

all of this time to learn the full issue, the ins and outs of it all. I do not look forward to reading it in its entirety, but I am taking this step, Mr. President, because it is very simple. This provision was put in totally unfairly, it is totally wrong, and in a procedure that is totally out of the question.

I might remind Senators that water is our lifeblood in Montana. It does not rain very much west of the 100th meridian. We very much want to stand up for what we think is right. I want Senators to know this issue may come up. I thank my colleagues.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak for 20 minutes as in morning business.

The PRESIDING OFFICER. Is there objection to the Senator speaking for 20 minutes? Without objection, it is so ordered.

### THE COLORADO DECISION

Mr. FEINGOLD. Mr. President, just a month ago we had a discussion here on the Senate floor about the issue of campaign finance reform. I think a lot of us worked hard on the effort. We have taken a bit of a breather for the last month and assessed the situation, and we are ready to consider resuming the fight for this very important issue. Although the debate was abbreviated, it was a pretty good debate. We certainly did not suffer from any shortage of speakers offering their ideas on how we could best reform our campaign finance laws. In the end, I was pleased the bipartisan reform bill offered by myself and the senior Senator from Arizona was able to receive the support of the majority of this body, actually a bipartisan vote, obtaining 54 votes. So I feel very strongly, although we did not complete the task, we are well on our way.

And even though we fell 6 votes short necessary to ward off a well-staged filibuster, I think it is clear that there is a bipartisan majority in favor of acting on campaign finance reform, and many of us intend to press forward on this issue in the coming months and into the 105th Congress.

The vast, vast majority of the American people want the Congress to act on campaign finance reform and we cannot allow a small minority of Senators to thwart the will of the American people and wage a stealth attempt to sweep this issue under the rug.

Interestingly, less than 24 hours after the Senate voted against further debating the issue of campaign finance reform, the Supreme Court handed down a much anticipated decision that will undoubtedly affect the Federal election landscape.

The case was Colorado Republican Federal Campaign Committee versus Federal Election Committee. It arose out of a 1986 incident in Colorado, in which the Colorado State Republican Party made some \$15,000 worth of ex-

penditures on radio advertisements attacking the likely Democratic candidate for a Senate seat.

The FEC had charged that this expenditure had violated the Federal limits on so-called coordinated expenditures and the tenth Circuit Court of Appeals agreed with the FEC's assessment.

The Federal coordinated expenditure limit is the amount of money the national and State parties are permitted to spend on express advocacy expenditures for the purpose of influencing a Federal election. The coordinated expenditure limit is based on the size of each State.

It is important to understand what the litigants were arguing before the Court, because many people have tried to interpret this decision as something other than what it is.

The Colorado Republican Party, joined by the Republican National Committee, argued that the Federal limits on coordinated expenditures were unconstitutional on their face and an infringement on the First Amendment rights of the political parties to participate in the Federal election process.

In other words, these parties wanted the Federal spending limits on coordinated expenditures tossed out completely, not just the narrow ruling that was handed down.

The FEC, on the other hand, argued that the Federal spending limits helped prevent both actual corruption and the appearance of corruption.

In short, the FEC argued that these spending limits were necessary and valid for the same reasons that the Supreme Court found Federal contribution limits constitutional and necessary in the Buckley decision some 20 years ago.

Who won, Mr. President? Really, no one won. The Court, in a 7 to 2 decision, found that this particular case out in Colorado was a unique situation. At the time the expenditures in question were made, there was neither a Democratic nor Republican nominee for the open Senate seat. Moreover, the expenditures were made some 6 months before the date of the general election.

And finally, and perhaps most importantly in the Court's eyes, there was no demonstrable evidence that there was any coordination between the Colorado State party and any of the Republican candidates vying for that party's nomination.

That is the key.

That, Mr. President, is what these Federal limits on coordinated expenditures are supposed to be about. The word "coordinated" implies that there is some sort of cooperation between the party and the candidate in making the expenditure, and in this particular case the Court found that there had been virtually no coordination whatsoever.

The lack of any coordination led the Court to decide that this was an express advocacy, independent expenditure, much like the independent ex-

penditures we see so often made by organizations such as the National Rifle Association, the National Right to Life Committee, and the AFL-CIO.

In the landmark Buckley decision and subsequent decisions such as the 1986 decision in FEC versus Massachusetts Right to Life, the Supreme Court has ruled that the Government cannot limit independent expenditures which the Court found to be pure expressions of political speech protected by the first amendment.

These rulings are the basis for the absence of Federal limits on independent expenditures made by individuals, organizations, and political action committees.

The key determination in the Colorado decision was that the Court found that this particular expenditure was an independent expenditure, and an independent expenditure made by a political party is entitled to the same constitutional protections as an independent expenditure made by anyone else. In short, political parties may make unlimited independent expenditures in Federal elections in the same manner other organizations are free to make such expenditures.

In addition, the Supreme Court, unfortunately, did leave certain key questions unanswered. For example, the Court found the Colorado expenditure to be an independent expenditure largely because it was 6 months before the general election and there was no Democratic nominee and no Republican nominee, to make an express, coordinated attack on.

What would happen if the same expenditure was made 1 month before election day, when both the Democratic and Republican nominees had been chosen?

The Court did not address this question.

Instead, the Court elected to issue an extremely narrow ruling by focusing on the peculiar circumstances relevant in the Colorado decision.

The Court simply ruled that an expenditure made without coordination, made far in advance of an election and before there are any nominees of either party must be treated as an independent expenditure and is therefore not subject to limit.

Mr. President, for the 80 percent of the American people who want us to reduce the role of money in congressional elections, this is not the best news.

What it means is that the parties are free to independently pour millions and millions of dollars into each State months and months before the voters are to go the polls. It will open the door to more expensive campaigns, longer campaigns and if current trends continue, increasingly negative campaigns.

It can mean a proliferation in everything that repulses Americans about our campaign finance system.

That is bad news Mr. President. But it must be understood and the reason I

am speaking today, so that this is clarified, this decision could have been far worse.

The Colorado Republican Party had advocated that the Court strike down the actual Federal limits on coordinated expenditures, and in fact, many of the so-called legal experts had predicted that this conservative court would do just that. But they did not.

But the Supreme Court specifically refused to strike down these limits. The Court ruled that this issue needed to be addressed further by the lower courts before the high court could adequately issue a determination of whether such limits are constitutional.

That, Mr. President, is why this was such a narrow ruling. It only affects a certain type of expenditure made by a political party. The Federal limits on coordinated expenditures were left in place and are still a part of the current election system.

Some have suggested that this decision will allow the parties to play a greater role in the election process. I agree. The question is, in the end, will this have a positive or negative effect on our political system.

I think it could go either way. For example, the parties may decide to use this decision to run negative television ads against a particular candidate 8 months before election day.

I do not think that is a positive contribution to the process, and in fact, I think it is exactly the type of activity that has turned the American people against our current political system. I am hopeful, Mr. President, that the American people will reject those kinds of tactics, if they are, in fact, used by the parties.

On the other hand, on a brighter note, there is a possibility that this decision could have a positive impact on the system. If, for example, a challenger is severely underfunded and is facing an incumbent with a colossal war chest, expenditures made by the parties could aid the challenger in running a competitive race.

But I do not think this is the best approach to the very real problem of an uneven electoral playing field.

Why shouldn't we instead empower the challenger to make such reasonable expenditures in this situation in his or her own favor? Why not, in this particular situation, allow the candidate, rather than the party, to play a somewhat greater role in the election process?

That is precisely the approach advocated by the senior Senator from Arizona and myself and many others and was embodied in the bipartisan legislation we offered just a couple of weeks ago. Our proposal created a mechanism that offered candidates who agreed to a reasonable set of limits on their campaign spending the tools to run an effective, credible, and competitive campaign for the U.S. Senate.

I want to make something very clear, Mr. President. The effect of the Colorado decision on the McCain-Feingold

legislation, or any legislation like that legislation, is, at best, nominal. I realize that many have tried to say just the opposite, somehow suggesting that the Colorado decision contradicts everything in the McCain-Feingold bill or other reform bills. Mr. President, that is not true. It is wishful thinking on the part of those very same people who have done everything they can to kill campaign finance reform.

The Colorado decision has nothing to do with any of the key components of our proposal, whether it is the voluntary spending limits, the broadcast and postage discounts, the PAC restrictions, bundling restrictions, franking reforms or any other provision. None of these are affected by the Colorado decision.

Some have said that the spending limits in our bill will prevent a complying candidate from responding to an attack made by these new party-independent expenditures.

There is concern expressed that a candidate who has agreed to abide by the voluntary spending limits who is then hit with \$100,000 worth of television ads bought by the national party will be unable to respond effectively. That is a fair concern to raise. But, Mr. President, the answer is the same as it was when we debated the proposal 2 weeks ago.

There is a provision in our bill that provides that if any complying candidate is the target of an independent expenditure, that candidate's spending limits are raised in proportion to the amount of independent expenditures made against them. So candidates would not be restrained from reasonably responding to an independent expenditure by the voluntary spending limits that they have agreed to. It is really that simple.

So, Mr. President, I am confident that this legislation will be debated again, if not this year, then early in the 105th Congress. It doesn't matter whether the Senate is under Republican or Democrat control next year, but the American people will surely reject what I like to call the two escape hatches of campaign finance reform, in addition to saying the Supreme Court has foreclosed the matter.

The first escape hatch, which will allow the Congress to talk the talk without walking the walk, is to create yet another commission to study this problem. I say "another" because it has already been done a few years ago. Commissions are meritorious when a relatively new issue needs to be studied, but that is not the situation when it comes to campaign finance reform. In fact, this issue has been the subject of more congressional hearings and testimony than the vast majority of the issues debated on the Senate floor.

Clearly, at a time when so much is known about the issue and when so many creative ideas have been offered, establishing another commission to study the problem is unwarranted and nothing more than a dodge.

The other escape hatch, which has turned into the escape hatch for seemingly every other issue that the Senate has debated in the 104th Congress, is to call again for yet another constitutional amendment. This particular constitutional amendment would allow Congress to set mandatory spending limits on campaign expenditures.

Mr. President, I have no doubt that the people who are supporting this concept are sincere. At one brief moment, I supported such a constitutional amendment before I realized that the 103d Congress will be followed by a 104th Congress that seems to be trying to turn the Constitution into a billboard for every imaginable campaign slogan.

Let's be honest here. A constitutional amendment requiring 67 votes is not going to pass before the turn of the century and, frankly, I don't think would pass by the turn of the next century. We could not even get 60 votes for a modest bipartisan and bicameral bill that had an unprecedented level of public support.

Moreover, even if such a proposal were to somehow miraculously receive 67 votes in the Senate and 291 votes in the House of Representatives, then it has to be ratified by three-fourths of the States.

So I think it is clear that anyone who suggests that a constitutional amendment is the solution to our campaign finance problems must also admit that sort of solution is years and years and years away from realistically coming into play.

We just cannot put off a decision any longer, Mr. President. No games, no side shows. The American people are tired of campaigns in which issues and ideas have become secondary to dollars and cents. They view our electoral system not as part of the American dream, but just another chapter in the "lifestyles of the rich and famous."

The voters have become inherently mistrustful of any individual elected to public office because they know that individual is now part of the Washington money chase, where their principal goal as an elected official sometimes looks like not representing their communities but, instead, raising the requisite millions of dollars for their reelection efforts.

Those are the trademarks of a dysfunctional campaign finance system that is crying out for meaningful bipartisan reform. I remain optimistic that early next year, this Senate can come together on a bipartisan basis and pass the sort of comprehensive reforms that the American people have been demanding for so many years.

I thank the Chair, and I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I ask unanimous consent that I may proceed as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 15 minutes.

Mr. PELL. I thank the Chair.

#### RECENT RIOTS IN INDONESIA

Mr. PELL. Mr. President, I know we all have been saddened in recent days by reports of rioting and violence in Indonesia. Last weekend, the government cracked down on a political opposition group in Jakarta. Supporters of that group took to the street in protest and as a result, several people have been killed and over 200 arrested. The crackdown has reportedly been widened to include other known political activists including Muchtar Pakpahan, the head of the Indonesian Labor Welfare Union.

We also read this week that the military commander in Jakarta ordered his troops to "shoot on the spot" any protestors who are seen to be threatening the peace, a particularly disturbing development. I would urge the government in Jakarta to seek to negotiate and to work with the opposition forces in a peaceful manner, rather than calling on the military to quell any protests. This is the same approach I suggest in the report of my visit to Indonesia 2 months ago.

The root of the current problems is, I believe, the lack of an open political system in Indonesia. Two token legal opposition parties are allowed to exist, but they have little influence over policy. They cannot seriously challenge the ruling Golkar party. The current political and electoral systems are designed such that Golkar is assured of retaining power. But in the most recent parliamentary elections in 1992, Golkar unexpectedly lost a percentage of the parliamentary seats. Hoping for a trend, the two opposition parties were beginning to talk of making greater gains in the parliamentary elections scheduled for next year, although observers never thought either was likely to take the majority. This talk upset the government. Even though retaining ultimate political control was never in question, the government has reacted to even a slight loss in that control by calling on the military.

The government is centering its efforts on the Indonesian Democracy Party—or PDI—led by Megawati Sukarnoputri, the daughter of Indonesia's first president, Sukarno. Megawati had begun a very visible campaign in preparation for the parliamentary elections next year and indicated that she might challenge President Suharto in the presidential elections in 1998, a first for Suharto who has always been unopposed. In what appears to be a nervous reaction, the government allegedly orchestrated a coup within the PDI to force Megawati out of her leadership position. Her supporters took over the PDI headquarters and refused to leave until the military took over the headquarters this past weekend.

President Suharto has done much that is good for his country. Indonesia's population control program, for

example, is a model for the developing world. The country's economic development has been admirable and many U.S. companies benefit from their investments throughout the archipelago. But as the country has grown and developed economically, it comes as no surprise that certain elements of Indonesian society now want their country to grow and develop politically as well. The government's current approach to the threat of a serious political challenge—to arrange for Megawati's overthrow within her party, blame the riots on virtually extinct communist sympathizers, and threaten to shoot any protestors—I believe will both hamper Indonesia's continued economic development and cause great harm to our bilateral relationship. Internally, the Indonesian currency and stock market are beginning to fall.

For several months now the U.S. Government has considered selling F-16s to the Indonesian military. In light of the events in Jakarta, I urge the administration to rethink the wisdom of this sale. My own view is that we should not rush forward with a high-technology, glamorous weapon sale to a foreign military that is threatening to shoot peaceful protestors in the street. I am encouraged, Mr. President, by some signs that the administration is considering holding off on this sale.

Indonesia is poised to be one of the region's most important and influential countries. President Suharto has the chance now to accelerate that process by allowing for Indonesia's transition to modern political governance. He could follow the model of Taiwan, which transformed itself from a single-party, authoritarian regime to a thriving multi-party democracy without violence. Indonesia is more than ready to allow full-fledged, active opposition voices to publicly make their case to the people. I would urge the Indonesian Government to call back its military, deal peacefully with the opposition, and show the world it is indisputably ready for the 21st century.

#### RATIFICATION OF THE LAW OF THE SEA CONVENTION IS AN URGENT NECESSITY

Mr. PELL. Mr. President, the United States will shortly become one of the first and perhaps the first Nation to ratify the Straddling Fish Stocks Agreement. This agreement was approved by the Senate on June 27. I am very pleased that prompt Senate action on the Agreement enabled the United States to continue its leadership on international fisheries issues. The agreement will significantly advance our efforts to improve fisheries management. In effect, it endorses the U.S. approach to fisheries management and reflects the acceptance by other nations of the need to manage fisheries in a precautionary and sustainable manner.

That being said, Mr. President, in advising and consenting to ratification of

the Straddling Stocks Agreement, the Senate's work is only partially done. Having approved the Straddling Stocks Agreement, the next logical step for this body is to consider and pass the treaty which provides the foundation for the agreement, namely the United Nations Convention on the Law of the Sea. My purpose today is to highlight the connections between the two and to underscore the many benefits that will accrue to the United States if the Senate grants its advice and consent to ratification of the Law of the Sea Convention, a step that should have been taken long since, and I hope will come about shortly.

Prima facie evidence for the tight linkage between the Law of the Sea Convention and Straddling Stocks Agreement is found in the latter's title, the "Agreement for the Implementation of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to Fish Stocks." Clearly, the Agreement was negotiated on the foundation established in the Law of the Sea Convention. The connection between the two is made explicit in Article 4 of the agreement which stipulates that the agreement "shall be interpreted and applied in the context of and in a manner consistent with the Convention." Further, Part VIII of the agreement provides that disputes arising under the agreement be settled through the convention's dispute settlement provisions. Indeed, the Law of the Sea Convention establishes a framework to govern the use of the world's oceans that reflects almost entirely U.S. views on ocean policy.

Can the United States become a party to the agreement, but remain outside the Law of the Sea Convention? The answer is yes. The more important question is: Does this best serve U.S. interests? The answer to that question is no. Only by becoming a party to the Law of the Sea Convention can the United States maximize its potential gain from the agreement and protect its fisheries interests.

One way to do this is to ensure that U.S. views on fisheries management are represented on the Law of the Sea Tribunal. That is the body which settles disputes arising under the agreement, and it is established in the Law of the Sea Convention. Not surprisingly, in order to nominate a judge to the tribunal, the United States must become a party to the Law of the Sea Convention.

A second way to ensure that U.S. gains are maximized is to ensure that our country's views on fisheries management are well represented in the convention processes themselves. To do this, we must be a party to the convention. The Straddling Stocks Agreement's provisions are to be applied in light of the convention. As the convention itself is an evolving, living document, the United States must be part of the dialogue that will affect not only the Straddling Stocks Agreement, but other oceans management policy.