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Senate

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Blessed God, whose love never lets us go, whose mercy never ends, whose strength is always available, whose guidance shows us the way, whose spirit provides us supernatural power, whose presence is our courage, whose joy invades our gloom, whose peace calms our pressured hearts, whose light illuminates our paths, whose goodness provides the wondrous gifts of loved ones and family and friends, whose will has brought us to the awesome tasks of today, and whose calling lifts us above self-centeredness to others-centered servanthood. We dedicate all that we have and are to serve You today with unreserved faithfulness and unfailing loyalty.

You are with us today watching over all that happens to us. You go before us to guide each step of the way. You are beside us as our companion and friend, and You are behind us to gently prod us when we lag behind with caution or reluctance. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the routine requests through the morning hour be granted, and that the Senate immediately proceed to 1 hour of debate.

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

SCHEDULE

Mr. LOTT. Mr. President, following 1 hour of debate, a vote will occur on the motion to invoke cloture with respect to the campaign finance reform bill. If cloture is not invoked, a cloture vote will then occur on the Lott amendment dealing with paycheck protection to S. 25. Therefore, Members can anticipate two back-to-back rollcall votes at approximately 1 p.m. I will notify Members as to the rest of the day. We are working now with the Democratic leader to see if we can get some understanding as to how we will proceed throughout the remainder of the day and, of course, how we will conclude the week's schedule.

It is hoped that the Senate will be able to vote on the VA–HUD appropriations conference report. I believe that is pretty well agreed to. We are also hoping we will be able to get the papers and have a vote on the Transportation appropriations conference report, if a recorded vote is required. And we hope to have some discussion today on the ISTEA authorization bill. We have requests from Senators for a block of time around 4 o'clock. But we are trying now to get an understanding of how we will proceed through the remainder of the day. Once that is worked out, we will notify all the Members. Of course, we could have some action on the Executive Calendar, in addition, before we go out tonight.

I yield the floor, Mr. President.

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

BIPARTISAN CAMPAIGN REFORM ACT OF 1997—CLOTURE MOTION

Mr. ROBERTS. Mr. President, I am making today one of those ''I did not intend to make a speech, but here I am making a speech'' speeches. I think most would agree that opponents of so-called campaign reform—a term, by the way, which should top the oxymoron list of the 1990's—the opponents of this ill-advised attack on free speech have just about worn everybody out, even in Washington where people actually talk about such topics over dinner.

Some months ago, thanks to the distinguished Senator from Kentucky, I spoke on this issue and made what I thought was a pretty fair defense of free political discourse when the distinguished Senator from South Carolina proposed withdrawing first amendment protection from that same political discourse. Senator HOLLINGS, by the way, was up front. He was candid in his approach, as opposed to the current proposals of so-called reform.

Having been through at least three campaign reform efforts in the House of Representatives as a member of the then Administration Committee and goodness knows how many campaign task forces, and having paid attention to the current debate, I have been hard pressed to figure out what can be said that has not been said. However, it appears as if there is a sure bet in regard to this topic. It is that those who insist that they propose reform, regardless of the consequences, and wave their reform banners from self-consecrated, high moral ground, they never seem to suffer from arm fatigue. When it comes to campaign reform, the high road of humility is not bothered by heavy traffic in this town.

Despite the fact there is no clear consensus or a majority in the Senate regarding alleged campaign reform, there is no mercy from the proponents of the effort to further federalize the American electoral system, and we will apparently debate and vote, debate and vote and say the same things over and over and over and over again. I would surmise this is going to get a little tiresome, if not painful. But apparently the failure of past reforms does not deter or change the minds of current reformers.

Well, when you know all the answers, you haven't asked all the questions.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

But in this debate, there is a new axiom: The fewer the facts, the stronger the opinions, and apparently the less a thing can be proven, the angrier we get when we argue about it.

Nevertheless, I think we have an obligation to at least try to set the record straight in regard to this issue and, in that regard, I would like to make the following observations:

First, the distinguished Democratic leader of the Senate, Senator DASCHLE, a good friend, stated on the floor that there should be no confusion—no confusion—that the question is, do you support meaningful reform in response to the hearings regarding all of the illegal campaign activities apparently conducted in the last Presidential campaign.

The only problem with the Senator's statement is that the campaign finance reform bill is not reform. Let me repeat that, it is a reform bill that is not reform. It will not work. It again leads us down the road to a maze of election laws, rules, and regulations that favor incumbents, restricts desired political participation on the part of the American people, and would tripwire honest candidates and citizens into criminal acts. To make matters worse, the bill is fundamentally flawed and is what I hope—I hope—is an unintended attack on the most basic right of individuals guaranteed by our Constitution, and that is the right of free speech, the right written first, the right without which no other right can long exist.

Well, I know that people who think they know it all often annoy those of us who really do, but for the life of me, how this concoction can be labeled or disguised as ''reform'' is beyond me.

Senator MCCONNELL said it best when he stated:

> My goal is to redefine reform, to move the debate away from arbitrary limits and toward expanded citizen participation and political discourse.

He said McCain-Feingold is a failed approach. It is. We already have it in the Presidential system. It is a failure.

So, for all the good press and good intentions, McCain-Feingold is a bad bill. Why? The basic premise of the bill is flawed, Mr. President. That premise is that too much money is corrupting politics. No, it is not.

Oh, now, now, I realize that our opponents and all of the so-called special interest groups—those groups who do not agree with us—they have too much money, I know that. And I realize when they spend it on negative ads opposing me or positions that I favor, that spending should be banned or limited—boy, I'm for that—or at least capped.

Too much spending? Compared to what? The Citizens Research Foundation has reported that campaign spending for all offices in 1996 added up to about $4 billion. All offices of the United States, $4 billion. That is a lot of money. But that compares to one-twentieth of 1 percent of the gross domestic product in our country of $7.6 trillion. One-twentieth of 1 percent is too much to set priorities on how those trillions will affect our daily lives and pocketbooks in the next generations of Americans? Compared to what?

Americans spend $20 billion on dry cleaning and laundry. One 30-second Super Bowl ad could finance three campaigns for Congress. Columnist George Will points out that millions of Americans gave $2.6 billion to 476 congressional campaigns and still had enough left over to spend $4.6 billion on potato chips. We can apply the same thing to yogurt or almost anything the American people will spend their hard-earned dollars on.

While having the privilege of presiding in this body, I remember well the chart displayed by proponents of this bill. It showed the so-called dramatic increase in campaign spending since 1976. It did not show the causes—the increase in postage, radio, TV, newspaper ads, printing, phone banks, campaign workers, all of that. It did not show virtually everything else that Americans must purchase in this country has also increased—homes, education, automobiles, health care—not to mention the purchasing power of the individual citizen.

Senator MCCONNELL has pointed out that in 1996, we had a pretty high-stakes election, a very important election. There was a fierce ideological battle over the future of this country. On a per eligible voter basis, the congressional elections cost $3.89. Every voter in America, dividing it up equally, is $3.89, about 4 bucks. The Senator pointed out that that is roughly the cost of a McDonald's extra value meal.

The second major flaw I think in McCain-Feingold is that no matter how you try to regulate or cap the flow of money to campaigns, it reappears, most of the time in the murky and illegal shadows with little or no public disclosure. Witness the circumvention of current campaign laws in regard to the money laundering scheme among certain interest groups, the Democratic National Committee and the Teamsters Union.

To make matters worse, McCain-Feingold compounds the felony. Instead of focusing on blatant violations of current law, the reformers want to place limits on money spent to support or defeat candidates for election.

And therein, Mr. President, lies the ''Aha!'' of this current debate, what is really going on. As Paul Harvey says, the rest of the story. It is pretty simple, really. Just take the interest groups who are pushing for this so-called reform and then take a look at their legislative agenda. I wrote it down. I had a staff member go through it. All the interest groups that are for campaign finance reform and then their legislative agenda:

Nationalized health insurance; status quo on Medicare and Social Security—this is my version; increased Federal role in education; opposition to liability and tort reform; opposition to tax cuts; increased Federal role in environmental protection. I might support part of that. Opposition to a balanced budget; reduced defense spending; opposition to current welfare reform.

I am not trying to perjure these positions. They are honest positions. The AARP, AFL–CIO, Common Cause, and the many so-called nonprofit consumer groups have every right to express their views, and they do. These issues are bigtime stuff. How we decide these issues will affect the daily lives, pocketbooks, and future of every member of these organizations, every American.

Organized labor should weigh in. Boy, they sure as heck did in the last election in my campaign. But so should the business community and farmers and ranchers and small business Main Street America, and all of the folks who might just disagree on how we get there from here on these issues. The truth of it is this reform is skewed to a particular political point of view. It is called unilateral retreat from the political playing field for those who have a political view different from you, but we will continue our vote, our vote buying, really, through the Federal budget.

Take the proposal to ban so-called soft money. Ban soft money and all of the interest groups whose future is and will be decided in part by the decisions of those who propose the ban will simply bypass the Republican and Democratic Parties and will conduct their own campaigns, and we will have a further weakening of the two-party system. That is wrong. That is detrimental.

I know soft money has become a pejorative, but, in fact, it is the only money spent today on campaigns by the American people that is not under control of the Federal Government. We haven't got our fishhooks into the regulations and redtape and all that goes with it.

Are we really saying, Mr. President, are we really saying that in America citizens and various interests groups whose very economic future depends on the decisions we make in this Congress cannot support or oppose those candidates? Think about it. ''I'm sorry, you cannot invest in good government, you cannot express your point of view independent from the FEC.'' There are many countries in which that is the case—China, Iraq, Iran, North Korea. I do not think we want to go down that road.

''I am sorry, Farmer Jones, you cannot run an ad or distribute a handbill opposing PAT ROBERTS in his freedom-to-farm bill 60 days before the election. That's soft money. You can't do it.'' The same thing for farm organizations or commodity groups—unless, of course, you are a newspaper or a labor union.

How do you define a newspaper, by the way? It used to be to be a newspaper you had a hatrack, and then you had a typewriter, and you had a letter press, and you had somebody run it. You had a list. You had advertisers.

You had to get your printing equipment somewhere. You had the local printing contract for the county.

Today, a newspaper is when you have a computer. You can manufacturer your own newspaper—Pat Roberts Weekly News, published every day. I do not know how you are going to define this. Who is going to be in charge?

Finally, let me stress the most serious flaw in the McCain-Feingold bill, and that is money spent to express your views or the views of voters cannot be regulated or banned without being at odds with the first amendment. We simply cannot improve the integrity of any political system by restricting the political speech under the banner of reform.

Speech controls in the last 60 days of a campaign envisioned in the bill represent the lawyer full-employment act. Just read the provisions exempting the voter guides and try to figure it out.

Well, finally, I must say, with all due respect—this may be viewed as a little partisan on my part—but with all due respect, that the administration's position in regard to campaign finance represents a new threshold for what is political chutzpah. Here we have evidence presented before the Senate Governmental Affairs Committee itemizing campaign malfeasance that includes everything from Buddhist nuns; unprecedented misuse of our Nation's intelligence agencies—let me repeat, unprecedented misuse of the CIA for campaign activities—that is unprecedented; money laundering in exchange for taking sides in a Teamsters election; a fugitive influence peddler bribing his way to the President's side—he did not get his way, thank goodness—soft money turned to hard, circumventing existing campaign limits; and now missing tapes of the White House coffees or fundraisers.

In answer to all of this, Mr. President, the people who have been caught with their hands in the campaign violation cookie jar say we need a new cookie jar. President Clinton stating he will take the bully pulpit for campaign finance reform is like somebody charged with drunk driving insisting we lower the speed limit for everybody else.

Mr. President, in regard to President Clinton, the administration and the proponents of reform that is not reform, the greatest of faults is to be conscious of none. In this regard, I do not mean to malign the President or my dear friends across the aisle, but this is not reform. I urge a ''no'' vote on cloture. Let us get on with the business of the Senate in the United States.

Oh, and real campaign reform? As stated by Robert Samuelson in his column in Newsweek, ''The best defense against the undue influence of money is to let candidates raise it from as many sources as possible—and most important—'' most important, do not infringe upon the first amendment, ''let the public see who is giving.'' They can figure it out. They are six jumps ahead of Washington and any proponent of reform we have in this body. ''That would be genuine reform.''

I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I want to take a moment to thank my good friend from Kansas for really an excellent speech and important contribution in this debate. Not only was he right on the mark, he was fun to listen to.

Mr. President, I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I, too, commend the Senator from Kansas for his illuminating remarks and the Senator from Kentucky for enduring this process for now years.

I want to come to the reference to the Constitution by the Senator from Kansas. The Constitution that says that: Congress shall enact no law to abridge speech.

It does not say there are no exemptions. It says the Congress shall enact no law to abridge speech.

Let us put this in context. This language is in the first amendment of the Bill of Rights which grants us the right to speak as we would, the right to worship as we would, the right to assemble, which is also part of this debate, and the right to petition our Government without fear.

All of us would like to see the campaign process improved. There have been many who have mentioned transparency or disclosure, making sure that the American people know what is happening and when it is happening and trust in their judgment to make good decisions about whether they like it or do not.

This legislation abridges the Constitution, begins to manage speech, picks winners and losers, and attacks the fundamental rights of assembly.

You have to go back. In the early days, particularly 1775, before you could create a society or an association in the United Kingdom—which was the genesis of all the secret societies. The forefathers here knew of all of this activity. So that is why they framed the language that Congress shall enact no law to abridge freedom of speech or the right to associate. They had vivid memories of governments that prohibited and managed speech and threatened and intimidated people who spoke freely and forbid organizations from joining together for the purpose of petitioning or speaking out. The language in the Constitution is derived from the fear those people had of what goes on when governments tell people what they can say and when they can say it.

This legislation picks corporations that can say anything they want and picks other corporations and says they cannot say anything. People up here in the gallery are represented by corporations that would have no prohibition whatsoever. Cox Broadcasting, one of the largest communications institutions in the world, could say anything it chose through all of its affiliates, the Atlanta papers, their cable television, whatever, could say anything they chose about any candidate, their motives for or against any vote as often as they wanted at any time they chose under this legislation, but Georgia Pacific, which grows trees, could not.

I want to know, what is the difference between corporation A that happens to print a newspaper and corporation B that happens to grow trees? The forefathers said there shall be no difference. But this legislation says that we will manage the difference here. Cox Communications, say anything you want. Georgia Pacific, you're out. Shove off.

It picks certain kinds of corporations that are at liberty to participate and others that are removed from participation. That is an abridgement of the Constitution.

Let us come to this business of association, the right to associate, to say what you want, and what constitutes free speech.

In those days there were pamphlets. Now it is television and radio, telecommunications and computers. This legislation says free speech is only given to certain kinds of institutions and it is denied others. You know, the basic right to assemble, it says to those people, you can assemble, but, boy, you cannot say anything about a campaign for the 2 months before it. You cannot mention a candidate's name. You cannot participate. You cannot express your view, if you are for or against a candidate.

So it is not only a violation of the principle of freedom of speech, but it is a violation of the principle of assembly. The forefathers envisioned people—the Farm Bureau—people coming together to make a case, to speak to an issue. This says, ''No; that's a deterrent in our society. We're going to have to manage you. And we're going to remove you from the political process.''

The last point I will make, Mr. President, is this: After you have tried to manage these processes, and you have given some people freedom of speech and others not, some that can assemble and some that cannot, what have you ended up with, outside of abridging the Constitution? You have reinforced the power of incumbents. Because if the money can only flow to candidates, which candidate is it going to flow to? The incumbent in power or the challenger? The person that is more known and has access to the facilities of that power or the person that is on the outside?

Well, you do not have to be a rocket scientist to know the money will flow to the incumbent. You can call this the Incumbent Protection Act. It will be a magnet. It will move money to power. And it intimidates and chills people

from speaking out, which has been—you know, the genesis of all American glory is our freedom. The genesis of all American glory is that we have been a free people, and it has made us behave in unique ways. We are bold. We are visionary. We are builders. And we are not afraid. This kind of legislation chills and separates and is not healthy to the Republic.

Mr. President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President.

This morning we have another opportunity to speak again about this issue, campaign finance reform, which many people wish would go away but it is not going to. Again, it is a chance to review sort of the kaleidoscope of arguments that have been used to condemn our efforts on the McCain-Feingold bill and other campaign finance reform proposals.

Listening to the Senator from Georgia, we hear again the claim that what is really wrong with this bill is that it violates the first amendment—which, of course, we dispute and also find just a little amusing when you consider, first of all, that if there is any problem with this bill under the first amendment, we still do have nine people across the street who know how to handle that.

But many of the same Senators who are condemning our bill from the point of view of the first amendment are some of the first in line who are ready to amend the first amendment. That is part of the agenda of many of the folks on the other side of the aisle.

There is no compunction at all on the part of some of these folks to pass a flag-burning amendment to the first amendment, to make an exemption of free speech there. No concerns at all with regard to the first amendment and related rights in passing a school prayer amendment, which many of our opponents believe would not be a violation of the first amendment and which I think would be.

Virtually every opponent of this bill had no problem at all coming out here on the floor of the Senate and voting for the Communications Decency Act, which to me was the most blatantly anticonstitutional censorship bill we have seen in a very long time, and every single Member of the Supreme Court agreed; 9–0 they ruled that this bill, the Communications Decency Act, was unconstitutional. Where were all the Senators out here talking about the first amendment when I came out here in a rather lonely manner and said, ''By the way, this on its face cannot possibly pass muster''? Where was the concern for the first amendment? It was not there.

So I am puzzled about what the fear is. If it is so easy to play with the first amendment when it comes to school prayer and flag burning and the Internet, what is the problem with sending up a bill that reasonable people disagree about with regard to one aspect of its constitutionality? What is the threat to the Republic? Nothing, unless we have somehow eliminated the third branch.

Then, of course, we have been treated again to my favorite argument in opposition to this bill, that there is not enough money in politics. We heard it again today.

I have to tell you, that argument has proven to be the biggest loser of all with the American people. Does anyone really believe that the best thing that can happen in this society is that more money gets spent on election?

Let's remember what Mr. Tamraz said before the Governmental Affairs Committee on September 18, 1997. He is one who certainly understands what to do and what it means if we are going to keep expanding the role of money in politics. This is what he had to say in response to a question from our colleague, the Senator from Connecticut [Mr. LIEBERMAN].

Senator LIEBERMAN. So, do you think you got your money's worth? Do you feel badly about having given the $300,000?

Mr. TAMRAZ. I think next time I'll give $600,000.

Our colleague from Michigan, Senator LEVIN, asked a very direct question:

Senator LEVIN. Was one of the reasons you made these contributions because you believed it might get you access? That's my question.

Mr. TAMRAZ. Senator, I'm going even further. It's the only reason—to get access, but what I am saying is once you have access what do you do with it? Is it something bad or is it something good? That's what we have to see.

Mr. President, this is a picture, a portrayal of the vision that some of my colleagues have. The more money, the merrier. The more Mr. Tamrazes, the more $300,000 contributions, the continuing buying of access.

Their answer is to do absolutely nothing, to do nothing, to let this campaign financing arms race continue. Another tactic is to somehow pretend—this is the tactic of the majority leader—that the whole problem is just one group of people, the working people of this country as represented through unions. As if anyone in the United States of America honestly believes that the only group that has participated too much in the money aspect of the system is organized labor. As if it doesn't involve corporate spending. As if it doesn't involve the spending of ideological groups. I have to tell you I have absolutely no concern that even the most conservative antilabor person in America doesn't believe that the whole campaign finance system problems have been caused by labor. Nobody believes that. Yet that has been the strategy employed on the floor—to say unless you interfere with the basic rights of people that join together in a union on a voluntarily basis, that the whole issue isn't worth discussing.

Then of course we heard again from the Senator from Georgia, this notion that our bill would protect incumbents. Well, it is rare I'm on the floor and I just laugh out loud, but how can a system that already exists and has a 90-percent reelection rate for incumbents get much more proincumbent? What are we going to do, force people to stay in office? Are we going to have instead of term limits, term requirements—you have to stay here? It is absurd to suggest that our bill would have any impact to protect incumbents. It is just the opposite.

If we had a fair chance to raise the issue, we would have brought up what Senator MCCAIN and I like to call the challenger amendment to provide incentives and opportunities for candidates who cannot afford a great deal to participate in the process by getting the benefit of reduced costs in their television time.

These are some of the arguments that have been used that I think are pretty well worn. In fact, let me just illustrate how serious this ratification of the current system is by going back to one example. This is the example of the Federal Express Corp. This is what is being ratified, by the attempt to kill campaign finance reform. We are doing nothing to prevent the episode that I'm about to describe. In fact, we are telling Corp.s in this country if you are going to protect your shareholders and fulfill your fiduciary duties, you better play this soft money game and play it hard and fast or otherwise you will lose out in the competitive world.

In other words, it is the opposite of what I thought the other party was about—free enterprise. This is the antithesis of free enterprise. This encourages the purchasing of access and power in Washington, not the fair, free-market competition that so many of us believe is the underpinning of our economy. This is the polar opposite of that.

Now, the Federal Express Corp. wanted, for a very long time, to get a provision into the law that would prevent their unions from organizing in a way that would be meaningful and allow them to get the benefits that they need and the salaries they want from the Federal Express Corp. The record of FedEx with regard to employees and unionization is not a good one, and the Federal Express Corp. tried repeatedly to get a rider attached to various bills that would do this. They never had a hearing on a rider in the House Aviation Subcommittee; they tried to attach it to the fiscal year 1996 omnibus appropriations bill and failed; the House Republicans tried to attach it to the fiscal year 1996 omnibus, another appropriations bill, and failed; they tried to attach it to the National Transportation Safety Board Authorization Act and failed; they tried to attach it to the Railroad Unemployment Act and failed; the Senate Republicans supported attaching the Labor-HHS Appropriations Act in the Appropriations Committee and failed; it was not included when the FAA Reauthorization Act passed the House; it was not included when it passed the Senate.

And only at the end of the road, with no positive vote in favor of this provision at any point, it was placed in conference committee and brought out to the floor. We remember well last year the fact that we had to actually keep the Senate a few days in session to make the point on this. This was not a technical correction, as was argued. In fact, what happened here was that at the very same time this effort was being made by FedEx Corp., some campaign contributions were being made.

Mr. MCCONNELL. Will the Senator yield?

Mr. FEINGOLD. After I finish this.

Mr. MCCONNELL. About getting speakers in before 1 o'clock.

Mr. FEINGOLD. I will try to conclude quickly.

Mr. President, at this time, the Federal Express Corp., according to Congressional Quarterly on October 2, 1996, had contributed, between October 17 and November 25, $200,000 to the Democratic Senatorial Campaign Committee and $50,000 to the national Republican Senatorial Campaign Committee. Specifically, the company also gave $100,000 to the Democratic National Committee and $100,000 to the Republican National Committee right before this provision was stuffed into conference committee.

Now, this is the kind of democracy that we are ratifying.

I ask unanimous consent to have printed in the RECORD an article from the New York Times dated October 12, 1996, entitled ''This Mr. Smith Gets His Way in Washington, Federal Express Chief Twists Some Big Arms.''

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 12, 1996]

THIS MR. SMITH GET HIS WAY IN WASHINGTON—FEDERAL EXPRESS CHIEF TWISTS SOME BIG ARMS

(By Neil A. Lewis)

WASHINGTON, Oct. 11.—As the Senate rushed to adjournment earlier this month, one odd and seemingly inconsequential item stood in the way: the insertion of a few words in a 1923 law regulating railway express companies.

It was not the kind of thing that would ordinarily seize the attention of senators eager to go home barely a month before Election Day. But they stayed in session until the language was enacted, because the beneficiary of the arcane language was the Federal Express Corporation, which has become one of the most formidable and successful corporation lobbies in the capital.

Federal Express wanted the language change because it might exempt its operations from the National Labor Relations Act and, as a result, help it resist efforts by unions to organize its workers. Despite passionate speeches by opponents on behalf of organized labor, the company was able to engineer a remarkable legislative victory, prevailing upon the Senate to remain in session two extra days solely to defeat a filibuster by its opponents.

''I was stunned by the breadth and depth of their clout up here,'' said Senator Russell D. Feingold, a first-term Democrat from Wisconsin who had opposed the change. In the end, Mr. Feingold was one of 31 senators who voted against Federal Express.

Senators say the ingredients in Federal Express's success are straightforward, distinguished from other corporate lobbying by degree and skillful application: a generous political action committee, the presence of popular former Congressional leaders from both parties on its board, lavish spending on lobbying, and a fleet of corporate jets that ferry dozens of officeholders to political events around the country.

Mr. Feingold said that as he tried to rally support against the Federal Express legislation, he was frequently and fervently rebuffed by colleagues who said they had acquired obligations to the company.

''The sense I got was that this company had made a real strong effort to be friendly and helpful to Congress,'' Mr. Feingold said.

He would not identify the lawmakers but said that as he approached them about the legislation, he discovered that many just wanted to talk about how Federal Express had helped them. ''In these informal conversations, people mentioned that they had flown in a Fedex plane or gotten other favors,'' he said.

Senator Ernest F. Hollings, a South Carolina Democrat who proposed the amendment to help Federal Express, said he did so because he was grateful to the company for its willingness to use its planes to fly hay to his state during droughts.

But others say lawmakers benefit more directly. Senator Paul Simon, an Illinois Democrat who is retiring this fall, said that in a caucus of the Senate's Democrats just before the recess, one senior senator refused to oppose the company, bluntly telling his colleagues, ''I know who butters my bread.''

Mr. Simon would not identify the lawmaker except to say he was a longtime member of the Senate.

''I know that I have ridden in their planes several times,'' said Mr. Simon, who opposed Federal Express on this bill. ''But what happened here was just a blatant example of the power of their political efforts. If the John Smith company came along and asked for the same thing, it wouldn't have a prayer.''

Federal Express, Tennessee's biggest private employer, makes no apologies either for the merits of the legislation it sought or for its efforts to establish relationships with members of Congress.

''We play the game as fairly and aggressively as we can,'' said Doyle Cloud, the vice president of regulatory and government affairs for Federal Express. ''We have issues constantly in Washington that affect our ability to deliver the services our customers demand as efficiently as possible.''

For example, Mr. Cloud said, Federal Express regularly seeks to make clearances through customs easier to increase efficiency. ''To do things like that, it's absolutely necessary that we are involved politically as well as regulatorily,'' he said.

In addition to its cargo fleet, Federal Express maintains four corporate jets that when not used for company trips are made available to members of Congress. Mr. Cloud said that they were used mostly to ferry groups of lawmakers to a fund-raising event and only rarely for an individual lawmaker.

Congressional regulations require that lawmakers using corporate aircraft reimburse the company for the equivalent of first-class air fare, and Mr. Cloud said that was always done. Records maintained publicly by Congress do not show how often members use corporate flights. Federal Express declined to make the company's records available, but Mr. Cloud said that during political seasons, Federal Express might fly a group of lawmakers, about once a week.

Two popular former lawmakers, meanwhile, serve on the Federal Express board: George J. Mitchell of Maine, the former Democratic leader of the Senate, and Howard H. Baker Jr., the former Republican leader of the Senate.

The company's political action committee is one of the top five corporate PAC's in the nation. In the 1993–94 election cycle it gave more than $800,000 to 224 candidates for the House and Senate. According to the Federal Election Commission, it gave $600,500 to candidates in this cycle through August. The company has also donated more than $260,000 this year to the Democratic and Republican parties.

In the first six months of 1996, Federal Express reported spending $1,149,150 to influence legislation, an investment that included the hiring of nine Washington lobbying firms. Typically, a company hires a number of lobbying firms because each one has a relationship with an individual lawmaker who may be important on particular issues.

''The sky's the limit for Federal Express when it wants to get its own customized regulatory protection made into law,'' said Joan Claybrook, president of Public Citizens, a Washington-based government watchdog group.

During the legislative debate last week, it appeared that the company also used a United States Ambassador to press its case, but the diplomat and company have denied that.

When a lobbyist for organized labor sought to talk to Senator J. Bennett Johnston about the Federal Express issue, Mr. Johnston replied in the presence of several witnesses that he already had made up his mind, because he had just been successfully lobbied on the issue on behalf of Federal Express by James R. Sasser, Mr. Sasser, a former Democratic senator from Tennessee, is the current Ambassador to China and would be prohibited from lobbying on behalf of Federal Express.

Mr. Johnston, a retiring Democrat from Louisiana, said through his spokeswoman that his comment was a ''terrible slip of the tongue.'' The spokeswoman said that Mr. Johnston had just been lobbied by Frederick Smith, the founder and chairman of Federal Express, and that he had meant to use Mr. Smith's name.

The spokeswoman, Audra McCardell, said that Senator Johnston had lunch earlier in the week with Ambassador Sasser and that the Federal Express matter had come up ''in chitchat.'' She said that Mr. Johnston had merely told Mr. Sasser how he was going to vote on the issue. For his part, Mr. Sasser, who was retained as a consultant by Federal Express before his confirmation as an ambassador, said in a telephone interview that he did not lobby Mr. Johnston, although they might have discussed the issue.

Mr. Smith spends considerable time in Washington, where he is regarded as Federal Express's chief advocate. It was Mr. Smith who hit a lobbying home run in 1977 when he persuaded Congress to allow the fledgling company to use full-sized jetliners to carry its cargo, rather than the small planes to which it had been restricted. Mr. Cloud said that was the watershed event that allowed the company to grow to its present dominating position in the industry, with almost $10.1 billion in annual business.

Federal Express has also been able to get other special provisions written into the law. In 1995, for example, Congress gave it an exemption from certain trucking regulations. It has also won exemptions from noise abatement requirements.

The provision that Federal Express successfully sought last week was insertion of the words ''express company'' in legislation that designates companies that can be organized by unions only under the Railway Labor Act. Under that law, unions are allowed to organize only in national units,

rather than locally. Federal Express is fighting efforts by the United Automobile Workers to unionize its drivers. Of the 130,000 domestic employees of the company, only its 3,000 pilots are unionized.

Allen Reuther, the U.A.W.'s chief lobbyist, said that the union found it ''especially outrageous for the Senate to provide this special interest provision for just one company.''

Federal Express and its supporters in the Senate attached the legislative language as a rider to an airport bill that promised dozens of local airport improvements and enhanced security measures. Many lawmakers who usually vote with labor decided the bill had to pass, even with the Federal Express provision.

But the votes of 17 Democrats to help Federal Express by ending a filibuster against the provision—including that of Senator Thomas A. Daschle of South Dakota, the minority leader—angered labor officials, especially John J. Sweeney, president of the A.F.L.–C.I.O. Some union leaders said they might withhold future contributions to the Democratic Senate Campaign Committee.

But after Senator Edward M. Kennedy of Massachusetts, who led the filibuster, visited Mr. Sweeney on Thursday with a note of thanks for his support, the tension eased and union officials relented. President Clinton signed the airport measure into law on Wednesday.

Mr. FEINGOLD. I ask unanimous consent a related article a year later in the New York Times, August 25, 1997, entitled, ''Face Time for Federal Express'' be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times Aug. 25, 1997]

FACE TIME FOR FEDERAL EXPRESS

When a big corporate political donor is invited to press his company's case at the White House before the President, he is probably going to expect results. But the attempt by Federal Express to buy influence with the Clinton Administration over an economic dispute with Japan, which was disclosed last week, has not helped anyone.

Instead of advancing his company's interests, Frederick Smith, the Federal Express chairman, has probably set them back. Thanks to the now well-documented tendency in this White House to mix policy-making with insatiable political fund-raising, a sensible objective for the United States has been tainted and the 1996 Democratic fundraising effort has been revealed once again as structurally corrupt.

President Clinton says he is proud of the fund-raising he and his party carried out in recent years, and that there were no direct quid pro quos for donors. But the episode involving Federal Express, first reported in the Washington Post, provides a case study in why the system he embraces not only has polluted American politics but has actually damaged American interests abroad.

At issue is a long-running demand by Federal Express to fly cargo through Japan to its new hub at Subic Bay, the former American naval base in the Philippines. A 45-year-old aviation agreement between the United States and Japan clearly requires Tokyo to grant access to Federal Express, as this page argued to years ago. Both the Bush and Clinton Administrations have supported the company's cause, by Federal Express wanted sterner action. Mr. Smith used his meeting with Mr. Clinton to press for sanctions against Japan. Federal Express also ponied up $506,000 in campaign contributions to the Democrats last year, along with $540,000 to the Republicans.

Federal Express has been a major success story in the competitive global economy, and is worthy of American support. Its gamble in setting up a hub at Subic Bay has revitalized the area around the old naval base. It makes sense in the new age of commercial diplomacy for the United States to help American companies in their attempts to win contracts and market access. But such an approach is simply undercut in the eyes of the world when it looks like nothing more than a payoff for a large political donation.

In addition, the United States needs to be sensitive to the risks of favoring one company's interests over another's, however plausible that company's case. The appearance of evenhandedness was undermined by Mr. Clinton's ill-advised meeting with Mr. Smith. Until now, the United States has refrained from the tougher approach of the sanctions demanded by Federal Express. Though sanctions might well be justified and certainly would be legal, there was good reason to hesitate. Sanctions could well invite Japanese retaliation, which, in turn, would almost certainly damage other American companies doing business in Japan. In negotiating with Tokyo, the United States has to weigh the interests of everyone, not just Federal Express.

The point is that the United States' bargaining position with Japan has been weakened because of Mr. Smith's clumsy intervention and the Administration's willingness to peddle White House meetings. Even among those in the White House who opposed the idea of sanctions, there was agreement that Mr. Smith had a legitimate complaint. It will be understandable now if Japan takes less seriously an American demand that looks so obviously like a favor to a political contributor.

Other airlines have reason to fear that Federal Express will gain an upper hand over them. The way to remove such suspicions is obvious. Enacting legislation banning open-ended contributions by individuals and corporations is the only way to restore integrity to the process in Washington.

Mr. FEINGOLD. That article details a similar series of activities that had to do with FedEx's desires with regard to trade and Japan. Here is the real conclusion of the story, and I want others to have a chance to speak, so let me continue by saying we all remember that the United Parcel Service had a strike not too long ago. It was the biggest news in America. Who is their competitor? The Federal Express Corp. The Federal Express Corp. used this process, this fundraising process, this access process, this soft money process, to get a special benefit so they don't have that kind of union. They don't have that kind of strike because their folks can't get together to do that because of Federal law.

What happened? Apparently, as a result of the UPS strike, FedEx benefited. The Federal Express Corp., according to one report, is gaining market share because of its adroit handling of additional business during the recent UPS strike, analysts say. Some analysts estimate that the UPS market share slipped to about 70 percent of the U.S. package delivery market from 80 percent before the strike.

Mr. President, there is a difference between FedEx and UPS, and the difference was the ability of campaign money to prevent FedEx employees from organizing the way they want. That is the kind of democracy and economy that we will have if the filibusterers prevail.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I rise today along with my colleague from Vermont to express my disappointment and regret that the Senate has missed an opportunity today to coalesce around a middle ground that would allow campaign finance reform to advance.

Together with Senator MCCAIN, who deserves our gratitude for his courage and tenacity in bringing this issue to the fore, along with Senator JEFFORDS and Senator SPECTER, I have worked over the past week to forge a compromise that would address the two concerns that have emerged as the chief stumbling blocks to Senate passage of campaign fiance reform. Namely, the objection of Republicans to a package that does not address the issue of protecting union members from having their dues used without their permission for political purposes with which they may disagree. And the objection of Democrats to singling out unions while not providing similar protections for members of other organizations, or for shareholders in corporations.

Last week, in response to concerns which had been raised by the minority leader, we proposed an alternative that would provide the same protections to members of organizations across the board, and to shareholders of corporations. Together with Senator JEFFORDS, Senator SPECTER and Senator MCCAIN, we fine-tuned the proposal into a balanced approach with the potential to move this debate forward. It appeared our plan was the best hope of preventing a filibuster and advancing campaign finance reform.

Unfortunately, our efforts to make the process work in this instance will not succeed today. Despite our willingness to forge a compromise which would address the concerns of both sides—we have not been able to secure an agreement to ensure passage of the compromise.

The criticisms of our proposal from both sides are typical of the concerns when a proposal strikes a balance between two dies. Nobody really likes it. One side feels we go too far. The other side feels we don't go far enough.

But in the legislative arena, when both sides are committed to moving forward and finding a solution, that is how we do it. Both sides give. While we have not been able to reach a conclusion today, given the artificially short time limits imposed by the nature of the parliamentary procedure under which we are forced to consider this issue, I believe if Senators are truly committed to campaign finance reform, then it is definitely dead in this session of Congress.

I am saddened, because we have not only an obligation to provide legislative solutions, but to restore the public's faith in the integrity of the process. If we ultimately fail to coalesce around a middle ground, it would serve only to confirm the public's belief that we lack the will to address this issue in a fair and bipartisan manner. And it will certainly point to the consequences of a shrinking middle in American public life.

Mr. President, I have worked hard over the last week with my colleagues on this compromise because I earnestly believe that's what people expect of us. They expect that the U.S. Senate will conduct itself as the deliberative body it was designed to be, and they have a right to that expectation.

We should be putting our heads together, not building walls between us with intractable rhetoric and all-or-nothing propositions.

I have been part of the legislative process in Congress for over 18 years. I am here because I believe in finding solutions. That is our job, Mr. President: finding solutions. Now, I've been here long enough to know that that is not always possible. And I've been here long enough to know that it is always difficult. But then we were sent here to do a difficult job. So I say let's have the difficult conversations and really give thoughtful consideration to how we can hurdle our most challenging obstacles. That's the way it should be—that's how we end up with better legislation.

The fact is, this issue will not go away. The public disillusionment with our campaign finance system will not disappear absent meaningful reform. It will come back again and again and again.

I believe each and every time it will come down to the basic issue of enacting reform that does not unfairly disadvantage either party. As long as we have two-party government, no reform will ever pass unless it truly levels the playing field.

This is an issue that need not be intractable, as we demonstrated with the proposal we put forward in this debate. It is my belief that eventually the basis for evenhanded reform is embodied in the middle ground approach we proposed. Unfortunately, that day will not be today.

Finally, I want to issue a challenge to the majority leader and the minority leader. It is the duty of leaders to lead. I urge them to do just that by appointing a bipartisan working group of Senators who want to make the system work.

I entered public service to help make Government work. It is a task made more daunting by the mounting chorus of partisanship that has engulfed our Nation's politics.

The status quo, Mr. President, is unacceptable to virtually everyone except apparently to many Members of this body. There are, however, those of us on both sides who want to resolve this problem. What we need is the leadership to bring this spirit to life.

We need to devote less energy to criticizing and judging each other and more to forging consensus and understanding. Only then can we come together and enact legislation that the majority of Americans feel is sensible and long overdue. Let's make, then, a historic statement that the old ways of doing business must be relegated to the annals of history. Let's return elections to the American people and restore confidence in our Government.

Mr. President, I would like to yield to my colleague and friend, the Senator from Vermont, who has worked so hard on the compromise that we try to put forward today.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Senator for a very eloquent statement on where we are and where we ought to be.

I think it is incredibly important that those of us who are as dedicated as she is and as I am—perhaps those of us in the middle, as so often happens in this body—have to take a look at what we can do to pull things together.

Now, I am personally convinced, having talked with a number of Democratic Senators and a number of Republican Senators, that there are at least 60 Senators who want meaningful campaign reform. However, we have postured ourselves at this time and particular moment in a situation where that will not occur. I am pleased in a way that we are going into a brief period of recess. I am dedicated, as I know the Senator from Maine is, to using that period of time to try to find, if we can, a common ground.

I think it is important for us to take a look at what we really need to do and where the real stumbling blocks are. We are two political parties, Republicans and Democrats. Some things advantage one and some things advantage another. So we have to find ways to reform the campaign finance system and do whatever is necessary to make sure that we can find something that both sides can—not willingly, but certainly with the public pressure out there now—do something. We can find a way to do that.

What needs to be done? The Senator from Maine has done superb work in trying to find a middle ground on one issue with the Democratic Party, and that is how to handle the situation with unions—and we would say all groups—to make sure that the people that are involved, that have to contribute the money, or do contribute the money, have a say in how that money is spent; first, so that they know how it has been spent in the past so they can better judge what happens in the future, but also that they have full disclosure and the ability to say no, or the ability to at least say ''not my money,'' which is what our amendment does. I think that is a very big step forward.

Now, there have been all sorts of technical problems raised with this, that, and the other thing. But the substance of it is one in which all America can agree. When you are in the situation where you have money taken from you, you ought to have at least a say as to where it is going and, even more important, to say ''not my money.'' ''You can spend your money and the rest of the money, but not mine.'' I think that is a pretty simple philosophy with which many Americans would agree.

The next area we have to take a look at—and this is critical for the Republicans and it is also the center of debate nationwide—is what happened at the White House with all this money pouring in, hundreds of thousands over here, and all that so-called soft money. We have to do something about that. But to say that, especially under the Constitution, we can just ban it, or we can set up rules where you can't use any of it, that is not going to work. It is not going to work because people have the right under our first amendment to be able to spend money on political campaigns, but how much and for what purposes, that can be controlled, as we have found.

I will tell you, the money will find a way, some way, to be spent. If we don't have it spent for ''party building'' as ''soft money,'' it will be in ''issue advocacy'' or ''independent expenditures.'' So the best thing to do is to make sure that there are limits placed on it, that there is full disclosure, and that there are ways to make sure that these funds are not abused or become dominant in the process. There are ways to do that. They are not ones that everybody is going to readily agree upon. But on the other hand, from a first amendment perspective, the way people want to help a political party ought to be something that we can find a solution for. So I hope now that we are in this situation where it is obvious that no final decision can be made, no way will be found in the next few hours for us to solve this, that we step back and work together. The Senator from Maine and I are both dedicated to finding those Senators in the middle that are willing to help us pull something together so that we can get at least 60 votes.

I hope now that we can move back to the regular legislative process in the interim, to move legislation along which is necessary to be moved along, and, hopefully, as the Senator suggested, the leaders will get together and we can find a way to pull that middle together. There may be kicking and screaming in order to do that, but possibly we can find a way to let this Nation know that we want campaign finance reform, we want the process to be one we can be proud of, one which is acceptable to the American people, and one which allows everybody to know what is going on. I thank the Senator for her statement. I am sorry that we are in this situation, but I think it is important that we take a breath of fresh air and come back in the next week or so and, hopefully, make some progress.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine still has the floor.

Mr. KERRY. Mr. President, under the regular order, the Senator from Maine cannot yield the floor.

Mr. KYL. Mr. President, for several days now the Senate has debated campaign finance reform legislation. Advocates of the so-called McCain-Feingold proposal deserve credit for advancing the issue. Unfortunately, in the view of a majority, they have been unable to construct a bill that does not violate the first amendment to the Constitution. There are other proposals for reform that I believe can address the problems without compromising the Constitution. Therefore, I will vote to bring at least one of those proposals—the Paycheck Protection Act—to a vote but not yet support consideration of McCain-Feingold.

Some have argued that details are less important than the general principle of reform. But reform to one is not necessarily reform to another. For example, most Republicans believe that all contributions to politics should be voluntary. Most Democrats, on the other hand, say they agree but they are unwilling to give up compulsory union dues that are then contributed to candidates. Thus, reform to us is not reform to them.

Recognizing that we approach the need for reform from different perspectives, I have tried to evaluate the issue by applying some basic principles that I think most of us would agree with. For example, our laws should be clear, simple, and enforceable. They should insist on full and timely disclosure. They should place constituent interest over special interest. They should ensure voluntary participation for all. And, they should protect our right to free speech—unregulated by the government. This last principle is significant because our constitutional rights to free speech, free assembly, and the right to petition our Government were specifically established to protect our political expression. The Supreme Court has confirmed this, declaring that political expression is ''at the core of our electoral process and of the first amendment freedoms.'' (*Buckley* v. *Valeo*, 424 U.S. 44 (citing *Williams* v. *Rhodes*, 393 U.S. 23 (1968))).

The McCain-Feingold proposal incorporates some of these important principles. For example, the bill requires more timely and detailed disclosure of campaign spending. This allows people to make more informed decisions regarding contributions made to their elected leaders. The bill calls for tougher penalties for campaign violations. This might make people think twice about breaking the law. The bill attempts to tighten the restrictions on fundraising on federal property and strengthen the restriction on foreign money ban. Both of these provisions would address some of the Clinton-Gore campaign finance improprieties. The bill prohibits those under 18 from contributing to campaigns, ensuring that only those who vote can contribute, again addressing a problem with the Clinton-Gore campaign. The bill also extends the ban on mass mailing by House and Senate Members from 60 days before an election to January 1 of an election year, thereby reducing an incumbent advantage.

I support the intent, if not the exact language, of each of these provisions. I also believe that any reform legislation should include a requirement that candidates raise a majority of their campaign contributions from within their respective States and that all political activities be funded with voluntary contributions and not extracted in the form of compulsory union dues. The first of these proposals is not included in the McCain-Feingold legislation, and I believe it is necessary to meet the principles of putting constituent interest over special interest. The second proposal is not adequately dealt with because of opposition from Senator MCCAIN's Democratic cosponsor.

The most extensive provisions of the McCain-Feingold proposal address so-called soft money and issue/express advocacy. While these provisions are well intentioned, I believe they would dramatically restrict party building activities and free speech for individuals, associations, and citizens.

The McCain-Feingold approach to so-called soft money contributions is to completely prohibit them. These are contributions of citizens and organizations to political parties and cannot be spent for individual candidates. Hard money, on the other hand, is contributed directly to candidates to be spent by them.

Unlike hard money, soft money can be contributed in unlimited amounts to support political party organizations by helping them to engage in grassroots volunteer activities. The bill's total ban on soft money contributions would restrict State and local campaign committees from supporting the following election activity: voter registration activity within 120 days before a Federal election; voter identification, get-out-the-vote activity, or general campaign activity conducted in connection with any election that includes a candidate for Federal offices—generally referred to as party building activity; and a communication that refers to a clearly identified candidate for Federal office and that is made for the purpose of influencing a Federal election. Thus, if the law were to completely ban soft money, it is not the candidates, but the political parties that would suffer the most. Is this the type of political activity we really want to get rid of?

The McCain-Feingold proposal also explicitly forbids so-called issue ads, ads that mention a candidate's name within 60 days of a Federal election. Issue advocacy can best be defined as any speech relating to issues and the policy positions taken by candidates and elected officials. It can be as simple as a statement such as, ''Senator Smith's position on school vouchers is dead wrong.'' Or it can be as involved as a multimillion dollar campaign of broadcast and print advertisements that spreads the same message. The Constitution protects the right of any group or individual to engage in issue advocacy. It is the essence of free speech.

Attempts to regulate and require disclosure of issue advocacy expenditure through statute and through FEC regulation have repeatedly been declared unconstitutional by the Supreme Court and lower Federal courts. The Court has always viewed issue advocacy as a form of speech that deserves the highest degree of protection under the first amendment. Not only has the Court been supportive of issue advocacy, the justices have affirmatively stated that they are untroubled by the fact that issue advertisements may influence the outcome of an election. In fact, in Buckley versus Valeo, the court stated:

> The distinction between discussion of issues and candidates and advocacy of the election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are often intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest. *Buckley* v. *Valeo*, 424 U.S.1, 42 (1976).

Moreover, defenders of the first amendment know that the freedom to engage in robust political debate in our democracy will be at risk if the Congress or the FEC is given the authority to ban issue ads close to an election, or evaluate the content of issue ads to determine if they are really a form of express advocacy. The Supreme Court recognized this danger long before Buckley versus Valeo. In 1945, in Thomas versus Collins, the Court states:

> . . . the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inference may be drawn as to his intent and meaning. Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim *Thomas* v. *Collins* 323 U.S. 516 (1945).

McCain-Feingold would impose regulations on issue advocacy in violation of Court declarations. Advocacy groups such as the National Right to Life, Sierra Club, and National Taxpayers Union, to name just a few, would be severely circumscribed in the exercise of their first amendment rights. The FEC has a poor track record of trying to broadly interpret current election statues to encompass issue advocacy speech.

In fact, as recently as October 6, 1997, the Supreme Court let stand a circuit court decision striking FEC regulations because they infringed upon a

group's right to characterize a candidate's position on abortion rights. *Maine Right to Life* v, *FEC* (1997WL274826, 65USWL3783) (October 6, 1997) (Case number 96–1818).

The result of the McCain-Feingold 60-day ban on issue advocacy before an election will be that associations or groups of citizens could not characterize a candidate's record on radio and television during that period. It would, thus, severely limit citizen involvement and speech.

The only recourse would be for such associations—nonprofit 501(c)3 and 501(c)4 organizations—to create new institutional entities—political action committees [PAC's]—to legally speak within 60 days before an election. Such groups would, thereby, also be forced to disclose all contributors to the new PAC.

Not all members of nonprofit organizations want to become members of PAC's. Separate accounting procedures, new legal costs, and separate administrative processes would be imposed on these groups, merely so that their members could preserve their first amendment rights.

It is noteworthy that none of these proposals seek to regulate the ability of the media to exercise its enormous license to editorialize in favor or against candidates at any given time.

Finally, as noted, McCain-Feingold does not ensure that American citizens have the right to voluntarily participate in the political process. I am specifically referring to the protection from mandatory withdrawals of dues from a worker's paycheck for political activities without prior approval. Contrary to the claims of its supporters, McCain-Feingold does not provide such protection.

As written, the McCain-Feingold legislation applies only to nonunion member employees. These are workers who choose not to join a union, but who under a collective bargaining agreement must pay dues—that is, agency fees—to support the costs of union representation. McCain-Feingold covers only 10 percent of the roughly 18 million dues-paying employees nationwide. I support Senator LOTT's Paycheck Protection Act, which covers all 18 million.

McCain-Feingold also requires labor unions to notify these nonunion members that they are entitled to request a refund of the portion of their dues or agency fees used for political purposes. The effect of this proposal is to place the burden on the worker—after the fact—to petition for a refund of these automatically withdrawn dues. By contrast, Senator LOTT's Paycheck Protection Act requires unions to obtain union and nonunion employee's written permission first before using any portion of his or her dues for political activities.

Simply put, I believe all contributions to political activities should be voluntary. No one should have automatic political withdrawals from his or her paycheck unless consent is first given. The Paycheck Protection Act codifies this right. McCain-Feingold does not.

To conclude, I strongly believe certain aspects of our campaign finance system need reform. But reform that is consistent with the principles I outlined earlier. Although well intentioned, McCain-Feingold layers more regulation on top of current regulation and also infringes upon the constitutional rights to free speech and association. And it does not guarantee voluntary participation in the political process. For these reasons I cannot support it in its current form.

Mr. DODD. Mr. President, I rise today in strong support of the campaign finance reform legislation sponsored by Senators MCCAIN and FEINGOLD.

The McCain/Feingold bill is a beginning, and is an important step towards reforming how we finance campaigns. It ends soft money contributions to national parties, expands disclosure requirements, and strengthens election law. It puts guidelines on hard money contributions and begins to address the problem of so-called ''issue advocacy'' advertisements that may be designed to persuade the public about a candidate instead of educating the public about an issue. It also requires labor unions to notify non-union members that they are entitled to request a refund of the portion their agency fees used for political purposes. Make no mistake about it—one bill cannot end the spiraling cost of campaigns or stop the coercive influence of money in our government. But it is a beginning.

I am more convinced than ever that our current approach to funding political campaigns is broken and desperately in need of repair. My good friend, Senator FORD from Kentucky, cited the great cost of campaigns and the immense time needed to raise money as the reason for his retirement from the United States Senate. He explained that to run for re-election in 1998, he would need to spend the next two years raising $100,000 per week. Today, a run for the Senate may require over $5 million. On average, a Senator needs to raise $16,000 per week during their six year term to accumulate the funds needed to run a credible campaign.

Not only are distinguished elected officials leaving public service due to the daunting cost of running for office, but many Americans have decided not to seek office because it simply costs too much money. This robs us of leaders with new ideas and diverse backgrounds, and it threatens to undermine our country's participatory democracy.

Our democracy rests upon the fundamental principle that every person's vote is equal. A citizen walks into a voting booth, casts his or her vote, and the majority rules. But only fifty percent of Americans vote and only four percent of the population contribute to campaigns.

The American people worry that those who wrote the checks now expect to write the laws. They see powerful lobbyists working to turn back the clock on 25 years of environmental protection, and to unravel laws that keep our workplaces safe and protect the food we eat. This appearance of undue influence supports the public's cynicism.

Incredibly, those who defend politics as usual are not concerned about the amount of money in our political process. These leaders insist that the political process is fine, even though a record $765 million was consumed on House and Senate campaigns in 1996. In fact, Speaker GINGRICH and other leaders in his party complain that too little, not too much, money is spent today on political campaigns.

We all know that the Government Affairs Committee is, even as we speak, holding extensive hearings on the campaign finance practices of the last Presidential election. Yet, as we have seen here on the floor this week, the Majority Leader and most of those in his party would do nothing. However, there are a few Republicans, including one of the leaders on this issue Senator MCCAIN, who have voted the responsible way and I commend them. It is now time to come together in a bipartisan manner and focus on the future of elections in America for all Americans.

Since I was elected to Congress as part of ''Class of 1974,'' I have consistently fought for campaign finance reform. Since 1985, I have cosponsored seven campaign finance reform bills to remove the influence of money in elections and bring democracy back to the people of this country. In an attempt to curb the threatening influence of money, I have supported prohibitions in ''soft money'' in federal elections, and as the General Chairman of the Democratic National Committee, I challenged my counterparts to do the same. In another effort to limited the influence of money, I have supported caps on PAC contributions to candidates and limits on the total amount Senate candidates can accept from PACs. To level the playing field, and help challengers gain exposure, I have agreed to proposals for free or reduced response advertisement costs for candidates attacked by independent expenditures. I have supported requirements that Senate candidates raise most of their money from their home states in an attempt to bring elections back home to the people. Finally, I voted for a Constitutional amendment allowing Congress to set campaign spending limits. I know many of my fellow colleagues share my commitment to reform.

As we debate reform, I am concerned that we stand behind the Federal Election Commission, which is charged with monitoring and watching campaign finance violations. The FEC must have the finances and resources it needs to promptly and effectively enforce the laws that govern our campaigns. Between 1994 and November

1996, the FEC's caseload rose 36 percent, and because complaints related to the 1996 election are still being filed, the FEC expects the caseload to ultimately rise by 52 percent. Of the 262 complaints filed with the FEC in the latest election cycle, only 88 are currently under active review.

To address the effectiveness of the FEC, earlier this year I authored the FEC Improvement Act. I am pleased that most of the proposals from my bill—including electronic filing, authorizing the FEC to conduct random audits, and stiffer penalties—have been incorporated into the McCain/Feingold legislation.

Time after time, Congress has talked about reform but in the end done nothing. Over the past 10 years, Congress has produced over 6,742 pages of hearings, members have made over 3,361 speeches, committees have produced more than 1,063 pages of reports, the Senate has recorded over 113 votes and formed one bipartisan commission. Yet in the end, it's just been business as usual, while the voice of the average American in our democratic process grows fainter, quality candidates say no to public service, and our democracy withers.

I regret that the Senate this week has again missed an opportunity to pass comprehensive reform. The Senate missed another opportunity even though 53 Senators voted to fully consider the bill. I am saddened that the majority leader, along with the majority of his Republican colleagues, deployed procedural tactics that thwarted real reform. I lament this maneuver.

It saddens me that the Republicans have chosen to sabotage this bipartisan bill. It saddens me even more that this procedural sabotage occurred after concerted efforts to accommodate Republican concerns. Important provisions including voluntary spending limits, free or discounted television and advertising time, and curbs on contributions to PAC's have all been modified in the spirit of bipartisanship. However, the Senate now may not even have a clean vote on campaign finance reform legislation this session.

I have voted against Senator LOTT's amendment because it was not a bipartisan effort. The Lott amendment was a partisan maneuver to end efforts for comprehensive campaign finance reform. I will continue to vote against any amendments that lack solid bipartisan support and harm a constructive effort for real reform. Conversely, I will consider supporting any amendments to the current legislation that have bipartisan support and would improve this bill. I will also continue to support any positive efforts by both sides to have campaign finance reform considered by the Senate for a full and complete debate this session.

I call on all my colleagues to chart a new course, to put aside our differences, and to put first and foremost in our deliberations the good of the Nation. As leaders, we must not shirk our responsibility to do all we can to the reform campaign finance system. The McCain-Feingold bill begins that process, and I believe that as a body we have a solemn responsibility to embrace this legislation.

Ms. MOSELEY-BRAUN. Mr. President, S. 25, the Campaign Finance Reform Act of 1997 does not represent my ideal package of reform. In fact, S. 25 is far from it. I believe, however, that this legislation does bring us one step closer to getting the kind of real, comprehensive campaign finance reform we so desperately need.

We need to get Americans back into the system and get them involved in decisions that affect their lives. We need campaign finance reform to restore the American people's faith in the electoral process. Americans are frustrated; many believe that the current system cuts them off from their government. A League of Women Voters study found that one of the top three reasons people do not vote is the belief that their vote will not make a difference. We saw the result of this cynicism in 1994 when just 38 percent of all registered voters headed to the polls. And we saw it again in 1996 when only 49 percent of the voting age population turned out to vote—the lowest percentage of Americans to go to the polls in 72 years.

I have noticed a difference in voter turnout since my own election. In 1992, I won with 2.6 million votes, which was 53 percent of Illinois' total vote. In 1996, Senator DURBIN won with a vote total of 2.3 million, which was 55.8 percent of the total vote. Senator DURBIN won by a greater margin but with fewer total votes cast.

Unfortunately, the effort needed to raise the average of $4 million per Senate race decreases the time Senators need to meet their obligations to all of their constituents. According to recent Federal Election Commission figures, congressional candidates spent a total of $765.3 million in the 1996 elections, up 5.5 percent from the record-setting 1994 level of $725.2 million. That figure does not include the huge amounts of ''soft money'' spent by political parties.

Furthermore, when voters see that the average amount contributed by PACs to House and Senate candidates is up from $12.5 million in 1974 to $178.8 million in 1994—a 400 percent rise even after factoring in inflation over that period—there is a perception that lawmakers are too reliant on special interests to make public policy that serves the national interest. More and more voters believe that Members of Congress only listen to these special interest contributors, while failing to listen to the very constituents who put them into office.

That is part of the reason why there is overwhelming public support for reform. And make no mistake, there is a real public consensus that reform is needed—now. Ordinary Americans want—and deserve—government that is responsive to their needs and problems. The way to do that is through spending limits. Spending limits will make our system more open and more competitive. Spending limits can help focus elections more on the issues, instead of on advertising.

We must be sure that we don't have a process that only further empowers political elites that are already empowered. We want campaign finance reform that allows candidates more time to talk to voters. Voters want to know that the system works for ordinary Americans and not just those few who can devote substantial time and money to politics. They deserve better than the present system.

S. 25 addresses some of these needs. This bill prohibits soft money contributions to national political parties, increases the amount of ''hard'' money individuals may contribute to State parties for use in Federal elections, and increases the amount of ''hard'' money an individual may contribute in aggregate to all Federal candidates and parties in a single year.

In addition, S. 25 expands disclosure requirements and strengthens election law violations to lessen the influence of ''big money'' in campaigns.

I believe that these are vital first steps toward addressing the problems of the current system. Campaign finance reform cannot work for every American, however, unless it also works for every candidate, including minority candidates and women. Minority and women candidates currently have less access to the large sums needed to run for office than other candidates. That financial inequity is one of the primary reasons both women and minorities have long been under represented in both the Senate and House. The increased occurrence of big money candidates feeding their own campaigns and driving up the costs of campaigns overall only adds to the barriers keeping women and minorities out of public office.

Unfortunately, S. 25 does little to stop or control these upward spiraling costs, and that is disappointing, because self-financing candidates continue to be a rapidly growing phenomenon in our current political system. While it is true that these millionaires don't always win, no one can honestly deny that these individuals contribute to the increasing campaign costs that turn so many voters off. In 1994, for example, one candidate for the Senate spent a record setting $29 million, 94 percent of which was his own money. And during the last election cycle, a presidential candidate spent $30 million of his own money for just the primary elections.

Even more appalling is the fact that self-financing candidates do not have to demonstrate broad financial support to either launch or support their candidacies. Allowing these self-financing candidates to avoid having to show a broad range of support is, I believe truly undemocratic. In fact, I believe

that every candidate should be able to demonstrate that they have the support of a broad range of individuals and organizations, that their candidacy has, in fact, come about as a true desire of the ''people.''

If we could prove that spending exorbitant amounts of money on campaigns increased voter turnout, we would have an excuse for allowing the costs of campaigns to continue escalating. But we cannot. While the total amount raised for the 1996 election by both Democrats and Republicans increased by 70 percent over the same period during the 1991–92 cycle, voter turnout has plummeted to its lowest point since 1924. What's more, these funds are often used to finance negative, nongermane, and personally distasteful ads that do nothing more than turn off the voters and take attention away from issues of vital importance to all Americans, such as retirement security, education, and children's health. If we continue this trend, the wealthiest Americans will be the only ones who will be able to afford to participate in our political system, leaving the rest of us to only dream about contributing to this democracy.

If candidates were required to seek and demonstrate support from a broad range of individuals—an important component of the democratic process—the Supreme Court might see the First Amendment issue somewhat differently. An appropriate analogy would be the laws that require candidates to obtain a certain number of signatures as a requirement for access to the ballot. In other words, the reason for this limit would not be to equalize resources, but to ensure that the amounts candidates spend have some relation to breadth of support. This proposal may be at least arguably consistent with Buckley, since the Court in that case recognized that the government has ''important interests in limiting places on the ballot to those candidates who demonstrate substantial popular support.''

In fact, it is that statement by the Court which demonstrates the flaw in the Buckley versus Valeo decision. In the not too distant past, a candidate had to have the endorsement of a political party, or have his or her own strong, grass roots organization in order to have the large number of people it takes to gather sufficient petitions to be put on the ballot. Now, however, it is actually possible to hire people to collect petition signatures, so petitioning does not necessarily demonstrate broad support the way it used to. In fact, a wealthy candidate, under the current state of the law, doesn't have to have any broad support at all to gain access to the ballot, only enough money to hire enough petition collectors. If the important government interest the Buckley Court acknowledged is to be protected, therefore, some limits on the use of money by wealthy candidates is required. The use of money by wealthy candidates has to be brought into the bill's reforms.

This bill could have only been strengthened by a provision that would have created some mechanism to control this form of campaign financing. It is unfortunate that this bill does not have such a provision, as I have no doubt that, ultimately, unregulated financing will have no result but to drive voters, and talented but less wealthy candidates, out of the electorate.

Despite this shortcoming, I fully support the goals and the spirit of S. 25. It is a solid bill, and a firm step toward the type of comprehensive campaign finance reform that our nation needs to ensure that our electorate becomes involved and has more faith in the people they send to Congress to represent them. S. 25 has the potential to reduce some of the cynicism many Americans feel toward the electoral process, and therefore has the potential to ignite in many Americans the type of desire to become more involved in debates on fundamental issues like retirement security, healthcare security, and education.

Voters, and not money, should determine election results. The money chase has gotten out of control, and voters know that big money stifles the kind of competitive elections that are essential to our democracy. S. 25 is a crucial first step in bringing campaigns back to the people. I urge my colleagues to support S. 25, and I urge my colleagues to continue considering ways in which we can encourage the American people to continue playing a role in our democracy.

Mr. ABRAHAM. Mr. President, I rise today to explain my vote against cloture on the McCain-Feingold Campaign Finance Reform legislation.

As a supporter of campaign finance reform, I have previously outlined the standards which any reform legislation MUST meet in order to gain my support. In addition, I insist that there be some objectives which should be evident in any reform bill. The McCain-Feingold bill, unfortunately, falls short of reaching both of these standards, thus I voted against cloture.

First in the ''must'' category is that any reform legislation must be consistent with the First Amendment of the Constitution of the United States. Mr. President I could not support McCain-Feingold because some provisions of the bill would establish prior restraint on political speech. Specifically, section 201 of the bill which seeks to redefine ''express advocacy'' raises serious constitutional questions and would in my judgement fall short of the constitutional standard established in Buckley Valeo (1976), the landmark case on campaign finance reform.

Second in the ''must'' category is that the legislation must not impede or intrude on the prerogatives of the states and local units of government with respect to how they conduct political campaigns. Mr. President, there are provisions in the McCain-Feingold legislation that will limit the ability of the state and local political party committees to conduct legitimate election activity. Moreover, I feel that as presently constituted, McCain-Feingold would set in motion a process which ultimately would result in even further intrusion of state and local government election law.

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. Unfortunately, McCain-Feingold tilts the balance strongly in the direction of special interest groups. As these special interest groups grow in dominance, they simultaneously diminish the roles of the candidates and political parties. This, Mr. President, is not the way our founding fathers envisioned that our democratic electoral system would conduct itself. Candidates, political parties and interest groups should all be able to participate in the electoral system under the first amendment, however one entity should not be able to dominate the political speech arena. 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.

Furthermore, any campaign reform legislation we pass must be balanced. I believe that McCain-Feingold was not balanced and clearly contained provisions that would protect and enhance the ability of the Democratic Party to raise funds from its traditional sources, while disproportionately limiting the ability of the Republican Party to conduct itself.

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. McCain-Feingold does not even address this problem. There was no attempt in this bill to limit out of state or non-constituent contributions to a candidate.

As I mentioned previously, I do support reforming the method by which our federal campaigns are financed. Any campaign finance reform bill I support must be consistent with the Constitution, not impede on local and state government prerogatives, affect both parties fairly and equally, and address the problem of special interest, out-of-state money. Unfortunately, the McCain-Feingold legislation failed to meet these tests and, therefore, did not have my support.

While Congress will continue to work on this issue, I feel it is unnecessary to

wait for legislation before those of us who are concerned take action. In fact, during my campaign in 1994, I voluntarily imposed my own limits on the flow of PAC and out-of-state dollars to my campaign. Instead of simply waiting around for Congress to act, I will continue to observe voluntary caps and encourage other Members to act themselves in ways they might choose to address concerns they have with our system.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, in an effort to try to accommodate the Senators here, we have about 9 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCONNELL. Would it be agreeable to the Senator from Massachusetts and the Senator from Wyoming that they each take 4 minutes, and I will have the last minute, as I have not spoken in this hour? Would that be fair?

Mr. KERRY. Mr. President, is it possible to get an extra 2 minutes?

Mr. MCCONNELL. It is 9 minutes until the vote. I say to my friend from Massachusetts, if we quit talking about it and enter into an agreement, you will have 4 minutes, Senator ENZI will have 4 minutes, and I will have 1.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes.

Mr. KERRY. Mr. President, let me speak rather quickly as to where we find ourselves. Notwithstanding the comments just heard with respect to the desire for campaign finance reform, there is one simple fact that the country is about to witness. The U.S. Senate is about to see campaign finance reform stay off the calendar and only come back, not as a matter of automatic debate on the floor of the Senate, only come back if the majority leader decides he wants to bring it back.

Effectively, we are witnessing 45 Democrat U.S. Senators prepared to vote today for McCain-Feingold, for campaign finance reform, and we have at least 4 Republican Senators prepared to vote for it today, and we are being denied the ability to be able to have that up-or-down vote on campaign finance reform. That is the bottom line. That is what is happening here.

The fact is that we have had an awful lot of straws sort of put up as the reason for doing this—people hiding behind the first amendment, people hiding behind the notion that incumbency is at stake. Incumbents get most of the money today. The current system protects incumbents.

Under McCain-Feingold and under the Supreme Court, both have said you can't limit issue advocacy. There is nothing in this bill that restrains the capacity of any American to go out and talk about an issue. There is something in this bill that tries to say we are going to draw a distinction between that which is really advocacy for an issue and that which is trying to elect or defeat a candidate.

The bottom line, Mr. President, is here is what this fight is about. We have a group of people who believe that their hold on power and their ability to be elected is dependent on the money that they spend. They are seeking a partisan political advantage in whatever structure they try to form as campaign finance reform. Now, that is not new here. I have seen that on this side of the aisle, too. My colleagues are fairly—and I underscore ''fairly''—concerned about whether or not, if they are limited in some regard, people who oppose them—in some instances labor—are going to have an unfair advantage. We ought to have a fairer playing field.

But what Senator SNOWE and Senator JEFFORDS offered us as we tried to negotiate was not a fair playing field. We wound up with labor having to have its members give their written consent as to what they would allow their dues to do. But a member of the National Rifle Association, a stockholder of AT&T whose money also winds up going into political purposes, would not be treated the same.

So, in effect, we will see a failure today because the Republicans decided they wanted to try to legislate an unfair advantage to themselves. We are simply not going to allow that to happen. It is a tragedy for the American people that partisan efforts are going to take precedence over what is an overwhelming desire by the American people to see their democracy protected and not to have it increasingly become a dollar-ocracy or whatever you want to call it. Increasingly, this system is broken. Everybody knows it. For the Senate simply to sort of fall prisoner to a parliamentary process of partisanship rather than a genuine effort to try to come to agreement, I think, does not serve any of us well here. I regret that. I regret it for the institution. For the 13 years I have been here, we have been trying to deal with campaign finance reform. One side or the other is always trying to find that advantage. We have shown how you can do it fairly. Everybody in the country, I think, has a pretty good definition of that fairness. I hope my colleagues will recognize as they go home that their citizens and constituents are really fed up and want change.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise in favor of campaign reform, but not the proposal before us. I resent that we must apparently be for this bill before us or we are pictured as being opposed to reform.

This bill has gone through somewhat of a transformation, but not much. Rather than reform the way campaigns are financed, this legislation would infringe on the first amendment rights of millions of American citizens and place enormous burdens on candidates running for office. We must ensure the enforcement of the current law before we build a whole new bureaucracy. That is what we are talking about.

I believe this debate over changes in campaign laws is especially timely in light of the recent discovery of the video tapes of the White House coffees. It is illegal to campaign, it is illegal to raise money on Federal property. They are more suspicious since the White House withheld the critical evidence from the investigative committee for over 8 months. They just found the tapes? They just found part of the tapes—44 out of 150? How hard can tapes be to find? Don't they have a procedure for storing tapes? If they are important enough for history in the first place, should there not be a mechanism for finding them?

While it's not clear what took place, it calls out for a serious investigation and the appointment of a special prosecutor.

Now we want to add extra criteria. If we just add them, will Congress be the only ones who have to abide by them? Will an acceptable defense be that everybody is doing it, even if that is not true? One of the lessons I learned in my 18 years in elected office is that you don't increase compliance with existing laws by increasing the complexity. We haven't talked about truth in advertising. We haven't talked about how much money is being spent and a way to disclose and to get accurate and complete disclosure from all groups that are involved in the process. We are only touching on campaign finance reform, and we are calling it the whole ball of wax, the whole answer to everything.

Mr. President, while the McCain-Feingold legislation claims to clean up elections, it does so by placing unconstitutional restrictions on citizen's ability to participate in the political process. For the past few weeks, we have heard Members of this Senate bemoan the fact that various citizen groups have taken out ads criticizing them during their elections. Having just run my first statewide campaign last year, I can sympathize with my colleagues who have been the object of often pointed and critical campaign ads. I've said frequently that campaigns need a good truth in advertising law. That's not restriction of free speech. That's requiring honest speech. Yes, there are fine lines of spin, but we haven't even tried to clean up the blatantly wrong ads. Instead we want to restrict the right to even tell the truth. I believe that in a free society it is essential that citizens have the right to articulate their positions on issues and candidates in the public forum. The first amendment to our Constitution was drafted to ensure that future generations would have the right to engage in public political discourse that

is vigorous and unfettered. Throughout even the darkest of chapters in our Nation's history, our first amendment has provided an essential protection against inclinations to tyranny. Our political future relies on the protection of free speech.

The Supreme Court has consistently held that the first amendment protects the right of individual citizens and organizations to express their views even through issue advocacy and even if its aimed at an individual. The Court has consistently maintained that individuals and organizations do not fall within the restrictions of the Federal election code simply by engaging in this advocacy.

Issue advocacy includes the right to promote any candidate for office and his views as long as the communication does not in express terms advocate the election or defeat of a clearly identified candidate. As long as independent communication does not cross the bright line of expressly advocating the election or defeat of a candidate, individuals and groups are free to spend as much as they want promoting or criticizing a candidate and his views. While these holdings may not always be welcome to those of us running campaigns, they represent a logical outgrowth of the first amendment's historic protection of core political speech. We talk about how much money is spent that way for advocacy, but we are just guessing. We are jumping to the step of precluding that right of free speech talking about how much the cost of campaigns have gone up, but we don't even have a mechanism for reporting that in any meaningful way. That should be the first step. We need quick and complete disclosure of all funds spent in a campaign, directly and indirectly. That means hard money and soft. We need to know from where and whom it comes and for what it was spent. Obviously we need to know how the money got there. We need to know that the laws on collecting it apply to everyone. That's a simpler step than what is proposed and more constitutional too.

These unconstitutional restrictions of this bill would increase the power of the media elites at the expense of the average American voter. Our Founding Fathers drafted the first amendment to protect against attempts such as these to prohibit one segment of our society from entering into public discourse on issues that greatly affect them.

I commend the sponsors for eliminating from the most recent version of their legislation the provision that forced businesses to give away their product in the form of free broadcast time. I also appreciated them taking out the complicated funding formulas. Nonetheless, I still cannot support legislation that stifles the free speech of the American citizens and gives expanded new powers to a Washington bureaucracy. For these reasons, I must oppose the revised McCain-Feingold legislation. I ask my colleagues to join me in paying trouble to the first amendment and opposing the McCain-Feingold legislation.

I thank the Chair and yield the remainder of my time.

Mr. MCCONNELL. I thank the Senator from Wyoming for his important contribution to this debate. We have 25 speakers in opposition to McCain-Feingold, and a growing number of our Members want to speak out in opposition to this piece of legislation.

I think a very encouraging thing happened this morning that I would like to report to my colleagues right before the vote.

I had an opportunity to attend an announcement of a new organization called the James Madison Center for Free Speech. What the James Madison Center for Free Speech is going to do is handle litigation all across the country in cases involving political speech. We have heard it announced that the forces of reform who want to shut Americans out of the political process and being frustrated in Washington are taking their cases out around America. There have been various State laws and referenda that have passed—all of them, so far, struck down in the Federal courts. But the James Madison Center is going to be there to represent litigants all across America who stand up for first amendment free speech.

I think that is an important announcement. The proponents of campaign finance reform have said they are not going to go away. The opponents are not going to go away. The James Madison Center is going to be there every time free speech is threatened anywhere in America.

Mr. President, I ask unanimous consent that the mandatory quorum call under rule XXII be waived.

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 25, as modified, the campaign finance reform bill:

Thomas A. Daschle, Carl Levin, J. Lieberman, Wendell Ford, Byron L. Dorgan, Barbara Boxer, Jack Reed, Richard H. Bryan, Daniel K. Akaka, Christopher Dodd, Kent Conrad, Robert Torricelli, Charles Robb, Joe Biden, Dale Bumpers, Carol Moseley-Braun, John Kerry.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 25, a bill to reform the financing of Federal elections, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida, [Mr. MACK] is necessarily absent.

The yeas and nays resulted—yeas 52, nays 47, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—52

Akaka	Feinstein	McCain
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Inouye	Reid
Bumpers	Jeffords	Robb
Byrd	Johnson	Rockefeller
Chafee	Kennedy	Sarbanes
Cleland	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Thompson
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Feingold	Lieberman	

NAYS—47

Abraham	Faircloth	Lugar
Allard	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Roberts
Brownback	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hagel	Sessions
Coats	Hatch	Shelby
Cochran	Helms	Smith (NH)
Coverdell	Hutchinson	Smith (OR)
Craig	Hutchison	Stevens
D'Amato	Inhofe	Thomas
DeWine	Kempthorne	Thurmond
Domenici	Kyl	Warner
Enzi	Lott	

NOT VOTING—1

Mack

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending amendment No. 1258 to Calendar No. 183, S. 25, the campaign finance reform bill:

Trent Lott, D. Nickles, Jon Kyl, Slade Gorton, Mitch McConnell, Connie Mack, Larry Craig, Strom Thurmond, Gordon Smith, Jesse Helms, Kay Bailey Hutchison, Christopher S. Bond, Bill Frist, Charles Grassley, Thad Cochran, Rick Santorum.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that the debate on amendment No. 1258 to S. 25, a bill to reform the financing of Federal elections, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.