it is government money and the government doesn't have to give them money to start with.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. MCCONNELL. Will you yield for a question?

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

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

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

I yield to my friend from New York.

Mr. SCHUMER. I thank my friend for yielding.

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

It seems to me in the amendment that we have crafted there is a direct nexus. First of all, the nexus is very close. You have the ability to get more money from your party and the privilege of getting the lowest TV cost.

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

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

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

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

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

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

Mr. THOMPSON. I will ask unanimous consent——

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

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

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

The PRESIDING OFFICER. The Senator from Kentucky.

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

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

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

The Feinstein-Schumer provision will increase individual contribution limits from $1,000 to $2,000. That certainly is helpful to candidates. It sort of catches us up, maybe, to the early 1980s in terms of purchasing power. It does not, however, increase the amount an individual can give to political parties. In fact, the aggregate individual limit also, as part of the amendment, will reduce the amount an individual can give to a party from $20,000 per year down to $17,500 per year. So we are going backwards.

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 54 Leg.]

YEAS—46

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

NAYS—54

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

The motion was rejected.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 151, AS MODIFIED

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

At the appropriate place, insert the following:

SEC. 104. CLARITY IN CONTRIBUTION LIMITS.

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

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

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

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

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

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

For purposes of this paragraph, if any contribution is made to a candidate for Federal office during a calendar year in the election cycle for the office and no election is held during that calendar year, the contribution shall be treated as made in the first succeeding calendar year in the cycle in which an election for the office is held.''.

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

(1) in paragraph (1)—

(A) by striking the second and third sentences;

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

(C) by adding at the end the following:

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

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

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

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

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

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

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

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

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

''(25) ELECTION CYCLES.—

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

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

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

''(9) For purposes of this subsection—

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

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

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

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

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

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

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

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

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

(2) by adding at the end the following:

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

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

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

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

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

MORNING BUSINESS

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

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

Mr. MCCONNELL. Yes.

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

The Senator from Montana is recognized.

(The remarks of Mr. BAUCUS pertaining to the introduction of this legislation are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. the Senator from Missouri.

SOUTHWEST MISSOURI STATE LADY BEARS

Mr. BOND. Mr. President, while we in the Senate are working hard exploring the mysteries of campaign finance reform, many Americans are enjoying the annual tradition known as ''March Madness.'' In Missouri, we are particularly fixated on ''the March to the Arch'' where St. Louis is hosting the final four of the Women's NCAA basketball tournament. In the final four are a couple of teams from somewhere in Indiana and Connecticut but in Missouri, we will be cheering for our Southwest Missouri State University Lady Bears. They started out as a low seed, but they are two upset wins away from a national championship. The Lady Bears are coached by Cheryl Burnett who, in her 14 years at SW Missouri, has posted a 274–117 record winning 70 percent of her games.

In recent years, the residents of my home State of Missouri have been privileged to witness many great sports legends, from George Brett and Derrick Thomas in Kansas City to Mark McGuire and Kurt Warner in St. Louis to Springfield's own Payne Stewart. Today I recognize the achievements of the Southwest Missouri State University basketball team and, Jackie Stiles—our newest sports legend.

On March 1 of this year, in front of a sell-out, standing-room-only crowd, Jackie broke the record for most career points scored by a women's basketball player in NCAA Division I, a record that has stood since 1989.

Ms. Stiles is the Nation's leading scorer at 30.7 points per game and the career total is a whopping 3,253 points. Monday night, in Spokane, Washington, Southwest Missouri State rolled over the home team Washington 104 to 87. Jackie Stiles left the game to a standing ovation from 11,000 fans rooting for the opposing team.

Fans in her hometown of Claflin, KS, enjoyed watching her compete in basketball, track, and tennis at the high school level. They watched as she scored more points in the history of Kansas prep sports than any high school basketball player—boys or girls. Her decision to play NCAA Division I basketball at SMS was made after all of the top women's college basketball programs tried to recruit her. Her choice has been applauded time after time over the last 4 years as fans pack into Hammons Student Center to cheer on the Lady Bears team.

Jackie Stiles has led Division I teams in average points per game the past 2 years and was nominated for the prestigious ESPY award, the Naismith Award, and was recently named to both the Associated Press and the Sports Illustrated Women's All-American First Team. The awards she has earned throughout her career are too numerous to list. Beyond the many honors she has earned we should recognize her for something more important than records and awards. Jackie Stiles has become a role model to the many young people who dream of the kind of achievements she has accomplished. The best thing about this is that she is showing them the way to achieve their goals. First, by being a role model and setting a fine example for young people everywhere. In the words of SMS Lady Bear's head coach Cheryl Burnett, ''She really is the kind of role model that an athlete should be . . . Jackie is a tremendous ambassador for women's basketball and athletics in general.''

Whether she is breaking records on the court or reading to elementary students, Jackie embodies a spirit of excellence. Second, Jackie Stiles has reached the pinnacle of women's college basketball by combining her talent with more hard work than most can comprehend. She is the product of a small mid-western town and reflects the values you would expect to find in a town of just over 600—hard work, friendliness, dedication, and devotion to family. She has distinguished herself from many sports heros with her humility which was evident in her recent ESPN interview where she gave credit to the team and the program rather than accepting it for herself. I agree the team deserves a lot of credit, but so does Jackie Stiles.

When Jackie broke her wrist during her sophomore year of high school she did not let it get her down. Instead, she learned to shoot left handed and still averaged 26 points per game. That is also when she began her now-famous 1,000 shots per day practices that kept her in the gym all hours of the day and night. It is that kind of work ethic that builds champions, and that I stand to honor today. She puts her team first and plays unselfishly on the court. When she scored 56 points in a game she gave the credit to her coaches and her teammates, as well as to the enthusiastic fans from Southwest Missouri that have lined up to see her play the last 4 years.

Her team-centered focus on winning games, not personal accolades, sets Jackie Stiles apart. And, finally, it is her focus on being a scholar-athlete, maintaining a high grade point average while dealing with the intense pressures of being in the national spotlight. Thank you, Jackie, for choosing Southwest Missouri State University, and for setting an example for young people everywhere with your hard work and humility. Those are the true things of which champions are made.

I congratulate Coach Burnett, Ms. Stiles, the entire team and University for this great achievement or making it to the Final Four. I plan on attending the game Friday night game in St. Louis to see one of those Indiana teams dispatched by the Lady Bears. I say to my friends from Indiana, while Indiana may be known for men's basketball, I predict this weekend will make Missouri host to the capital of college women's basketball.

Mr. President, I see no one seeking recognition, so 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORZINE). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the hour of morning business be extended until 2:15 and that the half hour for the proponents and opponents of the bill be maintained to follow that.

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

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. THOMAS. 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. THOMAS. Mr. President, I understand we are in morning business.

The PRESIDING OFFICER. That is correct.

THE UPCOMING BUDGET DEBATE

Mr. THOMAS. Mr. President, we are having a little pause in the subject of campaign finance reform, thankfully. We have been at it for some time. Hopefully, we will be through this week soon. It is a very important issue, but I am anxious, as most of us are, to move on to some of the other issues before us. Probably the most important one is that of the budget.

Each session, of course, is important and vital. It is important for us to have a budget. You can argue about the details of the budget, but the fact is that a budget is more than just a piece of paper with our spending plans on it. The budget is what defines where we are going to go over the next 2 years and into the future. It defines, as well, what our priorities are, which is a very important issue. It causes us to look ahead as to where we ought to be doing things that strengthen America, things that we ought to be doing that help put this economy back in place. Hopefully, we will be working on that budget next week.

The President has put forth a budget. Our Budget Committee will come forth

with a budget. I believe the Republican budget addresses the priorities of the American people. It puts us on the continued road of a balanced Federal budget which, of course, for many years we didn't have. We had deficit spending and we continued to increase the debt. We now, largely because of a strong economy, have a situation where we have not only a balanced budget, but a surplus which is, of course, in many ways a very happy thing to have. We have a priority, I hope, of continuing to save Social Security for seniors, not only for the immediate future but for a distance in the future where young people will be able to have benefits from the Social Security they pay in from the very first day on the job. We can commit ourselves to do that by assuring the dollars that come in that are designed for Social Security are used for Social Security.

We have a priority to improve and strengthen Medicare—obviously, one of the things that affects many people. We have to deal with pharmaceuticals and with many of the things that go together to strengthen the Medicare. In terms of dealing with the future and dealing with young people, we need to deal with our national debt which, of course, is very large. I believe we have a responsibility to begin to pay that down. Some people want to pay it down immediately, which is not practical in terms of the fact that the money is invested. But over a period of 10 years under this budget, we can pay that publicly held debt off. I think that is what we ought to do. We have an obligation to do that. We have spent the money and now we should not leave the debt over to the other people.

We are committed to improve educational funding, and we need to do that, to give every school an opportunity. We always get into the argument—of course, a valid argument—about which I feel strongly, and that is whether or not dollars that go from the Federal Government out to education should be used only for purposes that are defined in Washington, which I think is wrong, or should there be an opportunity given for people in local and State levels to use the money as they determine it is most needed for their particular school. And then, finally, we have an opportunity, which I hope we will take full advantage of, to return the surplus tax overcharges to the American taxpayers. Return the money to the people who have paid.

Of course, we also have a challenge with our economy weakening. It has weakened over the past year. We have an opportunity to do something more immediate on tax changes and put more money back into the economy in the short run. I am hopeful that we will do that.

The budget the President has proposed, the budget we will be talking about, does strengthen and reform education. It provides the Education Department with the largest percentage increase of any Federal department. It triples the funding for children's reading programs.

It does protect Social Security. It preserves Social Security by locking away all of the $2.6 trillion Social Security payments that will be paid in and the surplus for Social Security.

It strengthens defense, which has to necessarily be one of our priorities. We have not, over the past several years, done what we have needed to do to keep our defense the toughest in the world, or have the oversight to make an evaluation of where we are on weapons, or to do something for the volunteer service to encourage people to be in the military, or to do something about the living conditions of our military personnel.

We need to protect the environment. Right now we are faced with a challenge, a crisis in energy, and much of that will have to be resolved by more production, by, as in my State of Wyoming, producing more resources for energy.

As we do that, we must equally be concerned about protecting the environment. We are being challenged by organizations that say: If you are going to protect the environment, you cannot have access, you cannot use those lands at all. Those are not the choices. We can, indeed, have access to public land. We can, indeed, utilize those resources and allow people to hike, hunt, produce on those lands, and, at the same time, protect the environment.

Next week is going to be one of the most challenging weeks as we deal with the budget, our priorities, and what we are going to do about the surpluses. Americans are paying the highest percentage of tax of gross national product, higher than World War II. That should not be the case, and we have an opportunity to change it.

We have an opportunity to let local people and the States be involved in the decisions rather than dictating from Washington, as we have become accustomed to over the last number of years.

We have an opportunity to do some things, and I am excited about that opportunity. It is very important we pass a budget. If we do not do that, we will not be able to deal with tax reductions, which I think are terribly important, not only as a matter of fairness to the American people but as a matter of helping this economy and moving it forward as quickly as we can.

I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Missouri.

CAMPAIGN FINANCE REFORM

Mrs. CARNAHAN. Madam President, we will have many important debates over the coming year on this Senate floor. Debates about tax cuts, spending priorities, education and defense, health care and agriculture. But none of these debates will be more important to the future of our democratic process than the debate over campaign finance reform.

From the time I sat at our kitchen table balancing the books on my husband's earliest campaign to his race for the U.S. Senate, I have witnessed the changing face of campaigns.

Last year's U.S. Senate race in Missouri shattered all previous records. The two opposing campaigns spent almost $18 million. This figure does not include spending by the state parties or outside interest groups.

For $18 million, Missouri could have done any one of the following:

built two new elementary schools;

hired 500 new teachers;

sent 3800 students to the University of Missouri;

provided day care to an additional 5000 low-income children;

put 9,000 new computers into our schools.

There is no accounting of the hours and effort that went into raising these large sums of money. It is time and energy I am sure all Senators would rather spend discussing the issues and dealing with problems affecting their constituents.

The traditional face-to-face visits with voters at the State fair, the local diner or a town hall play a much smaller role in modern political campaigns. Instead, candidates introduce themselves with costly and skillfully packaged commercials.

According to a recent study, viewers in the Kansas City area were exposed to over 22,000 campaign commercials during the 2000 election cycle. At 30 seconds apiece, that is the equivalent of 187 straight hours of campaign ads. The same study showed that the number of ads nationwide has nearly tripled since 1998. Without reform, there is no end in sight.

Not only do candidates air ads to get their own message out, they must also respond to negative attacks. More and more, our political discourse is turning away from an honest discussion of the issues affecting the average American. Personal attacks and outrageous distortions are all too common.

What are the consequences?

Today, Americans are more cynical and more disconnected from the government than ever. They read of huge contributions from special interest groups and wonder how one small voice can possibly be heard over the shouts of large donors to political campaigns.

Election day for them is not a celebration of self-government, but a finale to months of nasty, negative messages that have invaded their homes and mailboxes.

To rejuvenate our democracy, we must change the common perception and reality that our political system is dominated by big money. To wean American politics from these excesses will be costly and painful, but we must begin.

While many reforms are necessary, purging the system of unlimited donations to campaigns through so called ''soft money'' is a necessary first step.

Some would argue that passing McCain-Feingold will hurt the Democratic Party, but I say if we do not pass

McCain-Feingold, we will be hurting the democratic process.

This is a time when all of us, Democrats and Republicans alike, must do what is right for our country, what is right for our democracy.

The Biblical account of Joshua and the battle of Jericho shows us the strength of a united voice. We are told that ''the people shouted with a great shout, so that the walls fell down.''

If we speak with one voice, the wall of ''soft money'' that separates ordinary citizens from their government will come down. Only then can we be confident that campaigns are decided by the power of our ideas, not by the power of our pocketbooks.

I enthusiastically support campaign finance reform and hope that we can pass legislation that reduces the influence of money in politics.

WOMEN'S HISTORY MONTH AND JACKIE STILES

Mrs. CARNAHAN. Madam President, this month we celebrate Women's History Month. It is an opportunity to reflect on the successes, advances and contributions women have made and are making in American life.

Today, I have the special privilege of honoring a woman who is not only celebrating women's history this month—she is making it.

Jackie Stiles stands 5 feet 8 inches tall, but she is a giant on and off the court. Earlier this week, she led the Lady Bears of Southwest Missouri State into victory over Washington, securing her team a spot in the NCAA Final Four. It was the latest accomplishment in the life of this remarkable young woman.

In high school, she was a 14-time state track champion and once scored 71 points in a single basketball game. Her fans would show up at nine in the morning with lounge chairs to be first in line when the gym doors opened at 4:30. They just wanted to catch a glimpse of Jackie in action. She is a hero in her home town—and in towns across America where young girls dream impossible dreams. Jackie shows them dreams can happen.

At Southwest Missouri State, Jackie Stiles has scored—as of today—3,361 points, becoming the all-time leading scorer in the NCAA. She has also become the heart of the Lady Bears. Every time she plays, she thrills the sell out crowds at the Hammons Student Center—better known as the ''House of Stiles.''

On Friday, the team will come home to Missouri for the Final Four. And with all due respect to my colleagues from the great state of Indiana, I predict a big win over Purdue for Jackie Stiles and the Lady Bears.

Jackie Stiles didn't become a star overnight. She does it the hard way—the only way she knows how. She began training at age two with her father and has pushed herself ever since. She goes to the gym and won't leave until she makes 1,000 shots.

The story of Jackie Stiles is also the story of Title IX, the landmark civil rights legislation which set out to curtail discrimination against women and girls in education and athletics. Without Title IX, we might never have heard of heroes like Jackie Stiles. In 1971, the year before Title IX, only 25,000 women competed in college sports. Today, that figure has grown to more than 135,000 women—including one very talented player who wears the number ten jersey for Southwest Missouri State.

Jackie's success is measured in more than just rebounds, lay-ups, and jump shots. She has brought attention to women's sports, and has proven that women's basketball is exciting. Most of all, she is a role model and an inspiration for thousands of girls.

If she chooses, Jackie's next stop is probably the WNBA. I have no doubt that she will become one of the league's greatest attractions. She will help not only her team but her sport and all those who appreciate and enjoy it.

Mr. President, in honor of Women's History Month, I'd like to offer my congratulations to Jackie Stiles, the Lady Bears of Southwest Missouri State, and all the other heroes who are bringing women's sports to a new high and teaching young girls to follow their dreams. May they continue to thrill, entertain, and inspire us.

EXTENSION OF MORNING BUSINESS

Mr. REID. Madam President, with the consent of my friend from Kentucky, I ask unanimous consent we extend the morning hour until 2:30, and leave thereafter half an hour to be divided among the opponents and proponents of the two pending amendments.

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

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

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

HARD MONEY

Mr. WELLSTONE. Madam President, I will take a little bit of time because I think other Senators will be coming out to the floor soon to talk about where we are on the hard money changes. We had a proposal by Senator THOMPSON which basically raised the amount of money that an individual could give to a candidate from $1,000 to $2,500 per election; from $2,000 to $5,000 over a 2-year cycle; so $2,500 per election, primary, general, up to $5,000 per candidate. There are other provisions as a part of the Thompson amendment.

The other one I want to mention is raising the aggregate limit from $30,000 to $50,000, which actually per cycle means $100,000.

So what we are saying now is an individual can give up to $5,000 supporting a candidate, and in the aggregate, an individual, one individual could give as much as $100,000 to candidates.

I have recited the statistics on the floor so many times that I am boring myself. But there is the most huge disconnect between the way in which—here on the floor of the Senate and in the ante room—the way that people who come together in the lobbying coalitions are defining compromise and victory, and the way people in coffee shops think about this. One-quarter of 1 percent of the population contributes $200 or more, one-ninth of 1 percent of the population contributes $1,000 or more.

So I do not really see the benefit of injecting yet more money into politics, literally turning some of the hard money into soft money. I am sure people in the country are bewildered by hard money, soft money. Let me put it this way. I don't see how politics that becomes more dependent on big contributors, heavy hitters, people who have more money and can afford to make these contributions, is better politics. I just don't get it.

On the Thompson amendment, there was a motion to table. It was defeated. I thought, frankly, some of the moderates on the Republican side who were part of the reform camp would have voted against the Thompson amendment. They did not. Senator FEINSTEIN came out with an amendment, and her amendment basically doubles the limits. So I guess we go from $1,000 to $2,000 and then $2,000 to $4,000 and it raises the aggregate amount but not a lot.

The Feinstein amendment is certainly better than the Thompson amendment. Now there are some negotiations. Regardless of what happens in these negotiations, the point is the headlines in the newspapers in the country tomorrow for the lead story should be ''U.S. Senate Votes for Reform, Votes to Put More Big Money Into Politics,'' because that is really what we are doing. I think this is a huge mistake. I have two children who teach.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

CAMPAIGN REFORM ACT OF 2001—Continued

Mr. WELLSTONE. Madam President, I ask unanimous consent that I be allowed to keep the floor as we move on to the debate.

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

Mr. WELLSTONE. Madam Chair, I have two children who are teachers. I

can tell you right now that neither one of them can afford to make a $1,000 contribution or a $2,000 contribution or $4,000 or $5,000 in an election cycle. I can tell you right now that neither one of them can afford to make $30,000 worth of contributions. My God, that is, frankly, the salary of a good many teachers in this country. They cannot afford to make those kinds of contributions.

On the floor of the Senate we are saying, my gosh, the reality is that we have this inflation and $1,000 isn't worth $1,000. The reality is that the vast majority of the people in the country don't make these big contributions; therefore, we don't pay as much attention to them; therefore, they have become increasingly disillusioned, and now as a part of this deal we are raising the spending limits—whatever the compromise is. It seems to me that it goes exactly in the opposite direction than we should be going.

How are ordinary citizens who can't afford to make these big contributions going to feel—that this political process is now going to be better for them when we have taken the caps off and have raised the contribution level? Now people who are running for office are going to be even more dependent on the top 1 percent of the population. How is that reform?

I haven't done the analysis. I do not know how it will add up. My guess is that while, on the one hand we are taking the soft money out, we are now going to be putting a whole lot more hard money into politics. In the election year 2000, 80 percent of the money in politics was hard money.

I am not trying to denigrate taking soft money out—the prohibition on soft money that is in McCain-Feingold. But as this legislation moves along, I am, in particular, saddened and a little bit indignant that we are now defining ''reform'' to raise the limits so those people who can afford to make a $1,000 contribution can now make $2,000; those who can afford over 6 months—whatever cycle—to make not $2,000 but to now make $4,000 contributions will be able to do so.

The argument that some of my colleagues make is the fact that 99 percent of the population can't afford to do this doesn't mean we shouldn't let the other 1 percent.

But I tell you what is going to happen. We are going to be even more dependent on the big givers. We are going to become even more divorced from all of those people who we serve who can't afford to make those contributions. We are going to spend even less time. There will be even less of an emphasis on the small fund raisers and less of an emphasis on grassroots politics. It is a tragedy that we are doing this.

I do not know how the bill will ultimately go. I think this is a terrible mistake. It has that sort of ''made for Congress'' look.

This is the sort of agreement that is a victory, Minnesotans. This victory is for all you Minnesotans who now contribute $1,000 or more. You will be able to give even more money to candidates. Minnesotans, please listen. The Senate is now pretty soon about to pass a reform measure. All of you Minnesotans who contribute $1,000 and $2,000 a year and can afford to do it will now be able to double your contributions. I am sure people in Minnesota will just feel great about this. I am sure people in Minnesota will feel that this is real reform. And I am sure 99 percent of the people in Minnesota will feel it is true.

This is a game we can't play: You pay, you play. You don't pay, you don't play.

I will finish, maybe, but just to make one other point.

I am looking at this in too personal of a way by showing more indignation than I should. People can disagree. That is the way it is. You win or lose votes.

We talk about getting rid of soft money. With what we are now about to do on these individual spending limits, there is a bunch of people who will never be able to run for this Senate. They are really not. I will tell you who those people are. They are women and men who themselves don't have a lot of money and who take positions that go against a lot of the money interests in this country and people who have the economic resources.

I said earlier that the Chair would be interested in this because of her own history. I was talking about the Fannie Lou Hamer Project. Spencer Overton from the Fannie Lou Hamer Project was speaking yesterday at the press conference. Fannie Lou Hamer, as the Chair knows, was this great civil rights leader, daughter of a sharecropper family, large family, grew up poor, and became the leader of the Mississippi Democratic Party. She was a great leader, a poor person, a poor woman, and a great African-American leader.

He was saying yesterday that there are not any Senators who look like Fannie Lou Hamer. He was right. He went on to say that the truth is, this isn't an issue of corruption. This is an issue of representation—of whether there is inclusion or exclusion. The Fannie Lou Hamers of this country are going to be even less well represented when we become even more dependent on those fat cats who can make these huge contributions.

How is a woman such as Fannie Lou Hamer, a great woman, ever going to run? How about people who want to represent the Fannie Lou Hamers? How are they going to have a chance to run? They are going to be clobbered.

Democrats, don't get angry at me, but there are plenty of Democrats who will be able to raise the money. That is good. You will be able to get the two, or three, or four, or five, or six. I don't know what their final deal will be. You will be able to get those big contributions. But you will pay a price. Democrats, we will pay a price. We are paying that price. We will dilute our policy performance. We will trim down what we stand for. We will be more reluctant to take controversial positions on test economic issues. We will be less willing to challenge economic and political power in America today than we are already, and today we are not so willing to challenge that power.

This isn't just like statistics. And here is one proposal to raise the money, and here is another one, and now we have a compromise. This is about representation.

Spencer was right. Spencer Overton was right. Fannie Lou Hamers are not going to be well represented at all. I doubt whether hardly anybody who comes from those economic circumstances today and who take positions that are antithetical to economic and political power in America—I hate to argue conspiracy. I am just talking about the realities. Are they ever going to be able to run? I don't think they will be able to run. It is going to be very hard. If you are well known or an incumbent, you have a pretty good chance. That is good.

We get some great people here. We have the Presiding Officer. We have Senator KENNEDY. Senator DAYTON is here—people who have been well known for good reasons and who have accomplished a lot in their lives. The Chair has. People who have economic resources—Senator KENNEDY does, and Senator DAYTON does—care deeply about these issues. That is not my point.

My point is that as we rely more and more on the big contributors and the well oiled and the well heeled and the heavy hitters, all of us who are running are going to become more dependent on that money. The people who are going to have the most difficult time ever getting elected are going to be ordinary citizens, which I think means they are the best citizens. I mean that not in a pejorative way but in a positive way. They are not going to have a prayer. They are not going to have access to this money.

Let's not kid ourselves. If you believe the standard of a representative democracy is that each person should count as one, and no more than one, we have moved dangerously far away from that. I do not see how any kind of ''compromise,'' defined by the pattern of power right here in the Senate today, represents a step forward, where we now are going to say that those people who are the big givers are going to be able to give more and those people running for office are going to be more dependent on them.

I bet you, Madam Chair, that after this amendment or this compromise passes, that over 50 percent of the money that will be raised in the next election cycle—the cycle I am in—over 50 percent of the money that will be raised will be in these large contributions, raised from, again, about 1 percent of the population.

Now I ask you, how does that represent reform? How does that make

this a healthier representative democracy? I think it is a huge mistake. And, I, for one, am adamantly opposed and want to express my opposition.

I am not out on the floor to launch a filibuster, so I will yield the floor.

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 (Mr. CRAPO). Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, we expect the group that has been working on a compromise on the hard money contribution limit to come back to the floor at some point in the next hour or so. Rather than sit around and churn, it is agreeable to both sides for Senator DEWINE, who will have the next amendment after we finish the disposition of the Thompson and Feinstein matter, to go on and lay his amendment down, which he can set aside when those involved in the discussions come back to the floor. He can lay down his amendment and begin the discussion. I believe that is all right with the Senator from Connecticut.

Mr. DODD. Yes. What I suggest is that this requires unanimous consent as we go along.

I ask unanimous consent that the Senator from Ohio be recognized for a half hour for the purpose of offering his amendment and speaking on his amendment, and that at the hour of 3:30, the Senate would revert to a quorum call.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Ohio is recognized until the hour of 3:30.

AMENDMENT NO. 152

Mr. DEWINE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. HATCH, Mr. HUTCHINSON, Mr. BROWNBACK, and Mr. ROBERTS, proposes an amendment numbered 152.

(Purpose: To strike title II, including section 204 of such title, as added by the amendment proposed by Mr. Wellstone (Amendment No. 145)

Beginning on page 12, strike line 14 and all that follows through page 31, line 8.

Mr. DEWINE. Mr. President, this is a very simple amendment, which I will explain in just a moment. I offer it on behalf of myself, Senator HATCH, Senator HUTCHINSON from Arkansas, Senator BROWNBACK, and Senator ROBERTS.

Our amendment is very simple. It is a motion to strike title II, the Wellstone-Snowe-Jeffords provision from the underlying McCain-Feingold bill.

Mr. President, this amendment is necessary because title II draws an arbitrary and capricious and unconstitutional line—a line that abridges the first amendment rights of U.S. citizens. Under title II, citizens groups—and I emphasize that this is currently in the bill and unless our amendment is adopted, it will stay in the bill—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.

That is right, Mr. President, and Members of the Senate. It would be illegal for citizens of this country, at the most crucial time, when free speech matters the most, when political speech matters the most—that is, right before an election—this Congress would be saying, and the ''thought police'' would be saying, the ''political speech police'' would be saying that you cannot mention a candidate's name; you cannot criticize that candidate by name.

It silences the voices of the people. It silences them at a time when it is most important for those voices to be heard. It restricts citizens' ability to use the broadcast media to hold incumbents accountable for their voting records. It says essentially that the only people who have a right to the most effective form of political speech, the only people allowed to use television or radio to freely express an opinion or to take a stand on an issue when it counts, when it is within days of an election, are the candidates themselves and the news media. But under the way the bill is written now, not the people—just candidates and the news media. Everyone else would be silenced by this unconstitutional, arbitrary line.

Let's suppose for a minute that title II stays in the bill and it becomes law. Under this scenario, if you are a candidate running for Federal office and it is 60 days before the election, yes, you can go on the radio or the local television station and broadcast your message. If you are lucky enough to be Dan Rather, Tom Brokaw, or Peter Jennings, or the person who anchors the 6 o'clock news or 7 o'clock news in Dayton, OH; or in Steubenville, OH; or in Cleveland, you can also talk about the issues and candidates, and you can talk about them together. You can talk about the candidate's voting record.

But if you don't fall into either one of these two categories—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.

Title II of this bill makes that illegal. So if you would go in to buy an ad and say you want to criticize where the ad mentions the name of a candidate who is up for election within that 60-day period, the local broadcaster would have to turn to you and say, no, he cannot accept that. It is illegal because the U.S. Congress has said it is illegal.

Title II would make it illegal for citizens groups to take to the airwaves and even mention a political candidate by name. It would make it illegal to state something as simple as to tell the voters whether or not a candidate voted yes or no on an issue. It basically just throws the rights of citizens groups out of the political ring. It throws them right out of the ring. I believe that is wrong and I think it is also unconstitutional.

It represents a direct violation of the people's right to free political speech, the right guaranteed to us by the first amendment of the Bill of Rights in the Constitution of the United States of America.

The language in this bill picks the time when political speech is the most important and restricts who can use that political speech, and who can engage in that political speech.

Let me tell you an example from the real world. It is an example that could have involved me. I have been a proponent for something in Ohio we refer to as the Darby Refuge. It would be a wildlife refuge in central Ohio. I won't trouble or bother Members of the Senate now with the reasons why I have been a strong advocate for this, but I have been. I think it is the right thing to do.

There are also citizens in the State of Ohio who live in that area of the State who don't think it is such a good idea. They have exercised their first amendment rights time after time to explain to me and to other citizens in Ohio who are driving down the highway that it is not such a good idea, and that this proposed wildlife refuge is not the thing to do. We have seen signs up—and I think they are still up—which say ''No Darby, Dump DeWine.'' We have seen signs that say ''Get Mike DeWine Out of my Backyard.'' That was on a T-shirt. Other signs have been around also.

Obviously, I didn't particularly like the fact that these signs were there.

What was my response to people when they said, What about those signs? I tried to explain why I was for the Darby, but I also said: The first amendment is there; it is alive and well, and people are exercising their constitutional rights.

Let us suppose this citizens group—actually there are two formal citizens groups that oppose the Darby and have been very vocal about it. Let us suppose that within 60 days prior to the last November election—I was up for reelection last November —let us suppose they had put some money together, and let us suppose they went to the Columbus TV stations and the Dayton TV stations. Let us also suppose this title II was law.

Let us suppose they took their money and went to buy an ad, and what they wanted to talk about in that ad was why the refuge was a bad idea. Let us suppose also they wanted to convey another message, and that message was: Call Senator MIKE DEWINE

and tell him he is wrong. Call Senator MIKE DEWINE and tell him that you oppose the refuge and you think he should as well.

I would not have liked that. It probably would have irritated me. But they have a constitutional right to do that if they want to do it.

Under the bill as now written, they could not do that. The TV station in Dayton or the TV station in Columbus would have had to turn to them and say: Oh, no, you cannot say that; there are only certain things you can say. You can talk about the refuge being a bad idea, but you cannot mention MIKE DEWINE'S name.

That is when it would become apparent to these citizens that their first amendment rights were being abridged, and the person who ran the TV station, the general manager, would have had to tell them: Congress said you cannot run this type of ad. I submit that is wrong.

As much as those of us who have been in public office and who have faced tough elections do not like criticism, as much as sometimes we think political ads that attack us are unfair, as much as we sometimes think they distort, as much as sometimes we think they only tell half the story, that is just part of the political process. That is what the first amendment is all about.

The fact is that today in a State such as Ohio, my home State, if you want to reach the people of the State, there is really only one way to effectively do it, and that is the use of television. You have to be on the air, and you have to get your message across. That is true whether you are running for office and you are the candidate or whether you are a group of citizens who decide they want to convey a message, they feel strongly about an issue and want to link that issue with a person who is running for office. Today they can do that. The way the bill is now written, they cannot.

The fact is, given today's national political discourse in the modern age of technology, television and radio play the primary, if not the key, role in the spreading of political messages. The whole reason we use the names of candidates in political speech on television is to emphasize policy positions and alternative policy options. Doing so enables people to evaluate and support or criticize incumbents' voting records and their positions on issues. That is the basis, the very essence, of political speech and debate.

Messages about the candidates, about their voting records and their positions on the issues, speak louder and have a greater impact on voters than just generic issue ads about Social Security or about Medicare, tax cuts, or whatever is the issue of the day.

Constitutionally, we cannot deny citizens groups access to the most effective means of reaching the largest number of people for the least amount of money, and that is TV and radio. We cannot deny them the ability to communicate through television and radio during the time period most vital to deciding the outcome of an election, the time when they can have the most impact. We should not deny them a voice in the political debate, but, unfortunately, title II effectively does just that.

Ultimately, political speech is directly tied to electoral speech. We cannot escape that. We cannot escape, nor should we try to escape, the fact that our Constitution protects the rights of people to support or to criticize their Government or the people running for Federal office. The founders of this country recognized that. They knew from their own personal experience in forming this Nation that political speech is of the highest value, particularly during the election season, and it must be protected.

Given that, the last thing we should be doing is restricting 60 days before an election the people's right to get the word out to voters about the issues and about the candidates. Such a restriction is absurd. Such a restriction is wrong. Such a restriction is blatantly, certifiably unconstitutional.

I realize that criticism, very often part of political speech, makes incumbents uncomfortable. It makes us all uncomfortable. I know this. I have been there. Do I like to be criticized? No. Does anyone like to be criticized? No. Do we like to see our voting record picked apart? No.

The fact remains that no matter how much those in public office do not like to hear negative political speech, our Constitution protects that very speech. Federally elected officials are here to serve the people, and the people deserve the right to cheer us or to chastise us, particularly during an election campaign.

Are we, as Members of this body, becoming the political speech police? Are we becoming the guardians of incumbent protection? Are we so worried about tough criticism from outside groups, American citizens? Are we so concerned about what we consider to be unfairness and the potentially misleading nature of their message that we are willing to curtail their basic, constitutional, first amendment rights?

I hope not, and I hope we adopt this amendment and pull back from this infringement on people's constitutional rights. We all should be offended by the attempt to do that.

The fact is that the limits imposed by title II on political speech, limits on legitimate political discourse, debate, and discussion will hurt voters. The voters will have less opportunity to make informed choices in elections. It is the voters and the public who ultimately will lose.

Allow me to read directly from the Bill of Rights—and we are all familiar with it—amendment I:

> 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 peaceably to assemble, and to petition the Government for a redress of grievances.

I repeat, ''Congress shall make no law . . . abridging the freedom of speech. . . .''

These are very simple words, but they are some of the most powerful and certainly most important words in the Bill of Rights and in our Constitution.

I am certain that my colleagues in the Senate all realize our Founding Fathers, when crafting our Bill of Rights and our first amendment protections, had political speech—political speech specifically—in mind. They knew how important and vital and necessary free speech is to our political process and to the preservation of our democracy. They knew that democracy is stifled by muzzles and gags. They knew that free speech was necessary for our political system—our open, free political system—to function and, yes, to flourish. They knew that liberty without free speech is really not liberty at all.

We all understand that none of our rights is absolute. In fact, there are constitutionally acceptable limits on political speech. For example, the Supreme Court has ruled that the government has an interest in regulating political speech when there is a clear and present danger that the speech will result in the imminent likelihood of violence. Also, the Court has said that defamation laws apply to political candidates, so as to protect them from statements that are knowingly false. In such situations, the government has a compelling interest in restricting the speech. I ask my colleagues: What is the government's overriding and compelling interest in restricting core political speech 60 days or less from an election—at the time most crucial to the public's interest in hearing and learning about candidates and their positions and incumbents and their voting records? How will restricting the most important speech at the most important time further our election process and political system? It clearly will not.

The bottom line, Mr. President, is that core political speech is different from other forms of speech. It lies at the heart of the first amendment and deserves the highest—the utmost—level of protection. To that extent, I agree with Justice Thomas who said that political speech is the very speech that our founding fathers had in mind when actually drafting our Bill of Rights and our first amendment protection. Justice Thomas further argued that the key time for political speech is during campaigns. He wrote:

> The Founders sought to protect the rights of individuals to engage in political speech because a self-governing people depend upon the free exchange of political information. And that free exchange should receive the most protection when it matters the most—during campaigns for electrive office.

The Supreme Court, in Buckley v. Valeo, emphasized the importance of

protecting political speech. The Court wrote:

> The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution, it is not the government, but the people—individually, as citizens and candidates, and collectively, as associations and political committees—who must retain control over the quality and range of debate on public issues in a political campaign.

The Court was telling Congress, essentially, to stay out. It was saying don't diminish the first amendment rights of citizens and organizations to participate in political debate. Don't restrict the means by which the people of this nation make informed decisions about candidates running for federal office.

The fact is, Mr. President, in order to embrace the freedoms guaranteed by the first amendment, we must allow others to exercise those freedoms. Title II runs counter to that, and in the process, violates our Constitution.

Title II hugely undercuts the McCain-Feingold campaign finance reform bill. It has turned the campaign finance debate on its head. It has turned the debate into a clear struggle over the soul of the first amendment, and ultimately, the preservation of our democracy.

If we are to protect and preserve our democracy, we must allow the people to be heard. Voters cannot make informed decisions about candidates when political speech—when ideas and information about candidates—is restricted at the most pressing time. As voters, we make better decisions when there are more voices, more information, and more ideas on the table. Ideas competing with one another. That is the essence of democracy.

That is the basis for political debate and challenges to public policy.

That is the basis for how we make changes in our society—for how we make the world a better place. With all of the complexities of today's election laws and competing campaign finance reform plans, I think that Ralph Winter, the respected judge and former law professor, said it best when he noted that the greatest election reform ever conceived was the first amendment. He was right. Unfortunately, title II strikes at the first amendment by restricting the dissemination of information to voters and the open exchange of ideas that we so much treasure.

The exchange of those ideas, Mr. President—through core political speech, whether it's two years, two months, two weeks, or two days before an election—is a prerequisite for democratic governance. That is the basis of our Constitution. We in Congress have an obligation to protect that Constitution—to protect our first amendment and the free flow of ideas. That, after all, is the spirit—the essence—the foundation of our democracy.

What all of this means is simply this: If you are a citizens group, you are an American citizen, and you don't like what I am saying today or what this amendment does, or what my vote will be on final passage of this bill, under this bill, as currently written, you could not talk about any of this if it were right before a Federal election. You could not use the airways and the TV and radio to criticize me or to talk about this vote and to talk about this amendment. If we accept this, it will silence a citizen's ability to tell the public about our voting records.

What this language says is that we are afraid to let people tell the outside world what we do in the Senate. We can't do that. Rather, I believe we must protect the rights of the people. We must preserve our Constitution. We must not let that great Constitution, that great Bill of Rights, that first amendment be chipped away by efforts clearly aimed at protecting the self-interests of the incumbent political candidates. To do any less, as we change this, as we amend it, to do any less would fly in the face of our democracy and the American people whom we are here to serve.

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

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

Mr. DOMENICI. I ask unanimous consent I may proceed as in morning business for 2 minutes.

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

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 638 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

Mr. DODD. Mr. President, I now suggest a period of, say, 15 minutes for general discussion on an agreement that has been reached between Senator THOMPSON and Senator FEINSTEIN. On the purpose of that discussion, why don't I yield to Senator THOMPSON of Tennessee to begin the discussion and then Senator FEINSTEIN as time permits, as far as this agreement, or others who may want to talk about it. My hope would then be we would have legislative language which would include this compromise which we would be able to offer as a modification of the Thompson amendment, and a vote to occur thereon shortly after the debate is concluded.

The PRESIDING OFFICER. Does the Senator have a unanimous consent request?

Mr. DODD. No. We are just going to proceed in this regard.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I think the Senator from Connecticut is correct. Senator FEINSTEIN and others and I have been meeting, talking about how we might come together for a unified modification of my amendment. As this body knows, my amendment was not tabled. Senator FEINSTEIN's amendment was not tabled. That was the basis for our discussion.

We acknowledge readily that it was certainly appropriate to increase the hard money limits in certain important categories.

We had a full discussion of those categories of concerns and desires on either side.

Pending the language and subject to comments of my distinguished colleague from California, I would like to basically outline the highlights of the crucial elements of this modification.

The individual limitation to candidates, which now stands at $1,000, will be increased to $2,000 and indexed. The PAC limitation of $5,000 under current law stays at $5,000. The State local party committees, which is now $5,000 a calendar year under current law, will go to $10,000 per year. The contribution to national parties, which under current law is limited to $20,000 a year, will go to $25,000 a year and be indexed at the base.

The aggregate limit, which is now $25,000 per calendar year under current law, will go to $37,500 a year and be similarly indexed.

We will double the amount that national party committees can give to candidates from $17,500 to $35,000 and be similarly indexed.

A part of our agreement also has to do with the amendment originally from Senator SCHUMER, that was later incorporated into the Feinstein amendment, having to do with the 441 situation he described pending the Supreme Court decision in the Colorado case; that we expect a part of our agreement with regard to this modification is that it will not be a part of this Thompson-Feinstein modification but will get a vote separately shortly after the vote on this.

I believe that basically outlines the major provisions of the agreement.

I relinquish the floor and ask my distinguished colleague from California to make any statement she cares to.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you very much, Mr. President. I thank the Senator from Tennessee, the Senator from Wisconsin, the Senator from Arizona, the Senator from Connecticut, the senior Senator from Mississippi, as well as

the senior Senator from New York—all who participated in this negotiation.

Essentially the question was around whether we could bring enough people together to settle what is a question that has become a major problem; that is, how do we account for inflation in hard money because it is likely we will not address this issue for another 20 or 30 or 40 years. Therefore, this is a bill that has to stand the test of time.

Many of us are deeply concerned that once you restrict soft money in campaigns and in parties, you create an opportunity for this soft money to go into the issue of advocacy of independent campaigns. It is undisclosed. It is unregulated. So what we want to try to avoid as much as we can is a transfer of millions of dollars of soft money from campaigns into millions of dollars of soft money into independent campaigns.

The way we do this is by trying to find a modest vehicle by which we can come together and agree on how much an individual contribution limit should be raised. I am very pleased to say that contribution limit in the bipartisan agreement is $2,000. That $2,000 would be indexed, as will the other indexes I will speak about in a moment, for inflation from a baseline that is provided for in the statute.

We came to agreement on the PACs—that PACs should remain the same; they should not be increased in amounts; they should remain at $5,000 a calendar year.

We came to agreement on continuing State and local parties at the same amount as McCain-Feingold—$10,000. That was clear in the Thompson amendment, the Feinstein amendment, as well as the McCain-Feingold bill.

Also, where we had the major discussion—I say a difference of viewpoint—was on the aggregate limit and the national party committees.

The people who were negotiating are people who wanted to see a bill. And it was very difficult because each of our proposals was at the outer limits of our own political party. So it was very difficult to find a way to move forward.

We did, however, in the Thompson amendment, which had $50,000 per calendar year for the aggregate limit, and it was agreed that we would drop that to $37,500 per year for the aggregate limit and that we would drop out of that the split I had proposed earlier in my statement.

With respect to national parties, that would go from $20,000—just by $5,000 a year—to $25,000.

Additionally, there are four things in this bill that are indexed. Again, the indexing is not compounded. It goes to the baseline in the statute for the candidate, for the national party per year amount, and for the aggregate amount.

Also, there is a provision in Thompson we agreed to which would double the amount that national parties can give to candidates from $17,500 to $35,000. That would be indexed on the same baseline formula as the other items.

In my view, and I hope in Senator THOMPSON's view, this gives us an opportunity to meet the future and to see that there is a modest increase. It is not a tripling of the individual limit. It is simply increasing it from $1,000 to $2,000 and then indexing it to inflation, but that there is a the basis now, we hope, where both sides can come together and vote for this bill.

I, for one, happen to think the indexing is healthy. I think it gives us an opportunity that we don't come back again, to reopen the bill, but that we live by the bill as it is finally adopted.

I really thank the Senator from Mississippi who began this fight with me. I thank the Senator from Tennessee for our ability to sit down together and have a turkey sandwich and also come to this agreement. I think it is a very important step forward for the bill.

I thank the Senators from Wisconsin and Arizona for their persistence in moving this bill along.

I yield the floor.

May I ask if the modification is available?

Mr. DODD. As my colleague spoke, an angel brought it. The modification has arrived.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. 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 (Mr. COCHRAN). Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. MCCONNELL. Mr. President, under the provisions of the consent agreement, with the concurrence of Senator FEINSTEIN, myself, and Senator DODD, Senator THOMPSON will now send a modification to the desk.

In addition, I ask unanimous consent that the Feinstein amendment be withdrawn and there now be 30 minutes of debate equally divided in the usual form prior to the vote on the Thompson amendment, as modified, with no amendments in order to the amendment. I further ask consent that following the vote, the pending DeWine amendment be set aside, Senator SCHUMER be recognized to offer an amendment, and there be 60 minutes equally divided in the usual form. Finally, I ask consent that following the use or yielding back of the time, the Senate proceed to a vote on the Schumer amendment, with no amendments in order to the amendment.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The amendment (No. 151), as modified, was withdrawn.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, it is my intention to send a modification to the desk very shortly. It might take a couple moments.

Mr. DODD. To save a little time, if my colleague would yield, Mr. President, I have been looking at a couple drafting notes from legislative counsel. I have spoken on numerous occasions over the last several days of my concerns of raising the hard dollar limits that individuals may contribute on the theory that I do not think there is too little money in politics, on the contrary, I think there is too much money. We are shutting down the door of soft money. Fine, as it should be. However, my concern is that we are also banging open the back door with hard dollars amounts. To the average citizen in this country, there is no distinction between hard and soft money. We make the distinction for the reasons we are all aware of. What I believe is people are sort of disgusted with the volume and amount of money in politics. This agreement is one I am going to support. I do so reluctantly. However, I support the underlying McCain-Feingold bill. I think it is very important that we take steps forward to change the present campaign finance system. I regret we are adding to the hard dollar limits on contributions that individuals can make to candidates, national political parties, and overall aggregate annual limit.

I come from a small State. I represent a State of 3.5 million people. My colleague from California represents a State 10 times that size. I recognize that there are distinctions between these States. For example, campaigning is far more costly in California than it is in a State such as my own. I accept there needs to be some increase.

The modification Senator THOMPSON graciously worked out with Senator FEINSTEIN exceeds what I would do. It is certainly less than what was offered by our colleague from Nebraska, Senator HAGEL. It was less than what others wanted as well. It reduces substantially the aggregate amounts that were originally being offered at $75,000 per year or $150,000 a couple, down to $37,500 per calendar year. That still is too much, in my view, but it is a lot less than it otherwise could have been.

There are some other changes dealing with individual contributions to State and local party committees and the national parties. However, the PAC limits remained the same. We provided indexing for inflation. Again, this is something I have reservations about. I recognize that in any legislative body, if you are trying to put together a bill where 100 different people have something to say about it, and you have to produce 51 votes, then you are going to have to give up something if you are going to accomplish the overall goal.

My overall goal has been for years to get McCain-Feingold adopted into law. However, it was not a goal I was going to accept regardless of what was in the bill. Had we gone beyond these individual contribution limits we had

agreed to in these modifications, I would have had a very difficult time supporting the McCain-Feingold bill.

I will support McCain-Feingold. I urge my colleagues to do so. We have other amendments to address on both sides. The Members have ideas they want to add to this bill. In my view, this is a worthwhile effort. I commend my colleague from Tennessee—he is a noble warrior, a good fighter and debater, and a good negotiator—and our colleague from California who likewise has championed a good cause. I thank RUSS FEINGOLD and JOHN MCCAIN. I know this goes beyond even what they would like to do. We recognize we can't do everything exactly as we would like to do it. I believe this modification still is within the realm of the McCain-Feingold restrictions. For those reasons, I will support the bill.

AMENDMENT NO. 149, AS MODIFIED

The PRESIDING OFFICER (Mr. BROWNBACK). Under the previous order, the Senator from Tennessee has the floor to send the modification to the desk.

Mr. THOMPSON. Mr. President, the modification has been sent to the desk.

The PRESIDING OFFICER. Under the previous order and without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 37, after line 14, insert the following:

SEC. . MODIFICATION OF CONTRIBUTION LIMITS.

(a) INCREASE IN INDIVIDUAL LIMITS.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (A), by striking ''$1,000'' and inserting ''$2,000''; and

(2) in subparagraph (B), by striking ''$20,000'' and inserting ''$25,000''.

(b) INCREASE IN AGGREGATE INDIVIDUAL LIMIT.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)), as amended by section 102(b), is amended by striking ''$30,000'' and inserting ''$37,500''.

(c) INCREASE IN SENATORIAL CAMPAIGN COMMITTEE LIMIT.—Section 315(h) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(h)) is amended by striking ''$17,500'' and inserting ''$35,000''.

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

(1) in paragraph (1)—

(A) by striking the second and third sentences;

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

(C) by adding at the end the following:

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

''(i) a limitation established by subsections (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

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

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

''(C) In the case of limitations under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h) increases shall only be made in odd-numbered years and such increases shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election.''; and

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

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

''(ii) for purposes of subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h) calendar year 2001''.

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

Mr. THOMPSON. I yield 5 minutes to the Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I, too, commend the Senator from Tennessee. I would love to have gone further to really provide full indexation for the limits that were established in 1974, 26 years ago, and were thought to be appropriate at that time. But any increase in hard money limits is a step in the right direction.

To give you an idea of what the world without soft money is going to look like for our national parties, we took a look at the 2000 cycle, the cycle just completed, and made an assumption that the party committees would have had to operate in 100 percent hard dollars, which is the way they will have to operate 30 days after this bill becomes law. The Republican National Committee would have had 37 million net hard dollars to spend had we converted the last cycle to 100 percent hard dollars. Under the current system, they had 75 million net hard dollars to spend. So the Republican National Committee would go from 75 million net hard dollars that it had to spend last cycle down to $37 million.

The Democratic National Committee, in a 100-percent hard money world, last cycle, would have had 20 million net hard dollars to spend on candidates. In fact, it had $48 million under the current system. So the Democratic National Committee would go from 48 million net hard dollars down to 20 million net hard dollars, if you convert the last cycle into a 100-percent hard money world.

Finally, let me take a look at the two senatorial committees. The Republican Senatorial Committee last cycle under the current system had 14 million net hard dollars to spend on behalf of candidates. In a 100-percent hard money world, they would have had about 1.2 million net hard dollars to spend for candidates. Our colleagues on the other side of the aisle, the Democratic Senatorial Committee, in the current system had 6 million net hard dollars to spend on their candidates. In a 100-percent hard money world, they would have had 800,000 hard dollars to have spent on all of their 33 candidates.

The one thing that is not in debate, there is no discussion about it, this is going to create a remarkable, a huge shortage of dollars for the party committees. At least the Senator from Tennessee is trying, through negotiating an increase in the hard money limits for parties and providing indexation, to help compensate for some of this dramatic loss of funds that all of the party committees are going to experience 30 days after this bill becomes law.

I thank the Senator from Tennessee for the effort he made. I wish we could have done more. I hear there are plenty on the other side who wish we would have done less. This is at least a step in the right direction.

We are going to have a massive shortage of funds in all of the national party committees to help our candidates. It is going to be a real scramble. Hopefully, this will help a bit make up at least a fraction of what is going to be lost on both sides that will be available for candidate support.

I intend to support the amendment of the Senator from Tennessee.

Mr. THOMPSON. Mr. President, do I control the time?

The PRESIDING OFFICER. The Senator controls 11½ minutes.

Mr. THOMPSON. I ask the Senator from Arizona if he wishes to be heard at this time.

Mr. MCCAIN. One minute.

Mr. THOMPSON. I yield 1 minute to the Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to take a minute to thank Senator FEINSTEIN and Senator THOMPSON. I have been privileged to see negotiations and discussions between people of good faith and a common purpose. I was privileged to observe that in the case of Senator THOMPSON and Senator FEINSTEIN. The Senator from Oklahoma, Mr. NICKLES, was very important, as was the Senator from Michigan, Mr. LEVIN, as well as Senator HAGEL of Nebraska and others, as well as the Senator from New York, Mr. SCHUMER. I know I am forgetting someone in this depiction.

I am proud that people compromised without betraying principle to come to a common ground so we can advance the cause of this effort. I express my deep and sincere appreciation to those Senators who made this happen, as well as our loyal staffs.

Mr. THOMPSON. Mr. President, I yield 2 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senators who took the lead in the negotiations, especially the Senator from Tennessee who, again, has had so much to do with this reform, and the Senator from California. They were extremely skilled at bringing us together. I thank Senator MCCAIN, Senator COCHRAN, who was part of the effort, Senator FEINSTEIN, Senators DODD, LEVIN, SCHUMER, of course, Senators REID and DASCHLE, Senators NICKLES and HAGEL, who were all involved.

I join in the remarks of the Senator from Connecticut. This particular

amendment doesn't move in the direction that fits my philosophy. I believe we should stay where the levels are, as do many of my Democratic colleagues. I very regretfully came to the conclusion that we had to do it. I realized if we are going to get at the No. 1 problem in our system today, the loophole that has swallowed the whole system, as Senator THOMPSON has said, we had to make this move.

I am grateful that we were able to keep the individual limit increase to a reasonable level. Although I would prefer that it not be indexed, I will note, at least we won't have to hear anymore that it isn't indexed for inflation because it is. So the next time Senators have to deal with this issue 20 years from now or 30 years from now, at least that very troubling and persistent argument will not be there.

I thank all my colleagues and look forward to the vote on the amendment.

Mr. THOMPSON. How much time is remaining?

The PRESIDING OFFICER. The Senator from Tennessee controls 8 minutes 45 seconds. The Senator from Connecticut controls 11 minutes 30 seconds.

Mr. DODD. Mr. President, I don't know of any other requests to speak. I think people are familiar with this issue. Does my colleague from California wish to be heard?

Mrs. FEINSTEIN. I think I have said what I needed to say. Maybe we can concede the rest of our time and have a vote.

Mr. DODD. I am prepared to yield back our time and go to a vote. We have other amendments on this side. There are several over there. We have to keep things going.

Mr. THOMPSON. I am prepared to yield back our time.

Mr. DODD. We yield back our time.

Mr. THOMPSON. Have the yeas and nays been ordered?

The PRESIDING OFFICER. Yes, the yeas and nays have been ordered.

Mr. THOMPSON. I suggest that we proceed to a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee, Mr. THOMPSON, No. 149 as modified.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 84, nays 16, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—84

Akaka	Byrd	Craig
Allard	Campbell	Crapo
Allen	Cantwell	Daschle
Bayh	Carnahan	Dayton
Bennett	Carper	DeWine
Bingaman	Chafee	Dodd
Bond	Cleland	Domenici
Breaux	Clinton	Durbin
Brownback	Cochran	Edwards
Bunning	Collins	Ensign
Burns	Corzine	Enzi
Feingold	Kohl	Roberts
Feinstein	Kyl	Rockefeller
Fitzgerald	Landrieu	Santorum
Frist	Leahy	Schumer
Graham	Levin	Sessions
Gramm	Lieberman	Shelby
Grassley	Lincoln	Smith (NH)
Gregg	Lott	Smith (OR)
Hagel	Lugar	Snowe
Hatch	McCain	Specter
Helms	McConnell	Stevens
Hutchinson	Mikulski	Thomas
Hutchison	Murkowski	Thompson
Inhofe	Nelson (FL)	Thurmond
Inouye	Nelson (NE)	Torricelli
Jeffords	Nickles	Voinovich
Kennedy	Reid	Warner

NAYS—16

Baucus	Hollings	Sarbanes
Biden	Johnson	Stabenow
Boxer	Kerry	Wellstone
Conrad	Miller	Wyden
Dorgan	Murray	
Harkin	Reed	

The amendment (No. 149), as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, again on the wings of angels, the Senator from New York has arrived.

The PRESIDING OFFICER. The Senator from New York is recognized to offer an amendment.

AMENDMENT NO. 135

Mr. SCHUMER. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 135.

Mr. SCHUMER. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding the need for Congress to consider and enact legislation during the 1st session of the 107th Congress to study matters related to voting in and administering Federal elections and to provide resources to States and localities to improve their administration of elections)

On page 37, between lines 14 and 15, insert the following:

SEC. 305. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the right to vote is fundamental under the United States Constitution;

(2) all Americans should be able to vote unimpeded by antiquated technology, administrative difficulties, or other undue barriers;

(3) States and localities have shown great interest in modernizing their voting and election systems, but require financial assistance from the Federal Government;

(4) more than one Standing Committee of the Senate is in the course of holding hearings on the subject of election reform; and

(5) election reform is not ready for consideration in the context of the current debate concerning campaign finance reform, but requires additional attention from committees before consideration by the full Senate.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate should schedule election reform legislation for floor debate not later than June 29, 2001.

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

Mr. SCHUMER. How much time do I have, Mr. President?

The PRESIDING OFFICER. Under the previous order, the two sides have 30 minutes each to debate the amendment.

Mr. SCHUMER. Mr. President, I am here to urge my colleagues to support an amendment that is of great importance to the future of McCain-Feingold and to the bill in general that we are debating, particularly in light of the fact we have just raised hard money limits. Let me explain to my colleagues what this is all about.

Mr. President, may we have order.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New York.

Mr. SCHUMER. Mr. President, can I suspend for a minute? I believe they have read the wrong amendment at the desk.

I ask unanimous consent the previous amendment be withdrawn.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 135) was withdrawn.

AMENDMENT NO. 153

Mr. SCHUMER. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 153.

Mr. SCHUMER. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To condition the availability of television media rates for national committees of political parties on the adherence of those committees to existing coordinated spending limits)

On page 37, between lines 14 and 15, insert the following:

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

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

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

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

(2) by adding at the end the following:

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

''(i) RATE CONDITIONED ON VOLUNTARY ADHERENCE TO EXPENDITURE LIMITS.—If the limits on expenditures under section 315(d)(3) of the Federal Election Campaign Act of 1971 are held to be invalid by the Supreme Court of the United States, then no television broadcast station, or provider of cable or satellite television service, shall be required to charge a national committee of a political party the lowest charge of the station described in paragraph (1) after the date of the Supreme Court holding unless the national committee of a political party certifies to the Federal Election Commission that the committee, and each State committee of

that political party of each State in which the advertisement is televised, will adhere to the expenditure limits, for the calendar year in which the general election to which the expenditure relates occurs, that would apply under such section as in effect on January 1, 2001.

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

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

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

(c) SEVERABILITY.—If this section is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendments to any person or circumstance, shall not be affected by the holding.

Mr. SCHUMER. Mr. President, this amendment is vital to the effectiveness of McCain-Feingold, particularly in light of the increase in hard money limits which we have passed by a large margin in the Thompson-Feinstein amendment. It is necessary because of an impending Court decision. The Supreme Court has already heard the case and is about to issue a decision related to the 441(a)(d) limits.

Let me first explain what the 441(a)(d) limits are, what the Court case is, what it does, and why it is so important. As we all know, there are 441(a)(d) limits, whereby a national party—in this case the Democratic Senatorial Campaign Committee or the National Republican Senatorial Committee—can contribute a certain amount of money directly to a candidate. There is complete coordination allowed between the party and the candidate by the recent Supreme Court decision. That amount of money is limited by the amount of voters in the State. It is 2 cents a voter, so it runs from a high of over $2 million in California, $1.8 million in my State of New York, down to a low in the State of Wyoming and places such as that, probably no more than a couple of hundred thousand dollars.

The case before the Supreme Court, which is called FEC v. Colorado Republican Federal Campaign Committee, has been argued. There it has been argued that those limits should be lifted, that there should be no limit as to the amount of money a national party organization can give to a candidate for the Senate or for the House.

What this would do, if the Court should rule favorably and uphold the lower court, is very simple. It would allow parties to go around and raise money in large, large amounts. After the Feinstein amendment that has passed, that would be $25,000 a year or $150,000 per 6-year Senate cycle. And then with complete coordination, the party could give that money to any particular candidate.

The consequences are obvious. The $1,000 or $2,000 limit that we now have would become much less important and large donors could contribute, through the national parties, obscenely large amounts of money to candidates. In effect, the Court decision would, if the 441(a)(d) limits were lifted, pull the rug out from under McCain-Feingold, all the more so because of the increase we have made in hard money limits.

You can call it hard, you can call it soft—it is large. The whole purpose of getting rid of soft money was not that it was soft, per se, but rather it was so large that it was unlimited. Imagine, after passing McCain-Feingold and having it signed into law—which I hope will happen—that the Supreme Court could make that ruling and then we basically go right back to the old days, where large contributions governed. That, in my judgment, would be a serious error on our part. That, in my judgment, would so undermine McCain-Feingold that we would have to be back here next year changing the law again.

I have heard colleague after colleague say we will not come back for 20 years. If the Court rules in favor of Colorado Republican Federal Campaign Committee, which most of those who have looked at the case believe they will, we will not be back here in 20 years; we may be back here in 20 months.

The amendment I have offered tries to ameliorate these conditions. In all candor, it does not eliminate them, but it does make them better. It does it very simply by saying, if a candidate should wish to go above the 441(a)(d) limit, the 2 cents per voter in his or her State, they cannot take advantage of the low-rate television time that is now offered in McCain-Feingold.

It is an incentive as many other incentives—to have candidates abide by limits. Again, could a candidate still violate those limits? Yes. They would just pay a lot more for their television advertising, which of course is the No. 1 expenditure in just about every hotly contested race.

Some have brought up the issue of constitutionality. Others have asked: Why are we legislating this at the time when we do not even know how the Court will rule? In answer to the second question, this amendment has no effect if the Court rules to keep the 441(a)(d) limits. No one can go over them and the mandatory limit will be held as constitutional. That is just fine. This amendment is designed to deal with the advent, the likely advent that the Supreme Court does rule. If we should fail to pass this amendment, which I know is subject to heated debate—the parties feel quite differently about this and I expect the vote will be very close, but if we should fail to pass it, I would say on the individual side, not on the corporate and labor side, 80 percent, 90 percent of McCain-Feingold will be undone.

It will allow a couple to give, through the party, $300,000 to a Senate candidate. It is true, of course, that the party cannot solicit them and say that we will, for sure, contractually almost, give the money to that candidate. But they can do virtually everything but. It would also allow a party to go to someone and say: Give us $100,000 over the next few years and we will give $25,000 to our four toughest races.

The whole idea of McCain-Feingold to stick to the $1,000 and the $2,000, or now the $2,000 and $4,000 limits, would be undone, again constitutionality, which seems to be the major argument against this.

In the amendment is the severability clause, and in that severability clause we say, of course, if this is thrown out, it will not affect the rest of the McCain-Feingold bill. Some say that is not necessary. But we put it in there just to deal with anyone who was not satisfied with the general language in the bill.

Second, on constitutionality, the courts have ruled repeatedly that voluntary limits may be placed on speech to further other goals.

The underlying case is Buckley v. Valeo which said that a government benefit can be conditioned on a candidate's voluntary agreement to forego other sources of funding. The $1,000 limit on Buckley v. Valeo is very simple. It has been in existence and upheld and would apply in this case.

Another case in 1979 where the Presidential limits were challenged is also applicable. It is called RNC, the Republican National Committee, versus the FEC. I believe it is a 1979 case before the Supreme Court. There again it was stated that in return for limits on campaign contributions—in this case, the Presidential limits, which every Presidential candidate until George Bush of this year abided by—the government could confer benefit, in this case money.

The only difference with what we are doing is instead of providing money to benefit, they are providing low television rates, which is in a sense money.

It is perfectly clear, and it has been repeated by the courts, that a voluntary limit on speech in exchange for another benefit that helps further that same goal is constitutional.

I know some have seen the Colorado case. If they bring it up, I will rebut it.

But I want to conclude before I yield my time by pleading with my colleagues to support this amendment. I salute all those of us who have worked on McCain-Feingold. I salute both the Senator from Arizona and the Senator

from Wisconsin for their leadership, the Senator from Kentucky, and the Senator from Connecticut for conducting this debate in a fair, admirable, and open fashion, and all the others who have worked on this issue.

Everyone sort of had a vested interest in seeing that this amendment passes. I would like to see it pass. But it would be a shame if we pass the amendment only to see it undone in large part 3 months from now. It would increase the cynicism of the public. It would increase for thousands of us who believe in reform the view that nothing could be done, and it would make it harder to continue reform. It would be close to a tragedy.

After all the work done by so many, if the 441(a)(d) limits were lifted and hard money could cascade into candidacies just the way soft money does now, we would be making a major mistake.

I urge my colleagues to support this amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, last week Senator SCHUMER stated that the Supreme Court's decision in FEC v. Colorado Republican Federal Campaign Committee could deluge the system with unlimited amounts of money raised in enormous amounts through the national parties for specified campaigns.

This statement was false.

As Senator SCHUMER recognized, the Colorado case is about coordinated party expenditures by the national committees on behalf of House and Senate candidates.

The FECA has a formula to calculate these limits based on the size of the state which ranged from $135,000 in Montana to $3,200,000 in California in 2000.

Senator SCHUMER'S attempt to portray these expenditures as soft dollar contributions is false. Coordinated party expenditure always have been, and always will be 100 percent hard money.

The hard money limits to the national committees which were set in 1974 are $20,000 per year for an individual and $15,000 per year from a PAC.

The coordinated party limits at issue in the Colorado case are the last vestige of spending limits in FECA.

In 1976 the Supreme Court in Buckley struck down expenditure limits on candidates and their committees and limits on independent expenditures.

In 1996 the Supreme Court in Colorado I ruled that party committee's can make independent expenditures, in addition to coordinated expenditures. (See sec. 213 of S. 27) The Court remanded the question of the coordinated limits back to the district court which became the Colorado case pending before the court today.

If the Supreme Court strikes down the coordinated party limits in the Colorado case, the only impact is that national parties will be able to spend unlimited amounts on behalf of their candidates.

However, these expenditures must still be all hard dollars, raised under the limits of FECA.

As for concern that striking these limits will lead to enormous amounts of party money going into the system, I would point out that in the 2000 cycle, Republican parties spent $28,000,000 on all coordinated expenditures and Democratic parties spent $20,000,000. This is the total for all races—Presidential, Senatorial and Congressional—470 races nation-wide.

Senator SCHUMER also presented a scenario where national parties are a mere pass-through for candidates.

This is false for soft dollars.

For hard dollars it is called earmarking.

Current law permits donors to earmark contributions through national party committees directly to be used on a specific candidate's behalf. However, it is subject to the $1,000 contribution limit.

For example, if a donor gives $1,000 to the RNC and directs it to a specific candidate, the $1,000 is a contribution to the candidate.

However, if a donor gives $20,000 to the DSCC and directs it to be spent on behalf of a specific candidate, it is a $20,000 contribution to that candidate—a violation of the contribution limits under FECA.

This has been tried before and squarely rejected.

In 1995 the DSCC paid the largest civil fine ever by a national committee for engaging in this type of activity.

In that case the DSCC and democratic Senate candidates were raising large amounts of money into the DSCC to be ''tallied'' for use on that candidate's behalf. These contributions were earmarks and exceeded the contribution limits to candidates.

The DSCC was fined $75,000, forced to end that tally program and was and is required to include specific language on all solicitations clarifying that money raised into the DSCC is spent ''as the Committee determines within its sole discretion.''

To be clear, coordinated expenditures are made with all hard dollars given to the party committees and cannot be restricted for use on specific candidates.

So there is simply no legal way to circumvent that law. The constitutional problem with the Schumer amendment is that if the Supreme Court strikes down the coordinated limit as unconstitutional, then the Schumer provision will require parties to continue to abide by an unconstitutional limit in order to get the lowest unit rate.

This is a classic unconstitutional condition and would make the whole bill further subject to problems in Court.

I hope the Schumer amendment will not be approved.

It is my understanding that there is a desire on both sides to have a quick vote. Is that correct?

Mr. DODD. Yes. If I may, Mr. President, let me respond to my colleague from Kentucky by saying that this amendment has been debated and discussed. The Senator from New York has, I know, at on least three different occasions explained this amendment and the value of it.

I think we have had a pretty good debate. I recommend to my friend and colleague from Kentucky that we have a vote on or in relationship to the Schumer amendment at 5:20.

I believe there is a meeting for some of our colleagues at the White House at around 5:30. My hope would be we might have this vote before that meeting occurred. That would give those who would like to be heard on this amendment some time to come to the floor and to express their views on this.

Mr. MCCONNELL. I say to my colleague from Connecticut, it would be helpful if it were even a little bit earlier, at 5:10 or 5:15.

Mr. DODD. We can do that. I will try to accommodate you on that. The message has gone out. Why don't I take a few minutes myself. Certainly my colleague from New York should have 5 minutes or so to respond to some of the arguments made.

Let me say in relation to this amendment, the Senator from New York, as he has done characteristically throughout his public career—certainly as long as I have known him as a Member of the other body and as a new Member of this body—has literally discovered, in a sense, what could be the new soft money loophole if we do not deal with this.

I say to my colleagues, for those who care about McCain-Feingold, care about what we are trying to do on soft money, as almost every legal expert in the country who is knowledgeable about campaign finance laws has predicted will be the Supreme Court decision in the Colorado case II. The section 441(a)(d) coordinated expenditure limits will be held unconstitutional by a majority of the Supreme Court in the Colorado II case. The practical results is that when spending limits on the national parties are removed from the hard dollar cap, then the parties can contribute to Federal candidates, directly or indirectly, with unlimited sums of money. If I have misspoken here, my colleague from New York will correct me. I believe this summarizes the sum and substance we believe is about to happen. If, of course, the Supreme Court goes the other way and rule the section 441(a)(d) limits constitutional, then this amendment has no effect. But if the coordinated spending limits are overturned, as the Senator from New York has predicted, and as others have suggested, we will not be obligated to return to this subject matter. Knowing how painful it is to spend as many days as we have already talking about campaign finance issues, it could well be another 25 years before we would come back to this subject matter.

In the meantime, we could have a Supreme Court decision that would blow open the doors for hard money, or the new soft money loophole, having spent all these days working to shut down the existing soft money loophole and limiting the hard dollar contributions in order to slow down the money chase.

Let me quickly add, again, I voted for the Thompson modified amendment. I did so reluctantly. I disagree with the notion that we had to increase these hard dollar limits of individual contributors by as much as the Thompson modification allowed.

Now to reject the Schumer amendment, and by doing so allow unlimited hard dollar contributions would fly right in the face of everything a majority of us have spent the last 10 days working to accomplish. We have improved, in my view, the McCain-Feingold bill. It is a better bill in many ways than it was when it came to the floor a week and a half ago.

If we now reject this amendment, in light of what is clearly going to happen in the court, we will undo much of what we have done, not only over this past week and a half, but what Senator MCCAIN and Senator FEINGOLD have achieved, along with those of us who have sponsored or cosponsored their efforts over the past several years.

So I urge my colleagues to take a close look at this. Try to understand what the Senator from New York is saying here. He is saying if, in fact, the coordinated party expenditure limits are ruled unconstitutional, then we need to provide a voluntary mechanism for how such limitations may be dealt with. He does it in a way that tracks the two Supreme Court decisions in the Colorado Republican cases and on first amendment issues very successfully. Having read these decisions carefully, he has now crafted a proposal that is directly in sync with these decisions, including the projected decision in Colorado II, where nexus has to occur between the activities and there is no mandatory requirement attached.

While I am not an expert in this area of the constitution, but based on what I have read, if you meet the two criteria I suggested, then your proposal can pass constitutional muster. I think it is our collective judgment to move forward in this area.

Last week we passed an amendment that would prohibit millionaires from running against us incumbents. We allowed the hard dollar contributions to immediately go up if someone out there challenges us. If the challenger suggests he or she might spend half a million dollars of their own money against us, then the trigger threshold comes into play. I voted against it because I thought it was a ludicrous amendment. But, if you felt comfortable that amendment was adopted and you are protected from the personal wealth of challengers, then don't start breathing a sigh of relief now. The millionaire amendment is here. I would pause before I would enjoy the sense of security. If this amendment is rejected, then you could face million-dollar contributions going to your opponent if, in fact, the Supreme Court does what many think it will do, and strike down the spending limits.

So, again, whether you are a proponent or opponent of McCain-Feingold, I think you ought to support this amendment. None of us here—nor any challenger—should face the possibility of watching almost unlimited contributions come through national or State parties to fund these races without any restrictions at all. Particularly after a majority of us—a significant majority of us—believe there should be some limitations, some slowing down of a process here the amount of money is getting out of hand.

With that, Mr. President, I see my colleague from Michigan who has been eloquent on this subject matter and understands it almost as well as the Senator from New York and certainly far more than the Senator from Connecticut. So I would be happy to yield to him 2 or 3 minutes to correct any mistakes I may have made in describing what this amendment does and how it works.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my good friend from Connecticut. I wish I could come close to him in terms of knowledge of this subject, or my friend from New York.

I just want to very briefly say one thing. We have been guided so far, a majority of us, by a principle; and that principle is, there should be limits. That is what this debate is all about. We have limits on individual contributions. We have now decided what those limits would be. We have limits on PAC contributions, limits to PACs, limits to State and party committees, limits on national party committees, and aggregate limits.

What this debate is about is restoring limits to campaign contributions. Without McCain-Feingold, or a variant thereof, we have the status quo: Unlimited contributions to campaigns. Despite the fact that our law—our law—says there should be limits, there has been a loophole created which has destroyed that law—destroyed the limits—and we have seen the result.

There is one potential loophole left. That is the loophole which the Senator from New York and the Senator from Connecticut have identified. That loophole is, assuming the Supreme Court finds as many think is likely they will find, the amount of money which could be contributed to a candidate by a political party would be unlimited. Without this kind of an effort to set some kind of limit on those contributions, it seems to me we would be violating the very principle that has guided the majority of us in this debate so far.

So I hope we will not give up on that principle. I hope we will be guided by that principle—the principle of the restoration of limits, the preservation of limits, the protection of some limits—because the unlimited amounts of money which have come into these campaigns, it seems to me, have degraded the process, and degraded all of us in the process.

So I commend our good friend from New York for identifying this problem. I hope this will be a bipartisan vote of support, to basically do what the law already intends to do, to set limits on the contributions of parties to candidates. That is in the current law. There is a formula that we are simply trying to protect in the event that the Supreme Court says that process does not pass constitutional muster.

We knew 25 years ago—and we know now—that limits are important, that unlimited, excessive contributions can create a problem in terms of public confidence. This is the one area left which is critical to the principle in McCain-Feingold.

I hope that the amendment of the Senator from New York is adopted, and that it is adopted with a bipartisan vote, because it is so key to this bill accomplishing what it set out to do: Restoration, preservation, protection, of some limits on contributions.

I thank the Chair.

Mr. DODD. Does my colleague from Kentucky wish to be heard?

Mr. MCCONNELL. I tell my friend from Connecticut, I think we are ready to vote.

Mr. DODD. I think the Senator from New York wants 2 minutes to wrap up before the vote.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank the Senator from Connecticut for his leadership and his cogent explanation. With my lack of articulateness, it has taken a few days for me to convince the Chamber that this issue is important, and within 5 minutes the Senator from Connecticut and the Senator from Michigan have summed it up well.

We are here now because we realize how important this issue is. It was said exactly right, in answer to the Senator from Kentucky; some things that are unconstitutional when mandatory are perfectly constitutional when voluntary. This is the case now.

I find it interesting that my friend from Kentucky is talking about the unconstitutionality of this provision when yesterday he voted for one and said: I knew it was unconstitutional, but it will help bring the bill down. Maybe he wants to do the same on this amendment.

Mr. MCCONNELL. If the Senator will yield.

Mr. SCHUMER. I am happy to yield.

Mr. MCCONNELL. I will change my position, if he keeps talking.

Mr. SCHUMER. I want him to change his position. I want to reiterate to my colleagues, this is a crucial amendment. If we don't pass it, we will come back 6 months from now and say, why didn't we do it, because all the work on

McCain-Feingold, much of the work on McCain-Feingold—not all of it but certainly much of it—will be undone.

As my friend from Michigan said, limits are the theme of this bill. To say that we want to limit soft money but put no limits on hard money makes no sense. They are both greenbacks. Too much of one and too much of the other is not a good thing in our political financing system. That is all our amendment seeks to undo. It is reasonable. It is completely within the theme of McCain-Feingold.

I fear that if it is not passed, we will have trouble passing the bill as a whole, and, worse than that, we will have undone a good portion of what we tried to do with McCain-Feingold.

Mr. DODD. Mr. President, the proponents of the amendment are prepared to yield back the remainder of our time.

Mr. MCCONNELL. Mr. President, I yield back such time as may remain on this side.

Mr. DODD. Mr. President, I ask for the yeas and nays on the Schumer amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the Schumer amendment No. 153. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—52

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

NAYS—48

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

The amemdment (No. 153) was agreed to.

Mr. DODD. 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.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 152

Mr. DODD. What is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Ohio, Mr. DEWINE.

Mr. DODD. On our side, I know the opponents have a request for about 20 minutes. I don't know if the Senator from Ohio is prepared to accept a time agreement so we know when the next amendment might occur.

Mr. DEWINE. I am not prepared to enter into a time agreement. I will tell my colleague that I don't anticipate it will be very long. We have a couple of speakers and we will be done. I don't want to enter into a time agreement, but I think the projection we see of votes at 6:30, I certainly think we will make that.

Mr. MCCONNELL. Mr. President, for the information of our colleagues, on this side of the aisle, I am aware of about eight amendments, some of which I hope will disappear. I hope by announcing this I do not encourage the proliferation of more. Also, it is my understanding that a discussion is underway to water down or mitigate the coordination language in the underlying bill at the request of organized labor. I assume we will see that amendment at some point during the process. I don't know whether Senator DODD has any idea how many amendments may be left on his side.

Mr. DODD. Mr. President, in response to my friends and colleague from Kentucky, I have 21 amendments. Now, we all have been down this road in the past. How many of those will actually be offered—I know around 12 at this juncture. I have asked the authors of these amendments how serious they are, and I would say around 12 or 13 feel very adamant. They may not need much time. We don't necessarily need 3 hours as the bill requires or allows.

We are constantly working, trying to see if we can't get this number down. We have a list. We are prepared to go with several amendments. I have Senator BINGAMAN with amendments ready; Senator DURBIN has amendments ready; Senator HARKIN has amendments ready. We are prepared to move along based on the schedule the leadership wants to endorse.

Mr. MCCONNELL. It is my understanding the desire of the leadership is to finish up the debate on the DeWine amendment tonight. I understand the Senator from Ohio is not interested in a time agreement at this point but to have the vote in the morning.

In the meantime, I say to my colleague from Connecticut and others, with regard to any amendment that might be offered to reduce the opposition of the AFL-CIO to the bill by massaging the coordination language, we would like to see that when it is ready. That is the amendment I have been predicting for a week and a half, that there would be at some point an effort to water down the coordination language in the underlying McCain-Feingold bill in order to placate the AFL-CIO. We are anxious to see that language. I am sure it will pass, once offered, but we are anxious to take a look and make sure all Members of the Senate are aware of the substance of it.

It looks as though I may have fewer amendments to deal with than Senator DODD. I suspect the sooner we shut up, the Senator from Ohio can continue his discussion of his amendment.

Mr. DODD. I am for that.

Mr. MCCONNELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I have used about 30 minutes of my time and I think at this point I yield the opponents some of their time.

For the information of Members of the Senate, we have one or two speakers who will not speak very long, and we will be prepared to vote.

Mr. DODD. Mr. President, I yield 6 or 7 minutes to my colleague from Vermont in opposition to the DeWine amendment.

Mr. JEFFORDS. Mr. President, I rise today to once again discuss the Snowe-Jeffords provisions in the Bipartisan Campaign Reform Act. My focus today will be rassuring you that the Snowe-Jeffords provisions are constitutional.

We took great care in crafting our language to avoid violating the important prrinciples in the first amendment of our Constitution. In reviewing the cases, limiting corporate and union spending and requiring disclosure have been areas that the Supreme Court has been most tolerant of regulation.

Since 1907, federal law has banned corporations from engaging in electioneering. In 1947, that ban was extended to prohibit unions from electioneering as well. The Supreme Court has upheld these restrictions in order to avoid the corrupting influences on federal elections resulting from the use of money by those who exercise control over a large amount of capital. By treating both corporations and unions similarly we extend current regulation cautiously and fairly.

We also worked to make our requirements sufficiently clear and narrow to overcome unconstitutional claims of vagueness and overbreadth. This required us to review the seminal cases in this area, including Buckley v. Valeo. I have heard some of my colleagues argue that Buckley clearly shows that the Snowe-Jeffords provisions are unconstitutional. I must disagree most strongly with that reading.

In fact, the language of the case should—must be read to show that the Snowe-Jeffords provisions are constitutional. In Buckley the court limited spending that was ''for the purpose of influencing an election.'' As I noted in my speech last Friday, 80 percent of the voters, an overwhelming majority, see these sham issue ads as trying to

influence their vote and the outcome of the election.

Buckley also allowed disclosure of all spending, ''in connection with an election.'' As I discussed last Friday, 96 percent of the public sees these ads as connected with an election. In addition, the chart my colleague Senator SNOWE presented on the Senate floor last Monday clearly demonstrates that these ads are run in lock step with the candidate's own ads. This makes sense this clearly proves that these sham issue ads are well connected with the election.

A final point concerning the Buckley decision. The Supreme Court was concerned about both deterring corruption and the appearance of corruption, plus ensuring that the voters were properly informed. The Snowe-Jeffords provision satisfies the Court's concerns. We deter the appearance of corruption by shining sunlight on the undisclosed expenditures for sham issue advertisements. Corruption will be deterred when the public and the media are able to see clearly who is trying to influence the election. In addition our provisions will inform the voting public of who is sponsoring and paying for an electioneering communication. Unlike what our opponents may say, the Supreme Court using the standards articulated in the Buckley decision would uphold the Snowe-Jeffords provision as constitutional.

Our opponents also point to the Supreme Court decision in Massachusetts Citizens For Life as demonstrating that the Snowe-Jeffords provisions are unconstitutional. I would agree with my opponents that the MCFL decision seems to reaffirm the express advocacy test articulated in Buckley, but I would argue in upholding this test that the Court actually made it even more likely that the Snowe-Jeffords provisions would be upheld as constitutional. The MCFL decision broadens the standard articulated in Buckley by analyzing the context of a communication and divining its ''essential nature.'' As the results from the BYU Center for the Study of Elections and Democracy study I discussed earlier show, the esential nature of these sham issue-ads is to influence the outcome of an election. Presented with all of the facts provided by myself and Senator SNOWE, the Supreme Court would be consistent only in finding our provisions constitutional under the standards laid out in Buckley and MCFL. So rather than strengthening their case, the MCFL decision shows that the Court is willing to examine the issue closely and look beyond a strict interpretation of the magic words test that some have said the Buckley decision created.

A final court decision my opponents point to as supporting their position that the Snowe-Jeffords provisions are unconstitutional is the recent Vermont Right to Life decision in the second circuit. I must first point out that as a circuit court opinion it is not the law of the land. That can only come from the decisions of the Supreme Court, on which the provisions of the Snowe-Jeffords provisions are built.

Additionally, the facts that faced the second circuit in the Vermont Right to Life case are clearly distinguishable from the Snowe-Jeffords provisions. Unlike the Vermont statute that was vague and overbroad, our provisions are narrowly tailored to avoid overbreadth, and create clear standards about what is allowed or required by our provisions, thus avoiding the vagueness in the Vermont statute. In addition, the court focused much of its discussion in declaring the Vermont statute unconstitutional on the effects of the provision on modes of communication not covered by Snowe-Jeffords. As the Snowe-Jeffords provisions do not cover these types of communication, our language is distinguishable from the facts faced by the second circuit. So, don't be fooled when the opponents of our provision say that the Vermont Right to Life case clearly shows that the Snowe-Jeffords provisions are unconstitutional. They are comparing apples with oranges, and such a conclusion in inappropriate.

In conclusion, James Madison once said,

> A popular government without popular information is but a prologue to a tragedy or a farce or perhaps both. Knowledge will forever govern ignorance and a people who mean to be their own governors must arm themselves with the power which knowledge gives.

The Snowe-Jeffords provisions will give the voters the knowledge they need. I ask for my colleagues continued support in this vital effort to restore faith in our campaign finance laws.

It is time to restore the public's confidence in our political system.

It is time to increase disclosure requirements and ban soft money.

It is time to pass the McCain-Feingold campaign finance reform bill. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, my colleague from the State of Maine wishes 10 minutes. I am happy to yield 10 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I thank the Senator from Connecticut for yielding me some time to address some of the issues that have been raised by the amendment and the motion to strike by our colleague from Ohio, Senator DEWINE.

I urge this body to oppose that motion to strike the provisions known as the Snowe-Jeffords provision. A vote to strike these provisions is essentially a vote against comprehensive reform. A vote against this provision is a vote against balanced reform. A vote against this provision is a statement that we are only willing to tackle part—albeit a vital part—of the problem that is confronting the political system of today.

The other part of the problem that we seek to address through these provisions is the glut of advertisements in elections—close to election time, close to election day—that seek to influence the outcome of Federal elections. So there is no disclosure. We have no disclosure. We do not know who is behind those advertisements. Yet they are very definitively influencing the outcome of Federal elections.

To illustrate the amount of advertising, you only have to look at what has happened since 1995–1999, when $135 million to $150 million was spent on these types of commercials. Now in the election of 2000, over $500 million was spent.

Is everybody saying it does not matter? 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? Are we saying it does not matter to the election process? Are we saying we do not care?

I know the Senator from Ohio is saying these provisions are unconstitutional. I would like to make sure my colleagues understand that this provision was not developed in a vacuum. It was developed with more than 70 constitutional experts, along with Norm Ornstein, a reputable scholar associated with the American Enterprise Institute. They looked at the constitutional and judicial implications of the Buckley v. Valeo decision back in 1976. They crafted this type of approach, which carefully and deliberately avoids the constitutional questions that my colleague, the Senator from Ohio, suggests may be raised.

First of all, we designed a provision to address the concerns that were raised in the 1976 Buckley decision about overbroad, vague types of restrictions on the first amendment. So what we said was that we have a right to know who is running these ads 60 days before a general election when the group has spent more than $10,000 in a year and whose donors have contributed more than $1,000 to finance these election ads—over $550 million of which were run in the election of 2000, more than three times the amount that was spent in the election of 1996.

We also went on to say that unions and corporations would be banned from using their treasury money financing these ads when they mention a candidate 60 days before a general election or 30 days before a primary. Again, there is a basis in law extending back to 1907, when we had the Tillman Act passed by Congress that banned the participation of corporations in elections and, in 1947, the Taft-Hartley Act that prohibited unions from participating directly in Federal elections. This amendment and provision is building upon those decisions that were made by Congress that have been upheld by the Court. In fact, the most recent decision of 1990, Austin v. Chamber of Commerce, is again upholding

those decisions in the prohibition of the use of corporations participating in Federal elections.

That is what we have done. That is what we sought to do when designing this amendment.

Are we saying these ads do not make a difference? We have seen and examined a number of studies over the last few years that talk about the influence of these ads on elections. What have we determined? No. 1, and I guess it is not going to come as a surprise to this audience which has participated in election after election and have seen these ads, but more than 95 percent of the ads that are run in the last 2 months, the last 60 days of the election, mention a candidate; 94 percent of those ads are seen as attempting to influence the outcome of an election. They mention a candidate's name. Virtually all the ads that are run in the last 60 days mention a candidate's name. Don't we have the right to know who is running those ads, who is supporting those ads, who is financing those ads? Yes. The Supreme Court has said it is permissible for Congress to have this requirement. It is in our interest. We have the right. It is not just the right to free speech. It is similar to other restrictions that have been incorporated in Federal election laws.

Ninety-five percent of the ads that are run for the final 2 months of an election mention a candidate. The worst thing when organizations run these types of ads is that they mention a candidate by name 60 days before an election. We have the right to know who the $1,000 donors are.

We are also saying that unions and corporations would be banned from running those types of ads using their treasury money when they are mentioning a Federal candidate the last 60 days because of preexisting law that has stood for almost a century and has been upheld by the Federal court.

The next chart shows that, again, 94 percent have spots during the 2 months before the election making a case for a candidate.

Again, we are entitled to know who is behind those types of advertisements. We have the right to know. The public has the right to know because they are playing a key role.

We had a number of studies that examined the impact of these ads.

First of all, it wouldn't come as a surprise to this audience once again that 84 percent of the ads that were aired in the last 2 months of a Federal election were attack ads. They were negative. And they mentioned a candidate's name.

Again, we are saying we have the right to know. The Supreme Court will uphold our right to know and the public's right to know. This is sunlight; it is not censorship.

In this next chart, only 1 percent of the ads were true issue advocacy ads.

In the final 2 months of an election, 99 percent identified a candidate by name. They were attack ads. Only 1 percent would be construed as being legitimate issue advocacy ads.

For example, on an ad that would say, ''Call your Senator on an issue that is before Congress,'' they would still have that right. If they identified a candidate by name, however, they would be required to disclose.

On this chart we see the relationship between TV ads and the congressional agenda.

We are trying to make distinctions between true issue advocacy ads and election ads. That is what this Snowe-Jeffords provision does. It is carefully crafted to make sure we have a narrow provision identifying the time period of 60 days and 30 days. We ban only union and corporation money. So the entities know which provisions affect them in the election.

Then we also require disclosure of those donors who contribute more than $1,000 to organizations that run ads that mention a candidate in the 60-day window.

Again, groups or individuals will know exactly what is permissible and what is not and whether or not they would be running afoul of the law. That is what the Supreme Court said—that it not result in an overly broad or vague provision to ultimately have a chilling effect on the constitutional right of freedom of speech. That is why this provision was so narrowly and carefully drawn, with constitutional experts examining each and every provision.

Look at the relationship between TV ads and congressional agenda. In the last 60 days we do a lot here in Congress before an election. So you are going to affect organizations' abilities to talk about those issues in their ads. Guess what. All the ads, virtually speaking, run by these organizations that mention or identify a candidate in that 60-day window parallel the ads that are run by the candidates themselves.

In the lower line at the bottom, which is the line that reflects the issues being debated in Congress, you can see that there is virtually no parallel between what we are discussing in Congress and the ads that are being run by organizations in that 60-day window. They parallel the ads with a candidate's ad, which again reflects one thing—that these ads are designed to influence the outcome of an election.

There was a study of just 735 media markets in this last election. Guess what. One hundred million dollars was spent in the last 2 weeks of the election on advertisements that identified a Federal candidate by name in that 60-day period—in fact, in that 2-week period.

I think the public deserves the right to know who is financing those ads and who is attempting to affect the outcome of an election given the amount of money that has been invested in these types of commercials. As I said, it was three times the amount in the last election compared to the 1996 election. They are ultimately engulfing the political process. In some cases, these organizations, whether they exist in the State in which they are running these ads or not, are having a greater impact than the ads the candidates run themselves.

It may come as a surprise to you that in the focus group that examined the Snowe-Jeffords provision and looked at the ads that were run in that 60-day period—guess what—they didn't even see the candidate's ads being the ones that influenced the outcome of a Federal election. They saw these so-called sham ads as the ones that influenced the outcome of a Federal election.

I think we need to take this step. It is a limited step; it is not a far-reaching step.

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Ms. SNOWE. May I have an additional 2 minutes?

Mr. LOTT. Mr. President, if the Senator will yield, we have a consent request with regard to how to proceed for the rest of the night and tomorrow.

UNANIMOUS CONSENT AGREEMENT

Mr. President, I ask unanimous consent that time on the DeWine amendment be used during tonight's session and, following that time, the Senate proceed to morning business. I further ask unanimous consent that the Senate resume consideration of the bill at 9:30 a.m. and there be 15 minutes for closing remarks on the amendment, to be equally divided, and the Senate then proceed to a vote in relation to the DeWine amendment. I further ask unanimous consent that following that vote the Senate proceed to the Harkin amendment for 2 hours equally divided in the usual form, and following that time the Senate proceed to vote on or in relation to the Harkin amendment.

Let me note that I didn't get a chance to clear this with Senator REID. But I understand Senator WARNER has an amendment he wants to offer.

Mr. WARNER. Mr. President, I thank the distinguished leader. I should like to offer it, and I shall withdraw it. I will require no more than 10 minutes of time at the most convenient point this evening before we complete our work on this bill.

Mr. LOTT. I modify the request to say, as I have already read it, except that after the DeWine amendment the time be used tonight and then go to the Warner amendment at that point. Following that, we would go to morning business.

Mr. REID. Mr. President, reserving the right to object—I will not—I hope leadership will recognize the great work done today on this bill. I don't know how great it has been, but certainly it has been a lot of work. Senators DODD and MCCONNELL have done an outstanding job moving this matter along. It has been very tedious today. I would like for the leader and Senator DASCHLE to recognize what good work they have done.

Mr. LOTT. Mr. President, I certainly agree with that. These two managers of

this bill have worked together very closely—Senators MCCONNELL and DODD. Their job has been particularly difficult this time because they are trying to accommodate everyone on all sides of this issue on both sides of the aisle and are trying to also accommodate the wishes of the two leaders on both sides as well as the principal sponsors of this bill. They have worked hard to make good progress. Without commenting on the work product result, I think they certainly deserve a lot of credit for their yeomen efforts to try to keep it calm and moving forward.

Mr. REID. Senator WARNER will withdraw his amendment tonight?

Mr. LOTT. He will.

The PRESIDING OFFICER (Mr. BENNETT). Is there objection?

Without objection, it is so ordered.

Mr. LOTT. In light of this agreement, there will be no further votes tonight. The next vote will occur at approximately 9:45 a.m. Thursday. Also, the managers intend to complete this bill by the close of business tomorrow, so that is going to mean a lot more work. There are a number of amendments that are still pending. But if Senators expect to complete our work tomorrow, we are going to have to put our nose to the grindstone and just make it happen. So we should expect numerous votes tomorrow. And we would hope to finish at a reasonable hour early in the evening or late in the afternoon.

I yield the floor.

Mr. MCCAIN. Could I be yielded about 4 minutes to speak on the amendment?

Mr. LOTT. Mr. President, I believe Senator SNOWE had gotten consent for 2 additional minutes.

The PRESIDING OFFICER. Does the Senator from Maine ask for additional time? The consent was not given because of the interruption of the majority leader.

Mr. LOTT. I do not believe there would be any objection.

Ms. SNOWE. The time is controlled by whom?

The PRESIDING OFFICER. The time is controlled by the Senator from Ohio and the Senator from Nevada.

Mr. REID. The Senator from Maine is given 3 minutes.

Ms. SNOWE. I will yield to the Senator from Arizona. He needs 4 minutes. Can we have 10 minutes?

Mr. REID. Following the Senator from Maine, the Senator from Arizona is yielded 5 minutes.

Mr. MCCAIN. Could we have a total of 10 minutes?

Mr. REID. Yes.

Ms. SNOWE. I yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from Nevada. Again, I thank Senator MCCONNELL for the level and tenor of this debate. I understand his concerns about one additional amendment we will have tomorrow concerning coordination, and I have given him the language. We want to work with him on that particular amendment.

I also know a lot of time and attention is going to be devoted to the issue of severability. I thank the Senator from Maine for a very important presentation. I find myself between two of my dearest friends on this amendment. I, obviously, am strongly in favor of the Snowe-Jeffords amendment which the Senator from Maine and the Senator from Vermont have worked on for literally years together. This Snowe-Jeffords amendment, unlike some of the business we do around here, was not hastily thrown together. It was crafted after careful consultation with constitutional experts all over America. It clearly addresses a growing problem in American politics.

I believe that the Snowe-Jeffords amendment, if removed, would open up another huge channel for the use of soft money into so-called independent campaigns.

I also listened with great attention to my friend from Ohio, Senator DEWINE. I understand his concerns, and I appreciate them. He makes a very strong case. But I would like to say why we think Snowe-Jeffords is constitutional and why we are convinced of it.

First, it avoids the vagueness problem outlined in Buckley by instituting a bright-line test for what constitutes express advocacy versus issue advocacy. People will know if their ads are covered by this statute. They will know whether it is covered by Snowe-Jeffords.

Second, the main constitutional problem with bright-line tests is that they eliminate vagueness at a cost of overbreadth—a situation in which constitutionally protected speech such as issue advocacy is unintentionally swept in by the statute. Specifically, the Supreme Court is concerned whether there is ''substantial overbreadth'' as far as the statute is concerned.

Snowe-Jeffords minimizes the overbreadth concern. It only covers broadcast ads run immediately before an election that mention a specific Federal candidate. Studies show that only a minuscule number of these types of ads in this time period are strictly issue ads. Anyone who observed the last couple campaigns would attest to that.

Besides, we all know that Buckley's ''magic words'' are not necessary to make a campaign ad. In fact, a Brennan Center for Justice analysis of the last congressional election showed that only 1 percent of candidates' own campaign advertising used express advocacy language—in other words, magic words—to promote the candidate.

In sum, Buckley left the door open for Congress to define express advocacy. That is what Snowe-Jeffords seeks to do, in keeping with the Supreme Court's concern about protecting free speech guaranteed by the first amendment. In addition, we can demonstrate that the Court's definition of ''express advocacy''—magic words—has no real bearing in today's world of campaign ads.

You never see an ad anymore that says ''vote for'' or ''vote against.'' You see plenty of them that say: Call that scoundrel, that no-good Representative of yours or Senator of yours, who is guilty of every crime known to man. Call him. Tell your Senator that you want thus and such and thus and such.

We have seen it all develop to a fine art. I believe Snowe-Jeffords is a very vital part of this bill. If it were removed, it would have a very significantly damaging effect on our desire to try to enact real and meaningful campaign finance reform.

I thank my friend from Ohio for his impassioned advocacy of the other side. I believe this is really what this debate has been all about: What we have just seen between Senator DEWINE and Senator SNOWE, an open and honest and informed ventilation of a very important issue to the American people. I am very proud of the performance of both because I think the American people have learned a lot from this debate, especially on this very important amendment.

Mr. President, I yield back the remainder of my time.

Ms. SNOWE. Mr. President, I thank Senator MCCAIN for his words regarding these provisions and for underscoring the importance and the significance and the meaning of the Snowe-Jeffords provision as outlined in the McCain-Feingold legislation.

The preponderance of these ads in the political process has to be disturbing to each and every one of us, not to mention the American people. That is what it is all about and what we need to address.

How can we say we are going to allow these so-called sham ads to go unchecked? How are we going to say to the American people that somehow they or we do not have a right to know who is financing these ads?

As Senator MCCAIN indicated, even candidates now, who already come under the Federal election laws, do not use the magic words ''vote for'' or ''against'' because what has become most effective is not using those magic words to get the point across. That is why all of these organizations have taken to running ads because they know what is more effective and more influential.

In every focus group and study group that has been conducted over the last few months, to take the Snowe-Jeffords provisions and use them in a focus group, to see what the response was of the individuals included in that group—guess what—they were most influenced by those organizational ads that mention a candidate by name but do not use those magic words. The Supreme Court said there isn't one single permissible route to getting where we are going in terms of restrictions and

changes in election laws. And the fact is, since 1976, Congress has not passed a law concerning campaign financing, has not sent any law to the Court because we have not passed anything in the last quarter of a century. So it has no guidepost. But the Court was addressing in 1976 what was happening in 1976. We well know what has changed and transpired in over a quarter century. We have seen the kind of development and evolution of these ads that has taken a very disturbing trend and change in the election process.

I hope we defeat the motion to strike by my colleague, the Senator from Ohio, because truly we are getting at a very serious problem that has characterized the political process in a way that does not engender confidence in the American people.

These ads are intended to affect an election. They are overwhelmingly negative. Ninety-nine percent mention a candidate in that 60-day window. Are we saying that we should allow them to go unchecked? I say no.

I know the Supreme Court will uphold this provision because in analyzing every decision since and in analyzing what the Court had said even previously, this is not treading on the constitutional rights of those who are willing to express themselves.

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. I ran for Congress in 1978. No one heard of these ads. Independent expenditures were even rare at that moment in time. What has happened in the election process has taken place in the last few years. Those expenditures have tripled in these types of advertisements that are having a true impact on elections.

That is what we are talking about. I have a chart that shows the degree to which the ads were intended to influence your vote. The candidates' ads are less influential than these ads to which we are referring in the Snowe-Jeffords amendment. They have more influence in the overall election than the candidates' ads.

We do have a right to know. We are talking about disclosure. The Supreme Court will uphold that view that, yes, the public does have a right to know. These provisions are not chilling first amendment rights. People will have very defined guidance under these provisions that would inform any group, any individual who has an intention of running these types of advertisements.

Norman Ornstein, who was instrumental in developing this provision, along with numerous constitutional experts, spoke in a column recently. I ask unanimous consent that it be printed in the RECORD.

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

[From Congress Inside Out]

LIMITS ON SO-CALLED ''ISSUE ADVOCACY'' WILL PASS CONSTITUTIONAL TEST

(By Norman J. Ornstein)

Is McCain-Feingold unconstitutional? When campaign finance reform is debated in the Senate this week, the answer to this question will be a key one. There will no doubt be questions raised about banning soft money, but despite the bleating of reform opponents, that proposal seems to be on sound constitutional footing. Soft money, after all, was neither a natural development nor a court-generated phenomenon; rather it was created in 1978 by a bureaucratic decision of the Federal Election Commission. If a regulatory commission could invent soft money, Congress can uninvent it.

More problematic is the campaign reform measure's provision on so-called issue advocacy, an amendment known as Snowe-Jeffords. Would it pass Supreme Court muster? No doubt some Senators opposed to reform will offer elaborate smoke screens to scare their colleagues. But there is legitimate concern about the constitutionality of the proposal, even among many sympathetic to it.

Changes in the rules surrounding anything close to issue advocacy, as opposed to express advocacy to elect or defeat candidates, are delicate and tricky. This area is at the heart of the First Amendment and cannot be reformed lightly. Still, when Senators take a careful look at Snowe-Jeffords and the reasoning behind it, their concerns should be assuaged. There is every reason to believe that this measure will withstand constitutional scrutiny.

The challenge here starts with the language of the landmark 1976 Supreme Court decision Buckley v. Valeo that accepted parts of a 1974 Congressional act reforming the campaign finance system and rejected others, and continues to govern our campaign finance rules. The 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 residual category included ''issue'' advocacy.

The court did not say that the only forms of express advocacy are those using the specific words above. Those were examples. However, political consultants and high-priced campaign lawyers are like the raptors in ''Jurassic Park''—they regularly brush up against the electric fence of campaign regulation, trying to find dead spots or make the fence fall down entirely. In this case, they egged on parties and outside groups to behave unilaterally as if any communication that did not use these specific so-called ''magic words''—no matter what else they did say—was by definition ''issue advocacy'' and thus was exempt from any campaign finance rules. By this logic, ads or messages without any issue content whatsoever that is clearly designed (usually by ripping the bark off a candidate) to directly influence the outcome of an election could use money raised in any amount from any source, with no disclosure required.

Ads of this sort have exploded in the past few elections, with outside groups and political parties exploiting a loophole to run campaign spots outside the rules that apply to candidates. In the past couple of election cycles, solid, substantial and comprehensive academic research, examining hundreds of thousands of election-related ads, has demonstration two things. One was that only a minuscule proportion of the ads run by candidates themselves—the sine qua non of express advocacy—actually used any of the so-called ''magic words'' that shaped the court's definition of express advocacy a quarter century ago. Secondly, hundreds of millions of dollars in political ads—nearly all viciously negative, personality-driven attacks on candidates without issue content—have blanketed the airwaves right before the elections, dominating and drowning out candidate communications. The parties and outside groups that have run them have declared that they fall under ''issue advocacy,'' meaning no disclosure and no limits on contributions are required.

These sham issue ads have drastically altered the landscape of campaigns, reducing candidates to bit players in their own elections and erasing a major share of accountability for voters. But under Buckley, as interpreted by the campaign lawyers, this process has been unchallenged. Lower courts have routinely upheld the framework and most of the specifics of Buckley, leading reform opponents and many objective observers to question whether any change in the Buckley standards or framework could possibly pass constitutional muster in the Supreme Court.

That view ignores a fundamental reality. Since it spoke in 1974, Congress has been essentially silent on campaign finance reform. Buckley v. 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. If Congress acted, the Supreme Court would give it due deference. In a 1986 decision on campaign finance and the role of corporations (Federal Election Commission v. Massachusetts Citizens for Life), Chief Justice William Rehnquist, in a separate opinion joined by three other justices, noted, ''We are obliged to leave the drawing of lines such as this to Congress if those lines were within constitutional bounds.''

The lines Congress drew in 1974 were not within constitutional bounds. But other lines, different from the Congress in 1974 and the court's in Buckley, can be, especially if Congress makes clear that its views are based on both careful deliberation and strong emotional evidence.

Two years ago, I led a group of constitutional scholars in careful and systematic deliberation over the judicial and constitutional framework behind Buckley v. Valeo, the dramatic changes in campaign behavior that have occurred in the past several years, and the ways, within the Buckley framework, that the system can be brought back into equilibrium.

The result was a new approach, which was embraced by Sens. Olympia Snowe (R-Maine) and Jim Jeffords (R-Vt.) and several of their colleagues, and converted into legislation.

The Snowe-Jeffords provision defines ''electioneering'' as a category of communication that is designed to directly shape or change the outcome of federal elections. Unlike the 1974 overly broad Congressional definition, Snowe-Jeffords is much more specific, with a definition that includes substantial broadcast communications run close to an election and that specifically targets a candidate for office in that election. Research has shown that only a sliver of all issue ads meeting this definition in the last campaign (well under 1 percent) were by any standard genuine issue ads. If Senators are wary that even this definition is too broad,

it is easily possible to refine the definition of targeting to reduce the number to perhaps 1/10th of 1 percent of the ads.

Snowe-Jeffords bans the use of union dues or corporate funds for broadcast electioneering communications within 60 days of an election and requires disclosure of large contributions designated for such ads. As recently as 1990, in Austin v. Michigan Chamber of Commerce, the Supreme Court reaffirmed the notion that corporations lack the same free-speech rights as individuals and some other groups; other decisions have made the same point about unions.

In Buckley itself, the court said that disclosure requirements are permissible if they provide citizens with the information they need to make informed election choices or help safeguard against corruption and reduce the appearance of corruption. As long as disclosure doesn't produce the chilling effect of requiring an organization to disclose all of its donors, which Snowe-Jeffords avoids, it clearly meets court guidelines. Sen. Mitch McConnel (R-Ky.) regularly refers to the court's 1958 decision NAACP v. Alabama to argue that disclosure requirements are unconstitutional. However, that is a misinterpretation of the decision, which said that a requirement of an organization to disclose all its contributors would be inappropriate. That is not at all what Snowe-Jeffords does.

Now add together the clear deference to Congress' views that Chief Justice Rehnquist has expressed, the clear evidence from impeccable academic research showing the fallacy behind the so-called ''magic words'' test in Buckley, and the restrained and carefully drawn language in Snowe-Jeffords defining a narrow category of ads and relying on past court decisions about disclosure and the roles of unions and corporations. These three factors make it reasonable to believe that the Supreme Court would rule that a reform that includes Snowe-Jeffords is within constitutional bounds.

Ms. SNOWE. He said:

The 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 residual category included ''issue'' advocacy.

The court did not say that the only forms of express advocacy are those using the specific words above. Those were examples.

Now we hear the only way we can have these ads covered is if they use those magic words. As Norman Ornstein is saying in his column, the Court was citing examples back in the Buckley v. Valeo decision in 1976. He went on to say, the fundamental reality is that Congress had been essentially silent on campaign finance reform since it spoke in 1974.

Buckley v. Valeo is in effect law of the land because Congress has not superseded it by filling the vacuum in the quarter century that followed. If Congress acted, the Supreme Court would give its due deference.

The lines Congress drew in 1974 were not within constitutional bounds. But other lines, different from Congress' in 1974 and the court's in Buckley, can be, especially if Congress makes clear its views are based on both careful deliberation and strong empirical evidence.

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

Ms. SNOWE. Mr. President, I hope my colleagues will vote against the motion to strike that has been offered by our colleague from Ohio. It would remove a fundamental provision in the legislation before us. We cannot have comprehensive reform without addressing this egregious development that has occurred in the election process.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, in a moment I will yield to the chairman of the Judiciary Committee, Senator HATCH. I do want to briefly respond to the comments of my friend from Maine, my friend from Vermont, and my friend from Arizona. I appreciate very much their comments.

One thing they did not mention and that is important for us to remember, as we look at this amendment and as we look at how the bill is currently written, is that Snowe-Jeffords is now Snowe-Jeffords-Wellstone. It is fundamentally different than the original provision about which my colleagues have talked for the last 20 minutes or so.

Very simply, Snowe-Jeffords, as originally written, did this: Under current law express advocacy is not restricted for unions and corporations. What Snowe-Jeffords did is to say that 60 days out from an election, unions and corporations—it is usually unions who are doing it—would be prohibited from mentioning the name of a candidate. It is a major change in what is going on today, a major restriction on a union's ability to communicate, a fundamental change in the law.

Under Snowe-Jeffords, express advocacy is expanded to include any message with the candidate's name 60 days before the election and, if they do that, it is illegal.

That is not what we are talking about. Snowe-Jeffords is now Snowe-Jeffords-Wellstone, and it has been dramatically changed and expanded. I think the original language, quite candidly, you can argue either way whether it is constitutional. Frankly, no one in this Senate is going to know until the Supreme Court tells us. The Wellstone language that is now a part of Snowe-Jeffords is absolutely unconstitutional. I have talked to a number of Members on the floor who voted on both sides of the original Wellstone amendment. I haven't found one yet—I am sure someone will come to the floor in a minute; I am sure my colleague from Minnesota may come—who will tell me it is constitutional because what does it do? It takes the original Snowe-Jeffords and expands it and says, not only will labor unions not be able to do this within 60 days of an election, not only will corporations not be able to do it, but now everybody else can't do it. Any groups that want to get together and buy an ad that mentions the candidate's name will no longer be able to do that.

So within 60 days of an election, at the time when political debate should be the most respected, when political debate has its greatest impact, the Snowe-Jeffords-Wellstone amendment now says, no, you can't do it.

That is absolutely unconstitutional. That is the state of the bill today. That is what Members have to ask themselves when they vote on this amendment. Are you willing to accept a bill that in all probability is going to pass that has a provision in it that is blatantly unconstitutional? I hope on reflection my colleagues on both sides of the aisle, when they look at that, will say: I don't want to do that. I don't want to cast a vote for a bill that is blatantly unconstitutional.

The only chance Members are going to have to correct that is with the DeWine amendment.

I yield at this time to the distinguished chairman of the Senate Judiciary Committee, the Senator from Utah, Mr. HATCH.

Mr. HATCH. Mr. President, as my colleagues in this body are aware, unlike contributions to a candidate's campaign, expenditures of money to influence public opinion has been accorded nearly ironclad first amendment protection by the U.S. Supreme Court. In fact, I know those who would argue it is absolutely ironclad.

The reason for this protection is simple to understand. Freedom of speech is one of the bedrock protections guaranteed for our citizens under the Constitution of the United States. Nowhere is the role of free speech more important than in the context of the elections we hold to determine the leaders of our representative democracy. As the Supreme Court stated in Buckley:

Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The First Amendment affords the broadest protection to such political expression in order to assure the unfettered interchange of ideas. . . .

Obviously, we would have no democracy at all if government were allowed to silence people's voices during an election. I have spoken before more generally on some of the constitutional limits on our efforts to regulate campaigns. Today I rise to speak more specifically about the limitations on expenditures.

Under our Constitution, a person simply cannot be barred from speaking the words ''vote for Joe Smith.'' Under our Constitution, a person simply cannot be barred by speaking the words ''lower my taxes.'' Under our Constitution, a person cannot be simply barred from speaking the words ''provide our seniors with a prescription drug benefit.'' The right to speak any of these

phrases at any time is protected as a core fundamental right under the first amendment.

It is especially important to our democracy that we protect a person's right to speak these phrases during an electoral campaign because it is through elections that the fundamental issues of our democracy are most thoroughly defined. It is through elections that the leaders of our democracy are put in place to carry out the people's will.

Not only does a person have a right to speak out during a campaign regarding candidates and issues, a person also has a right to speak out in an effective manner. The right to speak would have little meaning if the government could place crippling controls on the means by which a person was permitted to communicate his or her message. For instance, the right to speak would have little meaning if a person was required to speak in an empty room with no one listening.

Accordingly, the Supreme Court has consistently ruled that Congress may not burden a person's constitutional right to express his or her opinion during an electoral campaign. And to effectuate these rulings, the Court has consistently held that Congress may not burden a person's right to expend money to ensure that his or her opinion reaches the broadest possible audience.

In Buckley, the Supreme Court made a fundamental distinction that has survived to this day, a distinction that must inform our discussion of campaign finance, and a distinction that continues to place significant limitations on what reforms are permissible under the strictures of the first amendment of the U.S. Constitution.

With respect to expenditures, the Court has said this:

> A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. . . . The expenditure limitations contained in the Act represents substantial rather than merely theoretical restraints on the quantity and diversity of political speech. The . . . ceiling on spending . . . would appear to exclude all citizens and groups . . . from any significant use of the most effective modes of communication.

As recently as last year, in the case of Nixon v. Shrink Missouri Government PAC—and that is a 2000 case—the Court reaffirmed its holding in Buckley, quoting extensively from the Buckley opinion and reiterating that expenditure restrictions must be viewed as ''direct restraints on speech,'' irreconcilable with the first amendment.

As I said before, the McCain-Feingold legislation is well intentioned in its effort to remove the influence of big money from our electoral process. However, several provisions of the proposed legislation are simply irreconcilable with the first amendment of the U.S. Constitution. It is not Congress' role to pass unconstitutional legislation and stand by while that legislation is struck down by the courts.

The provision of the McCain-Feingold legislation that unconstitutionally burdens free speech is section 201, the so-called Snowe-Jeffords amendment. That is what the current DeWine amendment seeks to address. Snowe-Jeffords is designed to address what many have characterized as a loophole in the campaign finance laws that allows third parties prior to an election to fund advertisements which relate exclusively to an issue and refrain from the expressly urging to vote for or against a particular candidate. Recent experience has shown that such speech may effectively advance the prospects of one candidate over another, even though it refrains from express advocacy of the candidate.

I applaud my colleagues for their ingenuity in seeking to address this avenue by which money, unregulated by our electoral laws, may play a role in our elections.

You can call a dog a hog and it still remains a dog. I think trying to say their amendment and this particular clause in this bill is not violative of the first amendment free speech rights fits the description of trying to call a dog a hog. Still, it remains a dog.

The problem I have with this portion of the legislation is that issue advocacy prior to an election simply cannot be viewed as a loophole in the election laws that we must endeavor to close with appropriate legislation. Viewed through the lens of the first amendment, this issue advocacy is exactly the type of speech that must be accorded the ultimate protection of the first amendment. The Supreme Court has consistently refused to sanction disclosure requirements on issue advocacy, unless the communication in question directly advocates for or against a particular candidate.

Look, issue advocacy generally is used against us Republicans. There is not much doubt about that. That is where the money is. It is used against both from time to time, but really against us. I remember back in 1982 there was tremendous issue advocacy against me by the trade union movement. It was very difficult to put up with some of the ads used against us, both in print and otherwise. But it was a free speech right, and I would fight to my death to defend those rights of free speech.

The Snowe-Jeffords amendment seeks to redraw the line between protected issue advocacy and nonprotected express advocacy of a candidate in order to regulate a larger chunk of public speech prior to an election. Section 201 of the proposed legislation broadens the Federal Election Commission Act's regulatory scope to include any individual or group that expends at least $10,000 a year on electioneering communications. Now that is free speech.

Let's go further. Electioneering communications are defined as any communications in the electorate within 60 days before a general election that ''refers to a clearly identified candidate''—regardless of whether such communication urges a vote for or against that candidate.

The problem with this line-drawing exercise is that the Supreme Court has already done it. In Buckley v. Valeo the Supreme Court defines what types of issue advocacy could, consistent with the Constitution, be made subject to FECA's regulatory requirements. The Court found that only communications that expressly advocated for or against a specific candidate were subject to regulation. The Snowe-Jeffords amendment invades the constitutionally protected territory of pure issue advocacy. In fact, that invasion is the sole purpose of the provision.

It may well be true that third parties are, in fact, able to influence the electorate for or against the candidate by running independent issue advertisements, uncoordinated with a candidate's campaign, in the weeks leading up to the election. That phenomenon does not manifest a flaw in the regulatory scheme established by our current campaign finance laws. For better or for worse, that phenomenon manifests the free interchange of ideas in an open society. Such issue advocacy is free speech, protected by the first amendment, and accordingly, the McCain-Feingold legislation is unconstitutional.

In Snowe-Jeffords, those provisions are fatally overinclusive. They try to sweep away our first amendment political speech. The Supreme Court has been more than clear on this. What the authors are attempting to do is understandable, it is well intentioned, but unfortunately it is unconstitutional. That is one reason I have to stand here today and speak out for the amendment of the distinguished Senator from Ohio.

I believe he is right in his motion to strike. I believe he is right. I believe we ought to support him, and I hope our colleagues will.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, on behalf of the opponents of this legislation, I yield 20 minutes to the Senator from North Carolina, 20 minutes to the Senator from Maine, and 10 minutes to the Senator from Minnesota. We have 50 minutes left. Whatever time is left we will yield back.

I recognize my friend from Ohio is controlling the time on the other side. After Senator EDWARDS, I understand it will be his time to allocate. That is the only time we have requested tonight. That is how we will allocate our time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. I thank the Chair.

Mr. President, we talked at great length in this debate about the need to

return this democracy to the voters and to remove the influence of big money or the appearance of influence of big money.

Tonight I want to talk about two things: First, the two critical provisions of the McCain-Feingold bill; and, second, I want to speak in opposition to the DeWine amendment.

As most people who follow this debate know, the two most critical provisions of this bill are the ban on soft money and the Snowe-Jeffords provision. I first want to speak to the constitutionality of the ban on soft money.

There has been some suggestion during the course of this debate that there is a serious question about constitutionality. In fact, there is no serious question about that. The U.S. Supreme Court in the Buckley case said that in order for the Congress to regulate these sorts of contributions, the only constitutional test that must be met is a finding of a compelling State interest.

In the Buckley case, the U.S. Supreme Court went on to find, in fact, that preventing the actuality or appearance of corruption constitutes a compelling State interest. The language of the Court is:

> Congress was justified in concluding that the interest in safeguarding against the appearance of impropriety requires the opportunity of abuse inherent in the process of raising large monetary contributions be eliminated.

What the U.S. Supreme Court held in Buckley was in order to regulate these soft money contributions, there must first be a compelling State interest. They then went on to find that, in fact, there was a compelling State interest created by the appearance of impropriety associated with raising these large monetary contributions.

The Buckley case has already decided the question of whether a ban on soft money contributions is, in fact, constitutional. The U.S. Supreme Court has held that, in fact, that ban is constitutional and there is no serious or legitimate question about the constitutionality of the soft money ban.

Now I want to move to the Snowe-Jeffords provision. There has been some suggestion, including by my friend from Ohio in offering his amendment, that there are very serious questions raised by the Snowe-Jeffords provision of the McCain-Feingold bill. I will first summarize what Snowe-Jeffords does.

Snowe-Jeffords bans for the 60-day period prior to a general election or a 30-day period prior to a primary election broadcast television ads by unions or corporations paid for out of general treasury funds. It also contains certain disclosure provisions for other entities who may want to run such ads.

The suggestion is made that under the criteria established by the U.S. Supreme Court in Buckley, Snowe-Jeffords does not meet constitutional muster. In fact, it is very clear if you look at the language of the U.S. Supreme Court in Buckley and if you look at the cases that come after Buckley, Snowe-Jeffords does exactly what the U.S. Supreme Court in Buckley required in order to meet the test of constitutionality. First I will talk about that test.

The U.S. Supreme Court has established four requirements in order for the Snowe-Jeffords provision to be found to be constitutional.

The first of those requirements is that it cannot be vague. The second is that it must serve a compelling State interest. The third, it must be narrowly tailored to serve that interest. The fourth, it cannot be substantially overbroad.

The Court, in reaching that conclusion, first recognized that the first amendment in the case of electioneering—which is what we are talking about, campaign ads—is not absolute. There are certain circumstances where first amendment rights can be restricted, but only if these tests are met.

The first question, ''cannot be vague.'' The Snowe-Jeffords provision is by any measure, a clear, easy-to-identify, bright-line test. It requires that the ad be within the 60 days before the general election or within 30 days of the primary election; second, that it contain the likeness of a candidate or the name of the candidate; and third, that it be a broadcast television ad.

No one reading that definition could have any misunderstanding. It is specific. It is clear. It is a bright-line test. By any measure, it is not vague. It would meet the first test established by the U.S. Supreme Court in Buckley.

Second, it ''must serve a compelling State interest.'' Just as in the case of the soft money ban, the U.S. Supreme Court has already held that avoiding the appearance of impropriety is, in fact, a compelling State interest. The Court has already held that the reason for the Snowe-Jeffords provision is a compelling State interest. So that test is easily and clearly met by the language of the Court in Buckley v. Valeo.

The third, it ''must be narrowly tailored to serve that interest.'' First of all, why did Senators SNOWE and JEFFORDS offer this provision as part of McCain-Feingold? They offered it because in order to avoid legitimate campaign election laws in this country, what has been occurring is people have been broadcasting what has been described as issue ads as opposed to campaign ads. Now there is a ban, of course, on the broadcasting of campaign ads with General Treasury funds, so instead they call these ads issue ads, not campaign ads, in an effort to avoid that legitimate legal restriction.

In fact, what we know both empirically and from our own experience, many of these so-called issue ads—not many, the vast majority—of these so-called issue ads are campaign ads, particularly when they fall within that 60-day period.

Let me stop on this test for just a moment and give a couple of pieces of evidence. First, the empirical studies show in the year 2000 election, 1 percent of the ads that fall within the test of Snowe-Jeffords—that is, within 60 days of the general election, mention the name or show the likeness of the candidate, broadcast television ads—1 percent constituted legitimate issue ads; 99 percent constituted campaign ads. We know what our gut would tell us, anyway. We know from our own experience from watching these television ads, and voters would know from their own experience, that when they see these ads on television, in fact, they are campaign ads. They are not issue ads. They are advocating for the election or defeat of a particular candidate, not for some particular issue.

We now know empirically in the case of the 2000 election, 99 percent of those ads covered by Snowe-Jeffords are campaign ads and not issue ads. They are sham issue ads. They are a fraud under the campaign election laws that exist in this country.

Snowe-Jeffords is trying to eliminate that fraud, eliminate that sham. What we now know, the ads covered by Snowe-Jeffords, 99 percent of those ads are not issue ads but are campaign ads.

I have one or two examples. This is an ad run in a congressional election in 1998:

> Announcer: The Daily reports criminals are being set free in our neighborhoods.
>
> In May, Congressman X voted to allow judges to let violent criminals out of jail, rapists, drug dealers, and even murderers.
>
> X's record on drugs is even worse. X voted to reduce penalties for crack cocaine. And in April, X voted to use your tax dollars to give free needles to illegal drug users.
>
> Call X. Tell him he's wrong. Dangerous criminals belong in jail.

This doesn't use the language used as illustrative by the U.S. Supreme Court in Buckley. It doesn't say ''vote for;'' it doesn't say ''elect;'' it says ''call.'' But any rational person, including all the people who watched this ad on television, know that this ad is aimed at defeating Congressman X in the campaign. That is exactly what it is about.

That is what was demonstrated in my chart, 99 percent of the ads that fall within the test of Snowe-Jeffords are ads just like this. They are pure campaign ads, plain and simple. These ads are being paid for by contributions that otherwise would violate the legitimate election laws of this country.

What we are trying to do in Snowe-Jeffords, we have a very narrowly tailored provision that catches ads that are clearly campaign ads. We now know that 99 percent of those ads that fall within Snowe-Jeffords are campaign ads, plain and simple; not issue ads.

So what conclusion do we draw from this? If 99 percent of the ads are campaign ads, if, in fact, 99 percent of the ads are like the one I have just shown as illustrative, they ''must be narrowly tailored'' to pass constitutional muster.

It is not vague, a clear, bright-line test, we have compelling State interest, and now we know this provision is narrowly tailored, and that goes hand in glove, by the way, with the fourth provision, which means it ''cannot be substantially overbroad.''

The Court recognized that any time you have a bright-line test that is not vague, you are, by definition, going to catch some stray advertisements that are not intended to be included. They don't just require that there be no overbreadth. There has to be substantial overbreadth in order to be unconstitutional.

What we now know empirically, 99 percent of the ads that meet Snowe-Jeffords are exactly what are intended to be targeted by Snowe-Jeffords. The empirical evidence clearly supports the notion that Snowe-Jeffords is not substantially overbroad, on top of the fact that the provisions of the bill itself are not substantially overbroad. They are narrowly tailored. They do exactly what the U.S. Supreme Court has required.

I suggest that, in fact, Senators SNOWE and JEFFORDS have done a terrific job of meeting the constitutional test because they have made the provision for bright line, they have made it clear it is not vague, and at the same time it is sufficiently narrow to meet the constitutional requirements of Buckley v. Valeo.

What we now know and can see by looking at the constitutional requirements is that Snowe-Jeffords meets all those requirements. The U.S. Supreme Court has established these requirements, has defined what they mean, and Snowe-Jeffords, we know, meets those requirements. The empirical evidence shows it is not overly broad, it is not substantially overbroad, that it reaches very few ads that are, in fact, issue ads.

One argument made is that Buckley v. Valeo uses a test in order for an ad to be a campaign ad, as opposed to an issue ad: ''Vote for,'' ''elect,'' ''support,'' ''cast your ballot for.'' The people who are making that argument are not reading the U.S. Supreme Court opinion. Because what the Court said was, in order to make the existing election laws—as of the time of this opinion—constitutional, we are going to establish a test since Congress did not do it. They go on and invite us to do it, to establish the test. Instead of saying ''this is language that is required,'' they say:

> This construction would restrict the application of section 608 . . . to communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect'. . . .

It is obvious from the ''such as'' language that the Court by no means intended this list to be exhaustive. The Court fully recognized that given the imagination of campaign managers and people who prepare these ads, that they could not even begin to do an exhaustive list. This list is nothing but illustrative, never intended to be anything but illustrative.

For those who come to the floor and say, wait a minute, Snowe-Jeffords doesn't use the magic language, doesn't use ''vote for,'' doesn't use ''elect''—what the U.S. Supreme Court made clear in their case was these are nothing but illustrations of what changes an ad from an issue ad to a campaign ad.

Sure, if they say ''vote for'' and ''elect'' they become a campaign ad, but as we have shown from the illustration a few moments ago, it is just as simple to have a pure campaign ad that never says ''vote for,'' that never says ''elect,'' that simply says: Call Congressman so-and-so, call Senator so-and-so. But any rational person looking at the ad would know it was calling for the election or defeat of a particular candidate and it was nothing, on its face, but a pure campaign ad.

The point is, it is not a legitimate argument that because Snowe-Jeffords does not use these magic words—the language I have heard during the course of the debate—it cannot pass constitutional muster.

The Supreme Court established four tests in Buckley v. Valeo. The Supreme Court, in fact, invited us, the Congress, to decide what language ought to be used to determine whether ads, in fact, are prohibited or not prohibited. They have left it to us to define what ads are prohibited.

The only thing they require in order to do that is that we meet the four tests they established, which we talked about before. Snowe-Jeffords clearly meets all those tests. It is not vague. It is a clear, easy to understand bright-line test. The U.S. Supreme Court already said what we are attempting to do serves a compelling State interest, it is narrowly tailored—60 days before a general election, 30 days before a primary, likeness or name of the candidate, broadcast ads. And it is not substantially overbroad. As we have already established in the last election, 99 percent of the ads that fall within the definition of Snowe-Jeffords are, in fact, campaign ads and not issue ads.

If you look carefully at the U.S. Supreme Court opinion in Buckley, and if you look at the tests that have been established by the U.S. Supreme Court, first of all, the soft money ban of McCain-Feingold is, on its face, constitutional. There is not even a legitimate argument that it is not constitutional.

Second, the Snowe-Jeffords provision of the McCain-Feingold bill, which bans broadcast ads during this defined period, paid for out of union or corporation treasury funds, also clearly meets all the constitutional tests established by the Court in Buckley v. Valeo. It is a critical component of the McCain-Feingold bill because without it we are going to continue to see these sham issue ads run solely for campaign purposes being paid for by funds that are not legitimate and are not legal.

The only way we can bring this thing to conclusion is to not only do what we have already done during this debate, which is pass the ban on soft money; but to, second, pass the Snowe-Jeffords provision. Because, number one, it is constitutional and, number two, it is absolutely critical to going about reestablishing the public faith in our campaigns and the public faith in our election system. Because not only are people worried about the flow of money, they are worried about what happens when they turn their television sets on in the 30 or 60 days before an election. They are sitting there watching television with their kids and what do they see? They see these nasty, personal attacks, in a huge percentage of the cases being paid for as issue ads, out of funds that are not intended to be used for that purpose.

That is what Snowe-Jeffords is intended to stop. Snowe-Jeffords is clearly constitutional. We should defeat the DeWine amendment as a result.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, first of all, let me thank my colleague from North Carolina for his excellent dissertation. I just loved it when he was going through these ads. I want to make it real clear that for all of these different groups and organizations—I don't want to keep my colleague from North Carolina—on the floor, but I know he will agree with this very important distinction—that all of these groups and organizations, whether they are left, right, center, lean Democratic, lean Republican, you name it, they can run all the ads in the world they want and they can finance those ads with soft money; in other words, money they get in contributions of hundreds of thousands of dollars, and it is absolutely fine as long as the focus is on the issue. As long as those are genuine issue ads and it is not electioneering, they have all of the freedom in the world to do that—period. No question about it.

Second, if they want to do the electioneering and they want to do these sorts of ads where you say ''call' as opposed to ''vote against candidate x,'' you bash the candidate, whatever party—they can run all the ads they want and they can have all of the freedom of speech in the world. The only thing is, they have to finance it out of hard money. That is all. They cannot pretend that these are ''issue ads'' when they are sham issue ads and we all know it is electioneering. That is the point. But they can do it. They just have to raise their money under the campaign limits that deal with hard money. That is the whole point of some of the amendments to this bill.

From my own part, one more time—and the more I talk to people, I think the people agree this is a very important strengthening amendment—what we want to make sure of is when we do the prohibition on soft money to the

parties, all of a sudden that money, again, like pushing Jell-O, doesn't just shift to these sham issue ads where a variety of existing groups and organizations, much less the proliferation of all the new groups and organizations, will take advantage of a loophole and just pour all of their soft money into these sham issue ads which are really electioneering. In that case, what will we have accomplished if we have, roughly speaking, just as much soft money spent but it is just going to be spent in a different way, unaccountable big dollars?

That is what the amendment I introduced the other night was all about.

I only came to the floor because I want to make sure the RECORD is clear. My colleague from Maine was gracious enough to give me a little bit of time. Let me make three quick points.

Point No. 1. The amendment I introduced the other night—since this amendment has been mentioned several times by my colleague—uses the exact same sham issue test ad, with some additional targeting, as the Snowe-Jeffords language in the bill which is constitutional. In fact, actually the targeting language I use makes the amendment more likely to survive any constitutional challenge.

Point No. 2, the Snowe-Jeffords test is a bright-line test, as my colleague from North Carolina pointed out. It is perfectly obvious on its face, whether an ad falls under this definition. This means there will be no ''chilling effect'' on protected speech, which was a concern raised by the Supreme Court in the Buckley decision because every group, every organization would be uncertain if an ad they intended to run would be covered or not. We make sure everybody would be certain.

Point No. 3, the test is not overly broad. A comprehensive study conducted by the Brennan Center, which did a whole lot of work on campaign finance ads during the 1998 election, found that only two genuine issue ads, out of hundreds run, would have been inappropriately defined as a sham issue ad.

This is a really important one for the RECORD.

On February 20, 1998, a letter signed by 20 constitutional scholars, including the former director of the ACLU, which analyzed the Snowe-Jeffords provision on electioneering communications, argued that even though the provision was written to exempt certain organizations from the ban on electioneering communication, such omission was not constitutionally necessary.

I quote from these scholars, including a former director of the ACLU:

> The careful crafting of the Snowe-Jeffords amendment stands in stark contrast to the clumsy and sweeping prohibition that Congress originally drafted. Congress could, if it wished, apply the basic rules that currently govern electioneering to all spending that falls within this more realistic definition of electioneering. Congress could, for example, declare that only individuals, PAC's and the most grassroots of nonprofit corporations could engage in electioneering that falls within the broad definition. It could impose fundraising restrictions prohibiting individuals from pooling large contributions towards such electioneering.

Fifth point: If you believe that the amendment that passed the other night that I introduced covers certain groups unconstitutionally—if that is what you believe—then you must also believe that the current Shays-Meehan bill—the version passed by the House of Representatives—and the 1997 version, and all previous versions of the McCain-Feingold bill are also unconstitutional because they cover the same groups.

Point No. 6: In September 1999, Don Simon, then-executive vice president and general counsel of Common Cause, argued in a memo to all House Members that the Shays-Meehan bill is fully constitutional. That is exactly the amendment we passed the other night on the floor of the Senate.

Finally, in the event of constitutional problems, the amendment passed the other night is fully severable.

I make five arguments as to why this is a very different question.

First, this amendment, and indeed the Snowe-Jeffords provision already in the bill, only covers broadcast communications. It does not cover print communications like the one at issue in Massachusetts Citizens for Life. Indeed, the group argued that the flyer should have been protected as a news ''editorial.'' Snowe-Jeffords specifically exempts editorial communications.

Second, the court based its decision in part on the logic that regulation of election related communications was overly burdensome to small, grass roots, nonprofit organizations and so would have a chilling effect on speech. But the Snowe-Jeffords standard that the amendment would apply has a high threshold that must be met before a communication is covered. A group would have to spend $10,000 on broadcast ads that mention a federal candidate 60 days before an election before this provision would kick in. This meets the Court's requirement in the case that minor communications be protected.

Third, the federal law that the court objected to was extremely broad and the Court specifically cited that fact as one of reasons it reached the decision it did, saying ''Regulation that would produce such a result demands far more precision that [current law] provides.'' This amendment provides that precision. The Snowe-Jeffords language is very narrowly targeted and has a very high threshold before it applies, which further protects amateur, unsophisticated, or extremely limited communications.

Fourth, the Court actually argued that the election communications of non-profit corporations—such as the ones covered by amendment—could be regulated once it reached a certain level. In fact, the Court held that, quote:

> . . . should MCFL's independent spending so extensive that the organization's major purpose may be regarded as campaign activity, the corporation would be classified as a political committee . . . As such, it would automatically be subject to the obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns.

Yet since the decision, such groups have actually operated outside the law with impunity. Take for example, the organization ''Republicans for Clean Air.''

Despite it's innocuous name, this was an organization created for the sole purpose of promoting the candidacy of George W. Bush during the Republican primary during the last election. Another example is the Club for Growth. This was an outfit that ran attack ads against moderate Republican congressional candidates in Republican congressional primaries. Both groups, which would be covered by my amendment—but not the current Snowe-Jeffords provision—could clearly be banned from running these sham issue ads with their treasury funds under the Massachusetts Citizens for Life decision.

Fifth, the court's decision was based on a premise that may have been true in 1986, but certainly is not the case today: that non-profit groups such as the one at issue in the decision did not play a major rule in federal elections. In fact, the court held that: ''the FEC maintains that the inapplicability of [current law] to MCFL would open the door to massive undisclosed spending by similar entities . . . We see no such danger.'' Today, it is clear that the FEC had it exactly right and the Court had it exactly wrong.

In fact, the Campaign Finance Institute at George Washington University in a February 2001 report found this to be the case and stated quote: ''These undisclosed interest group communications are a major force in U.S. not little oddities or blips on a screen.'' Perhaps in 1986 it was a ''blip on the screen'' but today we are talking about tens of millions of dollars just in these sham issue adds. These groups have become major players in our elections but the law does not hold them accountable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I want to conclude the debate on the motion to strike that has been offered by my colleague from Ohio by making several points on the Snowe-Jeffords provision. We will conclude the debate tomorrow before the vote. But I think it is critical for my colleagues to understand that the essence of this provision, as the Senator from North Carolina so eloquently stated, the legal rationale for the underpinnings of this amendment, was drafted with an abundance of caution. It was carefully crafted to specifically address the issues that were raised in the Buckley decision in 1976 with respect to the restrictions

being either too vague or too broad, and so they in effect would not have a chilling effect on the public's right to free speech.

Since that time, as I indicated earlier, in the 25 years or 26 years that have ensued, there has been no other major campaign finance law that has been passed by this Congress or that has come before the Supreme Court because we have not acted. We have not taken any action on campaign finance reform or changes in our campaign finance laws since that time.

We have seen the evolution and the eruption of the so-called sham issue ads that supposedly were operating under the guise of being advocacy ads. But in reality, as we all well know, with the studies that have been done recently on the influence and impact they are having on the election because they mention the candidates by name, they come into that very narrow window of 60 days before an election.

That is not just happenstance; it is because the election is occurring. They design these ads to mention a candidate and to avoid using those magic words ''for or against'' but knowing full well that it will have an effect on the intended audience on a candidate's election.

We are very definitive. We are very specific in the Snowe-Jeffords provision in the McCain-Feingold legislation that is before us. It has to identify. It has to mention a candidate. The ad has to run 60 days before a general election and 30 days before a primary. The ad has to run in a candidate's State or district.

Those criteria are very specific, and therefore anybody who has the intention of running those ads will know exactly whether or not they are treading constitutional grounds. That is why 70 constitutional scholars and experts signed a letter in support of these provisions, because they know they don't run afoul of constitutional limitations in the first amendment because it is very specifically drafted to address those issues.

Fundamentally, it really comes down to whether or not we are truly interested in disclosure. The Supreme Court said we have a right to disclosure. It is in the public interest. It is a compelling public interest for disclosure. The Supreme Court has said clearly in a number of cases for constitutional purposes that electioneering is different from other speeches. That was handed down as one decision by the Supreme Court in 1986.

Of course, in the Buckley case, it said Congress has the power to enact campaign financing laws that extend electioneering through a variety of ways, even though spending in other forms of political speech is entitled to absolute first amendment protection. It said, as an example, to ''vote for'' or ''vote against'' are the magic words but that it was not all-inclusive.

The Supreme Court could not possibly have foreseen the evolution of the kinds of ads that are pervading the election process today. They are escaping. They are coming in under the radar of disclosure.

We are saying those major donors of $1,000 or more—that is five times the requirement for disclosure that we have to provide as candidates under Federal election laws—but we are saying five times higher before the trigger for disclosure occurs to organizations that run ads in that 60-day window, in the 30-day window in the primary, that mention a candidate because it is clear that the intent is designed to influence the outcome of an election.

In Buckley, it said Congress has broader latitude to require disclosure of election-related spending than it does to restrict such spending. Disclosure rules, according to the Court, are the least restrictive means of curbing the evils of campaign ignorance and corruption.

Congress banned corporate union contributions as upheld in United States v. UAW in 1957, reaffirmed, as I said earlier, in the Austin v. Michigan Chamber of Commerce decision in 1990. It is all weighted in sound legal precedent. That is what the Snowe-Jeffords provision is all about.

I really do think we have to come to grips with the realities of what is occurring in our elections when 99 percent —99 percent is almost as high as it gets—99 percent of all of the ads that are aired during that period of time before the election mention candidates. And their intent is clear, because all the focus groups that responded to the Snowe-Jeffords provision used that as an analysis and viewed these ads, and identified these ads as being the most influential, negative, and intended to effect an outcome. So that is essentially what we are talking about.

I think the vote tomorrow to strike this provision is basically coming down to whether or not we want fundamental reform, if we are willing to take back the process, if we are willing to take back the process as candidates.

I want to control my own campaign. As I said in my previous statement, in 1978 when I first ran for the House of Representatives, these phenomena were virtually unknown. It was rare to even have an independent expenditure—and that is another story—under Federal election laws. That is a different thing. But we did not even have that.

These elections should be between and among the candidates themselves. Do we really think it is in our interest, in the public's interest, to have organizations of whom we know little, if anything, to influence, to impact, our elections—In fact, to spend more than the candidates themselves in some of these elections? Sometimes these organizations spend more than the candidates themselves who are involved in these elections. Are we saying that that is in our public interest?

They hide behind the cloak of anonymity. We do not even know who they are. I have a list here. Some of them we would probably readily identify by name, at least in terms of their interests. But while you do not know most of them, this is a list of 100 organizations. And this is not all of them. This is not all inclusive. But you have the Americans for Hope, Growth & Opportunity, Americans for Job Security, Coalition to Protect Americans Now, Coalition to Protect America's Health Care, Committee for Good Common Sense. Those all sound very appropriate, meritorious, but who are they? Who are they?

We are not saying they can't run ads. They can run ads all year long. They can do whatever they want in that sense. But what we are saying is, when they come into that narrow window, we have the right to know who are their major contributors who are financing these ads close to an election.

There are no guaranteed rights to anonymity when it comes to campaigning. Even the Supreme Court has said it is in our public interest to have disclosure. In fact, the Court has said time and time again, disclosure is in the public's interest because it gives details as to the nature and source of the information they are getting. That is why 70 constitutional scholars have endorsed the Snowe-Jeffords provision.

Mr. President, I ask unanimous consent to have this letter from the Brennan Center for Justice printed in the RECORD.

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

BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW,
New York, NY, March 12, 2001.

Senator JOHN MCCAIN,
Senator RUSSELL FEINGOLD,
U.S. Senate, Washington, DC.

DEAR SENATORS MCCAIN AND FEINGOLD: We are scholars who have studied and written about the First Amendment to the United States Constitution. We submit this letter to respond to a series of public challenges to two components of S. 27, the McCain-Feingold Bill. Critics have argued that it is unconstitutional to close the so-called ''soft money loophole'' by placing restrictions on the source and amount of campaign contributions to political parties. Critics have also argued that it is unconstitutional to require disclosure of campaign ads sponsored by advocacy groups unless the ads contain explicit words of advocacy, such as ''vote for'' or ''vote against.'' We reject both of those suggestions.

As constitutional scholars, we are deeply committed to the principles underlying the First Amendment and believe strongly in preserving free speech and association in our society, especially in the realm of politics. We are not all of the same mind on how best to address the problems of money and politics. However, we all agree that the nation's current campaign finance laws are on the verge of being rendered irrelevant, and that the Constitution does not erect an insurmountable hurdle to Congressional efforts to adopt reasonable campaign finance laws aimed at increasing disclosure for electioneering ads, restoring the integrity of the long-standing ban on corporate and union political expenditures, and reducing the appearance of corruption that flows from ''soft money'' donations to political parties.

The problems of corruption and the appearance of corruption that the McCain-Feingold Bill attempts to address are ones that inhere in any system that permits large campaign contributions to flow to elected officials and the political parties. These problems have been brought to the public's attention in a rather stark manner through the recent presidential pardon issued to fugitive financier Marc Rich. Regardless of underlying merits of that presidential decision, the public perception that flows from the publicly-reported facts is that large political contributors receive both preferred access to and preferential treatment from our elected government officials. These perceptions, regardless of their truth or falsity in any individual case, are ultimately very corrosive to our democratic institutions.

I. LIMITS ON ''SOFT MONEY'' CONTRIBUTIONS TO POLITICAL PARTIES FROM CORPORATIONS, LABOR UNIONS, AND WEALTHY CONTRIBUTORS ARE CONSTITUTIONAL

To prevent corruption and the appearance of corruption, federal law imposes limits on the source and amount of money that can be given to candidates and political parties ''in connection with'' federal elections. The money raised under these strictures is commonly referred to as ''hard money.'' Since 1907, federal law has prohibited corporations from making hard money contributions to candidates or political parties. See 2 U.S.C 441b(a) (current codification). In 1947, that ban was extended to prohibit union contributions as well. Id. Individuals, too, are subject to restrictions in their giving of money to influence federal elections. The Federal Election Campaign Act (''FECA'') limits an individual's contributions to (1) $1,000 per election to a federal candidate; (2) $20,000 per year to national political party committees; and (3) $5,000 per year to any other political committee, such as a PAC or a state political party committee. Id. §441a(a)(1). Individuals are also subject to a $25,000 annual limit on the total of all such contributions. Id. §441a(a)(3).

The soft money loophole was created not by Congress, but by a Federal Election Commission (''FEC'') ruling in 1978 that opened a seemingly modest door to allow non-regulated contributions to political parties, so long as the money was used for grassroots campaign activity, such as registering voters and get-out-the-vote efforts. These unregulated contributions are known as ''soft money'' to distinguish them from the hard money raised under FECA's strict limits. In the years since the FEC's ruling, this modest opening has turned into an enormous loophole that threatens the integrity of the regulatory system. In the recent presidential election, soft money contributions soared to the unprecedented figure of $487 million, which represented an 85 percent increase over the previous presidential election cycle (1995–96). It is not merely the total amount of soft money contributions that raises concerns, but the size of the contributions as well, with donors being asked to give amounts of $100,000, $250,000, or more to gain preferred access to federal officials. Moreover, the soft money raised is, for the most part, not being spent to bolster party grassroots organizing. Rather, the funds are often solicited by federal candidates and used for media advertising clearly intended to influence federal elections. In sum, soft money has become an end run around the campaign contribution limits, creating a corrupt system in which monied interests appear to buy access to, and inappropriate influence with, elected officials.

The McCain-Feingold bill would ban soft money contributions to national political parties by requiring that all contributions to national parties be subject to FECA's hard money restrictions. The bill also would bar federal officeholders and candidates for such offices from soliciting, receiving, or spending soft money. Additionally, state parties that are permitted under state law to accept unregulated contributions from corporations, labor unions, and wealthy individuals would be prohibited from spending that money on activities relating to federal elections, including advertisements that support or oppose a federal candidate.

We believe that such restrictions are constitutional. The soft money loophole has raised the specter of corruption stemming from large contributions (and those from prohibited sources) that led Congress to enact the federal contribution limits in the first place. In Buckley v. Valeo the Supreme Court held that the government has a compelling interest in combating the appearance and reality of corruption, an interest that justifies restricting large campaign contributions in federal elections. See 424 U.S. 1, 23–29 (1976). Significantly, the Court upheld the $25,000 annual limit on an individual's total contributions in connection with federal elections. See id. at 26–29, 38. In later cases, the Court rejected the argument that corporations have a right to use their general treasury funds to influence elections. See, e.g., Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990). Under Buckley and its progeny, Congress clearly possesses power to close the soft money loophole by restricting the source and size of contributions to political parties, just as it does for contributions to candidates, for use in connection with federal elections.

Moreover, Congress has the power to regulate the source of the money used for expenditures by state and local parties during federal election years when such expenditures are used to influence federal elections. The power of Congress to regulate federal elections to prevent fraud and corruption includes the power to regulate conduct which, although directed at state or local elections, also has an impact on federal races. During a federal election year, a state or local political party's voter registration or get-out-the-vote drive will have an effect on federal elections. Accordingly, Congress may require that during a federal election year, state and local parties' expenditures for such activities be made from funds raised in compliance with FECA so as not to undermine the limits therein.

Any suggestion that the Supreme Court's decision in Colorado Republican Federal Campaign Committee v. FEC, 1518 U.S. 604 (1996), casts doubt on the constitutionality of a soft money ban is flatly wrong. Colorado Republican did not address the constitutionality of banning soft money contributions, but rather the expenditures by political parties of hard money, that is, money raised in accordance with FECA's limit. Indeed, the Court noted that it ''could understand how Congress, were it to conclude that the potential for evasion of the individual contribution limits was a serious matter, might decide to change the statute's limitations on contributions to political parties.'' Id. at 617.

In fact, the most relevant Supreme Court decision is not Colorado Republican, but Austin v. Michigan Chamber of Commerce, in which the Supreme Court held that corporations can be walled off from the electoral process by forbidding both contributions and independent expenditures from general corporate treasuries. 494 U.S. at 657–61. Surely, the law cannot be that Congress has the power to prevent corporations from giving money directly to a candidate, or from expending money on behalf of a candidate, but lacks the power to prevent them from pouring unlimited funds into a candidate's political party in order to buy preferred access to him after the election. See also Nixon v. Shrink Missouri Govt. PAC, 120 S. Ct. 897 (2000) (reaffirming Buckley's holding that legislatures may enact limits on large campaign contributions to prevent corruption and the appearance of corruption).

Accordingly, closing the loophole for soft money contributions is in line with the long-standing and constitutional ban on corporate and union contributions in federal elections and with limits on the size of individuals' contributions to amounts that are not corrupting.

II. CONGRESS MAY REQUIRE DISCLOSURE OF ELECTIONEERING COMMUNICATIONS, AND IT MAY REQUIRE CORPORATIONS AND LABOR UNIONS TO FUND ELECTIONEERING COMMUNICATIONS WITH MONEY RAISED THROUGH POLITICAL ACTION COMMITTEES

The current version of the McCain-Feingold Bill adopts the Snowe-Jeffords Amendment, which addresses the problem of thinly-disguised electioneering ads that masquerade as ''issue ads.'' Snowe-Jeffords defines the term ''electioneering communications'' to include radio or television ads that refer to clearly identified candidates and are broadcast within 60 days of a general election or 30 days of a primary. A group that makes electioneering communications totaling $10,000 or more in a calendar year must disclose its identity, the cost of the communication, and the names and addresses of all its donors of $1,000 or more. If the group has a segregated fund that it uses to pay for electioneering communications, then only donors to that fund must be disclosed. Additionally, corporations and labor unions are barred from using their general treasury funds to pay for electioneering communications. Instead, they must fund electioneering communications through their political action committees.

The Supreme Court has made clear that, for constitutional purposes, electioneering is different from other speech. See FEC v. Massachusetts Citizens for Life, 479 U.S. 238, 249 (1986) (''MCFL''). Congress has the power to enact campaign finance laws that constrain the spending of money on electioneering in a variety of ways, even though spending on other forms of political speech is entitled to absolute First Amendment protection. See Buckley v. Valeo, 424 U.S. 1 (1976). Congress is permitted to demand that the sponsor of a campaign and disclose the amount spent on the message and the sources of the funds. And Congress may prohibit corporations and labor unions from spending money on campaign ads. This is black letter constitutional law about which there can be no serious dispute.

There are, of course, limits to Congress's power to regulate election-related spending. But there are two contexts in which the Supreme Court has granted Congress freer reign to regulate. First, Congress has broader latitude to require disclosure of election-related spending than it does to restrict such spending. See id. at 67–68. In Buckley, the Court declared that the governmental interests that justify disclosure of election-related spending are considerably broader and more powerful than those justifying prohibitions or restrictions on election-related speeding. Disclosure rules, the Court opined, in contrast to spending restrictions or contribution limits, enhance the information available to the voting public. Plus, the burdens on free speech rights are far less significant when Congress requires disclosure of a particular type of spending than when it prohibits the spending outright or limits the funds that support the speech. Disclosure rules, according to the Court, are ''the least

restrictive means of curbing the evils of campaign ignorance and corruption.'' Id. at 68. Thus, even if certain political advertisements cannot be prohibited or otherwise regulated, the speaker might still be required to disclose the funding sources for those ads if the governmental justification is sufficiently strong.

Second, Congress has a long record, which has been sustained by the Supreme Court, of imposing more onerous spending restrictions on corporations and labor unions than on individuals, political action committees, and associations. Congress banned corporate and union contributions in order ''to avoid the deleterious influences on federal elections resulting from the use of money by those who exercise control over large aggregations of capital.'' United States v. UAW, 352 U.S. 567, 585 (1957). As recently as 1990, the Court reaffirmed this rational. See Austin v. Michigan Chamber of Commerce, 491 U.S. 652 (1990); FEC v. National Right to Work Committee, 459 U.S. 197 (1982). The Court emphasized that it is constitutional for the state to limit the electoral participation of corporations because ''[s]tate law grants [them] special advantages—such as limited liability, perpetual life, and favorable treatment of the accumulation of and distribution of assets.'' Austin, 491 U.S. at 658–59. Having provided these advantages to corporation, particularly business corporations, the state has no obligation to ''permit them to use 'resources amassed in the economic marketplace' to obtain 'an unfair advantage in the political marketplace.''' (quoting MCFL, 479 U.S. at 257). Snowe-Jeffords builds upon these bedrock principles, extending current regulation cautiously and only in the areas in which the First Amendment protection is at its lowest ebb.

Contrary to the suggestion of some of the critics of Snowe-Jeffords, the Supreme Court in Buckley did not promulgate a list of certain ''magic words'' that are regulable as ''electioneering'' and place all other communications beyond the reach of campaign finance law. In Buckley, the Supreme Court reviewed the constitutionality of a specific piece of legislation—FECA. One section of FBCA imposed a $1,000 limit on expenditures ''relative to a clearly identified candidate,'' and another section imposed reporting requirements for independent expenditures of over $100 ''for the purpose of influencing'' a federal election. The Court concluded that these specific provisions ran afoul of two constitutional doctrines—vagueness and overbreadth—that pervade First Amendment jurisprudence.

The vagueness doctrine demands clear definitions. Before the government punishes someone—especially for speech—it must articulate with sufficient clarity what conduct is legal and what is illegal. A vague definition of electioneering might ''chill'' some political speakers who, although they desire to engage in discussions of political issues, may fear that their speech could be punished.

Even if a regulation is articulated with great clarity, it may still be struck as overbroad. A restriction that covers regulable speech (and does so clearly) can be struck if it sweeps too broadly and covers a substantial amount of constitutionally protected speech as well. But under the overbreadth doctrine, the provision will be upheld unless its overbreadth is substantial. A challenger cannot topple a statute simply by conjuring up a handful of applications that would yield unconstitutional results.

Given these two doctrines, it is plain why FECA's clumsy provisions troubled the Court. Any communication that so much as mentions a candidate—any time and in any context—could be said to be ''relative to'' the candidate. And it is difficult to predict what might ''influence'' a federal election. The Supreme Court could have simply struck FECA, leaving it to Congress to develop a clearer and more precise definition of electioneering. Instead, the Court intervened by essentially rewriting Congress's handiwork itself. In order to avoid the vagueness and overbreadth problems, the Court interpreted FECA to reach only funds used for communications that ''expressly advocate'' the election or defeat of a clearly identified candidate. In an important footnote, the Court provided some guidance on how to decide whether a communication meets that description. The Court stated that its revision of FECA would limit the reach of the statute ''to communications containing express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject,''' Buckley, 424 U.S. at 44 n.52.

But the Court did not declare that all legislatures were stuck with these magic words, 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.

Any more restrictive reading of the Supreme Court's opinion would be fundamentally at odds with the rest of the Supreme Court's First Amendment jurisprudence. Countless other contexts—including libel, obscenity, fighting words, and labor elections—call for delicate line drawing between protected speech and speech that may be regulated. In none of these cases has the Court adopted a simplistic bright-line approach. For example, in libel cases, an area of core First Amendment concern, the Court has rejected the simple bright-line approach of imposing liability based on the truth or falsity of the statement published. Instead the Court has prescribed an analysis that examines, among other things, whether the speaker acted with reckless disregard for the truth or falsity of the statement and whether a reasonable reader would perceive the statement as stating actual facts or merely rhetorical hyperbole. Similarly, in the context of union representation elections, employers are permitted to make ''predictions'' about the consequences of unionizing but they may not issue ''threats.'' The courts have developed an extensive jurisprudence to distinguish between the two categories, yet the fact remains that an employer could harbor considerable uncertainty as to whether or not the words he is about to utter are sanctionable. The courts are comfortable with the uncertainty of these tests because they have provided certain concrete guidelines.

In no area of First Amendment jurisprudence has the Court mandated a mechanical test that ignores either the context of the speech at issue or the purpose underlying the regulatory scheme. In no area of First Amendment jurisprudence has the Court held that the only constitutionally permissible test is one that would render the underlying regulatory scheme unenforceable. It is doubtful, therefore, that the Supreme Court in Buckley intended to single out election regulations as requiring a mechanical, formulaic, and utterly unworkable test.

Snowe-Jeffords presents a definition of electioneering carefully crafted to address the Supreme Court's dual concerns regarding vagueness and overbreadth. Because the test for prohibited electioneering is defined with great clarity, it satisfies the Supreme Court's vagueness concerns. Any sponsor of a broadcast 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.

The prohibition is also narrow enough to satisfy the Supreme Court's overbreadth concerns. Advertisements that name a political candidate and are aired close to election almost invariably are electioneering ads intended to encourage voters to support or oppose the named candidate. This conclusion is supported by a comprehensive academic review conducted of television advertisements in the 1998 federal election cycle. See Buying Time: Television Advertising in the 1998 Congressional Elections (Brennan Center for Justice, 2000). This study examined more than 300,000 airings of some 2,100 separate political commercials that appeared in the nation's 75 largest media markets in 1998. The study found that there were a total of 3,100 airings of only two separate commercials that met the Snowe-Jeffords criteria of naming a specific candidate within 60 days of the general election and that were judged by academic researchers to be true issue advocacy. This, the Snowe-Jeffords general election criteria were shown to have inaccurately captured only 1 percent of the total political commercial airings, and represented an insignificant 0.1 percent of the separate political commercial airings in the 1998 election cycle. This empirical evidence demonstrates that the Snowe-Jeffords criteria are not ''substantially overbroad.'' The careful crafting of Snowe-Jeffords stands in stark contrast to the clumsy and sweeping prohibition that congress originally drafted in FECA.

CONCLUSION

McCain-Feingold is a reasonable approach to restoring the integrity of our federal campaign finance laws. The elimination of soft money will close an unintended loophole that, over the last few election cycles, has rendered the pre-existing federal contribution limits largely irrelevant. Similarly, the incorporation of the Snowe-Jeffords Amendment into the McCain-Feingold Bill is a well-reasoned attempt to define electioneering in a more realistic manner while remaining faithful to First Amendment vagueness and overbreadth concerns. It seeks to provide the public with important information concerning which private groups and individuals are spending substantial sums on electioneering, and it prohibits corporations and labor unions from skirting the ban on using their general treasury funds for the purpose of influencing the outcome of federal elections. While no one can predict with certainty how the courts will finally rule if any of these provisions are challenged in court, we believe that the McCain-Feingold Bill, as currently drafted, is consistent with First Amendment jurisprudence.

Respectfully submitted,

ERWIN CHEMERINSKY,
Sydney M. Irmas Professor of Public Interest, Law, Legal Ethics, and Political Science, University of Southern California.

RONALD DWORKIN,
Quain Professor of Jurisprudence, University College London; Frank H. Sommer Professor of Law, New York University School of Law.

ABNER J. MIKVA,
Visiting Professor, University of Chicago School of Law.

NORMAN ORNSTEIN,
Resident Scholar, American Enterprise Institute.
NORMAN DORSEN,
Stokes Professor of Law, New York University School of Law.
FRANK MICHELMAN,
Robert Walmsey University Professor, Harvard University.
BURT NEUBORNE,
John Norton Pomeroy Professor of Law, New York University School of Law.
DANIEL R. ORTIZ,
John Allan Love Professor of Law & Joseph C. Carter, Jr. Research Professor, University of Virginia School of Law.

(All Institutional Affiliations are for Identification Purposes Only)

Ms. SNOWE. They illustrate exceptionally well the legal validity and rationale for this provision. It charts a very narrow course. That is why they have every confidence it will withstand constitutional scrutiny.

You hear some who say: Oh, no, it will create a loophole. On the other hand, it creates too many restrictions.

Well, which is it? I think we have reached the point in time where we have to stand up and be counted as to whether or not we want to hide behind the guise of anonymity, of organizational anonymity, to shape the direction and influence of these elections. I say that is the wrong direction.

The Annenberg Center did a study. It showed, as I said earlier, $100 million was spent in the final weeks of the campaign. And guess what. They mentioned a candidate by name. They mentioned a candidate by name. That is no coincidence. It had nothing to do with influencing the issue agenda because, as I showed on a chart earlier, what was happening in Congress and what was happening out in the elections was not parallel. The ads run by these organizations tracked the ads run by candidates and had nothing to do, virtually speaking, with what Congress was addressing at that point in time.

So that is why this legislation becomes so important. It is an integral part of the reform that is before us embodied in the McCain-Feingold legislation. It does represent a balanced approach.

Mr. President, I ask unanimous consent to have a statement by persons who have served the American Civil Liberties Union printed in the RECORD.

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

STATEMENT OF PERSONS WHO HAVE SERVED THE AMERICAN CIVIL LIBERTIES UNION IN LEADERSHIP POSITIONS SUPPORTING THE CONSTITUTIONALITY OF THE MCCAIN-FEINGOLD BILL, MARCH 22, 2001

We have served the American Civil Liberties Union in leadership positions over several decades. Norman Dorsen served as ACLU General Counsel from 1969–76 and as President of the ACLU from 1976–1991. Jack Pemberton and Aryeh Neier served as Executive Directors of the ACLU from 1962–1978. Melvin Wulf, Burt Neuborne, and John Powell served as National Legal Directors of the ACLU from 1962–1992. Charles Morgan, Jr., John Shattuck, and Morton Halperin served as National Legislative Directors of the ACLU from 1972–1992. Together we constitute every living person to have served as ACLU President, ACLU Executive Director, ACLU Legal Director, or ACLU Legislative Director, with the exception of the current leadership.

We have devoted much of our professional lives to the ACLU, and to the protection of free speech. We are proud of our ACLU service, and we continue to support the ACLU's matchless efforts to preserve the Bill of Rights. We have come to believe, however, that the ACLU's opposition to campaign finance reform in general, and the McCain-Feingold Bill in particular, is misplaced. In our opinion, the First Amendment does not forbid content-neutral efforts to place reasonable limits on campaign spending and establish reasonable disclosure rules, such as those contained in the McCain-Feingold Bill.

We believe that the First Amendment is designed to safeguard a functioning and fair democracy. The current system of campaign financing makes a mockery of that ideal by enabling the rich to set the national agenda, and to exercise disproportionate influence over the behavior of public officials.

We recognize that the Supreme Court's 1976 decision in Buckley v. Valeo makes it extremely difficult for Congress to reform the current, disastrous campaign finance system, and we believe that Buckley should be overruled. However, even within the limitations of the Buckley decision, we believe that the campaign finance reform measures contained in the McCain-Feingold Bill are constitutional.

We support McCain-Feingold's elimination of the ''soft money'' loophole, which allows unlimited campaign contributions to political parties and undermines Congress's effort to regulate the size and source of campaign contributions to candidates. There can be little doubt that large ''soft money'' contributions to the political parties can corrupt, and are perceived as corrupting, our government officials.

We also support regulation of the funding of political advertising that is clearly intended to affect the outcome of a specific federal election, but that omits the magic words ''vote for'' or ''vote against.'' The McCain-Feingold Bill treats as electioneering any radio or television ad that names a federal candidate shortly before an election and is targeted to the relevant electorate. It would ban the use of corporate and labor general treasury funds for such ads, and it would require public disclosure of the sources of funding for such ads when purchased by other groups and individuals. We believe that these provisions are narrowly tailored to meet the vagueness and overbreadth concerns expressed by the Supreme Court in Buckley, and thus are constitutional.

Finally, we believe that the current debate over campaign finance reform in the Senate and House of Representatives should center on the important policy questions raised by various efforts at reform. Opponents of reform should not be permitted to hide behind an unjustified constitutional smokescreen.

NORMAN DORSEN.
MORTON HALPERIN.
CHARLES MORGAN, Jr.
ARYEH NEIER.
BURT NEUBORNE.
JACK PEMBERTON.
JOHN POWELL.
JOHN SHATTUCK.
MELVIN WULF.

Ms. SNOWE. Mr. President, every previous president of the ACLU has endorsed this legislation. They uphold it. As we know, they are an organization apt to take either side to preserve the freedom and the right to speak. But they believe this meets the constitutional soundness as crafted in previous decisions by the Supreme Court.

The Supreme Court did not say forever and a day you could never pass any other legislation to address what might develop. As I said, the Court could not possibly foresee 25 years later the emergence and the preponderance of the kind of ads that are clearly overtaking the process.

The time has come, I say to my colleagues in the Senate, to recognize we have to stand up and be counted on this very significant issue. And it comes down to disclosure. It comes down to disclosure. I hope the Senate will stand four-square behind disclosure and sunlight and against the unchecked process of these electioneering ads that are certainly transforming the political landscape in ways that we could not possibly desire or embrace.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, may I inquire of the Chair how much time I have remaining?

The PRESIDING OFFICER. The Senator has 47½ minutes.

Mr. DEWINE. Let me inform the Chair and my colleagues, I do not intend to take that entire time. I am sure the Chair is pleased by that.

I do request of the Chair, though, in case I do get carried away, if the Chair would notify me when I have 10 minutes remaining. I don't expect to get to that point. If the Chair will do that, I would appreciate it.

I have listened to my colleagues from Vermont and Maine, Arizona and North Carolina. I agree with a lot of what they have had to say. I don't like a lot of these ads either. I have the same fear that every incumbent does; that is, that the next time I run there is going to be a group that will come in and spend a whole bunch of money on Ohio TV and tell people what a bad Senator MIKE DEWINE has been. We all live in fear of that. We all live with a lot of money coming in, and we have the fear of very tough ads that use our name, that use our picture, and tell the voters why we are not doing such a good job. We have that fear.

The problem is, the Snowe-Jeffords-Wellstone amendment is unconstitutional. There is the first amendment. Even though we may not like it when people say things about us, that is part of their rights under the first amendment.

I will respond specifically to a couple comments that have been made. My colleague from Maine and before that

my colleague from Minnesota made the statement about former directors of the ACLU. Let me respond to that by referencing a letter from the current ACLU opposing this language, opposing the bill. In part, in referencing this section of the bill, they say:

Simply put, the bill is a recipe for political repression because it egregiously violates longstanding free speech rights.

There is more to the letter, but that is the essence of it.

With the exception of my colleague from Minnesota, everyone who has come to the floor this afternoon and this evening to argue against the DeWine amendment, each one of those individuals, while I have a great deal of respect for them and while they were all very eloquent, each one of them, with the exception of Senator WELLSTONE, voted against the Wellstone amendment. I can't tell my colleagues why in each case, but each one of them did. The fact we must remember, and I ask my colleagues to remember, is we no longer are dealing with Snowe-Jeffords. We now are dealing with Snowe-Jeffords-Wellstone. That is what is in the bill, not the original Snowe-Jeffords.

Ninety percent of the debate we have heard this evening is about Snowe-Jeffords. That is not where we are. I didn't come to the floor to offer an amendment to take out Snowe-Jeffords. It has been changed. It has been fundamentally changed. Members need to think about it.

My friend from North Carolina who voted against the Wellstone amendment said this in his closing statement when he argued why he was going to vote against it:

So the reason Senator FEINGOLD and Senator MCCAIN are opposing this amendment is the same reason that I oppose this amendment. It raises very serious constitutional problems. The U.S. Supreme Court, in fact, in 1984, specifically ruled on this question.

That is what Senator EDWARDS said on this floor a short time before we voted on the Wellstone amendment. Every person who has come to the floor, with the exception of Senator WELLSTONE, every one who opposes the DeWine amendment opposed the Wellstone amendment. There had to be a reason.

Again, what we are dealing with now is a changed bill, a changed playing field. It is a different ballgame. It is a different bill. I say to each one of you who took an oath to uphold the Constitution of the United States, it is a different bill that we now are going to be voting on tomorrow or the next day.

My amendment makes it a better bill. It makes it a constitutional bill.

Now, where are we? What does the new bill with the Wellstone amendment now say? It has the original provisions of Senator SNOWE and Senator JEFFORDS: 60 days out, corporations, unions no longer can engage in express advocacy. They no longer can run ads that are now allowed by law. That is a fundamental change. It is a gag on unions for the last 60 days during the period of time when it counts the most.

The bill now goes further. Not only does it cover unions for 60 days, not only does it cover corporations for 60 days, now it says virtually nobody can run an ad that mentions the candidate's name except the candidates. And no one can engage in discussion about candidates' voting records when they mention their names. I don't know how you discuss a candidate's voting record without mentioning their name, but you can't talk about a candidate's voting record within 60 days of an election unless you are the candidate or the other candidate, or unless you own a TV station, or unless you are the commentator for the nightly news. Everybody else, every other citizen is silenced for 60 days.

Do we really want to do that? Putting aside whether it is constitutional or not constitutional—I think it is blatantly unconstitutional, certifiably unconstitutional, but even if it wasn't—do we still want to do that in this country and say within 60 days before the election all these people can't talk anymore? I don't think we do.

Yes, speech is effective. My colleague from Maine in essence says it is too effective. She didn't use those words, but she said it is having an impact. Yes, it is having an impact. That is what political speech is all about. It is supposed to have an impact.

Everything seems to be reversed. At the crucial time when political speech matters most to the voters, those who hear it or see it, the bill as now written says: You can't do it. Sixty-one days out, you could run one of these ads, and you could talk about MIKE DEWINE's record. Fifty-nine days out from the election, you no longer can do it. And 3 days before the election, when everyone is paying attention, you can't run those ads. During the period of time when it is most effective, you can't run the ad.

Not only does it pick out the time when it is the most effective, but the bill also picks out the way candidates today communicate on TV and radio and says that is one method of communication you can't use. That is how we get our messages across. Whether we are candidates or whether we are opposing candidates or whether we are issue groups, whoever we are, we get it across through TV.

You can't compete and you cannot reach people in the State of Ohio unless you are on TV. That is a fact. Whether you are an issue group attacking MIKE DEWINE or whether you are an independent expenditure group, whoever you are, you can't reach people, or whether you are the candidate, you can't reach people unless you are on TV. So they pick the most effective way to do it and the most important time, and they have taken those off the table and said during that period of time, you can't be on TV. It is a direct, absolute attack on the first amendment.

What I have a hard time understanding is some of my colleagues and my friends who, on other days are the most vehement advocates for the first amendment, somehow don't think this violates the first amendment.

Mr. President, it is a direct attack on the first amendment.

I talked this afternoon about my own campaign, my last campaign. I want to get back to that. I emphasize, most of what my colleagues fear and have said I agree with. Each one of us lives in fear of a group putting an ad on TV that criticizes us. We don't become any less human when we get into politics or when we come to the Senate. No one likes criticism. And no one likes criticism that they think is unfair. Do you know what. That is part of what we do. That is part of what you have to accept in the United States of America if you run for office—maybe not in some other countries but here you do. That is what makes us different.

I told a story this afternoon about a group in Ohio—several groups that are mad at me over my proposal and support of a wildlife refuge in Ohio, the Darby Refuge. I happen to think it is a good idea; they don't. For some period of time, throughout the roads that I travel close to my home, and up through the different counties it takes me to go through where this refuge would be in Madison County, I see an awful lot of signs which say, ''Dump DeWine.'' I see signs that say, ''No Darby, No DeWine,'' and variations of that. I don't like it. But do you know what. That is part of the first amendment. If those people who put those signs up had decided to run TV ads, it seems to me they ought to have a right to do that. Again, I would not like it, but I think they have a right to do that. I think they have the right to pick the most effective way to get their message across, during the most crucial time, when people are really focused and paying attention, which is 60 days before the election, and to get their message out. If they want to put out a message on TV that basically says, ''Dump DeWine, '' or, ''Call Mike DeWine and tell him Darby is a bad idea,'' or variations of that, they ought to have a right to do that—as much as I would not like it.

It is a question of the first amendment. There has been a lot of talk, not just on the floor but among my colleagues for the last at least 3 days, almost nonstop, about the issue of severability. It is an issue we are going to get and vote on tomorrow. We would not have that discussion if it weren't so abundantly clear that the Wellstone provision, which is now part of Snowe-Jeffords, is unconstitutional. Members know it. They tell you that privately. Some have said it publicly. But virtually everyone gets that it is unconstitutional and the Court is going to throw it out.

This big debate tomorrow on severability and whether or not when one part of the bill goes down, another part

should go down, or whether we should fence off one part of the bill—that discussion, and a fairly close vote tomorrow, will come about because people know the Wellstone amendment is unconstitutional. If it weren't so, we would not be having that debate. That is going to be the thing that is unspoken tomorrow when we get to that debate.

I want to talk for a moment about my colleague from North Carolina, who is a very good lawyer. He and I had the opportunity, during the impeachment hearings, to work together, along with Senator LEAHY and others. I saw how good he is. My colleague came to the floor this evening and talked about the constitutionality of Snowe-Jeffords. I respect what he has to say. Again, I point out, though, that this is the same Member of the Senate—not much more than 24 hours ago—who came to the floor and basically said the Wellstone amendment was unconstitutional. I understand that his comments tonight were about Snowe-Jeffords; but the problem is that title II is no longer Snowe-Jeffords, it is Snowe-Jeffords-Wellstone, and it contains that provision which Senator EDWARDS said is unconstitutional, or certainly implied it. I read it in the CONGRESSIONAL RECORD.

My colleague from North Carolina went through the tests that have been laid down by the Supreme Court. There are tests as to whether or not you can basically infringe on the first amendment. The courts will look at any restriction on the first amendment from a strict scrutiny point of view. One of the tests is, is there a compelling State interest? In other words, the burden upon someone asserting that it is constitutional to prohibit speech. That person has to prove to a court's satisfaction that there is a compelling State interest to do that, to restrict that speech, because the presumption is you can't restrict speech. I talked this afternoon about that.

There were some areas where the courts have acknowledged that it is constitutional to restrict speech, but they are very narrow. They have held that it has to be a compelling State interest, and the burden of proof is on those who assert the constitutionality. It also has to be narrowly tailored. In other words, when the language is written to restrict speech, it has to be narrowly tailored.

I have failed to hear any discussion of any convincing nature of what the compelling State interest is. What is the compelling State interest that permits the U.S. Congress to say that within 60 days before an election we will stifle—shut off —free speech? What compelling State interest is there, and how is it narrowly drawn for Congress to say no speech within 60 days that mentions a candidate's name? How is that narrow? That is a sledgehammer that comes down on the first amendment and shatters it. It is certainly not narrowly tailored. And certainly the proponents of the constitutionality of this provision have not shown there is any compelling State interest.

Now, the Court talked, in Buckley, about the appearance of corruption. Proponents of this constitutionality provision have made the flat assumption and assertion that there is an appearance of corruption. Yet that is all they say. I don't know what the evidence is of that appearance of corruption. They made the flat out assertion that there is corruption, or there is the appearance of corruption, and that gives them authority to write this type of legislation. I think they have failed in their burden of proof. Again, I state what the law is. The law is that they have a burden of proof.

Again, in conclusion, my amendment will strike article II of the bill. Article II prohibits what I believe is constitutionally protected free speech on TV, within the last 60 days of an election, by labor unions, corporations and, most importantly, by all outside interest groups, by all groups of U.S. citizens who have come together to talk in the one way that is the most effective; that is, on television. It bans that. There is no compelling State interest to do it. It is clearly unconstitutional.

My friend and colleague from Maine also made another interesting comment. She said, ''I want to control my own campaign.'' I am sure the Presiding Officer thinks the same way. I can tell you I think the same way. I want to run my own campaign. I have had a lot of experience doing it. I have won some and lost some. I want to run my own campaign. She also said that this debate should be between the candidates themselves. Debate goes back and forth on TV.

I sort of agree with that, too. At least I understand what she means by that. You run against someone and you want to have that debate between the two of you. You start to get nervous when someone else gets involved in the debate. They may be trying to help you or your opponent. You do not know what they are doing. Sometimes they do not know what they are doing. I understand where she is coming from.

This is not an exclusive club we are talking about. There should be no walls built up in the political arena to keep people out. This is America. This is the United States. We do have a first amendment.

One of the basic beliefs of our founders was that public discussion of issues is essential to democracy. They did not have TV in those days, obviously. They did not have radio. The main method of communication was the printed press, posters being put up, or speeches directly given and directly heard, but the principle is the same. The more people you can involve in political discussion, the better it is.

There can be no walls built around the political arena where we say no one else can enter except the candidates. No one can participate except the candidates. No one can talk about issues in relationship to candidates, except the candidates.

That is just not what we do in the United States. That is not what this country is about. That is not how our political debates should take place. In essence, in a very revealing comment, my friend and my colleague from Maine certainly implied that. That is part of the problem with the way this bill is currently crafted.

This is the United States. I know many times when our campaigns drag on and on and they get pretty messy, and they get pretty rough, a lot of people say: Gee, why don't we do it the way this country does or that country, such and such a country. They do not mess around. They call an election in 6 weeks. They were strict when you could be on TV. They have their election, and it is over. Much as we might long for that sometimes when our campaigns drag on, or when Presidential campaigns start basically a couple months after one Presidential election is over and Senate races start several years in advance and House races seem to never stop, much as we long for that tranquility and the order, if we really thought about it, I do not think we would really want it.

As long as the Wellstone amendment stays in the bill, clearly this bill is going to be held to be unconstitutional.

What is different about us and other countries is our first amendment. It is our first amendment that is at issue. Many countries do not have the equivalent of our first amendment that protects political speech, that protects free speech. We do and we are much better for it. Our political discussion is much better for it and it is more informed.

We are different. I hope when Members of the Senate think about this tonight and prepare to vote tomorrow, they will remember the importance of the first amendment. They will vote for the DeWine amendment. They will vote to make this a better bill. They will vote to give this bill a much better chance of being held to be constitutional.

It is not just a question of the Constitution; it is also a question of public policy. Putting aside the constitutional issue, I do not think we want to be in a position where this Congress says, basically as the thought police in this country, political speech police, that within 60 days of the election we are going to dramatically restrict who can speak in the only way that is effective in many States, and that is to be on TV. I do not think we want to do that, Mr. President.

I thank my colleagues, and I thank the Chair.

CAMPAIGN TAX CREDIT

Mr. WARNER. Mr. President, as chairman of the Rules Committee during the 105th Congress, I presided over numerous hearings on campaign finance reform and I filed two comprehensive bills on this subject. And,

just like my colleagues over the years in the course of my four Senate races, I have gained a firsthand familiarity with campaign finance issues. The Senate can take pride in this debate, while issues regarding the first amendment have been center stage, it seems to me there is another fundamental issue we should consider.

One of our aims during this great debate should be to encourage greater citizen participation in elections. Citizens are the backbone of our democracy and should be given encouragement to participate in every way in the elective process.

What are the means by which we can encourage a greater role for the average citizen? I believe one method is a $100 tax credit for contributions made to House and Senate candidates. I propose this tax credit be available only to single persons with an adjusted gross income at or below $50,000. For married couples, in order to avoid exacting a ''marriage penalty,'' a married couple filing jointly could claim a total of $200 in tax credits.

For various reasons, the wealthy are already involved in politics, but there has been a declining interest in campaigns for those at the other end of the spectrum. This credit would encourage broader participation by moderate and lower income voters to balance the greater ability of special interests to participate in the process.

There is precedent for such a tax credit. Until 1986, there was a $50 tax credit for contributions to political campaigns. According to IRS data, when Congress repealed the political contributions tax credit, ''a significant percentage of persons claiming the credit have sufficiently high incomes to make contributions in after tax dollars, without the benefit of the tax credit.''

My proposal would contrast with the previous tax credit because it would cap the eligible income levels to ensure it is not exclusively the wealthy who take advantage of it.

I think this is an issue that should be addressed in this campaign finance bill. However, because of the constitutional prerogatives of the House of Representatives, I merely bring this issue to your attention now, with the expectation I will raise it again in the context of a reconciliation bill that may be forthcoming.

Ms. CANTWELL. Mr. President, during yesterday's campaign finance debate, I referred to a number of businesses that support a campaign finance reform proposal. I meant to say that top executives or chief executive officers of those businesses support the reform proposal.

OIL EXPLORATION IN THE ARCTIC NATIONAL WILDLIFE REFUGE

Mr. STEVENS. Mr. President, my colleague from Alaska, Senator MURKOWSKI, and I just attended a press conference concerning exploration in the coastal plain of the Arctic National Wildlife Refuge.

In attendance were: James P. Hoffa, International Brotherhood of Teamsters; Michael Sacco, Maritime Trade Department, AFL–CIO; Terry O'Sullivan, Building Trades Department; Martin J. Maddaloni, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry; Joseph Hunt, International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers; Frank Hanley, International Union of Operating Engineers; Larry O'Toole, Marine Engineers' Beneficial Association; James Henry, Transportation Institute; and Michael McKay, American Maritime Officers Service.

I ask unanimous consent that the statement made by Michael Sacco of the Maritime Trades Department of the AFL–CIO be printed in the RECORD for my colleagues to read. It offers great insight into the reasons why working men and women throughout the country support oil and gas exploration in the coastal plain.

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

STATEMENT OF MICHAEL SACCO, MTD PRESIDENT

With increasing energy problems throughout the United States, Americans are looking for new ways to meet the growing demand for energy products and ensure the continued economic expansion we have enjoyed over the past decade.

Only one location promises to help America meet its energy needs while providing good-paying jobs to American workers—the Arctic National Widlife Refuge.

By opening ANWR, the United States can increase domestic oil production, reduce our reliance on foreign sources of oil, and create hundreds of thousands of new jobs for American workers.

ANWR will be explored and drilled by American workers—the oil transported through U.S.-built pipelines—refined and distributed by domestic facilities—and its by-products used by U.S. energy producers and U.S. consumers.

These jobs will help keep the economic engine of this country running.

Many of our brothers and sisters in maritime labor will crew the growing fleet of environmentally safe, double-hulled, U.S.-flagged tankers that will carry the oil from Alaska.

These vessels will be American-owned—built by Americans in American shipyards—and serviced and repaired in American yards.

In times of national emergency, the U.S. Merchant Marine is the first to enter the war zone to deliver supplies. America's military depends on the ability to project its power anywhere in the world.

That means we need sealift which is capable of quickly transporting fuel and supplies across thousands of miles.

As we learned in Operation Desert Shield/Desert Storm, U.S.-flag ships, American seafarers employed on those ships, and the American shipyard workers that build the vessels, are vital parts of our sealift capability.

Opening ANWR to development also will enable our U.S.-flag Merchant Marine to grow and help expand our shipyard industrial base—both of which serve valuable military purposes.

We've shown that opening ANWR will be done in a responsible, environmentally sound way.

Since the opening of Alaska's North Slope, nature and development have safely co-existed. And today's technology makes it possible to produce oil in a less-invasive and more environmentally friendly manner.

The Maritime Trades Department stands with the Building Trades, major oil producers, the business community and all the members of JobPower in calling on Congress to open ANWR.

America will benefit for years to come.

TRIBUTE TO ROWLAND EVANS

Mr. WARNER. Mr. President, today in our Nation's Capital funeral services were held for Rowland Evans, a lifetime journalist of international acclaim. This magnificently conducted service, attend by an extraordinary gathering of family, friends, and peers, preserved forever the man's extraordinary love of family, journalism, and service to country in the uniform of the U.S. Marines in combat operations in the Pacific during World War II.

The Commandant of the Marine Corps, General Jones, officiated in presenting the American Flag to the family to conclude this deeply moving service.

Rowland Evans was an astute observer of the values of our federal system of government, but his great fascination was with the political arena—the centerpiece being those who competed for and won or lost elective offices.

His partner—his close friend—for over a quarter of a century, Robert Novak, rose to the challenge of chronicling with sensitivity, humor and insight his many lifetime achievements.

Senator KENNEDY, Senator SNOWE, and I were privileged to be in attendance at the services at Christ's Church, Georgetown. We join in asking unanimous consent to have printed in today's RECORD the proceedings of the U.S. Senate, a complex institution, which Rowland Evans keenly understood, the eulogy by Robert Novak.

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

EULOGY BY MR. ROBERT NOVAK

Having spend his life in journalism writing thousands of columns and literally millions of words, Rowland Evans well knew how hard it was to get things exactly right. So it was with his well-meaning obituaries last Saturday.

The AP report said he had been in poor health for years. In truth, until diagnosed with cancer last summer, it could be said he was the healthiest 79-year-old on the planet. Even for the past nine months, he was no invalid.

His oncologist said he had never quite seen a cancer patient like Rowly Evans. Two weeks before he died he was playing squash, appearing on television, climbing the mountain at his place in Culpepper, even making a deal to finally achieve his long-time desire to buy the top of the mountain and complete ownership of it. As he entered the hospital with two days of life remaining and the bleak options were laid before him, he interrupted the doctor to talk about his chances

for presiding over the Evans-Novak political forum next week.

The headline in the New York Times called him a conservative columnist. I guess he did end up as pretty conservative—this friend and ardent admirer of Jack and Robert Kennedy, the son of a liberal Democratic family on the conservative Philadelphia mainline who, at the behest of his New Deal father, delivered a speech—in Marine uniform—for Franklin Roosevelt in 1944.

When Kay Winton told her liberal father she had fallen in love with Rowly, she concluded by saying: and, daddy, he's a liberal! Nearly half a century later, her husband was singing the praises of Ronald Reagan and Newt Gingrich.

Still I can think of words more descriptive of the whole man than conservative: reporter, patriot, mentor, competitor, even—and here using a description by his wife of 51 years—rascal.

He rejoiced in his rascality and loved to talk about it. About the time as Marine recruit at Parris Island, when he spotted an old buddy from the Kent School who was a Marine lieutenant. They decided to have a drink together, but where could an officer and an enlisted man go together? To go to the Officers Club, his friend dressed Rowly as an officer. All went well until Rowly spotted how own commanding officer at the bar. They tiptoed out to prevent their Marine careers from ending in court martial.

Most of us know the story of how Rowly, the lowest of the low in the Washington Bureau of the Associated Press, posted as bureau chief to interview Katherine for a job—at 8 o'clock in the evening, no less.

And Rowly said the crowning achievement of his life came just a few years ago when he and his friend Woody Redmond skated the frozen Potomac River before being halted—and nearly arrested—by police.

The skating incident also reflected one of the fiercest competitive spirits any of us have ever seen—playing competitive ice hockey until he was 40, winning squash tournament after squash tournament at the Metropolitan Club into his 70's and ranked nationally among senior squash players, playing tennis or bridge or poker, shooting dice with friends for lunch at the Metropolitan Club, just trying to drive from Georgetown to Culpepper without hitting a stoplight. He could recite nearly every shot of the semifinal match in the National Father-and Son Tennis Tournament when he was 14 years old.

He was a happy warrior, a delight at any dinner party, playing the piano, stirring up trouble. But beneath these high spirits burned the heart of a patriot—the Yale freshman who stood in line on December 8, 1941 to enlist in the Marine Corps, exchanging the privileged life he had always known for combat at Guadalcanal.

His fierce passion for the security of his country was the prism through which all his journalism passed. It guided his greatest journalistic achievements—his exposé of Soviet arms control cheating in the 1970's that the U.S. Government sought to hide, his informed forecasts of the fall of the communist empire in Czechoslovakia and Poland.

That passion embroiled Rowly in controversy when he refused to accept the Government cover-up of the bombing of the *U.S.S. Liberty* in the Six-day War. He could not let the reasons for the death of fellow Americans serving their country go unnoticed.

Rowland Evans was no deskbound columnist. In the tradition of his great friends the Alsop brothers, he went everywhere—and anywhere—for a story: China, Southeast Asia, all over Eastern Europe, the Mideast, the Indian subcontinent. He skirted death in incidents in Vietnam and the Six-day War. He could not report on the independence movement in the Baltics without actually going to Latvia, Lithuania and Estonia. When his father died, Rowly was reporting in Iraq—awaiting a rare interview with Saddam Hussein. He flew to Philadelphia for the funeral, then back to Baghdad—and that interview with the Iraqi dictator.

But the heart of his reporting was here in Washington. His sources were legion: the mighty of Washington and obscure staffers, CIA spooks and mysterious émigrés. All were interrogated in the dining room of the Metropolitan Club.

In the last week, I have been contacted by so many younger people in the news business who told me how Rowly counseled them, gave them a helping hand. His was what Stew Alsop called the reporter's trade and he sought to pass it along to a new generation.

If I may close with a strictly personal note. On the morning of Monday, December 17, 1963, returning to the Washington Bureau of the Wall Street Journal after my honeymoon, I found a batch of notes from a reporter form the New York Herald-Tribune whom I barely knew: Rowland Evans. When I called him, he asked me for lunch—not at the Metropolitan Club by the way but at Blackie's House of Beef. It was a lunch that changed my life and made my career.

The upshot was the Evans-Novak column which lasted for 30 years until his retirement and a partnership of 38 years that continued in television and our newsletter. We had a thousand shouting arguments, often at the top of our voices. We never fought about money, hardly ever about ideology but frequently about what story to tell and how to tell it.

Rowland Evans was the life of every party, but he ceased being a society boy long ago in the crucible of combat as a Marine sergeant in the Solomon Islands. He was a tough Marine, an unabashed patriot, a great journalist and a faithful friend and colleague. Rest in peace, Rowly.

CHAMPVA FOR LIFE

Mr. ROCKEFELLER. Mr. President, I am proud to be the author of the CHAMPVA for Life Act of 2001.

Last year, Congress finally enacted legislation to restore the promise of providing lifetime health care to our military retirees. TRICARE for Life, as it is known, is long overdue. However, an equally worthy group has been left out of the reform.

The Civilian Health and Medical Program of the Department of Veterans Affairs, CHAMPVA, provides health care coverage to several categories of individuals who have paid dearly for that right: dependents of veterans who have been rated by VA as having a total and permanent disability; survivors of veterans who died from VA-rated service-connected conditions; and survivors of servicemembers who died in the line of duty. As such, CHAMPVA provides a measure of security to a group of persons who have indisputably given a great deal to our country.

CHAMPVA is intended to serve as a safety net for dependents and survivors of severely disabled veterans who, because of their disabilities, were unable to provide health insurance benefits to their families through employment. The safety net mission of CHAMPVA has not changed, but this law must change, since under current law, CHAMPVA beneficiaries lose their eligibility for coverage when they turn 65.

The TRICARE for Life law passed last year specifically allows military retirees and their dependents to remain in the TRICARE program after they turn age 65, as long as they are enrolled with Part B of Medicare. TRICARE will cover those expenses not covered under Medicare. It also provides for retail and mail-order pharmaceutical coverage for Medicare-eligible military retirees.

There is no doubt that TRICARE and CHAMPVA beneficiaries should retain similar eligibility for health care coverage. What TRICARE does for the families of military retirees should be no less readily available to the survivors and dependents of severely disabled veterans and those service-members who died in the line of duty. Simple justice and equity demand this. Just last week, I received a letter from a constituent from Nutter Fort, WV, that hammered home this very point. She asked in her letter, ''Why aren't the CHAMPVA beneficiaries offered the same program recently approved for those on TRICARE who are now eligible for Medicare?''

Indeed, title 38 of the United States Code reflects this view by requiring the Secretary to provide medical care ''in the same or similar manner and subject to the same or similar limitations as medical care furnished to certain dependents and survivors of active duty and retired members of the Armed Forces.'' And up until enactment of the new, highly valued TRICARE for Life provisions just last fall, the two programs were, indeed, similar.

An argument could be made that since TRICARE was modified to remove the limitation on eligibility, legislation is not necessary to equate the two programs. However, VA has not yet embraced CHAMPVA for Life.

The bill simply clarifies that the CHAMPVA and TRICARE programs should continue to operate in a similar manner, with similar eligibility. This would mean that Medicare-eligible CHAMPVA beneficiaries who enroll in Part B of Medicare would retain secondary CHAMPVA coverage, and beneficiaries would receive the same pharmacy benefit as CHAMPVA beneficiaries who are under age 65.

The failure of Congress to enact prescription drug coverage under Medicare only underscores the need to enact this CHAMPVA reform. However serious a gap it was for Medicare to lack prescription drug benefit in 1965, incredible advances in drug therapy, combined with staggering inflation in prescription drug costs, have made the need for affordable prescription drug coverage even more important today. CHAMPVA beneficiaries who have sacrificed so much already should not be forced to sacrifice anything more to purchase needed prescription drugs.

Nothing brings this closer to home for me than another letter I received

recently, this one from a Korean War veteran and his wife in Alderson, WV. They were upset to learn that when the wife turned 65, she lost all of her CHAMPVA benefits. As a result, she was forced to pay more than $300 per month for her diabetes and heart medications, in addition to all the other new costs for care not covered by Medicare. With Social Security and disability compensation as their only income, this couple is struggling to absorb this enormous new expense in their modest budget. The husband, a 100-percent disabled veteran, wrote poignantly to me, ''. . . it would help us out so much if CHAMPVA would continue to cover my wife's medical care.''

In closing, I thank the Gold Star Wives Association for their dedication and for bringing this issue to my attention. We must never forget that the costs of military service are borne not only by the servicemember alone, but by their families as well.

I hope the Committee on Veterans' Affairs will expedite passage of this bill out of committee. CHAMPVA beneficiaries are depending upon it.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, March 27, 2001, the Federal debt stood at $5,736,074,141,495.08, five trillion, seven hundred thirty-six billion, seventy-four million, one hundred forty-one thousand, four hundred ninety-five dollars and eight cents.

One year ago, March 27, 2000, the Federal debt stood at $5,731,796,000,000, five trillion, seven hundred thirty-one billion, seven hundred ninety-six million.

Five years ago, March 27, 1996, the Federal debt stood at $5,069,500,000,000, five trillion, sixty-nine billion, five hundred million).

Ten years ago, March 27, 1991, the Federal debt stood at $3,460,809,000,000, three trillion, four hundred sixty billion, eight hundred nine million.

Fifteen years ago, March 27, 1986, the Federal debt stood at $1,981,848,000,000, one trillion, nine hundred eighty-one billion, eight hundred forty-eight million, which reflects a debt increase of almost $4 trillion—$3,754,226,141,495.08, three trillion, seven hundred fifty-four billion, two hundred twenty-six million, one hundred forty-one thousand, four hundred ninety-five dollars and eight cents, during the past 15 years.

ADDITIONAL STATEMENTS

THE 100TH ANNIVERSARY OF THE ARMADA FREE PUBLIC LIBRARY

● Mr. LEVIN. Mr. President, I rise to congratulate the residents of Armada and the Armada Free Public Library on the occasion of its one-hundredth anniversary. Residents in my home State of Michigan will be gathering this Sunday, April 1, 2001 to celebrate this important milestone.

The Armada Free Public Library is a dynamic community institution, with a proud tradition of serving the needs of all residents of the growing community in which it is located. This commitment to community service is manifested in the library's efforts to provide access to over 25,000 books and many periodicals, as well as access the World Wide Web. In addition, the Armada Free Public Library serves as a barrier-free gathering place for community and civic groups.

The Armada Free Public Library was established on April 1, 1901. It was on this day that village residents approved a mill tax to fund the library by a resounding vote of 144 to 48. The library opened on August 10th of the same year with 87 books on its shelves.

In the ensuing years, the library grew from these humble origins to continue serving the needs of area residents. In particular, the early library emphasized its ability to serve as a meeting place for conferences, clubs and children located in this bustling farming community. Given its central role in the community, it is only natural that as Armada grew the Free Public Library needed to grow with it. Were it not for the efforts of philanthropists and concerned voters, the Armada Free Public Library may not have reached this historic anniversary. A grant provided by the Carnegie's enabled the library to move into a new facility in 1915, and subsequent efforts by local voters and philanthropists, such as the estate of the late Elizabeth Pomeroy, ensured both the growth of the library and its continued economic viability.

Mr. President, I have mentioned only a small portion of the dynamic history of the Armada Free Public Library and the many ways in which the library has remained committed to this community. I know my colleagues will join me in honoring the Armada Free Public Library for its service to the people of Armada and the State of Michigan.●

RECOGNITION OF ROSARY HIGH SCHOOL

● Mr. BOND. Mr. President, I rise to recognize Rosary High School's outstanding accomplishments and to congratulate them on their 40th anniversary and rededication which will take place on April 29, 2001.

Originally Archbishop Joseph Ritter dedicated the building for Rosary High School in St. Louis on April 29, 1962. Since its first graduating class in 1965, Rosary High school has proudly graduated 8,000 students. Over the years its students have done an outstanding job of serving the St. Louis community by completing more than 100 hours of community service per student.

Rosary High School continues to maintain an excellent academic record with average ACT scores that are above the state and national norms. Fifty percent of their graduating class has received scholarships to college.

Rosary High School has excelled in their athletic programs. Over the past 40 years they have repeatedly won the State championship in soccer, as well as championships in volleyball and basketball.

Rosary High School is an exemplary High School. The School, faculty, and students are an asset to the St. Louis community. It is my sincerest hope that the next forty years are as successful as the last.●

TRIBUTE TO PATRICIA MULROY

● Mr. REID. Mr. President, I rise today to honor a distinguished Nevadan, a good person and a good friend, Patricia Mulroy. Pat will be receiving the National Jewish Medical and Research Center's Humanitarian Award on April 28, 2001.

The Humanitarian Award honors people who have made significant civic and charitable contributions, people who have chosen to devote their lives to making their communities better places to live.

Pat first moved to Las Vegas in 1974, and began making her mark almost as soon as she arrived as a young student at the University of Nevada-Las Vegas by being admitted to Phi Kappa Phi and being listed in Who's Who in American Colleges and Universities.

After college, Pat began her career in public service by working in the Clark County Manager's Office. She was appointed the county's first Justice Court Administrator in 1984, and later was appointed General Manager of the Las Vegas Valley Water District.

Those of us who live in the southwestern United States know how important, and scarce, water is to our States. Pat took over as General Manager of the Water District during one of the most difficult periods in Southern Nevada's water history, a year when the community began growing at the rate of 3000 to 5000 resident's per month, a trend which has only increased. In response, in 1991, Pat was appointed the first General Manager for the Southern Nevada Water Authority, an agency created by the state legislature to oversee competing governmental interest in water.

Since then, Pat has become known nationally as an expert on water issues. She is a member of the American Water Works Association and currently sits on the Board of Directors of the Association of Metropolitan Water Agencies. In 1992 she helped found and was the original chairman of the Western Urban Water Coalition. She is also a member of the Colorado River Water Users Association and has served on its Board of Directors. She serves on the Desert Research Institute Research Foundation Board of Trustees and received the University and Community College System of Nevada Board of Regents' 1999 Distinguished Nevadan Award.

Those of us who have had the privilege of knowing Pat personally know her as more than a public advocate and expert on water issues. We also know her as a loving wife to her husband Robert, a devoted mother of two children, Ryan and Kelley, and a leader

who is active in her church, on her school board, and in her community. Nobody deserves this award more than Pat.

I extend my congratulations to you, and the appreciation of all Nevadans for your good work on their behalf.●

DR. M. GRAHAM CLARK

● Mr. BOND. Mr. President, today I would pay tribute to Dr. M. Graham Clark, of Point Lookout, MO, who died earlier this month and will be sadly missed by his family and all of us who were privileged to be counted among his friends.

Dr. Clark was a tremendous educator, businessman and community leader. He came to what was then known as the School of the Ozarks in 1946, a high school, as vice-president and became its president in 1952.

On his watch of nearly a half century, the institution grew from a high school into a junior college and then a four-year college, and was brought into regional accreditation. Dr. Clark was proud, and deservedly so, of the fact that the College was accredited even before it issued its first full degree. The school Dr. Clark built was also nationally recognized for its adherence to Christian principles and the strong work ethic of its students. He viewed the school as his mission, and tirelessly raised funds for its improvement, even when he was well into his eighties.

During his more than 50 years of service to College of the Ozarks, and to all of Southwest Missouri, Dr. Clark touched millions of people's lives. His leadership will be remembered for generations to come. Those who knew him best know that his commitment and love of the College was second only to his dedication to his Lord and Savior, and to his family.

Our culture is quick to glorify the here and now, the ''flash in the pan'' celebrities, the ''cause'' of the day. By that measure, Clark stood apart. While he could no doubt have made a fortune in the for-profit sector, he devoted his considerable intellectual and business skills to the work of building a top-notch educational institution. He was a strong Christian who never hid nor apologized for his beliefs. He spent his entire life making life better for young people in the Ozark region, his family, his church,and his community. His love for others knew no social boundaries. We are in his debt, and remember him fondly.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive sessions the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:30 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 801. An act to amend title 38, United States Code, to improve programs of educational assistance, to expand programs of transition assistance and outreach to departing servicemembers, veterans, and dependents, to increase burial benefits, to provide for family coverage under Servicemembers' Group Life Insurance, and for other purposes.

H.R. 811. An act to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, and updating patient care facilities at Department of Veterans Affairs medical centers.

At 7:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 83. A concurrent resolution establishing the congressional budget for the United States Government for fiscal year 2002, revising the congressional budget for the United States Government for fiscal year 2001, and setting forth appropriate budgetary levels for each of fiscal years 2003 through 2011.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 801. An act to amend title 38, United States Code, to improve programs of educational assistance, to expand programs of transition assistance and outreach to departing servicemembers, veterans, and dependents, to increase burial benefits, to provide for family coverage under Servicemembers' Group Life Insurance, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 811. An act to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, and updating patient care facilities at Department of Veterans Affairs medical centers; to the Committee on Veterans' Affairs.

The following concurrent resolution was read, and referred as indicated:

H.Con. Res. 83. Concurrent resolution establishing the congressional budget for the United States Government for fiscal year 2002, revising the congressional budget for the United States Government for fiscal year 2001, and setting forth appropriate budgetary levels for each of fiscal years 2003 through 2011; to the Committee on the Budget.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

From the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 1: An original bill to extend programs and activities under the Elementary and Secondary Education Act of 1965 (Rept. No. 107–7).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. JEFFORDS:

S. 1. An original bill to extend programs and activities under the Elementary and Secondary Education Act of 1965; from the Committee on Health, Education, Labor, and Pensions; placed on the calendar.

By Mrs. LINCOLN (for herself and Mr. HUTCHINSON):

S. 636. A bill to direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas; to the Committee on Energy and Natural Resources.

By Ms. SNOWE (for herself and Mr. MCCAIN):

S. 637. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to authorize the establishment of individual fishery quota systems; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI (for himself, Mr. LEAHY, and Mr. BENNETT):

S. 638. A bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor; to the Committee on Finance.

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 639. A bill to extend the deadline for commencement of construction of certain hydroelectric projects in the State of West Virginia; to the Committee on Energy and Natural Resources.

By Mr. THOMPSON (for himself, Mrs. LINCOLN, Mr. NICKLES, and Mr. MURKOWSKI):

S. 640. A bill to amend the Internal Revenue Code of 1986 to include wireless telecommunications equipment in the definition of qualified technological equipment for purposes of determining the depreciation treatment of such equipment; to the Committee on Finance.

By Mr. TORRICELLI:

S. 641. A bill to amend section 842 of title 18, United States Code, relating to explosive materials; to the Committee on the Judiciary.

By Mr. TORRICELLI:

S. 642. A bill to amend part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide assistance for unincorporated neighborhood watch programs; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself, Mr. KERRY, Ms. LANDRIEU, Mr. INOUYE, Mr. TORRICELLI, Mr. DASCHLE, Mr. LEAHY, Mr. WYDEN, Mr. BINGAMAN, and Mr. LIEBERMAN):

S. 643. A bill to implement the agreement establishing a United States-Jordan free trade area; to the Committee on Finance.

By Mr. SESSIONS (for himself, Mr. GRAMM, Mr. KYL, Mr. INHOFE, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. CRAPO, Mr. HAGEL, Mr. HELMS, and Mr. FITZGERALD):

S.J. Res. 11. A joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes; to the Committee on the Judiciary.

By Mr. SMITH of New Hampshire:

S.J. Res. 12. A joint resolution granting the consent of Congress to the International Emergency Management Assistance Memorandum of Understanding; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. INOUYE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 38, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 128

At the request of Mr. JOHNSON, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 128, a bill to amend the Federal Deposit Insurance Act to require periodic cost of living adjustments to the maximum amount of deposit insurance available under that Act, and for other purposes.

S. 148

At the request of Mr. CRAIG, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 148, a bill to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purposes.

S. 170

At the request of Mr. REID, the names of the Senator from Montana (Mr. BURNS) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 237

At the request of Mr. HUTCHINSON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 237, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 271

At the request of Mrs. FEINSTEIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 271, a bill to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers.

S. 312

At the request of Mr. GRASSLEY, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 312, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fishermen, and for other purposes.

S. 319

At the request of Mr. MCCAIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 319, a bill to amend title 49, United States Code, to ensure that air carriers meet their obligations under the Airline Customer Service Agreement, and provide improved passenger service in order to meet public convenience and necessity.

S. 321

At the request of Mr. GRASSLEY, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 321, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 325

At the request of Mr. FRIST, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 325, a bill to establish a congressional commemorative medal for organ donors and their families.

S. 327

At the request of Mr. REED, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 327, a bill to amend the Elementary and Secondary Education Act of 1965 to provide up-to-date school library media resources and well-trained, professionally certified school library media specialists for elementary schools and secondary schools, and for other purposes.

S. 338

At the request of Mr. ENSIGN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 338, a bill to protect amateur athletics and combat illegal sports gambling.

S. 345

At the request of Mr. ALLARD, the names of the Senator from Minnesota (Mr. WELLSTONE) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 345, a bill to amend the Animal Welfare Act to strike the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 403

At the request of Mr. COCHRAN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 403, a bill to improve the National Writing Project.

S. 446

At the request of Mr. CRAPO, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 446, a bill to preserve the authority of States over water within their boundaries, to delegate to States the authority of Congress to regulate water, and for other purposes.

S. 447

At the request of Mr. CRAPO, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 447, a bill to subject the United States to imposition of fees and costs in proceedings relating to State water rights adjudications.

S. 452

At the request of Mr. MURKOWSKI, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 452, a bill to amend title XVIII of the Social Security Act to ensure that the Secretary of Health and Human Services provides appropriate guidance to physicians, providers of services, and ambulance providers that are attempting to properly submit claims under the medicare program to ensure that the Secretary does not target inadvertent billing errors.

S. 486

At the request of Mr. LEAHY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 500

At the request of Mr. BURNS, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 500, a bill to amend the Communications Act of 1934 in order to require the Federal Communications Commission to fulfill the sufficient universal service support requirements for high cost areas, and for other purposes.

S. 549

At the request of Mr. CRAPO, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 549, a bill to ensure the availability of spectrum to amateur radio operators.

S. 611

At the request of Ms. MIKULSKI, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1 ,200, adjusted for inflation.

S. 635

At the request of Mr. DODD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of

S. 635, a bill to reinstate a standard for arsenic in drinking water.

S. CON. RES. 17

At the request of Mr. SARBANES, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. Con. Res. 17, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

S. RES. 16

At the request of Mr. THURMOND, the names of the Senator from Illinois (Mr. FITZGERALD), the Senator from Michigan (Mr. LEVIN), the Senator from California (Mrs. BOXER), the Senator from Wyoming (Mr. ENZI), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. Res. 16, a resolution designating August 16, 2001, as ''National Airborne Day.''

S. RES. 41

At the request of Mr. SHELBY, the names of the Senator from New Mexico (Mr. DOMENICI), the Senator from Vermont (Mr. JEFFORDS), and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. Res. 41, a resolution designating April 4, 2001, as ''National Murder Awareness Day.''

S. RES. 44

At the request of Mr. COCHRAN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 44, a resolution designating each of March 2001, and March 2002, as ''Arts Education Month.''

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—MARCH 27, 2001

By Mr. DODD:

S. 635. A bill to reinstate a standard for arsenic in drinking water; to the Committee on Environment and Public Works.

Mr. DODD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 635

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Arsenic Standard Reinstatement Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) in 1996, Congress amended the Safe Drinking Water Act (42 U.S.C. 300f et seq.) to require the Administrator of the Environmental Protection Agency to revise the standard for arsenic in drinking water;

(2) after conducting scientific and economic analyses, the Administrator, on January 22, 2001, promulgated a final rule to reduce the public health risks from arsenic in drinking water by reducing the permissible level of arsenic from 50 parts per billion (.05 milligrams per liter) to 10 parts per billion (.01 milligrams per liter);

(3) the new standard would provide additional protection against cancer and other health problems for 13,000,000 people;

(4) the National Academy of Sciences has determined that drinking water containing 50 parts per billion of arsenic ''could easily'' result in a 1-in-100 risk of cancer;

(5) 50 parts per billion of arsenic causes a cancer risk that is 10,000 times the level of any cancer risk caused by any carcinogen that the Environmental Protection Agency permits to be present in food;

(6) 10 parts per billion of arsenic in drinking water is the standard used by the European Union, Japan, and the World Health Organization;

(7) public water systems may apply for financial assistance through the drinking water State revolving loan fund under section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12);

(8) since 1996, the revolving loan fund program has made $3,600,000,000 available to assist public water systems with projects to improve infrastructure; and

(9) on March 20, 2001, Administrator of the Environmental Protection Agency proposed to withdrew the pending arsenic standard that was promulgated on January 22, 2001, and due to take effect on March 23, 2001.

SEC. 3. REINSTATEMENT OF FINAL RULE.

(a) IN GENERAL.—On and after the date of enactment of this Act, the final rule promulgated by the Administrator of the Environmental Protection Agency entitled ''Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring'' (66 Fed. Reg. 6976 (January 22, 2001)), and the amendments to parts 9, 141, and 142 of title 40, Code of Federal Regulations, made by that rule, shall have full force and effect.

(b) MAXIMUM CONTAMINANT LEVEL.—The maximum contaminant level for arsenic in drinking water of .01 milligrams per liter established by the final rule described in subsection (a) shall not be subject to revision except by Act of Congress.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—MARCH 28, 2001

By Ms. SNOWE (for herself and Mr. MCCAIN):

S. 637. A bill to amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to authorize the establishment of individual fishery quota systems; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today, together with Senator MCCAIN, to introduce the Individual Fishing Quota Act of 2001 which will address one of the most complex policy questions in fisheries management, individual fishing quotas, IFQs. This bill will amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize the establishment of new individual quota systems after October 1, 2002. Last year, I introduced legislation to reauthorize the Magnuson-Stevens Act and extend the existing moratorium on new IFQ programs for three years. Congress ultimately extended the moratorium for two years through fiscal year 2002. The combination of the moratorium extension and the IFQ Act of 2001 will provide fishermen and fisheries managers time to prepare for the possibility of using IFQs as a management option. This legislation will in no way whatsoever force IFQs upon any regional management council. This is not a mandate to use IFQs. Rather, it is intended to provide the councils with an additional conservation and management tool after the existing moratorium expires.

IFQ programs can drastically change the face of fishing communities and the fundamental principles of conservation and management. Therefore, this legislation needs to be developed in a careful and meaningful manner. Accordingly, introduction of this bill is intended to begin the dialogue on the possibility of new IFQ programs. I fully anticipate that we will hear from many stakeholders to help the Subcommittee on Oceans and Fisheries shape and reshape this bill as necessary. I look forward to participation by all impacted groups as we move this bill through the legislative process.

The IFQ Act of 2001 sets conditions under which fishery management plans, FMPs, or plan amendments may establish a new individual fishing quota system. The bill ensures that any council which establishes new IFQs will promote sustainable management of the fishery; require fair and equitable allocation of individual quotas; minimize negative social and economic impacts on local coastal communities; ensure adequate enforcement of the system; and take into account present participation and historical fishing practices of the relevant fishery. Additionally, the bill requires the Secretary of Commerce to conduct referenda to ensure that those most affected by IFQs will have the opportunity to formally approve both the initiation and adoption of any new individual fishing quota program.

This bill authorizes the potential allocation of individual quotas to fishing vessel owners, fisherman and crew members who are citizens of the United States. The legislation does not allow, however, individual quotas to be sold, transferred or leased. In addition, participation in the fishery is required for a person to hold quota. Acknowledging the possibility that undue hardship may ensure, the bill allows for the suspension of the transferability requirements by the Secretary on an individual case-by-case basis. Moreover, this bill permits councils to allocate quota shares to entry-level fisherman, small vessel owners, or crew members who may not otherwise be eligible for individual quotas.

In 1996, Congress reauthorized the Magnuson-Stevens Act through enactment of the Sustainable Fisheries Act, SFA. The SFA contained the most substantial improvements to fisheries conservation since the original passage of the Magnuson-Stevens Act in 1976. More specifically, the SFA included a five year moratorium on new IFQ programs and required the National Academy of Sciences, NAS, to study and report on the issue.

As a result, the NAS issued a report which contained a number of recommendations to Congress addressing the social, economic, and biological aspects of IFQ programs. The first recommendation was for Congress to lift the existing moratorium on new IFQ programs and authorize the councils to design and implement new IFQs. The IFQ Act of 2001 specifically incorporates certain recommendations of the NAS report and provides councils with the flexibility to adopt additional NAS or other recommendations. Mr. President, as with other components of fisheries conservation and management, there is no ''one-size-fits-all'' solution to IFQ programs. Therefore, this bill sets certain conditions under which IFQs may be developed, but at the same time, it clearly provides the regional councils and the affected fishermen with the ability to shape any new IFQ program to fit the needs of the fishery, if such a program is desired.

Over the past one and a half years, the Subcommittee on Oceans and Fisheries traveled across the country and held six hearings on the reauthorization of the Magnuson-Stevens Act. We began the process in Washington, DC, and then visited fishing communities in Maine, Louisiana, Alaska, Washington, and Massachusetts. During the course of those hearings, we heard official testimony from over 70 witnesses and received statements from many more fishermen during open microphone sessions at each field hearing. The Subcommittee heard the comments, views and recommendations of federal and state officials, regional council chairmen and members, other fisheries managers, commercial and recreational fishermen, members of the conservation community, and many others interested in these important issues. Additionally, the 26th annual Maine Fishermen's Forum held a very informative all-day workshop on IFQs on March 1, 2001. The IFQ Act of 2001 incorporates many of the suggestions we heard from those men and women who fish for a living and those who are most affected by the law and its regulations.

Unfortunately successful fisheries conservation and management seems to be the exception and not the rule. The decisions that fishermen, regional councils and the Department of Commerce make are complex and often depend on less than adequate information. It is incumbent upon the Congress to provide the many interested stakeholders with the ability to make practical and informed decisions. At a later date, I will introduce additional legislation to amend the Magnuson-Stevens Act to address the fundamental problems in fisheries management—a lack of funding, a lack of basic scientific information, and enhanced flexibility in the decision-making process. But today, I introduce the IFQ Act of 2001 to begin the dialogue on new individual fishing quota programs, the most significant policy question in fisheries management. Clearly, I do not presume to offer a perfect solution to a complex and emotional concept. However, it is my intent to resolve this issue after appropriate debate and consideration by the Commerce Committee and the U.S. Senate. I look forward to and expect the full participation of those Senators who have expressed interest in this issue in the past and those who may be new to the debate.

I ask unanimous consent that the test of the bill be printed in the RECORD.

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

S. 637

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''IFQ Act of 2001''.

SEC. 2. INDIVIDUAL QUOTA PROGRAMS.

(a) AUTHORITY TO ESTABLISH INDIVIDUAL QUOTA SYSTEMS.—Section 303 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853) is amended by adding at the end the following:

''(e) SPECIAL PROVISIONS FOR INDIVIDUAL QUOTA SYSTEMS.—

''(1) CONDITIONS.—A fishery management plan which establishes an individual quota system for a fishery after September 30, 2002—

''(A) shall provide for administration of the system by the Secretary in accordance with the terms of the plan;

''(B) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested;

''(C) shall include provisions which establish procedures and requirements for each Council having authority over the fishery, for—

''(i) reviewing and revising the terms of the plan that establish the system; and

''(ii) renewing, reallocating, and reissuing individual quotas if determined appropriate by each Council;

''(D) shall include provisions to—

''(i) promote sustainable management of the fishery;

''(ii) provide for fair and equitable allocation of individual quotas under the system;

''(iii) minimize negative social and economic impacts of the system on local coastal communities;

''(iv) ensure adequate enforcement of the system, including the use of observers where appropriate at a level of coverage that should yield statistically significant results; and

''(v) take into account present participation and historical fishing practices, in the fishery; and

''(E) include provisions that prevent any person or entity from acquiring an excessive share of individual quotas issued for a fishery.

''(2) PLAN CHARACTERISTICS.—An individual quota issued under an individual quota system established by a fishery management plan—

''(A) shall be considered a grant, to the holder of the individual quota, of permission to engage in activities permitted by the individual quota;

''(B) may be revoked or limited at any time, in accordance with the terms of the plan and regulations issued by the Secretary or the Council having authority over the fishery for which it is issued, if necessary for the conservation and management of the fishery (including as a result of a violation of this Act or any regulation prescribed under this Act);

''(C) if revoked or limited by the Secretary or a Council, shall not confer any right of compensation to the holder of the individual quota;

''(D) may be received and held in accordance with regulations prescribed by the Secretary under this Act;

''(E) shall, except in the case of an individual quota allocated under an individual quota system established before the date of enactment of the IFQ Act of 2001, expire not later than 5 years after the date it is issued, in accordance with the terms of the fishery management plan; and

''(F) upon expiration under subparagraph (E), may be renewed, reallocated, or reissued if determined appropriate by each Council having authority over the fishery.

''(3) ELIGIBLE HOLDERS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any fishery management plan that establishes an individual quota system for a fishery may authorize individual quotas to be held by or issued under the system to fishing vessel owners, fishermen, and crew members.

''(B) NON-CITIZENS NOT ELIGIBLE.—An individual who is not a citizen of the United States may not hold an individual quota issued under a fishery management plan.

''(4) PERMITTED PROVISIONS.—Any fishery management plan that establishes an individual quota system for a fishery may include provisions that—

''(A) allocate individual quotas under the system among categories of vessels; and

''(B) provide a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, or crewmembers who do not hold or qualify for individual quotas.

''(5) TERMINATION OR LIMITATION.—

''(A) GROUNDS.—An individual quota system established for a fishery may be limited or terminated at any time if necessary for the conservation and management of the fishery, by—

''(i) the Council which has authority over the fishery for which the system is established, through a fishery management plan or amendment; or

''(ii) the Secretary, in the case of any individual quota system established by a fishery management plan developed by the Secretary.

''(B) EFFECT ON OTHER AUTHORITY.—This paragraph does not diminish the authority of the Secretary under any other provision of this Act.

''(6) REQUIRED PROVISIONS; REALLOCATIONS.—Any individual quota system established for a fishery after the date of enactment of the IFQ Act of 2001—

''(A) shall not allow individual quota shares under the system to be sold, transferred, or leased;

''(B) shall prohibit a person from holding an individual quota share under the system unless the person participates in the fishery for which the individual quota share is issued; and

''(C) shall require that if any person that holds an individual quota share under the system does not engage in fishing under the individual quota share for 3 or more years in any period of 5 consecutive years, the individual quota share shall revert to the Secretary and shall be reallocated under the system to qualified participants in the fishery in a fair and equitable manner.

''(7) EXCEPTIONS.—

''(A) HARDSHIP.—The Secretary may suspend the applicability of paragraph (6) for individuals on a case-by-case basis due to

death, disablement, undue hardship, retirement, or in any case in which fishing is prohibited by the Secretary or the Council.

''(B) TRANSFER TO FAMILY MEMBERS.—Notwithstanding paragraph (6)(A), the Secretary may permit the transfer of an individual fishing quota, on a case-by-case basis, from an individual to a member of that individual's family under circumstances described in subparagraph (A) through a simple and expeditious process.

''(8) DEFINITIONS.—In this subsection:

''(A) INDIVIDUAL QUOTA SYSTEM.—The term 'individual quota system' means a system that limits access to a fishery in order to achieve optimum yield, through the allocation and issuance of individual quotas.

''(B) INDIVIDUAL QUOTA.—The term 'individual quota' means a grant of permission to harvest a quantity of fish in a fishery, during each fishing season for which the permission is granted, equal to a stated percentage of the total allowable catch for the fishery.''.

(b) APPROVAL OF FISHERY MANAGEMENT PLANS ESTABLISHING INDIVIDUAL QUOTA SYSTEMS.—Section 304 of that Act (16 U.S.C. 1854) is further amended by adding after subsection (h) the following:

''(i) REFERENDUM PROCEDURE.—

''(1) A Council may prepare and submit a fishery management plan, plan amendment, or regulation that creates an individual fishing quota or other quota-based program only if both the preparation and the submission of such plan, amendment or regulation are approved in separate referenda conducted under paragraph (2).

''(2) The Secretary, at the request of a Council, shall conduct the referenda described in paragraph (1). Each referendum shall be decided by a two-thirds majority of the votes cast by eligible permit holders. The Secretary shall develop guidelines to determine procedures and eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

''(j) ACTION ON LIMITED ACCESS SYSTEMS.—

''(1) In addition to the other requirements of this Act, the Secretary may not approve a fishery management plan that establishes a limited access system that provides for the allocation of individual quotas (in this subsection referred to as an 'individual quota system') unless the plan complies with section 303(e).

''(2) Within 1 year after receipt of recommendations from the review panel established under paragraph (3), the Secretary shall issue regulations which establish requirements for establishing an individual quota system. The regulations shall be developed in accordance with the recommendations. The regulations shall—

''(A) specify factors that shall be considered by a Council in determining whether a fishery should be managed under an individual quota system;

''(B) ensure that any individual quota system is consistent with the requirements of sections 303(b) and 303(e), and require the collection of fees in accordance with subsection (d)(2) of this section;

''(C) provide for appropriate penalties for violations of individual quotas systems, including the revocation of individual quotas for such violations;

''(D) include recommendations for potential management options related to individual quotas, including the use of leases or auctions by the Federal Government in the establishment or allocation of individual quotas; and

''(E) establish a central lien registry system for the identification, perfection, and determination of lien priorities, and nonjudicial foreclosure of encumbrances, on individual quotas.

''(3)(A) Not later than 6 months after the date of the enactment of the IFQ Act of 2001, the Secretary shall establish a review panel to evaluate fishery management plans in effect under this Act that establish a system for limiting access to a fishery, including individual quota systems, and other limited access systems, with particular attention to—

''(i) the success of the systems in conserving and managing fisheries;

''(ii) the costs of implementing and enforcing the systems;

''(iii) the economic effects of the systems on local communities; and

''(iv) the use of auctions in the establishment or allocation of individual quota shares.

''(B) The review panel shall consist of—

''(i) the Secretary or a designee of the Secretary;

''(ii) the Commandant of the Coast Guard;

''(iii) a representative of each Council, selected by the Council; and

''(iv) 5 individuals with knowledge and experience in fisheries management.

''(C) Based on the evaluation required under subparagraph (A), the review panel shall, by September 30, 2003—

''(i) submit comments to the Councils and the Secretary with respect to the revision of individual quota systems that were established prior to June 1, 1995; and

''(ii) submit recommendations to the Secretary for the development of the regulations required under paragraph (2).''.

By Mr. DOMENICI (for himself, Mr. LEAHY, and Mr. BENNETT):

S. 638. A bill to amend the Internal Revenue Code of 1986 to provide the same capital gain treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor; to the Committee on Finance.

Mr. DOMENICI. Mr. President, the bill I am introducing today is designed to restore some internal consistency to the Tax Code as it applies to art and artists.

No one has ever said that the Tax Code is fair even though it has always been a theoretical objective of the code to treat similar taxpayers similarly.

The bill I am introducing today would address two areas where similarly situated taxpayers are not treated the same.

Internal inconsistency No. 1 deals with the long term capital gains tax treatment of investments in art and collectibles.

Internal inconsistency No. 2 deals with the charitable deduction for artists donating their work to a museum or other charitable cause. The unartistic person wishing to make a charitable contribution of a piece of art is entitled to a deduction equal to fair market value of the art. An artist, on the other hand, just because he/she is the creator of the art, is limited to a deduction equal to the tube of paint, the paper, or other art supplies involved. Under this tax treatment few eligible contributions exceed $19.95 even though the art may be worth hundreds or even thousands of dollars. The tax treatment is a disincentive and a blatant unfairness.

If a person invests in stocks, or bonds, holds the asset for the requisite period of time, and sells at a gain, the tax treatment is long term capital gains. The top capital gains tax rate is 20 percent, 18 percent if the asset is held for five or more years. However, if the same person invests in art or collectibles the top rate is hiked up to 28 percent.

Art for art's sake should not incur an additional 40-percent tax bill simply for revenue's sake. That is a big impact on the pocketbook of the beholder.

Art and collectibles are alternatives to financial instruments as an investment choice. To create a tax disadvantage with respect to one investment compared to another creates an artificial market and may lead to poor investment allocations. It also adversely impacts those who make their livelihood in the cultural sectors of the economy.

Santa Fe, NM, is the third largest art market in the country. We have a diverse colony of artists, collectors and gallery owners. We have fabulous Native American rug weavers, potters and carvers. Creative giants like Georgia O'Keeffe, Maria Martinez, E.L. Blumenshein, Allan Houser, R.C. Gorman, and Glenna Goodacre have all chosen New Mexico as their home and as their artistic subject.

John Nieto, Wilson Hurley, Clark Hulings, Verl Goodnight, Bill Acheff, Susan Rothenberg, Bruce Nauman, Agnes Martin, Doug Hyde, Margaret Nez, Dan Ostermiller are additional examples of living artists creating art in New Mexico.

Art, antiques and collectibles are a $12 to $20 billion annual industry nationwide. In New Mexico, it has been estimated that art and collectible sales range between $500 million and $1 billion a year.

Economists have always been interested in the economics of the arts. Adam Smith is a well-known economist. He was also a serious, but little-known essayist on painting, dancing, and poetry. Keynes was a passionate devotee of painting.

Even the artistically inclined economists found it difficult to define art within the context of economic theory.

When asked to define Jazz, Louis Armstrong replied: ''If you gotta ask, you ain't never going to know.'' A similar conundrum has challenged Galbraith and other economists who have grappled with the definitional issues associated with bringing art within the economic calculus.

Original art objects are, as a commodity group, characterized by a set of attributes:

Every unit of output is differentiated from every other unit of output.

Art works can be copied but not reproduced.

The cultural capital of the nation has significant elements of public good.

Because art works can be resold, and their prices may rise over time, they have the characteristics of financial assets, and as such may be sought as a hedge against inflation, as a store of wealth or as a source of speculative capital gain.

As chairman of the Budget Committee I pride myself on understanding economics, so I reviewed the literature on ''cultural economics'' to see how the markets have treated the muses.

Numerous economists have analyzed rates of return on works of art—some studies going back as far as 1635. The more recent the study the more favorable art investments compare with the stock market.

New Mexico is not only the third largest art market but it is also the home of a unique company that manages the Metropolitan Fine Arts fund which charts the price performance of various categories of collectibles over the past five years. Recently this firm, Lyons and Hannover, compared the S&P 500 with different categories of fine art and collectibles. Had a person invested in American impressionists like Cassatt, Hassam, or Sargent he would have beat the S&P. An investment in 20th century expressionists like Klee or Nolde did not out perform the S&P. Of the other 16 categories most did almost as well as the S&P 500. Furniture, ceramics, cars, photography, wine and weapons were also worthwhile investments during the last decade.

Lyons and Hannover are not the only ones putting theory into practice. Citigroup has created in essence an art mutual fund. Deutchsche Bank recently launched its own art fund and others are raising money for an ''art investment bank.'' Not to be outdone by the ''Wall Street suits'' artist Ben McNeill has gone straight to the public. He minted 800 shares in his ''Art Shares'' project at $5 each. Each can be redeemed for $10 in 2004, But buyers think they are worth more. They've traded on his Web site for as high as $43.

William Goetzmann when he was at the Columbia Business School constructed an art index and concluded that painting price movements and stock market fluctuations are correlated. I conclude that with art, as well as stocks, past performance is no guarantee of future returns but the gains should be taxed the same.

In 1990, the editor of Art and Auction asked the question: ''Is there an 'efficient' art market?''

A well known art dealer answered: ''Definitely not. That's one of the things that make the market so interesting.''

For everyone who has been watching world financial markets lately, the art market may be a welcome distraction.

Why do people invest in art and collectibles?

Art and collectibles are something you can appreciate even if the investment doesn't appreciate.

Art is less volatile. If bouncing bond prices drive you berserk and spiraling stock prices scare you silly, art may be the right investment for you.

Because art and collectibles are investments, the long term capital gains tax treatment should be the same as for stocks and bonds. This bill would accomplish that.

Artists will benefit. Gallery owners will benefit. Collectors will benefit. And museums benefit from collectors. About 90 percent of what winds up in museums like the New York's Metropolitan Museum of Art comes from collectors.

Collecting isn't just for the hoyty toity. It seems that everyone collects something. Some collections are better investments than others. Some collections are just bizarre. The internet makes collecting big business.

The flea market fanatics are also avid collectors. In fact, people collect the darndest things. Books, duck decoys, Audubon prints, chai pets, snowglobes, thimbles, handcuffs, spectacles, baseball cards, and caps, guns and dolls.

This bill could be called the ''Fine art, furniture, figurines, coins and stamps, china and pottery, silver, cast iron and brass wares, beanie babies, rugs, quilts, and other textiles, architectural columns, glassware, jewelry, lamps, military memorabilia, toys, dolls, trains, entertainment memorabilia, political memorabilia, books, maps, antique hardware, clocks and watches'' Capital Gains Parity Act and I still would not have accurately captured the full scope of the bill.

For most of these collections, capital gains isn't really an issue, but you never know. Antique Roadshow is one of the most popular shows on TV. Everyone knows the story about the women who bought the card table at a yard sale for $25. It turned out to be the work of a Boston cabinet maker circa 1797. It later sold at Sotheby's for $490,000.

Like the women on Antique Roadshow, you could be creating a sizeable taxable asset if you decide to sell your art or collectible collection. You may find that your collecting passion has created a tax predicament—to phrase it politely. Art and collectibles are tangible assets. When you sell them, capital gains tax is due on any appreciation over your purchase price.

The bill provides capital gains tax parity because it lowers the top capital gains rate from 28 percent to 20 percent, 18 percent if the asset has been held for five or more years.

The second area where people similarly situated are not treated similarly in the tax code deals with charitable contributions. When someone is asked to make a charitable contribution to a museum or to a fund raising auction it shouldn't, but under current law does, matter whether you are an artist or not.

Under current law an artist/creator can only take a deduction equal to the cost of the art supplies.

The bill I am introducing with Senators LEAHY and BENNETT will allow a fair market deduction for the artist. It includes certain safeguards to keep the artist from ''painting himself a tax deduction.''

This bill applies to literary, musical, artistic, and scholarly compositions if the work was created at least 18 months before the donation was made, has been appraised, and is related to the purpose or function of the charitable organization receiving the donation.

As with other charitable contributions it is limited to 50 percent of adjusted gross income, AGI. If it is also a capital gain, there is a 30 percent of AGI limit.

I believe these safeguards bring fairness back into the code and protect the Treasury against any potential abuse.

The revenue estimate for the capital gains provision is $2.3 billion over ten years and the estimate for the charitable deduction is approximately $48 million over ten years.

I hope my colleagues will help me put the internally consistent into the Internal Revenue Code—for art's sake.

I ask unanimous consent the text of the bill be printed in the RECORD.

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

S. 638

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Art and Collectibles Capital Gains Tax Treatment Parity Act''.

SEC. 2. CAPITAL GAINS TREATMENT FOR ART AND COLLECTIBLES.

(a) IN GENERAL.—Section 1(h) of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended by striking paragraphs (5) and (6) and inserting the following new paragraph:

''(5) 28-PERCENT RATE GAIN.—For purposes of this subsection, the term '28-percent rate gain' means the excess (if any) of—

''(A) section 1202 gain, over

''(B) the sum of—

''(i) the net short-term capital loss, and

''(ii) the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1(h)(9) of the Internal Revenue Code of 1986 is amended by striking ''collectibles gain, gain described in paragraph (7)(A)(i),'' and inserting ''gain described in paragraph (7)(A)(i)''.

(2) Section 1(h) of such Code is amended by redesignating paragraphs (12) and (13) as paragraphs (6) and (12), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 3. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS CREATED BY THE TAXPAYER.

(a) IN GENERAL.—Subsection (e) of section 170 of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS.—

''(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

''(i) the amount of such contribution shall be the fair market value of the property contributed (determined at the time of such contribution), and

''(ii) no reduction in the amount of such contribution shall be made under paragraph (1).

''(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, artistic, or scholarly composition, or similar property, or the copyright thereon (or both), but only if—

''(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 18 months prior to such contribution,

''(ii) the taxpayer—

''(I) has received a qualified appraisal of the fair market value of such property in accordance with the regulations under this section, and

''(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal,

''(iii) the donee is an organization described in subsection (b)(1)(A),

''(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under subsection (c)),

''(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

''(vi) the written appraisal referred to in clause (ii) includes evidence of the extent (if any) to which property created by the personal efforts of the taxpayer and of the same type as the donated property is or has been—

''(I) owned, maintained, and displayed by organizations described in subsection (b)(1)(A), and

''(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (as defined in section 465(b)(3)(C)).

''(C) MAXIMUM DOLLAR LIMITATION; NO CARRYOVER OF INCREASED DEDUCTION.—The increase in the deduction under this section by reason of this paragraph for any taxable year—

''(i) shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year, and

''(ii) shall not be taken into account in determining the amount which may be carried from such taxable year under subsection (d).

''(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

''(i) income from the sale or use of property created by the personal efforts of the taxpayer which is of the same type as the donated property, and

''(ii) income from teaching, lecturing, performing, or similar activity with respect to property described in clause (i).

''(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—Subparagraph (A) shall not apply to any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while the individual is an officer or employee of any person (including any government agency or instrumentality) unless such letter, memorandum, or similar property is entirely personal.

''(F) COPYRIGHT TREATED AS SEPARATE PROPERTY FOR PARTIAL INTEREST RULE.—In the case of a qualified artistic charitable contribution, the tangible literary, musical, artistic, or scholarly composition, or similar property and the copyright on such work shall be treated as separate properties for purposes of this paragraph and subsection (f)(3).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act in taxable years ending after such date.

By Mr. TORRICELLI:

S. 641. A bill to amend section 842 of title 18, United States Code, relating to explosive materials; to the Committee on the Judiciary.

Mr. TORRICELLI. Mr. President, I rise today to introduce the ''Explosives Protection Act.'' I do this in memory of the tragic bombing of the federal building in Oklahoma City, because I hope that this bill will, in some small way, prevent future bombings—whether by terrorists of symbolic targets, malcontents of random ones, or even spouses involved in marital disputes.

This bill, while not directly related to the circumstances in Oklahoma City, is a first step towards protecting the American people from those who would use explosives to do them harm.

Not many people realize just how few restrictions on the use and sale of explosives really exist. While we have increasingly restricted the number of people who can obtain and use a firearm, we have been lax in extending these prohibitions to explosives.

For instance, while we prohibit illegal aliens from obtaining a gun, we allow them to obtain explosives without restriction. And this same divergence applies to those who have been dishonorably discharged from the armed forces, those who have renounced U.S. citizenship, people who have acted in such a way as to have restraining orders issued against them, and those with domestic violence convictions. Each of these categories of persons are prohibited from obtaining firearms, but face no such prohibition on obtaining explosive material.

Congress has already made the determination that certain members of society should not have access to firearms, and the same logic clearly applies to dangerous and destructive explosive materials, materials which can result in an equal or even greater loss of life. It is time to bring the explosives law into line with gun laws, and this is all my bill does. Specifically, the extend the list of persons barred from purchasing explosives so that it matched that of people barred from purchasing firearms.

This is a simple bill meant only to correct longstanding gaps and loopholes in current law. I urge my colleagues to support the bill, and I hope we can quickly move to get this passed and protect Americans from future acts of explosive destruction. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 641

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Explosives Protection Act of 2001''.

SEC. 2. PROHIBITIONS RELATING TO EXPLOSIVE MATERIALS.

(a) PROHIBITION OF SALE, DELIVERY, OR TRANSFER OF EXPLOSIVE MATERIALS TO CERTAIN INDIVIDUALS.—Section 842 of title 18, United States Code, is amended by striking subsection (d) and inserting the following:

''(d) PROHIBITION OF SALE, DELIVERY, OR TRANSFER OF EXPLOSIVE MATERIALS TO CERTAIN INDIVIDUALS.—It shall be unlawful for any licensee to knowingly sell, deliver, or transfer any explosive materials to any individual who—

''(1) is less than 21 years of age;

''(2) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

''(3) is a fugitive from justice;

''(4) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

''(5) has been adjudicated as a mental defective or has been committed to any mental institution;

''(6) being an alien—

''(A) is illegally or unlawfully in the United States; or

''(B) except as provided in section 845(d), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26));

''(7) has been discharged from the Armed Forces under dishonorable conditions;

''(8) having been a citizen of the United States, has renounced his citizenship;

''(9) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

''(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

''(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; and

''(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

''(10) has been convicted in any court of a misdemeanor crime of domestic violence.''.

(b) PROHIBITION ON SHIPPING, TRANSPORTING, POSSESSION, OR RECEIPT OF EXPLOSIVES BY CERTAIN INDIVIDUALS.—Section 842 of title 18, United States Code, is amended by striking subsection (i) and inserting the following:

''(i) PROHIBITION ON SHIPPING, TRANSPORTING, POSSESSION, OR RECEIPT OF EXPLOSIVES BY CERTAIN INDIVIDUALS.—It shall be unlawful for any person to ship or transport in interstate or foreign commerce, or possess, in or affecting commerce, any explosive, or to receive any explosive that has been shipped or transported in interstate or foreign commerce, if that person—

''(1) is less than 21 years of age;

''(2) has been convicted in any court, of a crime punishable by imprisonment for a term exceeding 1 year;

''(3) is a fugitive from justice;

''(4) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

''(5) has been adjudicated as a mental defective or who has been committed to a mental institution;

''(6) being an alien—

''(A) is illegally or unlawfully in the United States; or

''(B) except as provided in section 845(d), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26));

''(7) has been discharged from the Armed Forces under dishonorable conditions;

''(8) having been a citizen of the United States, has renounced his citizenship; or

''(9) is subject to a court order that—

''(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

''(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

''(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; and

''(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

''(10) has been convicted in any court of a misdemeanor crime of domestic violence.''.

(c) EXCEPTIONS AND WAIVER FOR CERTAIN INDIVIDUALS.—Section 845 of title 18, United States Code, is amended by adding at the end the following:

''(d) EXCEPTIONS AND WAIVER FOR CERTAIN INDIVIDUALS.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'alien' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

''(B) the term 'nonimmigrant visa' has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

''(2) EXCEPTIONS.—Subsections (d)(5)(B) and (i)(5)(B) of section 842 do not apply to any alien who has been lawfully admitted to the United States pursuant to a nonimmigrant visa, if that alien is—

''(A) admitted to the United States for lawful hunting or sporting purposes;

''(B) a foreign military personnel on official assignment to the United States;

''(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

''(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

''(3) WAIVER.—

''(A) IN GENERAL.—Any individual who has been admitted to the United States under a nonimmigrant visa and who is not described in paragraph (2), may receive a waiver from the applicability of subsection (d)(5)(B) or (i)(5)(B) of section 842, if—

''(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (B); and

''(ii) the Attorney General approves the petition.

''(B) PETITIONS.—Each petition under subparagraph (A)(i) shall—

''(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

''(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to engage in any activity prohibited under subsection (d) or (i) of section 842, as applicable, and certifying that the petitioner would not otherwise be prohibited from engaging in that activity under subsection (d) or (i) of section 842, as applicable.''.

By Mr. TORRICELLI:

S. 642. A bill to amend part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide assistance for unincorporated neighborhood watch programs; to the Committee on the Judiciary.

Mr. TORRICELLI. Mr. President, I rise today to introduce the ''Neighborhood Watch Partnership Act.'' This bill will broaden the eligibility of groups that may apply for essential funding for neighborhood watch activities.

Communities across the country are finding sensible ways to solve local problems. Through partnerships with local police, neighborhood watch groups are having a decisive impact on crime. There are almost 20,000 such groups creating innovative programs that promote community involvement in crime prevention techniques. They empower community members and organize them against rape, burglary, and all forms of fear on the street. They forge bonds between law enforcement and the communities they serve.

Unfortunately, many communities find it difficult to afford the often expensive equipment such as cellphones and CBs needed to start a neighborhood watch organization. While the COPS program within the Department of Justice provides funding for some neighborhood watch groups, an organization must incorporate to benefit from the current program. A mere 2000 of the nearly 20,000 groups incorporate, however, meaning that the vast majority of watch groups cannot apply for funding assistance. This makes very little sense.

The time has come to make a clear commitment to these groups. That is why I am introducing a bill to extend COPS funding to unincorporated neighborhood watch organizations. The bill would provide grants of up to $1950 to these groups. Under current law, either the local police chief or sheriff must approve grant requests by unincorporated watch groups. We would impose the same requirement on unincorporated groups, thus providing accountability for the disbursement of funds.

Neighborhood watch organizations provide an invaluable service. By extending the partnership between community policing and watch group organizations, we will boldly encourage small and large communities to preserve and create crime prevention tools. We should act now, Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 642

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

SECTION 1. ASSISTANCE FOR UNINCORPORATED NEIGHBORHOOD WATCH PROGRAMS.

(a) SHORT TITLE.—This Act maybe cited as the ''Neighborhood Watch Partnership Act of 2001''.

(b) IN GENERAL.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) in paragraph (11), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(12) provide assistance to unincorporated neighborhood watch organizations approved by the appropriate local police or sheriff's department, in an amount equal to not more than $1950 per organization, for the purchase of citizen band radios, street signs, magnetic signs, flashlights, and other equipment relating to neighborhood watch patrols.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended—

(1) in subparagraph (A), by striking clause (vi) and inserting the following:

''(vi) $282,625,000 for fiscal year 2002.''; and

(2) in subparagraph (B) by inserting after ''(B)'' the following: ''Of amounts made available to carry out part Q in each fiscal year $14,625,000 shall be used to carry out section 1701(d)(12).''.

By Mr. BAUCUS (for himself, Mr. KERRY, Ms. LANDRIEU, Mr. INOUYE, Mr. TORRICELLI, Mr. DASCHLE, Mr. LEAHY, Mr. WYDEN, Mr. BINGAMAN, and Mr. LIEBERMAN):

S. 643. A bill to implement the agreement establishing a United States-Jordan free trade area; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce legislation to implement the United States-Jordan Free Trade Agreement.

I introduce this legislation on behalf of myself and Senators KERRY, LANDRIEU, INOUYE, TORRICELLI, DASCHLE, LEAHY, BINGAMAN, WYDEN, and LIEBERMAN. The same legislation is today being introduced by colleagues in the other body.

The United States-Jordan FTA was signed on October 26, 2000 and formally submitted to Congress on January 6.

For a variety of reasons, it is one of the most significant trade achievements in recent years.

Simply put, the United States-Jordan FTA is a strong trade agreement. It eliminates barriers to trade on goods and services across the board.

The agreement is very much on a par with the FTA with Canada and Mexico; the specific provisions of the agreement mirror the United States-Israel FTA and the related understanding with the Palestinian Authority.

Although the volume of trade involved is not likely to have much impact on the United States, it should be a significant boon to Jordan—and that does benefit the United States.

Jordan has become one of the United States' best allies in the Middle East. Demonstrating considerable courage and leadership, Jordan has made peace with Israel and cooperated with the United States on a number of diplomatic fronts.

As the majority leader Senator LOTT wrote in a letter to the President on March 8 urging approval of the agreement:

Jordan has been a reliable partner of the United States and has played an important role in America's efforts to achieve a lasting peace in the Middle East. The United States -Jordan Free Trade Agreement is an important and timely symbol of this critical relationship.

I strongly agree with Senator LOTT. I am normally skeptical of using geopolitical rationales to change U.S. trade policy, but in this case the right geopolitical outcome is also the right trade policy outcome.

Most of the controversy surrounding the United States-Jordan FTA focuses on provisions of the agreement regarding the environment and labor.

Without question, these are significant provisions. They address labor rights and environmental issues in the core of the agreement and make the issues subject to dispute settlement like all other provisions of the agreement.

That said, the provisions simply obligate both countries to enforce their current labor and environmental laws and not weaken their laws with the aim of distorting trade.

Any objective reading of the provisions makes it clear that critics' fears of private parties litigating under these portions of the agreement or attacking U.S. environmental laws are simply unfounded.

The agreement is clearly a government-to-government agreement; private parties cannot trigger dispute settlement proceedings. I believe there is little chance of the United States actually weakening its environmental laws, but it is certainly not going to take such a step with the aim of distorting trade with Jordan.

Given Jordan's strong position on labor rights and environmental issues and the consultative process of the dispute settlement in the agreement, it is quite unlikely these provisions will ever result in the imposition of trade sanctions—the stated fear of the critics.

In fact, in the decade and a half it has been in place, the United States-Israel FTA dispute settlement procedures, the model for the Jordan FTA, have only been invoked once and, even in that case, sanctions were never imposed.

I suspect the real fear of critics is that the Jordan agreement will set a precedent for inclusion of labor and environmental provisions in future trade agreements. I understand that. That precedent, however, has already been set. Both the world trading system—now represented by the World Trade Organization—and the North American Free Trade Agreement, NAFTA, address labor and environmental issues.

In my opinion, all future trade agreements must meaningfully address labor and environmental issues to win congressional approval.

Further, the United States-Jordan FTA has already been negotiated, and it has been signed. Even if it was not ultimately approved by the Congress, the precedent has already been set with an approved and signed agreement. The bell cannot be unrung.

There is a more serious precedent at stake.

When President Clinton took office in 1993, I urged him to support the NAFTA agreement struck by his predecessor in the White House without renegotiation. I did this not because the NAFTA was a perfect agreement, it was not. It needed improvement. But certainly there were certain areas where improvement was possible.

I supported it, and I told the President so because it is vital for there to be continuity in trade policy, I might add, also in foreign policy. Reopening negotiations on an agreement that is already signed to address what can only be called a partisan concern threatens the credibility of U.S. trade policy.

Scuttling or renegotiating the United States-Jordan FTA also sets a precedent for any new administration to undo the agreements negotiated by its predecessor. This would destroy any possibility of bipartisan trade policy and discourage our trading partners from negotiating seriously with the United States. We simply cannot afford to allow this kind of partisan chicanery to overwhelm good trade policy.

I introduce this implementing legislation for the United States-Jordan FTA in the hopes it can be rapidly passed and signed into law.

This is a good agreement. The United States-Jordan FTA advances U.S. trade policy as well as Middle East policy. It has wide support from labor and environmental groups, as well as from business leaders. The United States-Jordan FTA can go far to build a consensus on trade policy. It is very important.

Aside from the concerns over the labor and environmental provisions which I have already addressed, no one has raised serious objections to this agreement.

With Jordan's King Abdullah visiting the United States next week, the Congress and the administration should move together to approve the United States-Jordan FTA.

I ask unanimous consent to print the bill in the RECORD.

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

S. 643

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

This Act may be cited as the ''United States-Jordan Free Trade Area Implementation Act''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to implement the agreement between the United States and Jordan establishing a free trade area;

(2) to strengthen and develop the economic relations between the United States and Jordan for their mutual benefit; and

(3) to establish free trade between the 2 nations through the removal of trade barriers.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) AGREEMENT.—The term ''Agreement'' means the Agreement between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area, entered into on October 24, 2000.

(2) HTS.—The term ''HTS'' means the Harmonized Tariff Schedule of the United States.

TITLE I—TARIFF MODIFICATIONS; RULES OF ORIGIN

SEC. 101. TARIFF MODIFICATIONS.

(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—The President may proclaim—

(1) such modifications or continuation of any duty,

(2) such continuation of duty-free or excise treatment, or

(3) such additional duties,

as the President determines to be necessary or appropriate to carry out article 2.1 of the Agreement and the schedule of duty reductions with respect to Jordan set out in Annex 2.1 of the Agreement.

(b) OTHER TARIFF MODIFICATIONS.—The President may proclaim—

(1) such modifications or continuation of any duty,

(2) such continuation of duty-free or excise treatment, or

(3) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Jordan provided for by the Agreement.

SEC. 102. RULES OF ORIGIN.

(a) IN GENERAL.—

(1) ELIGIBLE ARTICLES.—

(A) IN GENERAL.—The reduction or elimination of any duty imposed on any article by the United States provided for in the Agreement shall apply only if—

(i) that article is imported directly from Jordan into the customs territory of the United States; and

(ii) that article—

(I) is wholly the growth, product, or manufacture of Jordan; or

(II) is a new or different article of commerce that has been grown, produced, or manufactured in Jordan and meets the requirements of subparagraph (B).

(B) REQUIREMENTS.—

(i) GENERAL RULE.—The requirements of this subparagraph are that with respect to an article described in subparagraph (A)(ii)(II), the sum of—

(I) the cost or value of the materials produced in Jordan, plus

(II) the direct costs of processing operations performed in Jordan,

is not less than 35 percent of the appraised value of such article at the time it is entered.

(ii) MATERIALS PRODUCED IN UNITED STATES.—If the cost or value of materials produced in the customs territory of the United States is included with respect to an article to which this paragraph applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied toward determining the percentage referred to in clause (i).

(2) EXCLUSIONS.—No article may be considered to meet the requirements of paragraph (1)(A) by virtue of having merely undergone—

(A) simple combining or packaging operations; or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(b) DIRECT COSTS OF PROCESSING OPERATIONS.—

(1) IN GENERAL.—As used in this section, the term ''direct costs of processing operations'' includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training, and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

(2) EXCLUDED COSTS.—The term ''direct costs of processing operations'' does not include costs which are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as—

(A) profit; and

(B) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

(c) TEXTILE AND APPAREL ARTICLES.—

(1) IN GENERAL.—A textile or apparel article imported directly from Jordan into the customs territory of the United States shall be considered to meet the requirements of paragraph (1)(A) of subsection (a) only if—

(A) the article is wholly obtained or produced in Jordan;

(B) the article is a yarn, thread, twine, cordage, rope, cable, or braiding, and—

(i) the constituent staple fibers are spun in Jordan, or

(ii) the continuous filament is extruded in Jordan;

(C) the article is a fabric, including a fabric classified under chapter 59 of the HTS, and the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process in Jordan; or

(D) the article is any other textile or apparel article that is wholly assembled in Jordan from its component pieces.

(2) DEFINITION.—For purposes of paragraph (1), an article is ''wholly obtained or produced in Jordan'' if it is wholly the growth, product, or manufacture of Jordan.

(3) SPECIAL RULES.—(A) Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (C) and (D) of this paragraph, subparagraph (A), (B), or (C) of paragraph (1), as appropriate, shall determine whether a good that is classified under one of the following headings or subheadings of the HTS shall be considered to meet the requirements of paragraph (1)(A) of subsection (a): 5609, 5807, 5811, 6209.20.50.40, 6213, 6214, 6301, 6302, 6304, 6305, 6306, 6307.10, 6307.90, 6308, and 9404.90.

(B) Notwithstanding paragraph (1)(D) and except as provided in subparagraphs (C) and (D) of this paragraph, a textile or apparel article which is knit-to-shape in Jordan shall be considered to meet the requirements of paragraph (1)(A) of subsection (a).

(C) Notwithstanding paragraph (1)(D), a good classified under heading 6117.10, 6213.00, 6214.00. 6302.22, 6302.29, 6302.52, 6302.53, 6302.59, 6302.92, 6302.93, 6302.99, 6303.92, 6303.99, 6304.19, 6304.93, 6304.99, 9404.90.85, or 9404.90.95 of the HTS, except for a good classified under any such heading as of cotton or of wool or consisting of fiber blends containing 16 percent or more by weight of cotton, shall be considered to meet the requirements of paragraph (1)(A) of subsection (a) if the fabric in the good is both dyed and printed in Jordan, and such dyeing and printing is accompanied by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

(D) Notwithstanding paragraph (1)(C), a fabric classified under the HTS as of silk, cotton, man-made fiber, or vegetable fiber shall be considered to meet the requirements of paragraph (1)(A) of subsection (a) if the fabric is both dyed and printed in Jordan, and such dyeing and printing is accompanied by 2 or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing.

(4) MULTICOUNTRY RULE.—If the origin of a textile or apparel article cannot be determined under paragraph (1) or (3), then that article shall be considered to meet the requirements of paragraph (1)(A) of subsection (a) if—

(A) the most important assembly or manufacturing process occurs in Jordan; or

(B) if the applicability of paragraph (1)(A) of subsection (a) cannot be determined under subparagraph (A), the last important assembly or manufacturing occurs in Jordan.

(d) EXCLUSION.—A good shall not be considered to meet the requirements of paragraph (1)(A) of subsection (a) if the good—

(1) is imported into Jordan, and, at the time of importation, would be classified under heading 0805 of the HTS; and

(2) is processed in Jordan into a good classified under any of subheadings 2009.11 through 2009.30 of the HTS.

(e) REGULATIONS.—The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this section.

TITLE II—RELIEF FROM IMPORTS

Subtitle A—General Provisions

SEC. 201. DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term ''Commission'' means the United States International Trade Commission.

(2) JORDANIAN ARTICLE.—The term ''Jordanian article'' means an article that qualifies for reduction or elimination of a duty under section 102.

Subtitle B—Relief From Imports Benefiting From The Agreement

SEC. 211. COMMENCING OF ACTION FOR RELIEF.

(a) FILING OF PETITION.—

(1) IN GENERAL.—A petition requesting action under this part for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

(2) PROVISIONAL RELIEF.—An entity filing a petition under this subsection may request that provisional relief be provided as if the petition had been filed under section 202(a) of the Trade Act of 1974.

(3) CRITICAL CIRCUMSTANCES.—Any allegation that critical circumstances exist shall be included in the petition.

(b) INVESTIGATION AND DETERMINATION.—

(1) IN GENERAL.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, a Jordanian article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Jordanian article alone constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(2) CAUSATION.—For purposes of this part, a Jordanian article is being imported into the United States in increased quantities as a result of the reduction or elimination of a duty provided for under the Agreement if the reduction or elimination is a cause that contributes significantly to the increase in imports. Such cause need not be equal to or greater than any other cause.

(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

(1) Paragraphs (1)(B) and (3) of subsection (b).

(2) Subsection (c).

(3) Subsection (d).

(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Jordanian article if import relief has been provided under this part with respect to that article.

SEC. 212. COMMISSION ACTION ON PETITION.

(a) DETERMINATION.—By no later than 120 days (180 days if critical circumstances have been alleged) after the date on which an investigation is initiated under section 211(b) with respect to a petition, the Commission shall make the determination required under that section.

(b) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, the Commission shall find, and recommend to the President in the report required under subsection (c), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to that described in section 213(c).

(c) REPORT TO PRESIDENT.—No later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that shall include—

(1) a statement of the basis for the determination;

(2) dissenting and separate views; and

(3) any finding made under subsection (b) regarding import relief.

(d) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (c), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

(e) APPLICABLE PROVISIONS.—For purposes of this part, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

SEC. 213. PROVISION OF RELIEF.

(a) IN GENERAL.—No later than the date that is 30 days after the date on which the President receives the report of the Commission containing an affirmative determination of the Commission under section 212(a), the President shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to prevent or remedy the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition, unless the President determines that the provision of such relief is not in the national economic interest of the United States or, in extraordinary circumstances, that the provision of such relief would cause serious harm to the national security of the United States.

(b) NATIONAL ECONOMIC INTEREST.—The President may determine under subsection (a) that providing import relief is not in the national economic interest of the United States only if the President finds that taking such action would have an adverse impact on the United States economy clearly greater than the benefits of taking such action.

(c) NATURE OF RELIEF.—The import relief (including provisional relief) that the President is authorized to provide under this part with respect to imports of an article is—

(1) the suspension of any further reduction provided for under the United States Schedule to Annex 2.1 of the Agreement in the duty imposed on that article;

(2) an increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force; or

(3) in the case of a duty applied on a seasonal basis to that article, an increase in the rate of duty imposed on the article to a level that does not exceed the column 1 general rate of duty imposed under the HTS on the article for the corresponding season occurring immediately before the date on which the Agreement enters into force.

(d) PERIOD OF RELIEF.—The import relief that the President is authorized to provide under this section may not exceed 4 years.

(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this part is terminated with respect to an article—

(1) the rate of duty on that article after such termination and on or before December 31 of the year in which termination occurs shall be the rate that, according to the United States Schedule to Annex 2.1 of the Agreement for the staged elimination of the tariff, would have been in effect 1 year after the initiation of the import relief action under section 211; and

(2) the tariff treatment for that article after December 31 of the year in which termination occurs shall be, at the discretion of the President, either—

(A) the rate of duty conforming to the applicable rate set out in the United States Schedule to Annex 2.1; or

(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the United States Schedule to Annex 2.1 for the elimination of the tariff.

SEC. 214. TERMINATION OF RELIEF AUTHORITY.

(a) GENERAL RULE.—Except as provided in subsection (b), no import relief may be provided under this part after the date that is 15 years after the date on which the Agreement enters into force.

(b) EXCEPTION.—Import relief may be provided under this part in the case of a Jordanian article after the date on which such relief would, but for this subsection, terminate under subsection (a), but only if the Government of Jordan consents to such provision.

SEC. 215. COMPENSATION AUTHORITY.

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 213 shall be treated as action taken under chapter 1 of title II of such Act.

SEC. 216. SUBMISSION OF PETITIONS.

A petition for import relief may be submitted to the Commission under—

(1) this part;

(2) chapter 1 of title II of the Trade Act of 1974; or

(3) under both this part and such chapter 1 at the same time, in which case the Commission shall consider such petitions jointly.

Subtitle C—Cases Under Title II Of The Trade Act of 1974

SEC. 221. FINDINGS AND ACTION ON JORDANIAN IMPORTS.

(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974, the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the article from Jordan are a substantial cause of serious injury or threat thereof.

(b) PRESIDENTIAL ACTION REGARDING JORDANIAN IMPORTS.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President shall determine whether imports from Jordan are a substantial cause of the serious injury found by the Commission and, if such determination is in the negative, may exclude from such action imports from Jordan.

SEC. 222. TECHNICAL AMENDMENT.

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence—

(1) by striking ''and part 1'' and inserting '', part 1''; and

(2) by inserting before the period at the end '', and title II of the United States-Jordan Free Trade Area Implementation Act''.

TITLE III—TEMPORARY ENTRY

SEC. 301. NONIMMIGRANT TRADERS AND INVESTORS.

Upon the basis of reciprocity secured by the Agreement, an alien who is a national of Jordan (and any spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) of the alien, if accompanying or following to join the alien) shall be considered as entitled to enter the United States under and in pursuance of the provisions of the Agreement as a nonimmigrant described in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), if the entrance is solely for a purpose described in clause (i) or (ii) of such section and the alien is otherwise admissible to the United States as such a nonimmigrant.

TITLE IV—GENERAL PROVISIONS

SEC. 401. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.

(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, or

(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term ''State law'' includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under the Agreement; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with the Agreement.

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year after fiscal year 2001 to the Department of Commerce not more than $100,000 for the payment of the United States share of the expenses incurred in dispute settlement proceedings under article 17 of the Agreement.

SEC. 403. IMPLEMENTING REGULATIONS.

After the date of enactment of this Act—

(1) the President may proclaim such actions, and

(2) other appropriate officers of the United States may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date the Agreement enters into force.

SEC. 404. EFFECTIVE DATES; EFFECT OF TERMINATION.

(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date the Agreement enters into force.

(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act.

(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement ceases to be in force, the provisions of this Act (other than this subsection) and the amendments made by this Act, shall cease to have effect.

By Mr. SESSIONS (for himself, Mr. GRAMM, Mr. KYL, Mr. INHOFE, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. CRAPO, Mr. HAGEL, Mr. HELMS, and Mr. FITZGERALD):

S.J. Res. 11. A joint resolution proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes; to the Committee on the Judiciary.

Mr. SESSIONS. Mr. President, I rise today to introduce a resolution to amend the Constitution of the United States, requiring a two-thirds majority vote of both houses of Congress to levy a new tax or increase the rate of an existing tax.

I call this the tax limitation amendment, and I am proud to be joined in this effort by Senators GRAMM of Texas, KYL, INHOFE, SHELBY, SMITH of New Hampshire, FITZGERALD, CRAPO, HAGEL, and HELMS.

In 1997, Congress balanced its checkbook for the first time in 29 years, and we are now enjoying an era of unprecedented budget surpluses.

Unfortunately, the tax burden on the American people is also rising to unprecedented levels. Today, federal tax revenues make up 20.6 percent of our nation's Gross Domestic Product, GDP, up from 17.6 percent in 1993.

This has had an enormous impact on our economy, and it has placed an unfair burden on the average taxpayer.

It is also clear the American people are frustrated with the increasing amount of government spending, and they are tired of the federal government reaching further into their wallets to pay for new spending and new programs.

Today, it is far too easy for Congress to go on a spending spree and then send the bill to the taxpayers.

This amendment is important for many reasons, but most importantly, it will help restore fiscal responsibility and discipline in our budget process.

We need to make it more difficult for Congress to raise taxes, which will put more pressure on us to control spending.

This resolution has been supported by a number of taxpayer groups including the Americans for Tax Reform, the Citizens Against Government Waste, the American Conservative Union, and the U.S. Chamber of Commerce. It has enjoyed broad support in previous years, and I would like to invite other Senators to join me in this effort and cosponsor this resolution.

I ask unanimous consent that the text of the resolution be printed in the RECORD.

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

S.J. RES. 11

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within 7 years after the date of its submission for ratification:

''ARTICLE —

''SECTION 1. Any bill to levy a new tax or increase the rate or base of any tax may pass only by a two-thirds majority of the whole number of each House of Congress.

''SECTION 2. The Congress may waive section 1 when a declaration of war is in effect. The Congress may also waive section 1 when the United States is engaged in military conflict which causes an imminent and serious threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. Any provision of law which would, standing alone, be subject to section 1 but for this section and which becomes law pursuant to such a waiver shall be effective for not longer than 2 years.

''SECTION 3. All votes taken by the House of Representatives or the Senate under this article shall be determined by yeas and nays and the names of persons voting for and against shall be entered on the Journal of each House respectively.''.

By Mr. SMITH of New Hampshire:

S.J. Res. 12. A joint resolution granting the consent of Congress to the International Emergency Management Assistance Memorandum of Understanding; to the Committee on the Judiciary.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S.J. RES. 12

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

Congress consents to the International Emergency Management Assistance Memorandum of Understanding entered into between the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut and the Provinces of Quebec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland. The compact is substantially as follows:

''Article I—International Emergency Management Assistance Memorandum of Understanding Purpose and Authorities

''The International Emergency Management Assistance Memorandum of Understanding, hereinafter referred to as the 'compact,' is made and entered into by and among such of the jurisdictions as shall enact or adopt this compact, hereinafter referred to as 'party jurisdictions.' For the purposes of this agreement, the term 'jurisdictions' may include any or all of the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut and the Provinces of Quebec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland, and such other states and provinces as may hereafter become a party to this compact.

''The purpose of this compact is to provide for the possibility of mutual assistance among the jurisdictions entering into this compact in managing any emergency or disaster when the affected jurisdiction or jurisdictions ask for assistance, whether arising from natural disaster, technological hazard, manmade disaster or civil emergency aspects of resources shortages.

''This compact also provides for the process of planning mechanisms among the agencies responsible and for mutual cooperation, including, if need be, emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party jurisdictions or subdivisions of party jurisdictions during emergencies, with such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of emergency forces by mutual agreement among party jurisdictions.

''Article II—General Implementation

''Each party jurisdiction entering into this compact recognizes that many emergencies may exceed the capabilities of a party jurisdiction and that intergovernmental cooperation is essential in such circumstances. Each jurisdiction further recognizes that there will be emergencies that may require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency because few, if any, individual jurisdictions have all the resources they need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

''The prompt, full, and effective utilization of resources of the participating jurisdictions, including any resources on hand or available from any other source that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster, shall be the underlying principle on which all articles of this compact are understood.

''On behalf of the party jurisdictions participating in the compact, the legally designated official who is assigned responsibility for emergency management is responsible for formulation of the appropriate inter-jurisdictional mutual aid plans and procedures necessary to implement this compact, and for recommendations to the jurisdiction concerned with respect to the amendment of any statutes, regulations, or ordinances required for that purpose.

''Article III—Party Jurisdiction Responsibilities

''(a) FORMULATE PLANS AND PROGRAMS.—It is the responsibility of each party jurisdiction to formulate procedural plans and programs for inter-jurisdictional cooperation in the performance of the responsibilities listed in this section. In formulating and implementing such plans and programs the party jurisdictions, to the extent practical, shall—

''(1) review individual jurisdiction hazards analyses that are available and, to the extent reasonably possible, determine all those potential emergencies the party jurisdictions might jointly suffer, whether due to natural disaster, technological hazard, manmade disaster or emergency aspects of resource shortages;

''(2) initiate a process to review party jurisdictions' individual emergency plans and develop a plan that will determine the mechanism for the inter-jurisdictional cooperation;

''(3) develop inter-jurisdictional procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

''(4) assist in warning communities adjacent to or crossing jurisdictional boundaries;

''(5) protect and ensure delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services and resources, both human and material to the extent authorized by law;

''(6) inventory and agree upon procedures for the inter-jurisdictional loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

''(7) provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances, over which the province or state has jurisdiction, that impede the implementation of the responsibilities described in this subsection.

''(b) REQUEST ASSISTANCE.—The authorized representative of a party jurisdiction may request assistance of another party jurisdiction by contacting the authorized representative of that jurisdiction. These provisions only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request must be confirmed in writing within 15 days of the verbal request. Requests must provide the following information:

''(1) A description of the emergency service function for which assistance is needed and of the mission or missions, including but not limited to fire services, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

''(2) The amount and type of personnel, equipment, materials, and supplies needed and a reasonable estimate of the length of time they will be needed.

''(3) The specific place and time for staging of the assisting party's response and a point of contact at the location.

''(c) CONSULTATION AMONG PARTY JURISDICTION OFFICIALS.—There shall be frequent consultation among the party jurisdiction officials who have assigned emergency management responsibilities, such officials collectively known hereinafter as the International Emergency Management Group, and other appropriate representatives of the party jurisdictions with free exchange of information, plans, and resource records relating to emergency capabilities to the extent authorized by law.

''Article IV—Limitation

''Any party jurisdiction requested to render mutual aid or conduct exercises and training for mutual aid shall undertake to respond as soon as possible, except that it is understood that the jurisdiction rendering aid may withhold or recall resources to the extent necessary to provide reasonable protection for that jurisdiction. Each party jurisdiction shall afford to the personnel of the emergency forces of any party jurisdiction, while operating within its jurisdictional limits under the terms and conditions of this compact and under the operational control of an officer of the requesting party, the same powers, duties, rights, privileges, and immunities as are afforded similar or like forces of the jurisdiction in which they are performing emergency services. Emergency forces continue under the command and control of their regular leaders, but the organizational units come under the operational control of the emergency services authorities of the jurisdiction receiving assistance. These conditions may be activated, as needed, by the jurisdiction that is to receive assistance or upon commencement of exercises or training for mutual aid and continue as long as the exercises or training for mutual aid are in progress, the emergency or disaster remains in effect or loaned resources remain in the receiving jurisdiction or jurisdictions, whichever is longer. The receiving jurisdiction is responsible for informing the assisting jurisdictions of the specific moment when services will no longer be required.

''Article V—Licenses and Permits

''Whenever a person holds a license, certificate, or other permit issued by any jurisdiction party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party jurisdiction, such person is deemed to be licensed, certified, or permitted by the jurisdiction requesting assistance to render aid involving such skill to meet an emergency or disaster, subject to such limitations and conditions as the requesting jurisdiction prescribes by Executive order or otherwise.

''Article VI—Liability

''Any person or entity of a party jurisdiction rendering aid in another jurisdiction pursuant to this compact are considered agents of the requesting jurisdiction for tort liability and immunity purposes. Any person or entity rendering aid in another jurisdiction pursuant to this compact are not liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article does not include willful misconduct, gross negligence, or recklessness.

''Article VII—Supplementary Agreements

''Because it is probable that the pattern and detail of the machinery for mutual aid among 2 or more jurisdictions may differ from that among the jurisdictions that are party to this compact, this compact contains elements of a broad base common to all jurisdictions, and nothing in this compact precludes any jurisdiction from entering into supplementary agreements with another jurisdiction or affects any other agreements already in force among jurisdictions. Supplementary agreements may include, but are not limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, public utility, reconnaissance, welfare, transportation and communications personnel, equipment, and supplies.

''Article VIII—Workers' Compensation and Death Benefits

''Each party jurisdiction shall provide, in accordance with its own laws, for the payment of workers' compensation and death benefits to injured members of the emergency forces of that jurisdiction and to representatives of deceased members of those forces if the members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

''Article IX—Reimbursement

''Any party jurisdiction rendering aid in another jurisdiction pursuant to this compact shall, if requested, be reimbursed by the party jurisdiction receiving such aid for any loss or damage to, or expense incurred in, the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with those requests. An aiding party jurisdiction may assume in whole or in part any such loss, damage, expense, or other cost or may loan such equipment or donate such services to the receiving party jurisdiction without charge or cost. Any 2 or more party jurisdictions may enter into supplementary agreements establishing a different allocation of costs among those jurisdictions. Expenses under article VIII are not reimbursable under this section.

''Article X—Evacuation

''Each party jurisdiction shall initiate a process to prepare and maintain plans to facilitate the movement of and reception of evacuees into its territory or across its territory, according to its capabilities and powers. The party jurisdiction from which the evacuees came shall assume the ultimate responsibility for the support of the evacuees, and after the termination of the emergency or disaster, for the repatriation of such evacuees.

''Article XI—Implementation

''(a) This compact is effective upon its execution or adoption by any 2 jurisdictions, and is effective as to any other jurisdiction upon its execution or adoption thereby: subject to approval or authorization by the United States Congress, if required, and subject to enactment of provincial or State legislation that may be required for the effectiveness of the Memorandum of Understanding.

''(b) Any party jurisdiction may withdraw from this compact, but the withdrawal does not take effect until 30 days after the governor or premier of the withdrawing jurisdiction has given notice in writing of such withdrawal to the governors or premiers of all other party jurisdictions. The action does not relieve the withdrawing jurisdiction from obligations assumed under this compact prior to the effective date of withdrawal.

''(c) Duly authenticated copies of this compact in the French and English languages and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party jurisdictions.

''Article XII—Severability

''This compact is construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional or the applicability of the compact to any person or circumstances is held invalid, the validity of the remainder of this compact and the applicability of the compact to other persons and circumstances are not affected.

''Article XIII—Consistency of Language

''The validity of the arrangements and agreements consented to in this compact shall not be affected by any insubstantial difference in form or language as may be adopted by the various states and provinces.

''Article XIV—Amendment

''This compact may be amended by agreement of the party jurisdictions.''.

SEC. 2. INCONSISTENCY OF LANGUAGE.

The validity of the arrangements consented to by this Act shall not be affected by any insubstantial difference in their form or language as adopted by the States and provinces.

SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this Act is hereby expressly reserved.

AMENDMENTS SUBMITTED AND PROPOSED

SA 151. Mrs. FEINSTEIN (for herself, Mr. COCHRAN, and Mr. SCHUMER) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

SA 152. Mr. DEWINE (for himself, Mr. HATCH, Mr. HUTCHINSON, Mr. BROWNBACK, and Mr. ROBERTS) proposed an amendment to the bill S. 27, supra.

SA 153. Mr. SCHUMER proposed an amendment to the bill S. 27, supra.

SA 154. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 27, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 151. Mrs. FEINSTEIN (for herself, Mr. COCHRAN, and Mr. SCHUMER) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

Strike all after the first word and insert the following:

104. CLARITY IN CONTRIBUTION LIMITS.

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

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

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

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

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

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

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

(1) in paragraph (1)—

(A) by striking the second and third sentences;

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

(C) by adding at the end the following:

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

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

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

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

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

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

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

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

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

''(25) ELECTION CYCLES.—

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

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

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

''(9) For purposes of this subsection—

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

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

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

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

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

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

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

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

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

(2) by adding at the end the following:

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

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

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

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

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

SA 152. Mr. DEWINE (for himself, Mr. HATCH, Mr. HUTCHINSON, Mr. BROWNBACK, and Mr. ROBERTS) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

Beginning on page 12, strike line 14 and all that follows through page 31, line 8.

SA 153. Mr. SCHUMER proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 37, between lines 14 and 15, insert the following:

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

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

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

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

(2) by adding at the end the following:

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

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

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

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

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

(c) SEVERABILITY.—If this section is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendments to any person or circumstance, shall not be affected by the holding.

SA 154. Mr. WARNER submitted an amednement intended to be proposed by him to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; which was ordered to lie on the table; as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. 305. ENCOURAGING SMALL CONTRIBUTIONS TO CONGRESSIONAL CANDIDATES.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following:

''SEC. 25B. CONTRIBUTIONS TO CONGRESSIONAL CANDIDATES.

''(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the aggregate amount of contributions made during the taxable year by the individual to any congressional candidate.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed by subsection (a) for any taxable year shall not exceed $100 ($200 in the case of a joint return).

''(2) ADJUSTED GROSS INCOME.—No credit shall be allowed under subsection (a) for a taxable year if the taxpayer's modified adjusted gross income (as defined in section 25A(d)(3)) exceeds $50,000 ($100,000 in the case of a joint return).

''(3) VERIFICATION.—The credit allowed by subsection (a) shall be allowed with respect to any contribution only if the contribution is verified in such manner as the Secretary shall prescribe by regulation.

''(c) DEFINITIONS.—In this section—

''(1) CANDIDATE.—The term 'candidate' has the meaning given the term in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

''(2) CONTRIBUTION.—The term 'contribution' has the meaning given the term in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

''(3) CONGRESSIONAL CANDIDATE.—The term 'congressional candidate' means a candidate in a primary, general, runoff, or special election seeking nomination for election to, or election to the Senate or the House of Representatives.

(b) CONFORMING AMENDMENTS.—

(1) Section 642 of the Internal Revenue Code of 1986 (relating to special rules for credits and deductions of estates or trusts) is amended by adding at the end the following:

''(j) CREDIT FOR CERTAIN CONTRIBUTIONS NOT ALLOWED.—An estate or trust shall not be allowed the credit against tax provided by section 25B.''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25A the following new item:

''Sec. 25B. Contributions to congressional candidates.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, March 28, 2001, at 9:20 a.m. on the census.

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

COMMITTEE ON FINANCE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Finance, be authorized to meet on Wednesday, March 28, 2001 to hear testimony on Preserving and Protecting Main Street, USA.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 28, 2001, at 10:00 a.m. to hold a hearing.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on Advocating for Patients: Health Information for Consumers during the session of the Senate on Wednesday, March 28, 2001, at 9:30 a.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, March 28, 2001, at 10:30 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on S. 210, A bill to authorize the integration and consolidation of alcohol and substance abuse programs and services provided by Indian tribal governments, and for other purposes; S. 214, a bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes; and S. 535, the Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 28, 2001, at 2:00 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON PERSONNEL

Mr. THOMAS. Mr. President, I ask unanimous consent that the subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 28, 2001, at 9:30 a.m., in open session to receive testimony on Department of Defense policies pertaining to the Armed Forces Retirement Home.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 106–554, appoints the Senator from Tennessee (Mr. FRIST) to the Board of Trustees for the Center for Russian Leadership Development.

The Chair, on behalf of the Democratic leader, pursuant to Public Law 100–458, reappoints William F. Winter, of Mississippi, to the Board of Trustees of the John C. Stennis Center for Public Service Training and Development, effective October 11, 2000.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DEWINE. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination reported by the Foreign Relations Committee: Calendar No. 23, Grant Green. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF STATE

Grant S. Green, Jr., of Virginia, to be an Under Secretary of State (Management).

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR THURSDAY, MARCH 29, 2001

Mr. DEWINE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Thursday, March 29. I further ask consent that on Thursday, immediately

following the prayer, 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 then resume consideration of the DeWine amendment to S. 27, the campaign finance reform bill.

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

PROGRAM

Mr. DEWINE. Mr. President, for the information of all Senators, the Senate will resume consideration of the DeWine amendment regarding advocacy ads tomorrow morning. There will be up to 15 minutes of debate prior to a vote at 9:45 a.m. Following that vote, there will be up to 2 hours on a Harkin amendment on volunteer spending limits. Therefore, a second vote will occur before 12 noon on Thursday. Further amendments will be offered. Votes will occur throughout the day, and it is the intention of the managers and leaders to conclude this bill by tomorrow night. Therefore, votes could occur late into the evening tomorrow.

ADJOURNMENT UNTIL TOMORROW AT 9:30 A.M.

Mr. DEWINE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:57 p.m., adjourned until Thursday, March 29, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 28, 2001:

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN D. GRAHAM, OF MASSACHUSETTS, TO BE ADMINISTRATOR OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS, OFFICE OF MANAGEMENT AND BUDGET, VICE JOHN T. SPOTILA, RESIGNED.

DEPARTMENT OF JUSTICE

DANIEL J. BRYANT, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE ROBERT RABEN, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate March 28, 2001:

DEPARTMENT OF STATE

GRANT S. GREEN, JR., OF VIRGINIA, TO BE AN UNDER SECRETARY OF STATE (MANAGEMENT).