reform. Make no mistake about it. The electorate must be able to hear all the views about candidates in a timely manner. And candidates must be able to stomach the full range of opinions regarding their candidacy.

Mr. President, we must clean up the system but without compromising fundamental first amendment rights. I believe this task is difficult but not impossible. Without infringing upon any American's rights, we can ensure that the American people control the direction of their contributions, have an understanding of who gave what to whom, and are confident that our elections are free of foreign influence, which is so important.

Mr. President, the Senate, I believe, should work to enact these measures into law and not infringe on our first amendment rights.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. DOMENICI. I say to the Senator, I wonder if I might take 3 minutes as in morning business. I can go into morning business and do this, and then we can come back to this.

Mr. LEVIN. I ask unanimous consent that I be allowed to yield to Senator DOMENICI for up to 5 minutes and then have my rights to the floor restored.

The PRESIDING OFFICER. Is there objection? Hearing no objection, without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Senator very, very much. I will be perhaps even briefer than that.

PROVIDING TECHNICAL ASSISTANCE TO AID IN THE RESTORATION OF THE BASILICA OF ST. FRANCIS OF ASSISI

Mr. DOMENICI. Mr. President, on September 24 and 25, Umbria, Italy, that community, was hit by twin earthquakes. Extensive damage was inflicted upon the towns and villages across the region. Eleven people lost their lives and thousands of homes and buildings have been damaged.

The Basilica of St. Francis of Assisi was one of the buildings that was severely damaged. It isn't just a church or a great center of pilgrimage, or an artistic archive and yet it is all of those things.

It is one of those special places that you visit one day, but long to return to for a lifetime if you are fortunate enough to get to Italy and to set about to see some very, very historic buildings with culture and with religion that just wreaks from the walls.

That is why I was profoundly saddened to learn that the basilica was severely damaged by the earthquakes of September 24 and September 25, and again last week.

It seems so ironic that the basilica, built in honor of the patron Saint of Italy who cherished the natural world, was ravaged by an act of nature.

The basilica is one of the finest examples of Italian Gothic architecture, a building of ''unparalleled importance in the evolution of Italian art.'' It has been written, by those more knowledgeable about art and architecture than I am and will ever be, that ''a harmonious relationship exists between the architecture and its fresco decoration.'' ''The strong and simple forms are repeated throughout the building both to unify and to articulate the space with so powerful an effect that the architectural members are echoed in the painted framework to the frescos.''

The basilica is a living museum providing a home for the art of several great masters of the 13th and 14th centuries. These art treasures depict scenes from the Old and New Testaments.

The famous fresco artist, Cimabue, began his work in the basilica, believe it or not, in 1277. Cimabue's frescos include scenes from the life of the Virgin, popes, angels, and saints, as well as scenes of the Apocalypse and the Crucifixion.

Cimabue's pupil, Giotto, painted 28 famous, and beautiful frescos based on St. Bonaventure's version of St. Francis' life, and major accomplishments. These famous Giotto frescos painted on the sidewalls of the basilica were cracked by the earthquake but are miraculously somewhat in tact. These frescos are world treasurers. So that my colleagues understand, let me make this comparison. Giotto was to the basilica what Brumidi was to our own beautiful Capitol.

Mobilization of Italian artists and restorers has been swift. In addition, the National Museum in London and the Louvre have offered experts to help with the restoration.

The sense-of-the-Senate resolution calls upon the Smithsonian, the National Gallery of Art, and any of the other premier art museums in the United States that have the pertinent expertise to provide technical assistance to aid in the restoration of the Basilica of St. Francis of Assisi and the works of art that have been damaged in the earthquake.

I want to indicate to the Senate I will send to the desk to be considered in wrapup a resolution—just by the Senate; we are not going to try to go to the House—just a sense-of-the-Senate resolution that states the facts regarding this disaster, and merely says that the Smithsonian Institution, the National Gallery of Art and any of the other premier art museums of the United States having pertinent expertise in restoration should provide technical assistance to aid in the restoration of the Basilica of St. Francis of Assisi and the works of art that have been damaged in the earthquake. That is essentially what it is.

BIPARTISAN CAMPAIGN REFORM ACT OF 1997

The Senate continued with consideration of the bill.

Mr. LEVIN. Mr. President, I am a cosponsor and strong supporter of the McCain-Feingold bill, and I want to explain this afternoon in some detail why I support a key section in the bill that is the subject of much debate. It is section 201, the provision that is intended to stop what we call issue ad abuse. By issue ad abuse I mean the mislabeling of candidate ads as issue ads in order to evade contribution limits and the disclosure requirements that now exist in Federal campaign law.

I want to emphasize this point because it has been overlooked, it seems to me, by so many of us during this debate. Current law restricts contributions and the Buckley case has upheld that restriction as being consistent with the first amendment. Section 201 is not only constitutional within Buckley but it is also critically important to campaign finance reform. I want to spend some time explaining why.

Now, Buckley—which I think has been cited by just about everybody who has spoken in this debate—is the touchstone for drafting constitutionally permissible Federal campaign finance laws. So I want to start with Buckley. In Buckley, the Supreme Court upheld a strict set of limits on campaign contributions to Federal candidates, despite impassioned argument, including by the ACLU, that such limits impermissibly restricted first amendment rights of free speech and free association.

This is what the Court said in Buckley, and I will be quoting at some length because it is critical in understanding the permissible limits of campaign finance law and limits:

> It is unnecessary to look beyond the Act's primary purpose—to limit the actuality and appearance of corruption resulting from large individual financial contributions—in order to find a constitutionally sufficient justification for the $1,000 contribution limitation. Under a system of private financing of elections, a candidate lacking immense personal or family wealth must depend on financial contributions from others to provide the resources necessary to conduct a successful campaign. The increasing importance of the communications media and sophisticated mass mailing and polling operations to effective campaigning make the raising of large sums of money an ever more essential ingredient of an effective candidacy. To the extent that large contributions are given to secure political quid pro quo's from current and potential office holders, the integrity of our system of representative democracy is undermined. . . .
>
> Of almost equal concern is the danger of actual quid pro quo arrangements and the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions. . . .

And the Court went on:

> Congress could legitimately conclude that the avoidance of the appearance of improper influence ''is also critical. . . if confidence in the system of representative government is not to be eroded to a disastrous extent.'' . . .

Congress was surely entitled to conclude that disclosure was only a partial measure, and that contribution ceilings were a necessary legislative concomitant to deal with the reality or appearance of corruption inherent in a system permitting unlimited financial contributions, even when the identities of the contributors and the amounts of their contributions are fully disclosed.

In other words, the Supreme Court explicitly held in Buckley that eliminating actual and apparent corruption of our electoral system—corruption which is ''inherent in a system permitting unlimited financial contributions''—was a compelling enough interest to justify Congress in imposing campaign contribution limits, although such limits collide with unfettered first amendment rights of free expression and free association.

The Supreme Court adopted a balancing test, looking at what was the restriction on the first amendment compared to the public interest in avoiding the appearance of corruption in elections where there are unlimited financial contributions.

Now, what did the Supreme Court do in the area of contributions? They upheld a $1,000 contribution limit on contributions that an individual may make to a Federal candidate. Despite the argument that that limit collided with pure free speech rights—an argument made by the ACLU in the Buckley case and not adopted by the Supreme Court in Buckley—quite the opposite. They approved the contribution limit. The Supreme Court not only said that the $1,000 limit on contributions to candidates was constitutional, but it also upheld an overall ceiling of $25,000 on the amount of money that a single individual could give to all Federal candidates in a single year.

Now, how does the Court explain that? If the $1,000 limit is constitutional, how, then, would it be constitutional to limit the number of $1,000 contributions in effect to 25 candidates? Why shouldn't people be allowed to give $1,000 to 50 candidates if they want?

The language of the Court is again very instructive as to the balancing test that they adopted relative to weighing limits on contributions and any impingement on first amendment rights. Here is what the Supreme Court said:

> The overall $25,000 ceiling does impose an ultimate restriction on the number of candidates and committees with which an individual may associate himself by means of financial support. But this quite modest restraint upon protected political activity serves to prevent evasion of the $1,000 contribution limitation by a person who might otherwise contribute massive amounts of money to a particular candidate through the use of unearmarked contributions to political committees likely to contribute to that candidate or huge contributions to the candidate's political party.

The Supreme Court went on to say:

> The limited additional restriction on associational freedom imposed by the overall ceiling is thus no more than a corollary of the basic individual contribution limitation that we have found to be constitutionally valid.

So the Buckley Court not only upheld limits on contributions of $1,000 per candidate per election, they also upheld an overall limit of $25,000 in a test which weighed the restrictions on associational freedoms and first amendment freedoms against the need for clean elections, against the need to avoid the appearance of corruption, which in the Supreme Court's words, arises from unlimited financial contributions to candidates.

The Supreme Court said Congress may try to avoid the appearance of corruption that results from unlimited contribution to candidates by putting limits on the contributions to any one candidate and on the total number of contributions to all candidates combined. Why? In order to prevent ''evasion of the contribution limit'' by a person who might ''contribute massive amounts of money to a particular candidate through the use of unearmarked contributions to political committees likely to contribute to that candidate or huge contributions to the candidate's political party.''

That is Buckley. Now, we haven't heard a lot about that part of Buckley in this debate yet, but that's Buckley. We have heard, and properly so, about that part of Buckley which put limits on expenditures and acts inconsistent with the first amendment. But what we have not heard enough of is those parts of Buckley which rule constitutional the limits on contributions to candidates. It is that part of Buckley that upholds the constitutionality of limits on contributions, which is at the core of McCain-Feingold. Because it is in order to avoid the evasion of existing law and its limits on contributions that the McCain-Feingold bill is designed as it is. That is why we believe that it is perfectly consistent with Buckley.

The Buckley opinion also upheld disclosure requirements. By sustaining these disclosure requirements, the Supreme Court effectively approved the prohibition of anonymous or secret contributions to any candidate or political committee. It also effectively approved the prohibition of direct campaign spending by anonymous or secret persons. Again, the Supreme Court adopted a balancing test even when it came to disclosure.

I know that the Presiding Officer has a particular interest in the need for disclosure—an interest that I think most Members of this body share. Many of us also want to put limits on soft money contributions. On that, there is a difference inside this body. But in terms of disclosure, I know that the Presiding Officer has had a very sincere and a very longstanding interest, one I think most of us would share.

Here is what the Court said relative to the first amendment's application to disclosure requirements:

> Compelled disclosure has the potential for substantially infringing on the exercise of first amendment rights. But we have acknowledged that there are governmental interests sufficiently important to outweigh the possibility of infringement, particularly when the free functioning of our national institutions is involved. The governmental interests sought to be vindicated by the disclosure requirements are of this magnitude.

So, again, it is a weighing test. The Supreme Court said explicitly that compelled disclosure—which I think probably all of us in this body support in one fashion or another—has the potential for substantially infringing on the exercise of first amendment rights. But then the Court went on to weigh the value of disclosure against the infringement and said that we have a legitimate public interest in coming down on the side of disclosure. The Court listed three compelling interests in requiring disclosure.

Later Supreme Court decisions built upon the base provided in Buckley. One key case was Austin versus Michigan State Chamber of Commerce in 1990. The Supreme Court in Austin upheld a Michigan State law which prohibited corporations from making independent expenditures, except through a political action committee which is subject to contribution limits and disclosure requirements. Despite the corporation's argument that its first amendment rights were being violated, the Supreme Court specifically held that Michigan could bar the corporation from placing an ad endorsing a specific candidate.

In other words, a corporation was told by the Supreme Court that Michigan has a right to prevent you from putting on an ad that endorses a candidate. It quoted extensively from the Massachusetts Citizens For Life case, a 1986 case.

Here is what the Supreme Court said in the Michigan case, again quoting an earlier case significantly but having additional language of its own:

> ''The resources in the treasury of a business corporation . . . are not an indication of popular support for the corporation's political ideas. They reflect instead the economically motivated decisions of investors and customers. The availability of these resources may make a corporation a formidable political presence, even though the power of the corporation may be no reflection of the power of its ideas.'' We therefore have recognized—

Here again, we get into a weighing test

> that ''the compelling governmental interest in preventing corruption support[s] the restriction of the influence of political war chests funneled through the corporate form.''. . . Regardless of whether this danger of ''financial quid pro quo'' corruption may be sufficient to justify a restriction on independent expenditures, Michigan's regulation aims at a different type of corruption in the political arena: the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas.

So we have contribution limits approved by the Supreme Court. We have

disclosure requirements approved by the Supreme Court. We have a ban on corporate independent expenditures except through a PAC approved by the Supreme Court.

Each of these campaign finance restrictions has been upheld by the Court in the face of arguments that these restrictions were inconsistent with the first amendment. In each of those cases, the Supreme Court acknowledged that there was some impingement on pure first amendment rights but weighed that against the public interest in clean campaigns.

TWENTY YEARS AFTER BUCKLEY

Now, the campaign contribution limits that are in existing law—the $1,000 an election and $25,000 overall—are strict limits. No corporate or union campaign spending, except through political action committees. Presidential campaigns are supposed to be funded with public funds.

Those laws, as I said, are on the books today. But candidates and parties in the 20 years since Buckley have found many ways around these tough laws. Contribution limits have been rendered all but meaningless by the soft money loophole. We have all heard the story of Roger Tamraz's $300,000 contribution to the Democrats, and the tobacco industry's donating millions of dollars to Republicans. Disclosure requirements and the ban on corporate independent expenditures have also been rendered toothless, not only by the soft money loophole, but also by the use of so-called ''issue ads.''

In my opinion, the most vicious combination in the 1996 election season, outside of our control and the control of the campaign finance laws, was the use of huge contributions from individuals or entities, corporations included, funding candidate attack ads mislabeled as issue ads. This vicious combination encapsulates for me more than any other single image the collapse of our campaign finance system and the rock-bottom need for reform. Documenting issue ad abuse and the role that these so-called issue ads now play in American elections is vital to support legislative reforms that touch upon first amendment concerns. That record is being built right here on the Senate floor. That record is being built in campaign finance hearings before the Senate Governmental Affairs Committee, of which I am a member. It is a record that is filled with examples of so-called issue ads that are indistinguishable from candidate ads, as well as testimony that we have elicited from experienced candidates, officeholders, and others about the growing use of so-called issue ads as a tactic in Federal campaigns to evade the legal limits on contributions and disclosure requirements.

Mr. President, I ask unanimous consent at this point that following my remarks there be printed in the RECORD the transcripts of six so called ''issue ads'' that aired on television during the course of the 1996 campaign.

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

(See exhibit 1.)

Mr. LEVIN. Mr. President, this list, compiled by Public Citizen, illustrates in the words of the group, ''. . . the use of the 'issue ad' loophole to engage in flat-out electioneering.''

I want to just use one of these ads as an example. This is a 1996 ad, paid for by the League of Conservation Voters. It refers to a House Member, GREG GANSKE, a Republican Congressman from Iowa. The transcript of the ad reads as follows:

It's our land; our water. America's environment must be protected. But in just 18 months, Congressman Ganske has voted 12 out of 12 times to weaken environmental protections. Congressman Ganske even voted to let corporations continue releasing cancer-causing pollutants into our air. Congressman Ganske voted for the big corporations who lobbied these bills and gave him thousands of dollars in contributions.

The next line is:

Call Congressman Ganske. Tell him to protect America's environment. For our families. For our future.

This ad is treated by its sponsors as an issue ad which can be paid for out of unlimited, undisclosed funds. But if one word is changed—just one word—instead of saying ''call'' Congressman GANSKE, the ad says ''defeat'' Congressman GANSKE—which the ad says in every single other way but doesn't use the word ''defeat.'' If they had explicitly use the word ''defeat,'' then that ad would have to be paid for out of funds which are restricted by law, because the word ''defeat'' is one of those magic seven words.

In the real world is there any difference between those two ads? In the real political world, would any viewer of that ad get any message other than to defeat Congressman GANSKE? Would any reasonable person reach any other conclusion as to the purpose and intent of that ad? Is that ad not unmistakably aimed at the defeat of a candidate in the middle of an election when that ad runs? Is that ad not equivalent to an ad that is calling for the defeat of a candidate?

I think most of us in this Chamber who have been living in the real political world, as well as most of our constituents, wouldn't even notice the difference—whether the word ''defeat'' or ''call'' were in that ad. That is how similar they are.

Then the question is: Just as we are permitted by the Supreme Court to protect our contribution limit of $1,000 by having an overall limit of $25,000, will we be allowed to protect our law requiring that ads calling for the defeat or the election of a candidate come from contributions which are limited by law? Can we not protect that law also in the way we have done in McCain-Feingold, by adding another word to the seven magic words —for instance, the eighth word—the name of the candidate?

Seven words are listed in a footnote in Buckley—the so-called ''seven magic words.'' If you use the words ''vote for'' or ''defeat'' or ''elect'' or ''support'' or ''vote against'' or ''reject,'' that is unequivocally considered an ad calling for the election or defeat of a candidate. And the Supreme Court says that our restriction on contributions is constitutional if one of those ads is used. It doesn't say one of those words has to be used. It uses that as an example in a footnote.

So we are coming along now in the real world 20 years later and saying, ''Here is an ad that didn't use one of those magic seven words.'' But is that ad functionally any different? Is that ad in the real world any different from an ad which contains the word ''defeat,'' or does that ad unmistakably call for the defeat of that Congressman just as much if it had used the ''vote against''?

That is a question which the Federal Election Commission has ruled on. They have adopted a test from a case called Furgatch that comes out of the ninth circuit. In the Furgatch case, the ninth circuit approved the test which is now the regulation of the Federal Election Commission which says that, if an ad unmistakably calls for the defeat or election of a candidate, that ad is within the meaning of our law that restricts contributions to $1,000 where the advocacy of a candidate's defeat or election is express.

We had 30 days after the Federal Election Commission adopted that regulation based on the Furgatch case, as approved by the ninth circuit—to reject the Federal Election Commission regulation that was adopted a few years ago.

The courts are divided. We have the ninth circuit saying that the test in the Furgatch case is constitutional. We have the first circuit ruling the other way. We have the Supreme Court deciding not to accept certiorari in either of the appeals. In fact, just today they did not accept an appeal of the first circuit decision.

So we have the ninth circuit a number of years ago approving the unmistakable test in Furgatch which is in the Federal Election Commission regulation, and we have the ninth circuit going the other way, and one other circuit I believe going the other way.

So we have a division in our circuits as to whether or not the unmistakable test that the Federal Election Commission has adopted by regulation—and that we have not rejected when we had an opportunity—as to whether or not that Furgatch test is in fact constitutional. But surely when you have one circuit ruling that it is constitutional, and when you have the Supreme Court declining to rule on an appeal from either circuit approving it or disapproving it, what we have now is the situation where we have divided circuits. We have the Supreme Court that hasn't ruled on the subject.

I would have like to have seen the Supreme Court adopt certiorari today, but they didn't. They left us with law

in a state of limbo where you have one circuit saying the Federal Election Commission is right—it properly adopts the unmistakable test, and you have another court of appeals saying no—they can't do it consistent with the Supreme Court decision in Buckley.

That is where we sit. That is where we are going to sit until one of two things happen. Either the Supreme Court decides to rule on an appeal from one of these circuits, or we adopt a test ourselves and then presumably have that test ruled upon by the Supreme Court.

Mr. SESSIONS. Mr. President, will the Senator from Michigan yield for a question?

Mr. LEVIN. I would be happy to.

Mr. SESSIONS. With regard to that, I was, I could say, a victim. That is the way I saw it with that very type of ad late in the campaign asking people to call JEFF SESSIONS and say you are opposed to A, B, C, or D—to things he had done while in office.

I think we can take two approaches to it. It fundamentally troubles me that the League of Conservation Voters do not feel free to run an ad and say vote against this guy just like the people who ran ads against me. Why shouldn't we just let them do it? They should have to put their name on it and say who is funding it.

Mr. LEVIN. Is the Senator proposing we repeal the current law?

Mr. SESSIONS. I think we have to consider the problem of trying to contain free speech in America. I really am troubled by it. I was a victim of it. I got angry at the time. Now I wonder why I should feel obliged to tell those trial lawyers and plaintiff lawyers who opposed some of my filed suits that they can't run an ad and say my ideas are wrong and I shouldn't be elected.

As a matter of fact, I am troubled by that.

Mr. LEVIN. Of course the Senator knows they can run ads saying you ought to be defeated. They can run all of those ads they want. But under the law that we have passed, they must use contributions which comply with the limits which we have adopted. So they are free to run those kind of ads. But they must comply with law when they run those ads.

The question is whether they should have unlimited, undisclosed funds to run ads which effectively say to defeat or elect somebody but do not comply with the limit. That is what we are facing.

So, unless the Senator is suggesting that we repeal the existing law, which puts restrictions on contributions for ads which advocate the election or defeat of a candidate—that is the existing law—unless the Senator is proposing that, then it seems to me we should make that law effective and not put form over substance. And when you have two ads which are functionally the same and equivalent, treat one as though it is different from the other.

That is the issue which we are now facing on the floor, as to whether we want to enforce existing law to eliminate what we call a loophole, which clearly is the avoidance of a magic word in an ad which functionally is the same and which any reasonable person would say unmistakably is calling for the defeat of Congressman GANSKE, as an ad which uses the word ''defeat'' itself.

But, again, unless the Senator is calling for the repeal of existing law, it seems to me we are then in the situation where we are either going to make those limits work, those contribution limits work, which have been approved by the Supreme Court in Buckley, or else we are going to continue the current system where those limits are evaded and where you have all this soft money which comes into these campaigns, which I don't think was the intent of our law when we adopted the reform that we did after Watergate.

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

Mr. LEVIN. Sure.

Mr. McCONNELL. Is the Senator talking about the Furgatch case?

Mr. LEVIN. I have made a number of references to Furgatch.

Mr. McCONNELL. I am sorry; I was not on the floor, and the Senator was making the point that he thought the Furgatch case did what? Indicated that the restrictions on express advocacy in the McCain-Feingold bill would be constitutional?

Mr. LEVIN. I think the language of the Furgatch case is such that it is much more than the magic words which determine whether or not an advertisement effectively supports the election or defeat of a candidate. Just to read some of the language from Furgatch, what Furgatch does, of course, is look at that famous —as my good friend from Kentucky knows—footnote in the Buckley case, footnote 52, which uses seven magic words. The question is, are those the only words which determine whether or not an ad advocates expressly the election or defeat of a candidate?

Here is the Furgatch test. Here is what the Furgatch case says:

> We begin with the proposition that ''express advocacy'' is not limited to communications using certain key phrases. The short list of words included in the Supreme Court's opinion in Buckley does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate. A test requiring the magic words ''elect,'' ''support'' or their nearly perfect synonyms for a finding of express advocacy would preserve the first amendment right of unfettered expression only at the expense of eviscerating the Federal Election Campaign Act. Independent campaign spenders working on behalf of candidates could remain just beyond the reach of the act by avoiding certain key words while conveying a message that is unmistakably directed to the election or defeat of a named candidate.

So they then provided an alternative test. We are now talking about the ninth circuit in Furgatch, which says that the term ''express advocacy'' means a communication that advocates the election or defeat of a candidate by expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole and with limited reference to external events such as proximity to an election.

Now, that test was basically adopted by the Federal Election Commission in its current regulation. So we have a current regulation which basically adopts the unmistakable test. Under the law, as I understand it, Congress had about 30 days within which to review that regulation. We did not overturn that regulation of the Federal Election Commission. It has to date, in a case which the Supreme Court refused to review, been left in limbo in the case.

The Supreme Court, by the way, it has been said in the Chamber here, struck down Furgatch, or more accurately——

Mr. McCONNELL. I didn't hear anyone say that.

Mr. LEVIN. I was just getting the exact wording.

I think today it was said in the Chamber that the Federal Election Commission test has been stricken by the Supreme Court's decision today, and that is simply not accurate.

What the Supreme Court decided today was not to review a case, not to review a case from a court of appeals in which the Court said that the Federal Election Commission regulation was not constitutional. But we have another court of appeals in the Furgatch case adopting language which is the basis of the Federal Election Commission regulation, and the Supreme Court didn't review the ninth circuit's decision. So we have two decisions unreviewed by the Supreme Court, the ninth circuit decision with Furgatch language and a first circuit decision with the FEC language which is based on Furgatch——

Mr. McCONNELL. Will my colleague yield for a question?

Mr. LEVIN. In which a key question was raised, in fact was thrown out as unconstitutional.

Mr. McCONNELL. Is my colleague from Michigan familiar with the Federal Election Commission versus Christian Action Network, which was decided April 7 of this year? The language in that decision on page 7, I directly quote for my friend from Michigan:

> Seven years later and less than a month following the Court's decision in MCFL, the ninth circuit in FEC v. Furgatch could not have been clearer that it, too, shared this understanding of the Court's decision in Buckley. Although the Court declined to strictly limit express advocacy to the magic words of Buckley's footnote 52 because that footnote list ''does not exhaust the capacity of the English language to expressly advocate election or defeat of a candidate,'' the entire premise of the Court's analysis was that words of advocacy such as those recited in footnote 52 were provided to support Commission jurisdiction over a given corporate expenditure.

I think what the Supreme Court was saying, or what the fourth circuit was saying is that there might be another way beyond the precise words of the footnote to expressly advocate the election or defeat, but that that was basically it. There might be another way to say the same thing beyond words actually chosen in footnote 52. But you are not permitted to wander further. Is that not the——

Mr. LEVIN. I think there is a split in the circuits, and the fourth circuit basically is close to where the first circuit is, and that is, as I understand it, also subject to appeal to the Supreme Court.

The ninth circuit has adopted the Furgatch test, which was then adopted by the Federal Election Commission. So we have a situation where we have circuits split. We have the ninth circuit adopting the Furgatch test, saying if something unmistakably calls for election or defeat of a candidate, that amounts to the express advocacy which is prohibited—not prohibited but which is subject to limits and regulations of existing law. You have the fourth circuit and the first circuit that have reached a different conclusion on that. So you have a split in the circuits, and today the Supreme Court as of this moment decided to leave that split where it is, to leave that issue in limbo.

Mr. MCCONNELL. I am not sure how in limbo my friend from Michigan would find denial of cert in a first circuit case which pretty clearly laid out that language, much of which is in the underlying bill the Senator from Michigan supports, is unconstitutional. Does the Senator from Michigan find that vague?

Mr. LEVIN. Find what? Find it vague?

Mr. MCCONNELL. Vague.

Mr. LEVIN. No; I find it very clear in the fourth and first circuits. But I also find in the ninth circuit, a very clear opinion which reads, in part, as follows:

> We begin with the proposition that ''express advocacy'' is not strictly limited to communications using certain key phrases. The short list of words included in the Supreme Court's opinion in Buckley does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate. A test requiring the magic words ''elect,'' ''support,'' et cetera or their nearly perfect synonyms for a finding of express advocacy, would preserve the first amendment right of unfettered expression only at the expense of eviscerating the Federal Election Campaign Act.

I find those words to be very clear as well, to answer my friend from Kentucky, but the Supreme Court did not accept cert in that case either. So we have the Supreme Court not accepting appeals from circuits which have reached different conclusions. The answer to the question of my friend is I find the words of the fourth circuit clear, I find the words of the first circuit clear, and I find the words of the ninth circuit clear. Very clear.

What could be clearer than a finding of the circuit court in the ninth circuit that says, ''The short list of words included in the Supreme Court's opinion in Buckley does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate''?

It is a very clear statement.

The Supreme Court is going to have additional opportunities to address this issue, because there are additional cases which will be coming to the Supreme Court. Hopefully, they will see fit to resolve the dispute between the circuits on this issue.

Just to briefly continue with the Furgatch court, the Furgatch court went on to say the following:

> First amendment doctrine has long recognized that words take part of their meaning and effect from the environment in which they are spoken. . . . However, context cannot supply a meaning that is incompatible with or simply unrelated to the clear import of the words. With these principles in mind, we propose a standard for ''express advocacy'' that will preserve the efficacy of the Act without treading upon the freedom of political expression.

And here is the conclusion of the Furgatch court, again, left where it was by a Supreme Court about 10 years ago. So this is the law in the ninth circuit. The Furgatch court said:

> We conclude that speech need not include any of the words listed in Buckley to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate. . . . [S]peech is ''express'' for present purposes if its message is unmistakable and unambiguous, suggestive of only one plausible meaning.

That test, which I think most of us would agree is a real-world test, that test was adopted by the Federal Election Commission by a vote of 4 to 2. It was adopted after extensive public debate. It was presented to the Congress in 1995 under a mandatory 30-day period of review. It encountered no opposition here, and it encountered no opposition that I know of in the House of Representatives. But, this issue has not been ruled on by the Supreme Court. And the Supreme Court, again, as we all know, announced today that it declined to review a case out of the first circuit which went the other way from Furgatch, leaving a split in the circuits between those who do and those who don't approve of using the Furgatch test to distinguish between candidate and issue ads.

60-DAY RULE

One final comment, and that relates to the so-called 60-day rule that is in section 201 of the McCain-Feingold bill, because this is a third way of distinguishing candidate ads from issue ads. The key provision reads as follows:

> The term ''express advocacy'' means a communication that advocates the election or defeat of a candidate by . . . referring to one or more clearly identified candidates in a paid advertisement that is broadcast within 60 calendar days preceding the date of an election of the candidate and that appears in the State in which the election is occurring. . . .

We have seven magic words in a footnote which, if used at any time during an election, will result in an ad being required to be paid for from regulated, limited funds. If any of those magic words, so-called, are used, the Supreme Court has said, that is evidence, indeed compelling evidence, that the ad is an express advocacy ad for election or defeat of a candidate.

Now, what we do is add an eighth word, in addition to words like ''defeat'' and ''elect'' and ''vote against'' and ''vote for.'' For 60 days prior to an election we add a eighth word, the name of the candidate.

It is pretty logical in an election. That is what a candidate ad is usually all about. When a candidate is named—in this ad, we have Congressman GANSKE, Congressman GANSKE, Congressman GANSKE, Congressman GANSKE. The Supreme Court has said, if you use any of the words in the footnote, that does it, that is express advocacy anytime during an election. And if it is express advocacy for the election or defeat of a candidate, you have to use the limited, regulated contributions. It has to be paid for according to the law which Congress has adopted, because we wanted contributions which go to advocate the defeat or the election of a candidate for Federal office to be governed by contribution limits.

In order to avoid the appearance of corruption—in the Supreme Court's words that exists when you have unlimited funds going into these elections—adding a eighth word to ''vote for, vote against, defeat, elect,'' when that eighth word is the candidate's name in the 60 days before an election, is fully consistent with what the Court decided in Buckley. It is inside the spirit of it, and it implements the purpose of our law which is on the books, and it is intended to comply with what the Supreme Court said in Buckley is the legitimate purpose, public purpose of the Federal elections law.

They said we can restrict and limit contributions. They have said why it is good public policy to do so. They have said all of that. They affirmed our limit on contributions, despite the ACLU's opposition to a limit on contributions.

The ACLU's name has been invoked here a number of times. The ACLU was wrong in Buckley. The ACLU, in Buckley, argued that the first amendment did not permit restrictions on contributions. The Supreme Court did not follow the ACLU in Buckley. They adopted a weighing test, and they have since in a number of other cases.

So, what we are doing is saying, ''Here is another bright-line test. Add to those seven words in that footnote, a eighth word, for 60 days on licensed media, and reflect the real world.'' Because we really have two choices, it seems to me. One is to repeal the law which puts limits on contributions. And many in this body, I think, favor the repeal of the law that puts limits

on contributions. The other thing that we can do is to implement the law, to fully implement its purpose by closing a massive loophole which has now been created, a loophole which allows for those contributions to be made in nonregulated funds to attack or support the election of candidates to the same degree in any real world sense as does an ad which uses one of the magic words in that footnote.

The 60-day rule is a good-faith effort in McCain-Feingold to comply with the Buckley decision. It is an honest effort to comply with the words in the first amendment in the spirit of the first amendment. I don't think any of us differ in terms of our love of this Constitution. I think everybody in this body would pass that test with flying colors as to whether we love our Constitution. I think all of us would also say we want clean and fair elections; we want to avoid the appearance of corruption.

Where we differ is in the process, as to whether or not we want to restrict contributions or whether or not we want them unlimited. For those of us who feel that unlimited contributions contribute to the appearance of corruption—and the Supreme Court has said that there is a legitimate public purpose in restricting unlimited contributions—for those of us who feel that unlimited contributions lead to the kind of spending and attack ads that we saw in the 1996 election, we want to fill that loophole, we want to close that loophole which has been now opened so wide that it basically has destroyed the effectiveness of the limit.

So the effort in McCain-Feingold is consistent with the first amendment. We hope that this body will have an opportunity to adopt, or at least to vote on, McCain-Feingold. What we have done, in summary, is to adopt some bright-line rules which we feel carry out the Buckley decision and close the issue ad loophole without infringing on the first amendment.

It is not an easy task, but these rules that we have added we believe do it. The 60-day rule provides criteria that are clear and uncomplicated but narrowly tailored to the essentials of electioneering.

Mr. President, we are facing a historic moment, and that moment is whether or not we are going to restore limits to a system which was intended to have $1,000 per candidate per election. That is supposed to be the law of the land. It has been evaded. It has been evaded with the soft-money loophole, and we are going to, within the next 24 hours, cast the first vote determining whether or not we want to restore limits, effective limits, on campaign contributions as the Supreme Court in Buckley said that we can do.

I hope that we rise to this occasion. I think the American public has had its fill of the unlimited variety. The status quo has no limits. Every day the status quo is losing more and more of the public's confidence, and it will, hopefully, be our lot to restore some of that public confidence by effectively restoring the limits that were intended to be in this law all along but which have been evaded by the soft-money loophole and the issue ads, as they are now called.

We've talked about some specific issue ads that have raised concerns. A broader analysis of issue ads is provided by a recently released study from the Annenberg Public Policy Center, an executive summary of which I've already included in the RECORD. This study takes a concentrated look at so-called issue ads aired during the most recent election cycle. It estimates that, in addition to the $400 million spent by candidates and political committees to broadcast candidate ads, between $135 and $150 million was spent by parties and outside groups to broadcast issue ads never reported to the FEC as independent expenditures. The study notes that the total spent on these issue ads is approximately one-third of the total spent on broadcast ads by all candidates for Federal office in 1995 and 1996.

The study catalogs over 100 specific so-called issue ads, a list which it states is incomplete. It then analyzes these ads, finding among other things that almost 90 percent mention a candidate by name, half the ads favor Democrats while the other half favors Republicans, and, compared to other types of political advertising, issue ads as a group were the highest in pure attack.

The study makes the following comments about the role of issue ads in the 1996 elections:

> This report catalogs one of the most intriguing and thorny new practices to come onto the political scene in many years—the heavy use of so-called 'issue advocacy' advertising by political parties, labor unions, trade associations and business, ideological and single-issue groups during the last campaign. . . . This is unprecedented, and represents an important change in the culture of campaigns. . . . To the naked eye, these issue advocacy ads are often indistinguishable from ads run by candidates. But in a number of key respects, they are different. Unlike candidates, issue advocacy groups face no contribution limits or disclosure requirements. Nor can they be held accountable by the voters on election day. . . . [A] sharp imbalance has evolved over the past two decades in the laws governing campaigns. One part of the electoral system—the part that pertains to candidates—remains regulated, while another part—one that pertains to advocacy groups and political parties—is barely regulated or not regulated at all. If you were a wealthy donor interested in affecting the outcome of a campaign, but not interested in leaving any fingerprints, it is pretty clear where you would put your money.

I have quoted from the Annenberg study, because it is a study performed by a nonpartisan group with long experience in tracking broadcast ads during election campaigns. The conclusions drawn by this expert, nonpartisan group, based upon a broad-ranging study of specific issue ads in the last election cycle, confirms what every Senator knows from personal experience. Issue ads have become a powerful, frequently used tool in Federal elections—an election tool that has nevertheless been able to evade compliance with campaign finance contribution limits and disclosure requirements.

The bottom line is that the actual experience of Congress during the 20 years since Buckley is that issue ad abuse has spiraled out of control and is now undermining not only the campaign finance system set up to deter corruption and educate the electorate, but also public confidence in the integrity of that system. The abuse has reached crisis proportions. The system is broken, and it is time to fix it.

MCCAIN-FEINGOLD PROVISIONS ON ISSUE ADS

So what to do? How are we to stop issue ad abuse, plug the issue ad loophole that is swallowing the rules on candidate ads, and do so in a way consistent with our respect for the first amendment?

The McCain-Feingold bill offers two answers. First, it seeks to curtail the soft money loophole that currently provides the bulk of funding for so-called issue ads.

The second solution that the McCain-Feingold bill offers to the problem of issue ad abuse is section 201 which takes on the knotty problem of fairly distinguishing between true candidate ads that ought to comply with campaign finance laws and true issue ads that are not campaign activity and legitimately should escape campaign finance restrictions.

As we've discussed, section 201 tackles this problem by first codifying the basic test set out in Buckley for distinguishing between candidate and issue ads. It states that independent expenditures covered by the Federal Election Campaign Act are communications which expressly advocate the election or defeat of a clearly identified candidate.

This general principle, first set out 20 years ago in Buckley, provides the constitutional basis for laws that subject political speech about candidates to such tough legal requirements as contribution limits and disclosure requirements. Congress has not previously codified this principle in the primary Federal campaign law. McCain-Feingold would do so for the first time.

But codifying the general principle is not, of course, enough to stop issue ad abuse. The Supreme Court has already held that Congress can impose contribution limits and disclosure requirements on ads that expressly advocate the election or defeat of one or more clearly identified candidates. The problem is how to identify those ads—the ads that contain the express advocacy that the Supreme Court said must be present to justify campaign finance requirements.

Section 201 offers three alternative ways for determining whether an ad contains express advocacy. The first alternative would codify the so-called magic words test first articulated in

the Buckley decision. The magic words test, which we've all heard about, says that if certain enumerated words are present in an ad, the ad is express advocacy and must comply with Federal campaign laws. This part of section 201, which simply codifies Supreme Court case law, has not engendered controversy.

Section 201 then offers two other ways to determine if an ad contains express advocacy. Some critics argue that the McCain-Feingold bill violates the Constitution right there, because the Supreme Court has allegedly held that only one test of express advocacy is permissible—the magic words test—and nothing more is constitutionally permitted.

Those critics go too far. Buckley never says that the magic words test is the only permissible way to determine whether an ad expressly advocates the election or defeat of a candidate. In fact, Buckley barely discusses the magic words test. That magic words test, which some claim controls the fate of candidate and issue ads, is set out in one sentence in one footnote, footnote 52, which provides minimal guidance.

Here is footnote 52 and the magic words test in its entirety:

> Footnote 52. This construction would restrict the application of [Section] 608(e)(1) 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.''

That's it. That's the whole footnote. That's the whole discussion of the magic words test in all of Buckley. Critics who claim that the Supreme Court has held that this test is the only test that can be used to determine whether an ad contains express advocacy sufficient to justify campaign finance restrictions are going beyond the bounds of Buckley—the Supreme Court has simply not made that determination.

Many of us don't think the Supreme Court would go that far in elevating form over substance. Instead, we support the ninth circuit Furgatch test which I've quoted earlier and which is one of the three tests that section 201 of the McCain-Feingold bill seeks to codify. Section 201 words the Furgatch test as follows:

> The term ''express advocacy'' means a communications that advocates the election or defeat of a candidate by . . . expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole with limited reference to external events, such as proximity to an election.

If Federal campaign laws are to stop issue ad abuse, we have to be able to go after ads that unmistakably and unambiguously advocate the election or defeat of a clearly identified candidate—including ads that convey such information without once mentioning a magic word.

Finally, section 201 of the McCain-Feingold bill proposes using the so-called 60-day rule. Broken down to its essentials, this test requires three elements for an ad to qualify as express advocacy: a paid broadcast on television or radio, a reference to a clearly identified candidate, and a broadcast aired within 60 days of the candidate's election.

This 60-day rule is a more limited version of a proposal first made by Thomas Mann and Norman Ornstein. It is more limited in two ways. Where the Mann-Ornstein proposal would have applied to all forms of communications, including newspaper ads, mailings, billboards and more, the section 201 proposal is limited to ads broadcast on licensed airwaves. Where the Mann-Ornstein proposal suggested a 90-day timeframe, the section 201 is limited to 60 days.

The limitation to broadcast ads is a narrowly tailored solution to the problem of issue ad abuse.

The Senate Governmental Affairs Committee on which I sit has received evidence of serious issue ad abuse outside the broadcast arena. For example, the committee subpoenaed documents related to a 1996 million-dollar mailing and telephone effort by a group called Americans for Tax Reform. This group claimed to be engaged solely in issue advocacy, but a host of undisputed facts suggests otherwise, including the fact that the Republican National Committee [RNC] donated $4.5 million to the group in October 1996—the largest donation a political party has ever made to a private organization; the group used the money from the RNC to pay for the mailings and telephone calls; the mailings and calls were orchestrated by a known partisan corporation with campaign expertise; the mailings and calls targeted specific congressional districts; and the mailings and calls were timed to occur in the last few weeks before the 1996 elections. These facts raise the same concerns that exist with respect to broadcast issue ads—that people are gaming the system and mislabeling activities as issue advocacy simply to circumvent campaign laws meant to ensure clean election and an informed electorate.

Despite this evidence of issue ad abuse outside the broadcast field, the sponsors of the McCain-Feingold bill adopted the suggestion to limit the 60-day test to ads aired on television or radio. They agreed that this limitation would address the worst abuses involving so-called issue advocacy, while leaving untouched many other outlets for first amendment expression. They also agreed that Supreme Court precedent under the Red Lion series of cases, provide constitutional foundation for a campaign finance law that addresses paid advertisements broadcast on publicly licensed airwaves, but not other forms of political advertising.

Second, the sponsors of the McCain-Feingold bill limited the provision to a 60-day rather than 90-day period, again in an effort to narrowly tailor the test to address the worst issue ad abuse—those ads that are broadcast immediately before an election.

Third, the McCain-Feingold test is limited to ads that mention a clearly identified candidate. That means that anyone who wants to present an issue ad during the 60-day period can easily avoid the extending laws' contribution limits and disclosure requirements simply by excluding mention of a specific candidate. Issue ads could direct viewers to ''Call Congress,'' ''Call Your Member of Congress,'' ''Call the White House,'' or ''Call Washington''—none of which mentions a specific candidate.

Alternatively, an issued ad whose sponsor felt that mentioning a specific candidate was crucial to an effective communication would be free to mention that candidate—the ad would just have to comply with the same contribution limits and disclosure requirements that now apply to candidate advocacy. Those legal requirements have already passed conditional muster in the courts, and the $400 million spent on candidate ads in the last election cycle is incontrovertible proof that they do not stop speech.

Critics argue that, nothwitstanding our efforts to craft a narrowly tailored solution to issue ad abuse, the 60-day rule is overly broad. They contend that the rule would unavoidably restrict the broadcast of true issue advocacy during the 60-day time period.

My response to this argument is that it ignores the past 20 years of experience we have had with the ingenuity of those who want to use the public airwaves to communicate their message.

Any rule that Congress develops to stop issue ad abuse will best pass constitutional muster by providing bright line guidance in this area. To date, the Supreme Court has explicitly approved one bright-line rule to distinguish candidate and issue ads—the magic words test—though we believe the Court will approve other carefully crafted tests. Since Buckley, we have seen that the magic words test has suffered wholesale evasion due to the ingenuity of ad sponsors in designing ads that send clear messages about candidates without once using a magic word.

The McCain-Feingold 60-day rule doesn't want to repeat that mistake. Its goal is not to fight first amendment ingenuity, but to harness it. It does so by providing such simple, bright line guidance that it becomes easy for any person who wants to discuss issues to avoid triggering it. All they have to do is avoid mention of a candidate or avoid the 60-day period. That's not very difficult to do. At the same time, the rule intentionally makes it very difficult for anyone who wants to support or oppose a candidate to evade the campaign finance law, since it is pretty hard to advocate the election or defeat of a candidate without mentioning the person at issue immediately before the election.

The Supreme Court has already held that it is constitutionally acceptable

for seven magic words like ''elect'' or ''defeat'' in an advertisement to trigger contribution limits and disclosure requirements. The 60-day rule proposes adding an eighth magic word in ads broadcast during the last 60 days before an election—a candidate's name.

The Supreme Court has already said that clean elections is so compelling a state interest that it justifies contribution limits and disclosure requirements. That is the law today. But the law is being evaded. Constantly. With hundreds of millions of dollars of TV ads. Evading the magic words test is not a hypothetical or theoretical problem. It is an actual problem documented in the Annenberg study and in the personal campaign experiences that many of us have had.

If we want to stop issue ad abuse—to stop allowing candidate ads to masquerade as issue ads in order to evade the law—we need to design bright line rules intended to work with rather than against ingenuity, and the endless possibilities of effective broadcast communication. We need bright line rules that close the issue ad loophole without infringing on the first amendment. It's not an easy task, but we think McCain-Feingold does it. We think it does so in a constitutionally permissible manner, because it provides criteria that are clear and uncomplicated yet so narrowly tailored to the essentials of electioneering, that those who wish to engage in issue advocacy can do so with minimal effort, while those who wish to engage in candidate advocacy will be hard pressed to evade Federal contribution limits and disclosure requirements.

Some will argue that Congress has no right to close the issue ad loophole. But those of us who believe stopping issue ad abuse is critical to restoring effective campaign finance laws believe we have crafted a minimally intrusive means to achieve the compelling public interest of detering actual and perceived corruption which the Supreme Court has said is ''inherent in a system permitting unlimited financial contributions.''

One of the most important provisions in the McCain-Feingold bill is the ban on soft money contributions to the political parties. But if Congress shuts down soft money to the political parties without also effectively stopping issue ad abuse, our campaign system might actually end up worse off than now. How? Because the hundreds of millions of dollars of unregulated, unlimited and undisclosed money that now flows to parties could be redirected to broadcasting issue ads that are candidate ads in everything but name.

I have heard opponents of the bill claim that McCain-Feingold's express advocacy provisions would shut down the use of educational voting guides that simply report candidates' voting records. In fact, the bill creates an explicit safe harbor for exactly that type of communication. Section 201(b) explicitly includes a subsection entitled, ''Voting Record and Voting Guide Exception.'' It states that, so long as none of the 7 magic words in the Buckley footnote are used in the material, educational voting guides will not be deemed express advocacy subject to campaign contribution limits and disclosure requirements.

I and other authors of section 201 in the McCain-Feingold bill are well aware of the difficulty of putting into statute an effective yet easily understood means of distinguishing candidate ads from issue ads. We've worked hard to create constitutionally acceptable language. We think the tests proposed in the McCain-Feingold bill are a significant improvement over the status quo. It is a status quo that every day is losing more of the public's confidence due to ongoing, wholesale evasion of the contribution limits and disclosure requirements that are supposed to be safeguarding our electoral process.

Stopping issue ad abuse requires more than magic words. I urge my colleagues to give the McCain-Feingold approach an opportunity to do better.

I thank the Chair and thank my colleagues for this long period of time that I have taken.

EXHIBIT 1

PHONY ''ISSUE ADS'' FROM THE 1996 CAMPAIGN

Here are a few television advertisements, each aired during the 1996 campaign, that illustrate the use of the ''issue ad'' loophole to engage in flat-out electioneering:[1]

Republican National Committee: ''Clinton: I will not raise taxes on the middle class. Announcer: We heard this a lot. Clinton: We gotta give middle class tax relief. Announcer: Six months later, he gave us the largest tax increase in history. Higher income taxes, income taxes on social security benefits, more payroll taxes. Under Clinton, the typical American family now pays over $1,500 more in federal taxes. A big price to pay for his broken promise. Tell President Clinton: You can't afford higher taxes for more wasteful spending.''

Democratic National Committee: ''Announcer: Protect families. For millions of working families, President Clinton cut taxes. The Dole/Gingrich budget tried to raise taxes on eight million. The Dole/Gingrich budget would've slashed Medicare $270 billion, cut college scholarships. The President defended our values, protected Medicare. And now a tax cut of $1,500 a year for the first two years of college, most community colleges free. Help adults go back to school. The President's plan protects our values.''

Citizens Flag Alliance: ''Announcer: Some things are wrong. They've always been wrong. And no matter how many politicians say they're right, they're still hateful and wrong. Stand up for the right values. Call Representative Richard Durbin today. Ask him why he voted against the Flag Protection Amendment. Against the values we hold dear. The Constitutional Amendment to safeguard our flags, because America's values are worth protecting.''

Citizen Action: ''Announcer: They've worked hard all their lives. They're our neighbors, our friends, our parents. They earned Social Security and Medicare. But Congressman Creamens voted five times to cut their Medicare. Even their nursing home care. To pay for a $16,892 tax break he voted to give to the wealthy. Congressman Creamens, it's not your money to give away. Don't cut their Medicare. They earned it.''

The League of Conservation Voters: ''Announcer: It's our land; our water. America's environment must be protected. But in just 18 months, Congressman Ganske has voted 12 out of 12 times to weaken environmental protections. Congressman Ganske even voted to let corporations continue releasing cancer-causing pollutants into our air. Congressman Ganske voted for the big corporation who lobbied these bills and give him thousands of dollars in contributions. Call Congressman Ganske. Tell him to protect America's environment. For our families. For our future.''

Citizens for the Republic Education Fund: ''Announcer: Senate candidate Winston Bryant's budget as Attorney General increased 71%. Bryant has taken taxpayer funded junkets to the Virgin Islands. And spent about $100,000 on new furniture. Unfortunately as the state's top law enforcement official, he's never opposed the parole of any convicted criminal, even rapists and murderers. And almost 4,000 Arkansas prisoners have been sent back to prison for crimes committed while they were on parole. Winston Bryant: government waste, political junkets, soft on crime. Call Winston Bryant and tell him to give the money back.''

[1] Transcripts originally published in *''Issue Advocacy Advertising During the 1996 Campaign: A Catalog.''* The Annenberg Policy Center, September 16, 1997.

Mr. CRAIG. Mr. President, the debate over campaign finance reform is what I like to call the ''News of the Day''. The media has been on a feeding frenzy looking for angles to show that this issue had divided members of Congress. That it had divided the members of the same party. There there is a cry of outrage across America as people stand by ready to storm the Capitol in protest.

But despite the massive media hype, the public really doesn't care about the campaign finance reform issue. In the most recent ABC News/Washington Post poll—where people were asked about the most important problems facing the country—campaign finance reform did not even appear as one of the top 10 items on the list. In fact, it didn't appear at all. The same stands true for the latest CBS News poll, the latest CNN/Gallup Poll, and even last month's L-A Times poll. After extensive research of all the major polls, campaign finance has not showed up as a concern among American at all.

What is important to the American people are issues like crime, the economy, health care, education, social security, and the moral decline of the country. What people really care about is whether their children will get safely back and forth from school—and whether they'll get a good education in the public schools. They care about keeping their jobs and trying to make ends meet while they watch a good portion of their hard earned money going to Washington to support a wasteful and inefficient Federal Government bureaucracy. They care about their future—whether they can save enough money to retire some day—and acquire affordable health care. These are real concerns of Americans today.

Now let's just support for a minute that people actually did care about campaign finance reform. That they sat around the dinner table at night and said ''How was your day at the office, oh, and by the way, we really need more campaign finance laws.

What Americans really need to know are the details about the campaign finance laws that are currently on the books. And then they need to know about the appalling campaign finance practices that were part of President Clinton's reelection effort—and how the campaign finance issues is being used to divert attention away from these scandals.

And they need to know what Congress wants to do to reform the campaign finance laws and level the paying field so neither political party has an unfair advantage over another.

They need to know what we've going to do to make all political contributions voluntary—so that no person—union or nonunion worker—is forced to pony up their money for political purposes without their expressed permission.

And, they need to know what we're going to do to give them complete and immediate access to campaign contribution records about who gave how much to whom.

This prompt and full disclosure of so-called soft money campaign donations will make the name of the donors public, aid allow the voters to decide if the candidate is looking after their best interest. Under the McCain-Feingold plan, there would be an across-the-board ban on soft money for any Federal election activity.

Let me first recognize my colleagues who have worked on this issue at great length and in good faith. I have nothing but the deepest respect for both Senators MCCAIN and FEINGOLD in their tenacity and diligence to bring this issue to the attention of the public. I agree with some of their points of disagree with others—and I will continue to do so during the course of this debate.

As for the ban on soft money, I have several major reservations on how this measure would ultimately impact the current campaign finance system.

Not improving it, but creating such a hardship on the country's State and local political parties that it would force them to concentrate on raising money in order to exist.

Under the McCain-Feingold proposal to ban soft money, State and local party committees would be prohibited from spending soft money for any Federal election activity.

Right now, State and local political parties receive so-called soft money from the national political parties. Here in Washington, both the Republican National Committee and the Democratic National Committee receive money from donors.

Some of that money is then distributed to the respective political parties in counties and localities all over the country. There are thousands of State, county, and local party offices that receive this financial aid. Then—under certain conditions—the money is used for activities such as purchasing buttons, bumper stickers, posters, and yard signs on behalf of a candidate. The money is also used for voter registration activities on behalf of the party's Presidential and Vice Presidential nominees. The money is also used for multicandidate brochures and even sample ballots.

Let's say it's election day. You go down to your local polling site—whether it's a school, a church or the American Legion hall. Sometimes there's a person there who will hand you what's called a sample ballot—listing all the candidates running for office who are in your party. Like most voters, you are more likely to choose the candidates of your party.

But under the McCain-Feingold proposal, it will be against the law to use soft money to pay for a sample ballot with the name of any candidate who's running for Congress on the same sample ballot with State and local candidates of the same party.

Under McCain-Feingold, it will be against the law to use soft money to pay for buttons, posters, yard signs, or brochures that include the name or picture of a candidate for Federal office on the same item that has the name or picture of State and local candidates.

Under McCain-Feingold, it will be against the law to use soft money to conduct a local voter registration drive 120-days before a Federal election.

Because of these new laws in the McCain-Feingold plan, State and local party officials will have to use hard money instead of soft money for these activities.

Let's look at the reality of this situation. Because of these new restrictions, local party officials—say like the Republican Party chairman in Caldwell, ID—will be forced to seek out hard money donations from local businesses and individuals to fund these political activities.

In a town of just 2,000 people, this party official—who is a volunteer—now has to spend more of his or her time fundraising, not to mention the fact that those with more money stand a better chance of winning an election. Party affiliation will become insignificant. In other words, raising hard money will become a bigger concern for these State and local officials than ever before. And, whomever raises the most money can then fund more political activities.

Mr. President, what kind of campaign finance reform is this? We have just added more laws to a system that's already heavily regulated, increased the burden on thousands of State and local party officials forcing them to go out and raise money, and created more confusion for the voters. If the point of the McCain-Feingold plan is to reform the campaign finance system, the last thing you want to do is ban soft money.

Instead, full and immediate public disclosure of campaign donations would be a much more logical approach. With the help of the latest technology, we could post this information on the Internet within 24 hours. Let's open up the records for everyone to see.

Anyone interested in researching the integrity of a campaign, or in finding out the identity of the donors, or in looking for signs of undue influence or corruption would only have to have access to a computer. They could track a campaign—dollar for dollar—to see first hand where the money is coming from.

But Mr. President, what bothers me the most about the McCain-Feingold proposal is not what's in the bill, but what has been left out. it is, what the majority leader called the other day, ''the great scandal in American politics * * * and worst campaign abuse of all.'' That is the forced collection and expenditure of union dues for political purposes.

Mr. President, this is nothing short of extortion.

Let me make myself clear, I fully support the right of unions and union workers to participate in the political process. they should be encouraged to become involved and active in the electoral process. it's not only their right but their civic responsibility.

Back in my home State of Idaho, I meet with union workers in union halls, on the streets, and in their homes. And I hear their complaints, their anger and their outrage over how their dues are being spent and mishandled by national union officers.

They say to me ''Senator CRAIG (LARRY), every month I am forced to pay dues that are used for political purposes I don't agree with. But what can I do? If I speak out, they'll call me a troublemaker * * *''

During the 1996 elections alone, union bosses tacked on an extra surcharge on dues to their members in order to raise $35 million to defeat Republican candidates around the country. It's likely they used much more of the worker's money than they reported, but I'm sure we'll never find out the truth.

But under the Paycheck Protection Act, offered by Senators LOTT and NICKLES, union workers will have new and expanded rights and the final say on how their money is being spent. The legislation not only protects the rights of union workers, but also makes it clear that corporations adhere to the same measure.

Unions and corporations would have to get the permission in writing from each employee prior to using any portion of dues or fees to support political activities. And, workers will have the right to revoke their authorization at any time.

Finally, employees would be guaranteed the protection that if their money was used for purposes against their will, it would be a violation of federal

campaign law. Mr. President, this is commonsense legislation and it's the right thing to do.

Mr. FORD. Mr. President, once again, I rise to discuss an issue that in the recent past has generated lots of talk and not much action—campaign finance reform. But thanks to the hard work of my colleagues—on both sides of the aisle—we may finally be on the brink of actually doing something to address the many problems we have with our system for financing election campaigns.

Thanks to the tireless efforts of our colleagues, Senators MCCAIN and FEINGOLD, we now know that the question is not whether a bill will come to the floor, but whether we will pass the bill that they have brought us. Keeping that in mind, I want to speak a bit today on why I will support the measure currently before us.

As an original cosponsor of McCain-Feingold, I agree that what is necessary is a comprehensive overhaul of the way we conduct our campaign business. If we have learned anything from our experiences in the last few elections, it is that money has become too important in our campaigns. Mr. President, in the last election Federal candidates and their allies spent over $2 billion—$2 billion—in support of their campaigns. The McCain-Feingold bill currently before us, I believe, is the sort of sweeping reform that we must pass if we are to restore public trust and return a measure of sanity to the way we finance elections.

Now each of us has his or her own perspective on what's wrong with the system. For me, Mr. President, it's the explosive cost of campaigning. When I announced in March that I would not seek reelection, I said: Democracy as we know it will be lost if we continue to allow Government to become one bought by the highest bidder, for the highest bidder. Candidates will simply become bit players and pawns in a campaign managed and manipulated by paid consultants and hired guns. The problem becomes clearer when you look at specifics. In my case, when I first was elected to the Senate, I spent less than $450,000—actually, $437,482—on my campaign. Back them, I thought that was a lot of money. If only I'd known. Mr. President, if I hadn't decided to retire, for next year's election I would have had to raise $4.5 million. Now, I know all about inflation but that's not inflation—that's madness. What's worse, I understand that if we continue on this path, by the year 2025 it will cost $145 million to run for a single Senate seat. Can any of us imagine what our country will look like when the only people who can afford public service are people who have—or can raise—tens of millions of dollars for their campaigns? I can't imagine such a future, Mr. President—and the time is now to make sure things never get that bad. McCain-Feingold won't cure everything that ails the current system, but I support it because it represents a real, meaningful first step toward restoring a sense of balance in our campaigns by ensuring that people and ideas—not money—are what matters. Specifically, I support McCain-Feingold because it deals with a series of disturbing issues that have grown in importance in recent years.

I also agree that a primary problem with the current system is the flood of soft money. But when I speak of soft money, Mr. President, I want to make it clear that we are talking about more than just the fundraising of the national parties. True—in 1996, the parties raised over a quarter billion dollars in soft money, which they then used in various ways to support their candidates at every level of the ballot. That's a lot of money, but it's only a small part of the total so-called soft money picture. That's because soft money, is any money that is not regulated by the Federal Election Campaign Act. That includes national party money, of course, but it also includes the millions of dollars raised and spent by corporations, unions, interest groups, and tax-exempt organizations. Our recent experience shows that these organizations are established, operated, and financed by parties and candidates themselves—and their finances are totally unregulated. Therefore, McCain-Feingold is meaningful reform because it recognizes that the problem is not just soft money, it is unregulated money.

The McCain-Feingold bill currently before us is also valuable because it recognizes that closing the party soft money loophole is not enough. The bill also addresses the problem of so-called issue advoacy advertising. These so-called issue ads have developed as a new—and sometimes devious—way that unregulated money is used to affect elections. Lawyers might call it issue advocacy, but I'm not a lawyer so I call it what it really is, handoff funding. Handoff funding is where a candidate hands off spending, usually on hardhitting negative ads, to a supposedly neutral third party whose finances are completely unregulated and not disclosed. Now I know there are those who call these ads free speech. But this isn't free speech, it's paid speech. Of course we need to respect the Constitution, but we can't let people hide behind the Constitution for their own personal or partisan gain. McCain-Feingold draws this paid speech into the light where not the lawyers but the jury—the American people—can decide which issues and which candidates they will support.

Mr. President, I want to respond just a moment to the claim of many of my Republican colleagues that McCain-Feingold's issue advocacy reform somehow limits free speech. That simply is not true. When this bill passes, not one ad that ran in the last election—not one, not even the worst attack ad—will be illegal. What McCain-Feingold would do is say to those candidates and groups who have been using handoff funding to puff themselves up or tear down their opponents—all the while claiming that they were simply, quote, advocating issues—is that within 60 days of the election they must take credit for their work, dirty or otherwise. The only people whose speech will be prevented by this law are people who are afraid to step into the light and be seen for who they are. That, Mr. President, is what I call reform—and I think the American people would agree.

Another critical issue addressed in McCain-Feingold—and this is one area, I think, where we all are in nearly unanimous agreement—is the question of disclosure. Currently there is too much campaign activity—contributions and spending—that is not disclosed to the public on a regular, timely basis. We must commit ourselves, as does McCain-Feingold, to providing the American people with timely and full disclosure to information about political spending, and the means by which they can access that information. Like many colleagues, I believe that the Internet and electronic filing is the way to make this happen; but I hope we will make it clear that all campaign finances—including third-party issue advocacy—are to be disclosed before we get too worried about how such disclosure would take place.

Mr. President, all these reforms will be meaningless unless we are willing to do right by the Federal Election Commission. If the FEC really is the toothless tiger that many people say it is, we must take at least some of the blame for removing its teeth. Any bill that makes changes to the campaign finance laws without restoring the FEC's funding and improving its ability to publicize, investigate, and punish violations cannot truly claim the title of reform.

In conclusion, Mr. President, I know that we will not have an easy road to passage of campaign finance reform legislation. In this body there are a number of colleagues who are opposed to reform and aren't afraid to speak their minds about the quote, danger, of reform. Mr. President, I can't blame them. If I had the advantage of millions of dollars from wealthy folks and millions more from corporations and special interests, I would think reform was dangerous, too, and I would have to think twice before supporting a bill that took away that advantage. Their opposition—whether in the public interest or their self-interest—means that the debate on this issue will get more than a few of us into a real lather. I'll take that challenge, Mr. president. Just because campaign finance reform will be difficult, and might require each party to give up things it cares about or simply has gotten used to, is no reason not to pass McCain-Feingold, and soon.

All we need to do is to rollup our sleeves and remember the wisdom of that great Kentuckian Henry Clay, who called compromise ''mutual sacrifice.'' Our way is clear, if not easy,

but I have confidence that we will do what is right to restore public confidence in the way we fund our campaigns. I look forward to the continuing debate, and to demonstrate to the American people that we are serious about cleaning up the system by voting for comprehensive campaign finance reform.

Mr. ABRAHAM. Mr. President, I rise today to speak on the issue of campaign finance reform; an issue which has been before the Senate in recent days.

Like many members of this Chamber, I count myself on the side of those favoring reform. The question is: what type of reform will have the most positive impact on our electoral system.

As this debate has evolved, I have spent considerable time identifying priorities. I have divided these priorities into two separate categories. The first category is comprised of those standards or tests that any reform legislation must meet in order to receive my support. The second category constitutes a set of objectives which I believe should, as opposed to must, be included in any reform legislation.

Let me begin by listing the standards or tests that I believe must be met by any reform legislation.

First, we must act in a manner that is consistent with the first amendment of the Constitution of the United States. Mr. President I will not support a campaign finance reform bill that establishes any kind of prior restraint on political speech or empowers any federal bureaucracy to constrain first amendment rights. That is why earlier this year I opposed the constitutional amendment presented to the Senate which would have allowed Congress and its agents, including the Federal Election Commission, to place constraints on first amendment rights.

Mr. President, The first amendment to the Constitution and its guarantees of political speech are fundamental. We must not allow any Federal legislation to circumvent them, or attempt to circumvent them.

My second priority with respect to campaign finance legislation is that it must not impede or intrude on the prerogatives of the States and local units of government with respect to how they conduct political campaigns. To that end, Mr. President, I will scrutinize any legislative proposal very carefully to determine not only whether it explicitly encroaches on State and/or local election law, but also whether it sets in motion a process which ultimately could require such intrusion in the future.

Any campaign finance reform legislation must also, in my judgement, maintain a proper balance between the first amendment rights of the actual candidates and the political parties they represent and the rights of those who are not directly in the arena. Mr. President, I have watched with interest in recent years as special interest groups and others who exist to promote particular issue positions and ideologies have become increasingly active in the electoral process. Through so-called advocacy advertising and independent expenditures these groups have become dominant in many Federal elections. And, as they have grown in dominance, they have diminished the roles of the candidates and political parties.

Of course, our first amendment permits this. It is perfectly appropriate for anyone, either individually or in collaboration with others, to advocate their views on issues and campaigns. Moreover, the Supreme Court has ruled that if this is done independently of Federal candidates and the political parties, such individuals or groups may spend vast amounts of resources—well beyond donation limits permitted under Federal law—in furtherance of their causes and candidates.

What this has led to, of course, is an environment in which political campaigns are now increasingly a function of the efforts of special interests groups, rather than of the candidates and political parties. Accordingly, we must be very careful, as we enact any campaign financing reforms, to make certain that we do not totally tilt the balance away from the candidates and parties. Otherwise, Mr. President we will end up with a system in which the candidates themselves are more bystanders than participants and in which the various interest groups on all sides of all the issues are doing all of the talking. In my judgement, this would completely undermine the concept of representative democracy and I will not support legislation that enhances the prospects of such an environment.

In addition to these requirements, any campaign reform legislation we pass must be balanced. It can not be one-sided in favor of any particular political party or cause. Frankly, Mr. President, one of our parties likes the bill before us too much for my taste. I don't blame them, but it clearly focuses more on constraining sources which fund Republicans than Democrats.

To their credit, I think the sponsors of the legislation have endeavored to move in a more balanced direction. That's why the legislation before us has been modified from its original version. But in my judgment it isn't there yet.

Finally Mr. President, to have my support, any new campaign finance legislation must address what I find in my State to be the most disturbing aspect of the way American Federal elections are funded: namely, the increasing extent to which the campaigns of candidates for the House and Senate are financially supported by people who are not even constituents of the candidates themselves.

When I travel around my State and conduct town meetings, and the issue of campaign finance reform is raised, I ask people what disturbs them the most. Almost every time I hear the same answer—that individuals, political action committees, and special interest groups who don't even live in Michigan are bank-rolling the campaigns of Michigan's Members of Congress.

Mr. President, I have not conducted a thorough study of this issue but I do know that a large percentage of the money flowing into almost every campaign comes from individuals who are not the constituents of our elected officials. In fact, in many instances, Members of the House and Senate actually receive a majority of their campaign funds from people they don't even represent.

In my view this, more than anything else, is what has undermined public confidence in our system. Sure, people are upset because of large personal or corporate or labor contributions to the national parties. But I think what galls them even more is the fact that their own representatives in Washington are being financed by people from other States or even other countries. Thus, to have my support, a campaign finance reform bill must seek to address this glaring problem.

Obviously, the first amendment places certain constraints on how this can be accomplished. In fact, some argue that requiring a certain percentage of funds to come from the candidate's State would not meet a constitutional test. I think that's actually a close call and that such a reform would be constitutional. By the same token, though, I believe we can achieve the same general objective, and not raise a constitutional challenge, by simply adjusting the donor limits, based on whether or not the donors are contributing to someone who represents them.

Whether this is accomplished by increasing the personal contribution limit for constituents, decreasing the limits for non-constituents, or a combination of both is a question we can look into. But I think such a change would move us in the right direction. It would mean that more time would be spent raising money from constituents, and it would mean that the people we represent would produce a far greater percentage of the resources involved in our campaigns. These results would greatly increase our constituents' confidence that we are here to serve them.

These, then, are the five tests or standards by which I will measure any election reform effort. For my vote, any piece of legislation must meet all of these tests. Also, I would note Mr. President, that I have separately introduced a campaign reform bill which I believe accomplishes these objectives. At the same time, there are several other issues which I think should be addressed in a campaign finance reform bill. While not indispensable to the legislation from the standpoint of my support, I consider them to be very important matters that must be focused on either at this time or in some future context.

First, I believe we must put an end to any explicit or implicit involvement of foreign money in political campaigns. As the Thompson hearings have gone forward, and the investigations of the financing of the 1996 campaign reported, I have been increasingly disturbed at the prospect that a foreign government would endeavor to influence American foreign policy through campaign donations. We need real teeth in our federal statutes to prevent this from ever happening.

In addition, a campaign finance reform bill should include fuller disclosure than that which is presently required. I believe campaigns which reach a certain level of activity ought to be reporting, on-line, their contributions in a much more timely fashion. I also believe that independent committees should be required to make the same type of total disclosure. The increasing role that advocacy advertising and independent expenditures are playing in our campaigns demand that the funding sources for such activities be disclosed and made available as part of the campaign debate.

Third, I believe there should be more democracy with respect to the activities of political action committees. Whether it's labor PAC's, trade association PAC's, issue advocacy PAC's or corporate PAC's, the leaders of our political action committees too often act in a fashion inconsistent with the wishes of the very people whose money they are spending. I think this is wrong. I think our campaign finance reform bill should create a mechanism by which donors to PAC's are able to easily indicate at least the political parties, if not the specific candidates, they want their fund to benefit. Such a reform in my view would much more effectively justify the existence of political committees in the future.

Finally, with respect to my list of things that should be included in a campaign finance reform bill is the subject of fundraising in government buildings. Evidently, the question of what can and can not be done within Federal buildings and on Federal property is in need of clarification. I suggest that we eliminate any uncertainty that might currently exist and expressly prohibit such practices once again.

Mr. President, this then constitutes the context in which I believe campaign finance reform must be addressed. As we move forward with amendments and develop a bill, I will be monitoring our progress to determine whether the priorities I've established here today are satisfactorily addressed. Legislation which does so will receive my backing. Legislation which fails to accomplish these objectives will not.

In closing, Mr. President, I would also make several additional points. Contrary to the innuendoes contained in much of the media coverage of campaign financing I believe the Members of this body conduct their official business in a fully honorable and respectable fashion. While the way we finance elections sometimes gives rise to the appearance of impropriety, the truth is that the Members of the Senate are motivated by and act on the basis of long established personal philosophies and not campaign donations.

I would say without question that the proponents of the legislation before us are fine examples of people whose integrity is unquestioned. If tomorrow Senator MCCAIN found himself with Senator FEINGOLD's contributors and vice-versa, I do not believe either would cast one vote or take one action differently than is their current pattern, and I feel that way about the other Members of this body as well.

Mr. President, I think it is important that we say these things and that we not allow the innuendos and criticisms to go totally uncontested.

At the same time, though, as we struggle to find consensus legislation, I think all of us have an obligation to take personal action—regardless of what the election financing laws might be at a particular point in time—to reassure our constituents that we are acting in an appropriate fashion.

Frankly, Mr. President, I'm tired of hearing political figures on the one hand condemn the way we finance elections and then on the other hand engage in all of the conduct they purportedly abhor, based on the rationale that they will not unilaterally disarm themselves.

Instead of exclusively focusing our energies on passing legislation in an effort to, in theory, save us from ourselves, I think each of us should undertake those actions we determine to be most appropriate to address the perception problems which exist regarding campaigns. I think we should set these examples regardless of what the campaign finance laws might permit.

If we think it's wrong to receive a disproportionate amount of our campaign contributions from out of our States, then we should stop taking a disproportionate amount of contributions from out of our States. Similarly, if we think independent committees operating on our behalf or in support of our efforts are acting in an inappropriate fashion, we should say so clearly, publicly and definitively.

Instead of simply debating campaign finance reform while conducting business as usual, I think every Member of this Chamber who feels strongly about these issues should take some action, independent of anything that might happen legislatively, to make the system better. I intend to do so, Mr. President, regardless of what the outcome might be of these campaign finance reform efforts. If that means I am disadvantaged in my campaign should I decide to seek re-election, so be it. In fact, Mr. President, during my campaign in 1994 I unilaterally acted to limit the flow of PAC and out-of-state dollars to my candidacy.

Instead of simply waiting around for Congress to act, I will move ahead on my own. I hope other Members will do the same and that we might lead by example.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

CAMPAIGN REFORM

Mr. BURNS. Mr. President, on the issue of campaign reform, the words I speak here might not climb to the intellectual level of constitutional dialog as others who are more versed in the subject. I don't think it has to go that high. I think the simpler we keep it, the easier it will be for the American people to understand what we are trying to do.

I want to premise this by saying that I believe, and strongly believe, in four basic principles:

We should abide by current law.

We should have full and timely disclosure.

All contributions to campaigns must be voluntary contributions.

And, yes, we have to abide by the first amendment of the Constitution of the United States.

Through this debate, a debate, I might add, whose time has come, a lot will be said of the good and not so good points of the pending legislation, which, basically, right now is the new McCain-Feingold legislation. It does address some of the concerns that I have had from the beginning. However, I am still bewildered by one basic question in this whole process that we have been through since Christmas a year ago: Why is it, no matter what law we have, that it has become common practice to ignore the law?

I suggest to my colleagues, after all is said and done—and maybe more will be said than done—but to change our existing campaign finance law, one important question remains to be answered: Why do we reform or rewrite? Why don't we just abide by current law?

It is only logical to me that the best campaign reform is to enforce current law. If one or a series of campaign laws have been broken, it is clear to me that the enforcement of such laws should take center stage in every case. Indicting the breakers of the law, the alleged violators, would do more to reform campaign finance practices than any proposed legislation that we could ever pass through this body.

Think about that a little bit. Indicting the alleged violators of present law