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

to make them stand for their practices would do more than any reform we could do for campaign practices that is before us today. It is very simple.

Volume 18, United States Code, section 607 clearly prohibits soliciting and receiving contributions in a Federal building. I quote:

> It shall be unlawful for any person to solicit or receive any contribution in any room or building occupied in the discharge of official duties.

No one has ever been prosecuted under this statute.

To reiterate what many others have stated as a matter of fact, in the 1996 election cycle, that law was allegedly broken. In fact, Mr. President, it was clearly established during Senator THOMPSON's hearings in the Governmental Affairs Committee that that was the case. The offending parties have not been brought to the altar of justice. Yet, the alleged violators contend that they have sent millions of dollars back to their original donors after the election.

What does that say? What does that tell us? How is it that we, as a nation, became a nation where we do not enforce the law? It seems that a patrolman in Montana today was in town enforcing the law. What is the difference?

It plainly states—and I quote—''any person who violates this section shall be fined under this title or imprisoned not more than three years, or both.''

Now, if it has been broken, it should be enforced. If we would enforce the law, if we would indict the alleged violators, arrest, present them to a judge and a jury, I think that would do more than anything we can do in changing the law before us.

You know, Mr. President, I spent a long time refereeing football. We are in football season. It catches everybody's imagination—the Super Bowl, everything. I am wondering why that game can hold the order that it does.

Let me tell you, I thought about that a long time. In order to capture the imagination of the American people, there has to be some order to it, it has to be competitive, it has to be fair.

So the first thing that happens is there is only one rule book. The rules for high school or college or professional football is the same in Kentucky as it is in California as it is in Colorado—one federation.

And why is it on Saturday afternoon or Sunday afternoon four old men in striped shirts can go down on a field of 22 of the most mobile, hostile, heavily armored people intent on doing each other in and they have very few problems? No. 1, the rules are enforced on both sides of the ball. And, No. 2, that old man in a striped shirt is the arresting officer, he is the judge and the jury, he is the penal officer, and he does it all in 30 seconds.

A young man can haul off and slug his opponent. The referee sees it, throws the flag. That is the arrest. The judge and jury—you are guilty. ''So, 15 yards against your team and, you, young man, are out of the football game.'' He can say, ''I come from a broken family.'' It doesn't say anything in that rule book about that. The rule book says, ''Thou shalt not hit thy opponent with the open hand. If thou doest, your team will be penalized 15 yards and you will get to watch the rest of the football game.'' It does not make any difference who you are, what you are; you are out of there.

So everybody understands the rules, everybody understands the penalties. It is all done in 30 seconds. And they are enforced immediately. And after an hour of play on the field, we have very few problems.

What are we missing in real life when we start talking about that? No doubt that the White House made phone calls from the White House. They claim the law doesn't apply to them. It has never been tested in court. Somebody has to file charges.

Here in the Senate there is one simple rule, one simple rule here in the U.S. Senate: Do not make fundraising calls from your office. It is not acceptable in any form, not by phone, not in person, not in letters, and not by hosting events. And basically common sense would tell you, do not put the taxpayers' property at the disposal of your campaign.

We keep hearing about that we need to change the laws. What I am saying here basically is, just obey the laws we have now. We cannot turn a blind eye to the fact that 938 people stayed overnight in the White House between 1992 and 1996 and they raised over $10 million, and that 103 coffees raised $26 million over 18 months. All of these activities are clearly established by the hearings. The law is very clear. To misunderstand or to refer to loopholes, I think, is just absurd.

To comment on the newly revised McCain-Feingold legislation, I am pleased to see that some of those steps have been made in the right direction on this piece of legislation. The authors certainly have improved it from its original version. Unfortunately, however, it is not in a comprehensive form.

That is why I commend the leader for what he has done because a major tenet to campaign finance reform should be that all Montanans, all Americans, who desire to give money or to participate in any way in a political campaign, do it voluntary. That is all we are asking. I do not want anybody to tell me where I have to give my money. If you do not want to contribute, you should not have to.

No one should be forced to do that, no political party, nobody, whatever, no organization should have the power to collect dues or any other form of payment for political uses without receiving consent.

The McCain-Feingold bill contains the Beck language, but that leaves a lot to be desired. And in some cases it is not as fair as it could be or should be. It allows union members to receive a refund upon request. But that union member must give up his union privileges at that moment. You are not allowed both. You cannot choose whether or not to make political contributions and still be a member of the organization.

So the Paycheck Protection Act is not a poison pill. It is a right. It is a basic right. It is a basic right for every man and woman and child in this country, whether to give funds or your services or your labors for a candidate, for a political party, or a ballot issue. It makes no difference. You should do it voluntarily. It is just a basic American freedom.

So this provision, the Paycheck Protection Act, I think we can all agree on that, that all contributions should be voluntary. That is the reason that is important, for no one person, no one group, no association should be able to spend your hard-earned dollars without your consent.

There are troubling provisions. They still remain in this legislation. Clearly, as it exists today, it runs afoul of the first amendment. That has been already taken to a plain that I am sorry I cannot attain.

Political spending is equated with speech. The courts are clear and consistent on that point. We cannot say, on the one hand, we are protecting speech and, on the other hand, restrict the means by which that speech is carried out.

Under the revised bill, corporations and other organizations would be prohibited year-round from issuing communications to the public that fall under the bill's much broader definition of ''express advocacy,'' which includes ''words that in context can have no reasonable meaning other than to advocate the election or defeat of 1 or more clearly identified candidates'' or ''expressing unmistakable and unambiguous support for or opposition to 1 or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.''

With respect to that restriction, it is my belief it would not withstand constitutional scrutiny. The Supreme Court in Buckley versus Valeo—that is all going to be talked about—in striking down the $1,000 limit on independent expenditures enacted by Congress in 1974 as a violation of the first amendment, noted that such limitation ''would appear to exclude all citizens and groups except candidates, political parties, and institutional press from any significant use of the most effective modes of communication.'' In other words, we don't want to take away the power of the people and place it in the hands of politicians, the Government and the press.

So I suggest to my colleagues there is an answer and it is a better answer. It is simple, it is understandable, easily complied with, even easier to monitor—full and timely disclosure. Full and timely disclosure should be the

core, the core of all finance practices. We always thought we need to enhance public disclosure measures that will allow the voters to know where every single penny comes from and where every single penny is spent, no matter what the organization.

You want to do something about soft money? I will tell you how to do away with soft money, just report it. This would give a full picture of the situation and allow the Sun to shine in the dark corners of the current campaign practices.

Mr. President, let me end by saying we are getting closer to the reform package. Some of the changes, visions, are true steps in the right direction. I support Senator LOTT's amendment. It is a good and necessary addition to this legislation. We should take a look at soft money and where it goes and how it is raised. The only way you do away with soft money is that everybody files, everybody reports, because you have to remember it didn't start just last week. I think there was a little failure to disclose in October of 1996, and before this discussion is all over, I am going to give this Senate an opportunity to vote on a little amendment that may put some teeth in that. They are not going to like the teeth. But I guarantee you they will file. They will file their FEC report, and that is what has to happen.

We all look at ourselves here as being part of this reform package. There are other things and other people that are also involved that will be affected by this. So before it is all over, we will see how far they really want to go in campaign finance reform, on what is right and wrong.

I yield the floor.

Mr. McCONNELL. Let me say briefly to my friend from Montana, thank you very much for a very important contribution to this debate. I listened with great interest to the contributions of my colleague from Montana. He made also some very constructive suggestions.

PRIVILEGE OF THE FLOOR

Mr. McCONNELL. Mr. President, I ask unanimous consent that Shannon Bishop be permitted privileges of the floor when we are debating this issue.

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

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, in our debate today we have talked about a number of things. Again, you might think from the discussion that there was only one provision of our bill, the McCain-Feingold bill, and that provision had to do with the issue of express advocacy.

Of course, that is a very important aspect of the bill. Not only are we confident of the constitutionality of those provisions, but we know it is one of the very important issues that has to be resolved if we are going to deal with the problem of big money in politics.

If you listen to the opponents of this bill you can swear that is all McCain-Feingold is. But there are 25 other provisions that our opponents choose to ignore, because not only are they essentially noncontroversial provisions, they are the very provisions that, for example, the Senator from Montana was just talking about.

A number of Senators today said on the floor, why don't we do full disclosure? What I want to say to my colleagues, Mr. President, if you kill the McCain-Feingold bill, you will be eliminating a number of very key new provisions that will provide exactly the full disclosure that Members of the other side have been calling for. In other words, our bill does disclosure and more. So, why all this talk about why don't we do full disclosure of campaign contributions?

The bill greatly enhances disclosure. Instead of simply saying that contributions over $200 per person be reported, the McCain-Feingold bill as modified requires all contributions over $50 to be reported. The McCain-Feingold bill provides the most immediate disclosure possible by requiring that candidates file electronically with the FEC. It is no longer sufficient to just file a big stack of papers every 6 months and make people go through them. This will require computer reporting and immediate public access to this information on a daily or weekly basis so the connection between contributions and votes can be plainly seen. That is real disclosure. I can't imagine a fuller disclosure than that, unless we went to absolute zero which I would be happy to do in terms of contributions.

The bill also requires—you don't hear about this from the other side; they want to pretend somehow the bill is just about issue ads—the bill requires groups and parties running independent expenditures against candidates to disclose these expenditures to the FEC.

So, more information, more disclosure, more transparency, with regard to independent expenditures. The bill requires that the Federal Elections Commission make campaign finance records available on the Internet within 24 hours of filing. The bill requires the campaign to collect and disclose all required contributor information. Right now, under the current law you can do something apparently that is called making your best effort to figure out who is the person that made the contribution and what their profession is. Our bill, the McCain-Feingold bill, requires all such information be obtained upfront.

The bill also bars campaigns from depositing campaign contributions over $200 into their campaign accounts until that information has been disclosed. This is the disclosure that Senator after Senator who is against our bill has called for. What they have never mentioned is that it is in the bill. If you kill McCain-Feingold, you are killing all of these disclosure provisions.

And there is another one that my constituents in Wisconsin have called for, and that is to simply require political advertisements to carry a disclaimer identifying who is responsible for the content of a campaign ad. Time and again, I have heard my constituents say they are sick and tired of all the negative campaigning, and they find it particularly irritating that the people who run the ads aren't even required to say who they are, who is doing the ad. This is disclosure. This is what it is all about when it comes to letting the American people have the information they need and deserve to evaluate what is happening with money in politics.

Yet if you listen to the debate by our colleagues on the other side of this issue, you could swear there is no disclosure. I have not heard a single idea regarding disclosure that goes beyond this. This is full disclosure, Mr. President. Kill McCain-Feingold, you kill these disclosure provisions.

The same thing goes for stronger provisions with regard to enforcing our laws. All afternoon, Senators came to the floor and said ''We don't need new laws. We need to enforce our current laws.'' I happen to agree that we should more carefully and clearly enforce our current laws. I don't think that does it by itself, but what it does do is indicate a seriousness about any violations that have occurred. I agree. But it has become clear in the middle of the scandals and the allegations that some of the provisions in our statutes need some shoring up so that enforcement can improve.

What do we do about enforcement? What does McCain-Feingold do about enforcement of the law that would be eliminated if the filibuster succeeds? If McCain-Feingold is defeated, not only would our efforts to deal with phony issue ads and that are really express advocacy ads be defeated but all of these strengthening provisions would also go down. One provision prohibits foreign nationals from making any sort of contribution or donation to candidates or parties. After all the talk on both sides of the aisle about foreign contributions distorting our political process—a concern which I share—do we want to kill campaign finance reform, and with it eliminate a provision that would prohibit foreign nationals from making any sort of contribution or donation to candidates or parties? We need to strengthen that law. The filibuster would kill it.

Mr. President, this bill some would like to kill strengthens current law, making it absolutely clear that it is unlawful to raise or solicit campaign contributions from Federal property, including the White House and the U.S. Congress. Mr. President, there has been a great deal of talk by Senators today about the need to deal with that problem. This bill makes sure there are no excuses for those who would pretend whether they are in the White House or in an office of a Congressman or Senator, that somehow there is a way to get around it and actually raise money

from your office. Our bill takes care of that. Killing it destroys it.

The bill increases the penalty for knowingly and willfully violating Federal election law. The bill permits the Federal Election Commission, for the first time, to conduct random audits at the end of a campaign to ensure compliance with Federal election law. The bill bars Federal candidates from converting campaign funds for personal use such as for a mortgage payment or country club membership. Yes, it bars minors, those under 18, from contributing so that we don't have 3-year-olds giving $1,000 contributions anymore which is perfectly legal under current law. Those who would defeat and filibuster McCain-Feingold would wipe out all of these new enforcement provisions and leave nothing.

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

Mr. FEINGOLD. I ask unanimous consent for 5 more minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FEINGOLD. Senators on both sides have been very generous with the time today. I will try to keep it brief. Beyond the disclosure and enforcement, we also do something about the fact that we all know that incumbents have an advantage under the current system. Our system says that if people agreed to limit their personal spending to $50,000, they would be able to continue to receive help from their parties in the form of coordinated expenditures; otherwise, not. That could be a deterrent to an advantage for an incumbent or perhaps a very wealthy individual who is trying to obtain a Senate seat through spending a great deal of money.

Our bill simply bans Members of Congress from sending out taxpayer-financed mass mailings under the franking privilege during the calendar year of their election. This is a major advantage that incumbents have over challengers. Again, if you wipe out the bill, you wipe out McCain-Feingold, you haven't just addressed the one or two matters the other side identified as a problem, you have wiped out these reforms as well.

Finally, Mr. President, with regard to the issues of soft money and what I like to call ''phony issue ads,'' I have noticed that throughout this debate Senators on the other side have focused their attention primarily on trying to claim that our provisions with regard to express advocacy are somehow going to be struck down by the Supreme Court. Of course, in that regard, what I say is, in the worst-case scenario if our provisions are unconstitutional, the Supreme Court will strike it down and it won't go into play. But what I have noticed is that at the same time that this constitutional argument has been advanced we hear virtually nothing anymore about the fact that our bill bans soft money.

Where has the argument gone that banning soft money is unconstitutional? It appears to be gone. There is no challenge to our claim and our ability to demonstrate that 126 constitutional scholars believe this is not only constitutional but essential.

With that, Mr. President, I remind my colleagues that there is a great deal to this bill that would be destroyed if we do not avoid this filibuster. In that regard, I want to say that I listened with great interest earlier to my colleague as he discussed the decision this morning of the Supreme Court to deny certiorari with regard to the FEC. The fact is, Mr. President, the claim of the Senator from Kentucky that the Supreme Court struck down some kind of decision is just not true. The Supreme Court simply chose not to take up that case, just as it chose in the past not to take up the ninth circuit case that makes almost the opposite decision.

There is a conflict between the courts. The Supreme Court, at some point, may have to resolve this. Maybe they will have to resolve it when acting on the McCain-Feingold bill. But what is clear is it was neither striking down of a provision, nor was it a huge moment. It was nothing but the Supreme Court saying we are not going to take this up right now. I recognize the pressure that is behind the effort to kill this bill. I recognize the temptation to try to make something of a decision that is simply not there. But to suggest that this is a major decision or a precedent that has something to do with what the law of the land is is simply not true. The Court didn't even offer an opinion. They just said: we are not going to take up this first circuit case.

Mr. President, I listened with great interest earlier today to my colleague as he discussed the decision this morning, of the Supreme Court to deny cert—without opinion—in the case of Maine Right to Life versus the FEC.

I think it is essential to put this silent decision into its proper perspective, lest it be given weight it simply does not deserve.

Mr. President, there are any number of reasons, ranging from the facts of the case to the simple fact that they can only hear so many cases in a given year, which might lead to the Supreme Court denying certiorari in any case.

The Supreme Court's unwillingness to consider the appeal of this case is no more dispositive on the issue of express advocacy than was a similar decision to deny cert some 10 years ago in FEC versus Furgatch.

In Furgatch, the Court of Appeals for the Ninth Circuit held that context is relevant to determining what constitutes express advocacy. In Furgatch, the court found that there was no doubt that the ad in question asked people to vote against President Jimmy Carter.

The court also gave weight to the timing of the ad, noting that it occurred within 1 week of the election. Further, they were not issues based, but attacked the candidate directly—for personal qualities.

On October 5, 1987, the U.S. Supreme Court denied a petition for cert filed by Mr. Furgatch.

Mr. President, today we have heard that a similar decision of the Supreme Court—without comment, leaving in place a first circuit decision that held the FEC's regulations regarding voting records and voting guides were invalid, should be construed as to signal the end of the debate on campaign finance reform.

Now we can debate the merits of the Maine case and the Furgatch case and we may or may not reach a mutual opinion of what those cases mean. However, what is not in dispute—in regard to either case—is that the silent decision of the Court is not necessarily a substantive affirmation of the lower courts.

Such a conclusion is simply not appropriate. There may be any number of reasons—the exact reason we will likely never know—why the Supreme Court passed upon the Furgatch case and on the Maine case this morning.

If we start inferring substantive approval to every lower court case the Supreme Court refuses to hear, we will be left with a patchwork of rulings and laws which defy any thread of continuity or precedential value.

Mr. President, before we impute too much importance to the denial of cert this morning in order to avoid comprehensive reform, I think we in this body should take a long hard look at our role in this process.

We have an opportunity to address the very issues of Furgatch and Maine Right to Life and rather than hide behind the silence of the Supreme Court we should accept our responsibility and do just that. My colleague, from Kentucky argues that McCain-Feingold is unconstitutional despite the fact that legal scholars find otherwise.

The rejection of cert today means that the decision of the first circuit remains in effect in that circuit, just as Furgatch remains controlling in the ninth.

The two are in conflict and yet, the Supreme Court has elected to pass on both. If the decision today, as my colleague from Kentucky argues, means they support the first circuit, what does that mean in the ninth circuit—that it is no longer good law?

Of course that is not what it means. What it means is that we have a conflict which will remain unresolved unless either the Supreme Court moves to resolve the conflict, or we, the legislative body make the law clear.

We have no control over the Supreme Court—although I would note that many in the Congress have been attempting to exert some control over the courts in the past months—but we do have, in this body, an opportunity to resolve this impasse ourselves.

This issue before this body remains the same as it has from the outset—will we reform the campaign finance

system of this Nation. Nothing the Supreme Court said—or didn't say—this morning changes that fundamental fact.

We should debate the constitutionality of this legislation and I welcome that debate. We should not, however, hide behind the silence of the Supreme Court as an affirmation of either position in this debate.

Mr. President, I thank my colleagues. It has been an interesting debate. I appreciate the courtesy of the Senator from New Mexico.

I yield the floor.

Mr. DOMENICI. Mr. President, I apologize to the Chair that this is the last speech of the evening. If I don't speak tonight, I probably won't be heard on this issue. I have been trying this afternoon, but it has been a fair assignment of speaking rights down here and I have waited my turn.

Mr. President, before I deliver my prepared remarks, I want to comment on a few things I heard on the floor. I tried at one point to ask a question of the distinguished Senator from Arkansas, Senator BUMPERS, who made a lot about lack of participation in the American democracy and especially with reference to campaign contributions. If I read him right, he said because the big money is so influential and powerful, if you will, other people don't think they ought to be giving, as if other people weren't giving.

The truth of the matter is that in every campaign, including the last time, more individuals gave small contributions and medium-size contributions than in the history of the Republic. At the pace they are on now, it looks like they are going to do that again. Now, how much is enough? I don't know. But to say that because there are big contributions, people aren't participating, you can go over and ask the Republican Party where most of its contributions come from for the regular activities of the parties, they will tell you from small contributions, and they are there by the hundreds of thousands.

Second, a big thing was made by Senator BUMPERS to the people listening that the democracy was not participatory in America because only 50 percent of the people voted, and perhaps in the State of Colorado it was 53, or in New Mexico it was 52. You know, people are really using that fact for a lot of inferences, and I am not sure many of the inferences are right. But I surely don't believe that whatever that participatory failure is—and in a moment I will say 50 percent isn't a failure—it is surely not because of contributions that we are trying to control here on the floor. There are so many reasons that Americans don't participate in politics, not the least of which is that Americans are just darn independent. They sometimes don't want to be bothered about anything. As a matter of fact, they are very busy. As a consequence, many of them just don't take time out. But I submit that for a democracy as vintage as ours to have 50 percent of the voters participating heavily and 50 percent or more, even though slightly voting, that is a pretty good track record. I submit that if the 50 percent turned into 75, we would probably get the same results. I don't want to cast any aspersions on the validity of individual votes, but our participation is sufficient to deliver the will of the people. I believe that is what we are all looking for—that the people's will would be exercised at the ballot box and get the kind of Government they want.

I rise today to offer to those colleagues who want to listen, and a few of the American people who might be listening, some thoughts that I have on this issue before the Senate now. Should Congress alter the laws governing the way we conduct political campaigns in this country in the manner recommended in the legislation before us, the so-called McCain-Feingold reform? It seems to me that we ought to have a sense of perspective about this.

I want to make one general statement before I talk a little bit about history.

The risk and danger of changing the laws right now in the manner recommended in this bill is that if that change causes one major group of Americans to lose their freedom of speech because they cannot use their money and causes another group of Americans to have an increased influence on campaigns because they can use their money, then I believe we ought to be very careful about that imbalance.

What I think might happen if these amendments are adopted to the code that we now have is that there will be a lot more opportunity for the labor unions in America, who might have nothing against it but are protected under the Constitution for their rights and freedoms of speech, but I am fearful that the balance which is there, since the unions are almost a Democratic arm today, and I don't see any reason why they will change for a while, it would seem to me we don't want to get things out of balance and then look back and say, ''Oh. We also let the electorate get influenced in an unbalanced way.''

So when I look at this democracy of ourselves, I see a very stable democracy. I see something very, very special. In other parts of the world when countries change their leaders, they often change the entire nature of their government. In the last several years governments have changed in Burma, Rwanda, Somalia and too many countries to mention. Many of these changes involved bloodshed and all kinds of revolution and riot. Obviously, for those who happen to be on the losing side, when some governments changed hands, that meant torture, imprisonment and all kinds of violations of civility and civil rights.

In the United States we ought to be very thankful that we have the first amendment to the Constitution. It is the bedrock of this democracy. To me the Constitution and the first amendment are what set the United States apart as a mature democracy from the rest of the world. The first amendment allows us to have free and open political campaigns, and the Constitution provides for a smooth transition of that power between the competing political parties once the election has been completed.

In the name of reform, the bill before us fundamentally alters our unique democratic electoral process just because many are dissatisfied with the way our campaigns are financed and operated. Some are disgusted by the ads. Others lament the fact that candidates no longer control their campaigns. Many believe we need to abolish soft money. Others contend if we pass this bill the public cynicism of elected leaders will somehow evaporate.

The fact is, fellow Senators, that the debate over campaign spending is as old as this democracy itself. George Washington was roundly criticized in the early days of our country for spending three or four times the cost of a house on his first election to the House of Burgesses. Abraham Lincoln's supporters accused the Democratic opponent of bowing to ''plantation and bank paper aristocracy'' which could raise five times what Lincoln raised for his campaign. That is kind of reminiscent of the discussions of today.

Let there be no doubt, the constitutionality of this legislation is dubious. I heard some of the arguments today. I just do not believe they are right.

In my mind, you can be for McCain-Feingold, or you can be for the first amendment. I choose the first amendment.

The modified McCain-Feingold bill creates a so-called ''bright line.'' That is a test 60 days out from election.

Mr. President, am I operating under a time restraint?

The PRESIDING OFFICER. We are in morning business. The time has expired.

Mr. DOMENICI. I ask unanimous consent that I be able to speak for 7 more minutes.

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

Mr. DOMENICI. Let me go back.

This bill before us, McCain-Feingold—and I notice Senator FEINGOLD's presence here, and I commend him for the way he has conducted himself. He feels as strongly about this as I do about my views.

But this bill creates a so-called bright-line test 60 days out from election. In effect, the bright line attempts to get through the back door what the Supreme Court in Buckley versus Valeo said you couldn't get through in the front door. In Buckley, the Supreme Court said, ''The concept that government may restrict speech of some elements of our society in order to enhance the relative voices of others

is wholly foreign to the first amendment.''

With respect to independent expenditures, the Buckley decision means that individuals and groups may spend unlimited amounts on direct communication with voters to support or oppose Federal candidates as long as there is no coordination or consultation with any candidate.

At its heart the McCain-Feingold bill does two things:

First, it eliminates soft money.

Second, it reduces independent expenditures, express advocacy, and creates the 60-day bright-line rule. Under the bright-line rule, any independent expenditure that falls within 60 days of an election could not use a candidate's name or likeness.

Mr. President, this is where the authors of the reform bill seek to get through the back door what the Supreme Court has already ruled we may not get through the front door.

By redefining independent expenditures and express advocacy, the McCain-Feingold bill limits political speech which the Supreme Court in Buckley said was unconstitutional. I believe they will do that again when you try to tell those protected organizations already indicated as being protected that you are protected, but for the last 60 days you are not. If they are protected by free speech to involve themselves in politics, is it more important to our constitutional democracy that they be permitted to do that 2 years before an election or 58 days before an election? I would assume they would all opt who want to use their constitutional rights to say, ''I don't care about doing it 2 years before; what I care about is doing it when the people are paying attention.'' I don't believe sitting members of this Supreme Court are going to find that you can do that unless they decide to throw out Buckley versus Valeo in its basic concept and principal thrust.

So I want to move on to one other subject. Currently groups like the AFL–CIO, the Christian Coalition, the Sierra Club, the National Rifle Association may run unlimited political advertisements using soft money, in some cases in support of the opposition to a particular issue. We have all heard on the floor how many of these ads contain the likeness of a candidate. The Supreme Court in Buckley said that any attempt to limit the expenditures of these groups for these purposes was unconstitutional. McCain-Feingold would attempt to do precisely what the Supreme Court has said is unconstitutional.

I ask fellow Senators, isn't it interesting? In this bill there is also a provision that says, even if the Court strikes down one part, the rest may be valid. I ask you, what will you have in America if they strike down the 60-day prohibition and leave the soft money and the soft money prohibition is constitutional? You will essentially have decided to turn the campaign over to issue-oriented advertising with no soft money available for party building for those who would seek to refute it. I believe it is an untenable provision.

I have examined these provisions very carefully, and, even on the slightest chance that the Supreme Court would find these provisions constitutional, I ask my fellow Senators if this is good policy. The reason I ask this question is that in my view when you muzzle political speech of individual groups whose voices will carry the day—and I ask that question in our zeal on both sides of the aisle to address the role of certain entities in our election—you need to ask yourself what the consequence will be of restricting the free speech of unions, groups, corporations, and wealthy individuals to engage in campaigns, related speech, and activities. In my mind, by restricting freedom of speech for these groups, we will make the media an even more powerful player in the political process.

During the 60 days prior to the election, when the so-called bright-line rule is in effect, the only one who will be able to speak directly about candidates will be through the news media. We all know around Washington that you should not pick a fight with someone who buys paper by the ton and ink by the barrel, because it enjoys the full protection of the first amendment and it enjoys the total discretion of those who write the news and edit the news. We call the media the fourth estate, or the unofficial fourth branch of government. The media are the big opinion makers. They write the editorials, they present the news, and they decide which issues deserve the attention of the American people on a daily basis.

We also know that members of the media are only human, and by that I mean they are not always factual and they even pride themselves as being opinionated. Their opinion tends to lean in favor of Democrats and in particular of the liberal agenda in America. That is their privilege. That is their right. Recent surveys have shown that close to 90 percent of the media votes for liberal Democratic candidates, and to me it is clear that the media coverage of politics mimics the voting record of the media, at least in many areas. What of their independence? What about their role in the election of public officials?

Thomas Jefferson once wrote:

> There are rights which it is useless to surrender to the Government, but which rights governments always have sought to invade. Among those are the rights of speaking and publishing our thoughts.

This bill is a giant step toward Congress invading the rights of many to engage in political discourse.

In a recent column, George Will noted that this debate is one of the most important in American history. He also noted that the media have failed to address the first amendment problems created by McCain-Feingold. In Will's words:

> One reason the media are complacent about such restrictions on others' political speech is that these restrictions enhance the power of the media as the filters of political speech and unregulated participants in a shrunken national debate.

I submit to the Senate that this is precisely the result we need to avoid. When in doubt, I believe we should err on the side of more, not less, political speech. That is the essence of democracy.

In my mind, there is at least one other issue which needs to be addressed before we decide whether to adopt the so-called reforms. We need to get to the bottom of the scandals and violations of the law which occurred in the 1996 election. How can we talk about reform when during the 1996 election individuals and party committees blatantly and repeatedly violated the letter and the spirit of clear laws we currently have on the books? How will so-called reform prevent this from happening again in the future? We should not allow the call for reform to shield those who have violated the law from being held responsible for their acts. To do that makes a mockery of the Senate and of our laws.

I participated in the Senate Governmental Affairs Committee hearings the past several months. When the hearings began, I spoke of three statutes that I believed were pretty clear. Section 441 of the Federal Election Campaign Act makes it unlawful for foreign nationals to make contributions to elections. After 2 months of the hearings, I heard evidence of multiple violations of statutes by the Democratic National Committee and its agents. I do not think I need to recite for the American people all the examples of foreign money solicited by John Huang, Pauline Kanchanalak, and Maria Hsia and others associated with the DNC and the White House. The point is clear: The law prohibits foreign money. But there is a clear pattern of ignoring the laws during the last election.

Section 441(f) of the Federal Election Campaign Act prohibits making a contribution to a Federal election in the name of another person. Plain and simple, this law prohibits money laundering. We have seen the past election replete with those, and yet we have seen nobody punished, nobody penalized.

The final area of law implicated by the committee's investigation is section 607 of the Federal Criminal Code. It makes it a crime to solicit or receive campaign contributions on Government property. There has been much debate in the media and among members of the committee about whether the law covers the President and Vice President, whether it extends to soft money, and what Congress' original intent was when we passed this law more than a century ago.

To me, the law means what it says. Politicians, including those in the White House, cannot use Federal facilities paid for by the taxpayer to raise

money for their campaigns for national political office. That is how I always understood the law. That is the way I have conducted fundraising activities, in strict accordance with that interpretation, yet the committee's record is full of evidence that fundraising calls were made from the White House.

There are other issues of illegal activity which the committee has yet to fully explore. Recently, the U.S. attorney for the Southern District of New York obtained guilty pleas from three individuals involved in the last Teamsters election. These individuals apparently will testify that the Democratic National Committee and the AFL-CIO were used in efforts to launder money from the union's treasury into the reelection of Ron Carey, the Teamsters' president. I am not here alleging that he knew of it or that he was a party to it. I am merely reciting what I know from the reports from the guilty pleas and other things occurring in that court.

The Democratic National Committee apparently entered into an agreement with the Teamsters to launder money in exchange for contributions to the party from members of the union.

We have heard a lot about the union's role in the last election, and I share the concern expressed by my colleagues. But it seems to me that we need to get to the bottom of the criminal allegations, not just change the law to deal with their political activity.

I would like to make one point about unions and their activities in the last election. We all know that unions spent at least $35 million on issue adds in 44 congressional districts during the 1996 campaign. Compared to the unions, Republican groups spent a pittance. Citizens for Reform, a group which was created to counter the unions, spent $2 million in 15 districts. The coalition, Americans Working for Real Change, spent $5 million. The unions spent $700,000 in 1 week for advertisements. This is their privilege. This is their right. I do not seek to limit them. I only seek to make sure that a balance is maintained between the exercise of that right and the exercise of rights by others. So the unions have decided, because the current law gives them an advantage, that they are able to take a portion of their money dues without consent and use these dues for political activities.

Some want to call the Lott amendment a poison pill. I believe the vote, if we do have one on that issue, is a vote for fairness and balance. I believe that all contributions and paid political speech ought to be voluntary.

According to some, the law related to fundraising on Federal property was designed to prevent Government officials from coercing political contributions from Federal employees. Should the same rule against political contributions being done without consent apply to everyone, businesses, unions, PAC's and all?

On both sides of this issue I have listened as attentively as I can. I think this has been a very civilized debate, worthy of the institution of the Senate. But I have yet to hear anything that convinces me that passing this bill, which will erode free speech rights of candidates, parties and groups, is necessary to enhance our electoral process.

Clearly, the bill takes us in the wrong direction, away from the first amendment and from our free, fair and open electoral system that is the envy of the world.

I would like to make one last point. Everyone here recognizes the many problems we are addressing today stem from the fact that the Supreme Court struck down various provisions in the post-Watergate reforms that were passed in 1974 and upheld others. I wish to caution Senators that the McCain-Feingold bill, although earnest in its attempt to correct the errors of the past, fails to take heed of the history of reforms of the past and is destined to lead us in the wrong direction and on a course to make many of the same mistakes.

This bill contains a severability clause that essentially means if certain provisions of this bill are held unconstitutional, the remainder of the act shall not be affected by the rest of the holding. Although I do not agree with the approach in this bill, I do believe that those who will vote for this bill believe that it will somehow level the playing field. If that is their interest, I ask them to very carefully examine the consequences of the title VI severability clause. If the Supreme Court holds that the bright-line rule created by this bill is unconstitutional, which I believe they will, we will not only have succeeded in increasing the inequities between the haves and the have-nots, but we will have also created a Pandora's box, full of new problems.

I thank the Senate for its attention.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business, Friday, October 3, 1997, the Federal debt stood at $5,411,881,420,892.37. (Five trillion, four hundred eleven billion, eight hundred eighty-one million, four hundred twenty thousand, eight hundred and ninety-two dollars and thirty-seven cents)

One year ago, October 3, 1996, the Federal debt stood at $5,222,192,000,000. (Five trillion, two hundred twenty-two billion, one hundred and ninety-two million)

Twenty-five years ago, October 3, 1972, the Federal debt stood at $434,091,000,000 (Four hundred thirty four billion, ninety-one million) which reflects a debt increase of nearly $5 trillion ($4,987,790,420,892.37) (Four trillion, nine hundred eighty seven billion, seven hundred ninety million, four hundred thousand, eight hundred ninety-two dollars and thirty seven cents) during the past 25 years.

A POETIC TRIBUTE TO TOBACCO GROWERS BY PEM PFISTERER CLARK

Mr. HELMS. Mr. President, criticism of and attacks on the tobacco industry—and, by implication, tobacco growers—has become a sort of one-upmanship cottage industry among politicians who, in earlier days, scrambled to pay their respects to those engaged in growing tobacco and manufacturing it. The name of the game is ''piling on'' and the political types are doing it with gusto.

Last month, Mr. President, Dot Helms and I attended a meeting of the Burley and Dark Leaf Tobacco Association at Williamsburg. The distinguished speaker at the dinner was Fred Barnes, one of today's most respected journalists.

Presiding at the dinner was an impressive young lady, Pem Pfisterer Clark, general manager of the Stemming District Tobacco Association in Henderson, KY.

During the program, Ms. Clark recited a touching poem she had written about tobacco farmers. To those of us whose States produce tobacco, so heatedly maligned by its turncoat one-time friends, Pem Clark's tribute to these farmers was something that needed saying—and she said it well.

Mr. President, I ask unanimous consent that Pem Clark's poem be printed in the RECORD at the conclusion of my remarks.

TRIBUTE TO GROWERS

Ladies . . . gentleman . . .
My mission now tonight
Is to share from my perspective
My thoughts on this ''Tobacco Fight''.

I represent a group of folk
Who dedicate their lives
To producing the very plant
On which this industry survives.

Here's a billion dollar business
That we hold to our hearts,
That's sprouting from God's smallest seed.
Now, that's a very humble start!

It's not by chance or accident
That from the well-worked earth,
A rich and leafy plant springs forth
That boasts of quality and worth.

A farmer can't put on his crop
By tossing out some seeds.
Even a ''city slicker'' knows
That all that guy will grow are weeds.

The work is toil, the labor long.
He plants and hoes and sprays.
And weary, he goes in at night
And sighs, and bows his head and prays.

At this point he's done all he can;
Now it's not up to him.
A lot of what will happen now
Depends on Mother Nature's whim.

The drought will come, pests and disease.
It's like a game of craps.
The sun, the wind, the rain, the hail . . .
But farmers, see, are used to that.

Relief! The crop is made. It's good.
The first fight fought he wins.
His crop stands healthy in the field,
But now the real hard work begins.

The harvest is back-breaking work.
Good help is hard to find.
The farmer says his prayers again . . .
''No mold, house burn. Good cure, this time''.