during the negotiations, and they are addressed in detail in the convention.

In addition, the Commerce Department's expertise in protecting the proprietary interests of U.S. companies will continue to assist our chemical industry. The strong support for the convention by the Chemical Manufacturers Association, the Pharmaceutical Manufacturers Association, and the National Federation of Independent Business is a tribute to the fact that the concerns of these industries are fully protected.

Ratification of the Chemical Weapons Convention is vital to America's national security. I commend all those who have done so much to make this achievement possible. It represents arms control at its best, and I urge my colleagues to vote for ratification.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CAMPAIGN FINANCE AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the pending business.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 18) proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

The Senate resumed consideration of the joint resolution.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin.

Mr. FEINGOLD. I rise today to oppose the proposed constitutional amendment offered by the junior Senator from South Carolina and the senior Senator from Pennsylvania.

Mr. President, first I would like to say a few words about the Senator from South Carolina. Our colleague, Senator HOLLINGS, has been calling for meaningful campaign finance reform for perhaps longer than any other Member of the U.S. Senate. I disagree with this particular approach. But I certainly do not question his sincerity or commitment to reform.

Mr. President, when the U.S. Senate last had an extended debate on the issue of campaign finance reform back in 1993, the junior Senator from South Carolina offered a sense-of-the-Senate amendment to take up a constitutional amendment very similar to the one that is before us today.

I remember we had a very short period of time before that vote came up, and I made a decision and I voted with the Senator from South Carolina on that day. I did so because I believed that other than balancing the Federal budget, there was perhaps no more fundamental issue facing our country than the need to reform our election laws.

Such a serious topic I believed at the time merited at least a consideration of a constitutional amendment. And I will confess to a certain level of frustration at that time with the fact that the Senate and the other body had not yet acted to pass meaningful campaign finance reform in that Congress.

But, Mr. President, to be candid, I immediately realized, even as I was returning to my office, that that might not have been the best vote I ever cast. I started rethinking right away whether I really wanted the U.S. Senate to seriously consider amending the first amendment to address even this subject of which I and so many other Americans feel passionately about.

Then, 18 months later, my perspective on this question began to change even more as I was presented with two new developments here in the U.S. Senate.

First, I was given the privilege of serving on the Senate Judiciary Committee, and, second, I would soon learn that the new 104th Congress was to become the engine for a trainload of proposed amendments to the U.S. Constitution. As a member of the Judiciary Committee, I had a very good seat to witness first hand what was being attempted here with regard to the basic document of our country, the Constitution.

It started with a proposal right away for a balanced budget constitutional amendment, and we were considering a term limits constitutional amendment, and then a flag desecration constitutional amendment, then a school prayer amendment, then a supermajority tax increase amendment, and then a victims rights amendment. In all, Mr. President, 135 constitutional amendments were introduced in the last Congress.

As I saw legislator after legislator suggest that every social, economic, and political problem we have in this country could be solved merely with enactment of a constitutional amendment, I chose to strongly oppose not only this constitutional amendment but others that also sought to undermine our most treasured founding principle. I firmly believe we must continue this reflective practice of attempting to cure each and every political and social ill of our Nation by tampering with the U.S. Constitution. Mr. President, the Constitution of this country was not a rough draft. We must stop treating it as such.

I want to say, because the Senator from South Carolina has just arrived and I know that he is not one who has engaged in such an attitude toward the Constitution, I know very well he only makes a proposal like this with the most serious consideration and for the goal of trying to do something about campaign spending. What I am addressing here, what I saw in the last Congress was a wholesale attempt to try to amend what seemed to be almost virtually every part of the U.S. Constitution.

We must also understand that even if this constitutional amendment were to pass this body today, which it will not, but even if it did, it would not take us one single, solitary step closer to campaign finance reform. It is not a silver bullet. This constitutional amendment merely empowers the Congress to set mandatory spending limits on congressional candidates. Those are the same kind of mandatory limits that were struck down in the landmark Buckley versus Valeo decision.

Here is the question I pose for supporters of this amendment: If this constitutional amendment were to pass the Congress and be ratified by the States, would campaign finance reformers have the necessary 51 votes—or more likely what would be required would be 60 votes—to pass legislation that included mandatory spending limits?

Mr. President, in January I joined the senior Senator from Arizona in introducing the first bipartisan campaign finance reform proposal in over a decade. That proposal, unlike the law that was considered in Buckley versus Valeo, includes voluntary spending limits. That is to say, Mr. President, we offer incentives in the form of free and discounted television time to encourage but not require candidates to limit their campaign spending. When the Senator from Arizona and I bring that legislation to the floor of the Senate, I have no doubt that we will be met with strong resistance from a number of Senators. So the notion that this constitutional amendment will somehow magically pave the way for legislation that includes mandatory spending limits simply ignores the reality of the opposition that campaign finance reformers face here in the Senate and I think would face in the Senate at the time of ratification of any such amendment.

Mr. President, this amendment certainly, if ratified, would remove the obstacle of the Supreme Court. But it will not remove the obstacle of those Senators such as the junior Senator from Kentucky who believe that we need more money, not less, in our political system.

Most disconcerting to me, Mr. President, is what this proposed constitutional amendment would mean to the first amendment. I find nothing more sacred and treasured in our Nation's history than the first amendment. It is perhaps the one tenet of our Constitution that sets our country apart from every mold of government form and tested by mankind throughout history. No other country has a provision quite like the first amendment.

The first amendment is the bedrock of the Bill of Rights. It has as its underpinnings the notion that each individual has a natural and fundamental right to disagree with their elected leaders. It says that a newspaper has an unfettered right to publish expressions of political or moral thought. It says that the Government may not establish a State-based religion that would infringe on the rights of those

individuals who seek to be freed from such a religious environment.

Last year I stood here on the floor of the Senate with a number of my colleagues to oppose a proposed constitutional amendment that would have prohibited the desecration of the U.S. flag. I did so because that amendment as proposed, for the first time in our history, would have taken a chisel to the first amendment and said that individuals have a constitutional right to express themselves unless they are expressing themselves by burning a flag.

Now, Mr. President, I deplore as much as anyone in this body any individual who would take a match to the flag of the United States. And I am firmly convinced that unrestrained spending on congressional campaigns has eroded the confidence of the American people in their Government and their leaders. I believe we should speak out against those who desecrate the flag. I believe we should take immediate steps to fundamentally overhaul our system of financing campaigns. Mr. President, I do not believe, as the supporters of this constitutional amendment and other amendments believe, that we need to amend the U.S. Constitution to bring reform to our system of financing campaigns.

Mr. President, sometime in the next day or so, this constitutional amendment will lose. That has been predetermined, or the supporters of this amendment probably would not have been granted consideration here on the floor of the Senate in this manner. This debate has some characteristics of a charade. Again, that is not because of the author, who is sincerely advancing this provision because he believes in it and he thinks it should become part of the Constitution. The ultimate outcome of the charade is everyone knows this will not pass. There are those who want this to sort of be the campaign finance reform debate for this Congress. Have a couple of days of talk, no amendments, have a vote, and be done with it. Be done with campaign finance reform.

Mr. President, believe me, I know the feeling. The Senator from Arizona and I have been there. We were there last year, last summer. We were allowed to bring our bipartisan campaign finance reform legislation to the floor last June, but here was the deal: No amendments, just 2 days of debate, and then we had to vote on cloture, whether we will filibuster, just after 2 days. That was it. No chance to fix the bill up or make it appealing to other Members like we do in other things. That is very similar to what is going on here. We were only allowed to do that after the votes had been counted and assurances given that our bill would suffer a quick and painless death. It was not entirely painless, but it was not unanticipated. We did get a majority of the votes in this body on the first try, 54 out of the required 60 votes but, of course, when the process is set up like this, this simply with these few options, we know the outcome and we know what will happen here.

Mr. President, I want to point out that things just look a little different this year on the issue of campaign finance reform than they did a year ago. A few things have happened. The McCain-Feingold bill has not been placed on the Senate Calendar this time. It does not appear that the majority leader is terribly interested in bringing it up before the March recess, the Memorial Day recess, or possibly even before the turn of the century. We can speculate about the meaning of that, but one thing is clear: This constitutional amendment will not pass this body, and until this body makes a commitment to considering meaningful, bipartisan campaign finance reform, campaign spending in this country will continue to go completely unrestrained.

Nothing in this constitutional amendment before the Senate today would prevent what we witnessed in the last election—the allegation of illegality and improprieties, the accusations of abuse, and the selling of access to high-ranking Government officials would continue no matter what the outcome of the vote we had on this constitutional amendment. Only the enactment of legislation, Mr. President, that bans soft money contributions and that encourages candidates to voluntarily limit how much they spend on their campaigns will make a meaningful difference.

Mr. President, I see Members of the Senate as having, really, three choices. First, they can vote for constitutional amendments and partisan reform proposals that basically have predetermined fates of never becoming law. That allows you to say you voted for something and put the matter aside. Second, they can stand with the junior Senator from Kentucky and others who stood here on the Senate floor last June and told us all was well with our campaign finance system and we should all be thrilled that so much money was pouring into the campaign coffers of candidates and parties. That is a second option that some folks are still pursuing. A third option, Mr. President, Senators can join with the Senator from Arizona and myself and others who have tried to approach this problem from a bipartisan perspective and have tried to craft a reform proposal that is fair to all.

We have said on countless occasions that our proposal is open to negotiation. We simply have two goals: To encourage Senate candidates to spend less on their campaign and to give challengers an opportunity to run a fair and competitive campaign against well-entrenched incumbents. If you share those goals, we can work together to produce a meaningful reform proposal.

Let me say our proposal is picking up steam. We seem to be adding new cosponsors a couple of times a week.

Three days ago, I was challenged on the floor by a stated opponent of our bill as to why I was unwilling to address, he said, a particular aspect of our campaign finance system. Now, this surprised me very much because, in the 18 months since this legislation was originally introduced, this Senator had not approached me one single time to ask if I would be willing to address that issue. I told this Senator the other night, and I say to all my other colleagues, if you share those two basic goals of reducing campaign spending and leveling the playing field with the Senator from Arizona and I, we are willing to work with you to address those concerns.

Let's do this in the context of a real effort, a real debate, not a charade. That real debate will begin when a comprehensive bipartisan campaign finance reform bill is brought to the floor of the U.S. Senate. After this amendment fails, and as the Governmental Affairs Committee proceeds with the investigation into illegal and improper conduct by Presidential and congressional candidates in the last election, it is my hope that there will be an opportunity for an open and full debate on the issue of campaign finance reform.

Mr. President, without meaningful bipartisan campaign finance reform, the American people will continue to perceive their elected leaders as being for sale. Unfortunately, they will continue to distrust and doubt the integrity of their own Government.

So, Mr. President, I urge the Members of the Senate to reject this amendment, again, with the understanding that I greatly admire the sincerity and commitment that its author brings forward on this issue.

Mr. HOLLINGS. Mr. President, I have tremendous respect for my colleague from Wisconsin. I voted for McCain-Feingold. But in a breath, when the Senator says he wants meaningful campaign finance reform, he is asking that the only real meaningful campaign finance reform be tabled or rejected.

Let's look, for example, at the Senator's own initiative here. In McCain-Feingold, it says that voluntary spending limits are set according to a State's population. You get free broadcast time—30 minutes of prime time—and then you get half-price broadcast discounts and reduced postal rates. How much is that going to mean to the Huffington-type campaigns that we see, where they are ready to spend $30 million, or the Steve Forbes-type campaigner, who is ready to spend $35 million? That is not even going to give them a burp in their campaign.

The candidate's individual contribution limits would be raised from $1,000 to $2,000, if the opponent does not agree to the voluntary limits or declares an intent to spend $250,000 or more of their personal funds. But that is just the interest on the money the amounts of money we are talking about, were it to be loaned. But they have it available. So that really doesn't control the buying of the office. It doesn't control the

buying of the office. It is not meaningful campaign finance reform.

The Senator wants to ban soft money. Now, here it is. With respect to the Colorado Republican Federal Campaign Committee against the Federal Election Commission, the Federal Election Commission brought suit charging that the Colorado party had violated the party expenditure provision of law by buying radio advertisements attacking the Democratic Party's likely candidate. This is the evil that you have in these decisions. It went on, and the Colorado Republican Party won out. Why? On account of a key little word: coordinated. You have to prove affirmatively that the candidate himself called up and suggested it or coordinated it, as they say, even if it is proven he called up. It has to be coordinated.

Now, I want you all to know the reality of my particular comment. In next year's campaign, newspapers have already run a poll where they have shown that the former Governor of South Carolina, Carol Campbell, if we had the election this afternoon, would beat me. All I have to do is tell that friend there to tell that friend over there to get the third friend to tell the Democratic Party of South Carolina to start running radio advertisements attacking the former Governor as a likely candidate. He hasn't announced, but he is a likely candidate.

But they say everything is fair in love and war and in a political campaign. This is the mischief. It is not just the money, it is the mischief that this nonsense promotes. You can't get to it, Mr. President, without a constitutional amendment. You can't get to it. The distinguished Presiding Officer and I went through this yesterday afternoon. I read down the 20 to 25 campaign finance initiatives we have had over the last 30 years, trying to get a grasp and a grab and a handle on this evil, this corruption. We have tried every way in the world, from having cloture after cloture vote, to arresting the Members and bringing them to the floor. We have tried everything. The best offer now, they say, is McCain-Feingold, but I have gone down it. It has voluntarism. We know from the campaign in Massachusetts what ''voluntary'' means in politics; it means temporary. When the two gentlemen that ran last year got down to the end of the campaign, they said of the public agreement they had agreed to—both of them are affluent—they said, ''Let's forget about this limit and let's get affluent.'' Then they started spending like gangbusters. There you go, voluntary limits and everything else. We have to nail this buzzard with a limit, a constitutional authority to limit.

I hasten to add that I don't prescribe the specific limit. It is still up to Senator MCCONNELL, if he has a majority, to prevail. Unfortunately, we see the machine. We see the orchestration. When I first presented this, we got many Republican cosponsors, and we had a majority, bipartisan vote. Again, on two other occasions, we had a bipartisan vote and the support of a majority. But I can see right now the orchestrated drumbeat of first amendment. And they go back to Patrick Henry and James Madison, and every other kind of fanciful position, to try to get everybody's mind on ''let's not rip a hole in the first amendment.'' And the very authority they are using that money is speech, or speech is money, is Buckley versus Valeo, which does what? It rips a hole in the first amendment. That is their very holy grail that speaks of money. ''The first time in 200 years'' I don't know how they have the unmitigated gall to come out and say ''the first time in 200 years,'' when in the same breath they are saying, ''Buckley versus Valeo, speech is money.'' Buckley versus Valeo limited the freedom of speech. It ''ripped a hole,'' as they phrase it, ''in the first amendment.'' We can read it.

I read from Buckley versus Valeo, the majority opinion:

> It is unnecessary to look beyond the actual primary purpose to limit the actuality and appearance of corruption, resulting from large individual financial contributions, in order to find a constitutionally sufficient justification for a $1,000 contribution limitation . . .

I will read that again.

> . . . resulting from large individual financial contributions, in order to find a constitutionally sufficient justification for a $1,000 contribution limitation on political discourse.

They limited the freedom of speech of the contributor when they equated speech with money in this famous decision. Everybody knows it. But they want to totally ignore; like this fellow from South Carolina is going to rip a hole for the first time in 200 years in the first amendment. What a charade. They are hiding. They do not want to get serious. They don't want to limit expenditures. They don't want what they overwhelmingly supported 20 years ago with the original Federal Election Campaign Practices Act that said you are not going to be able to buy the office. Now, with Buckley versus Valeo, and particularly with the Colorado decision, you have to buy the office. And they show you how to do it. Two years ahead of time you can see a potential opponent. Just let the party start savaging him on radio and TV. If the gentleman were disposed to announce, by the time he got ready to announce he would announce for the State border trying to escape. They would make him an outright rascal by that time with money.

That is not free and open discourse in the political arena. That is discourse in the financial arena. The financial marketplace is where we are allowing the decision to be made. And everybody in America knows it. That is why we had the investigating committee by unanimous vote of this body day before yesterday saying we cannot countenance this conduct any longer, and we can't dance about on illegalities. We have to look at the improper as well as the illegal. So we unanimously voted it. But now we are trying to cover up on a party position.

Someone asked me, ''Senator, how many votes?'' I said, ''Well, I came yesterday with hope. But after I saw the particular activity among some of the finest Members that you will ever have in this body, and come along giving me James Madison, Patrick Henry, and the Founding Fathers, they didn't have to get in the horse and wagon and go out and collect $14,000 a week in order to get the office. They didn't have to go around with their national party asking to cut up the opponent before he could even announce. They didn't ask him to spend an average of over $4 million.

The Senator from Kentucky, who just withdrew, said he would have to get $5 million. So that is more than $14,000 a week—not a day, a week—each and every week between now and election time. Patrick Henry had the freedom of speech and a strong democracy trying to counter—of course, what the distinguished Senator from Texas commented on, the Gephardt remark. The truth of the matter is they had it in those days as I had it in my days of the beginning political arena. We went around on the stump. You had to get there, or you were embarrassed. ''Why weren't you there?'' You had to answer the questions. It wasn't all of that expense. It wasn't this third party activity in soft money.

So don't come now on the floor joining the stonewalling on the other side of the aisle that we have an advantage—that we have a financial advantage in spite of all the shenanigans that President Clinton and Vice President GORE engage in. ''We have $150 million more. Whatever they did, we did better.'' You remember that song in the Broadway play. Whatever the Democrats did we can do better on money. And do not be toying around. Get in there and support that Constitution, and read. And they come out and religiously read it. You can't pass any laws, or do anything with the freedom of speech. And, in the next breath, they say whoopee for Valeo. Money is speech in politics. And we have to protect and limit the contributors. That in and of itself sets aside their thrust here today.

I can read on. Maybe, if we have the time, we will read on because I would be prepared. Some of the colleagues said they would come. But I can see that there is very little interest. I was wondering why the majority leader allowed me to get this on an up-and-down vote. I know I had the amendment on the balanced budget amendment to the Constitution. And the distinguished Senator said, ''Now, look. If you set this aside, withdraw your amendment, we will give you an up-and-down vote and sufficient time.'' I can see after yesterday afternoon, Mr. President, that I have had sufficient

time because whatever we say here, they are cast now in the sort of party preference of spending, spending, spending. I hope we can expose it because that wasn't the real opinion over on the other side of the aisle. I had Senator Kassebaum from Kansas. I had Senator ROTH from Delaware. We still have, I am pretty sure, the distinguished Senator from Pennsylvania because he had a personal experience. When he comes to the floor you ought to listen very carefully because you can see in reality what this bifurcation finding that contributions are corruptive, or gives rather the appearance of corruption, whereas the explosive expenditures in campaigns, ''Oh, that particularly has to be allowed to reign free because we have the free public discourse in politics.'' You can see the ''free.'' None of this is free when it says here—''bought'' radio advertisements. You can bet your boots the word ''bought'' b-o-u-g-h-t—''bought'' radio advertising; the word ''free.'' Basically every one knows we are not talking about free speech.

We have to go along with the Supreme Court in our discourse for the present time. But if we can come now with this proposed constitutional amendment which is stated is needed by a majority of the Senate now three times, by the law professors, by the State attorneys general. And the gentleman here says he has—that was interesting. He has the Washington Post and the New York Times.

Let's see now. I heard just a minute ago from the Senator from Wisconsin. So let's see what the Wisconsin State Journal has to say.

Our former colleague stood there as sort of the one man on S. 2—that supersonic plane that we can all spend billions on, and now the market has barely supported it financially. The Europeans with subsidies have to support it. But the entire Pentagon with all of their minions over here and big budget and everything else, one little Senator, Senator Proxmire of Wisconsin, stood there time and time again with a staff. And he finally conquered not just the Pentagon but the consciences of all of Senators, and we voted along with him.

Now let's see, on Monday, March 10, the Wisconsin State Journal, and I quote:

> Part of the American dream is that any child can grow up to be President. Our Government is of, by and for the people, and ordinary citizens should have the opportunity to attain office by virtue of their ideas, their talent and their integrity.
>
> Unfortunately, the ideal of self-government has succumbed to rampant special interest money in elections that only an amendment to the U.S. Constitution can restore. Our elections are now auctions, with the average price for a seat in Congress costing more than $500,000.

In the Senate, the average cost of a seat exceeds $4 million. As former Senator Proxmire said:

> Few Americans have the desire or ability to raise that sort of money.

It is not only the time devoted to fundraising that we take away from the people's business, but also the fact that really good candidates are deterred from running for public office because they see the financial obstacles raised against them. For example, as was the case recently in Colorado, the party trying to defend an incumbent can come in and start savaging the likely opponent without any announcement and without any controls over their spending because there is no way to prove coordination. As a result of this flood of money, the regular, average, sane and prudent man or woman is deterred from running for office and democracy itself is corrupted.

It is just not family concerns that causes candidates to bow out. It is the fact that if candidates get serious, they will get savaged. Often I run into friends of fairly good affluence who say, look, I can't expose my family to all this complete disclosure.

People do not want to expose themselves to such public notoriety. If you want a free genealogical study of your family, Mr. President, all you have to do is announce for public office. Opposition researchers will dig up the place you were born, find out what kind of house you had, where you bought a washing machine on credit, automobiles, how much you contribute to the church, what is in your doctor's records and everything else you can think of. Most of it has little to do with one's qualifications for public office, but that is the nature of the beast—not the issues, not the ideas, not the candidate's integrity, but insinuations that can be distorted and used against an individual in the court of public opinion.

But the real corruption is in the amount of money necessary in this day and age to run a modern political campaign.

Let me go back to the quote of our former colleague, former Senator Proxmire from Wisconsin.

> The latest headlines focus on Democratic donors buying coffee at the White House and on the Republicans $250,000-a-person ''season tickets'' designed to give the largest donors more access to the elected officials. But the problem is not that interested people have given money and in return received access—politicians will always grant audiences to their donors. The problem is that few Americans can play in this big money game. Majority rule takes on a whole new meaning when the majority of campaign cash comes from just one quarter of 1 percent of Americans.
>
> Well-heeled interests have largely usurped power from the people. Big money determines who runs for public office and who wins elections. Last November, the House candidates who spent the most won their races 96 percent of the time. In Wisconsin, this held true in all but two races.
>
> We know the solution is to limit what anyone can spend on elections, whether they are running for office themselves or giving money to a candidate, party or independent advocacy campaign. But here we run into the problem of the foxes guarding the chicken coop—incumbents have little incentive to change a system they have mastered.
>
> However, even incumbents can act when public pressure is high.

Let me say that again. ''Even incumbents can act when public pressure is high.'' We saw a perfect example of that the day before yesterday. The Republicans they had it greased; they had a majority in that Rules Committee. The leader came out and said this is the scope of the hearings that we are going to have, like it or not. We are only going to examine alleged illegalities and not the broader question of improper campaign financing. But, as they say, public pressure will change that, and public pressure did.

As a result, we had 99 Senators vote on the day before yesterday for broader investigation into improper as well as illegal actions.

After Watergate, Congress took bold steps and set limits on campaign cash. But in the now infamous 1976 case, Buckley versus Valeo, the Supreme Court struck down most of the law, ruling that unlimited spending on campaigns deserves protection as free speech. Again, quoting Senator Proxmire:

> When we equate spending money with speech, then speech is no longer free.

I must read that again, because it is so basic.

> When we equate spending money with speech, then speech is no longer free.
>
> Moneyed interests can pay the price and the rest of us are free to be silent. The Buckley ruling is simply wrong. Twenty-four State attorneys general have recently called for Buckley to be reversed, as have a host of constitutional scholars. But the current court appears unlikely to do so.
>
> As in the past democratic struggles to end slavery and give women the vote, the only certain recourse is to amend the Constitution and overturn the Court. We must clearly authorize Congress and the States to limit campaign contributions and expenditures.
>
> A majority of the Senate has voted to support such an amendment in the past but a two-thirds vote is required. Another vote is likely soon. Senator Russ Feingold, D-Wis., has voted for the constitutional amendment in the past but now says he is against it. Senator Herbert Kohl, D-Wis., also has a mixed voting record. He has voted once for and once against a similar amendment. Let's hope that this time they read the headlines about fundraising scandals and decide to change them by voting for the amendment.

We must take down the For Sale sign on Capitol Hill by authorizing limits on campaign cash with a constitutional amendment. Let us not be daunted by how difficult such a task may appear, for the price of inaction is far too great.

Mr. President, I thought that we might be daunted by how difficult the task would appear. That argument has been made previously by our good friend Lloyd Cutler. He said it would take 4 to 20 years to get a constitutional amendment enacted, and therefore we were wasting our time. But it has been 20 years since the Buckley decision. Let us not talk about wasting time. That is what we have been doing since Buckley.

How are you going to stop doing that? A constitutional amendment. The arguments were, ''It would take

too long,'' or, ''I don't believe in a constitutional amendment; leave it as it is.''

Now, we know the distinguished Senator from Kentucky, and the distinguished Senator from Kansas, Senator ROBERTS, engaged in their little sweetheart exchange on the floor yesterday. They both believe in amending the Constitution. They both voted to amend the Constitution in order to prevent the desecration of the American flag. In fairness to Senator MCCONNELL, he said it was a mistake. Fine business. The Court made a mistake when they outlawed the Federal income tax. So, what did the body politic do? The Congress passed a joint resolution and the people of the United States ratified the 16th amendment. Let us read how you can correct a mistake. Amendment 16:

The Congress shall have the power to lay and collect taxes on incomes from whatever source derived without apportionment among the several States, and without regard to any census or enumeration.

That is not what they are talking about now, because we know mistakes are corrected; mistakes with respect to elections have been corrected. The 21st, 22d, 23d, 24th, and 25th amendments to the Constitution, all except the last one, have dealt with elections. So we corrected those mistakes. One important mistake, perhaps most significant, was the poll tax. The people said, ''Wait a minute, disqualifying people from voting through a poll tax—we are not going to allow it.'' So we adopted that amendment to the Constitution.

Now we want to disqualify candidates, parties, and everyone else from running for office by allowing the explosive spending of money; thousands of dollars, $200,000 for this, $500,000 for that. It is just outrageous. Yet, they do not want to recognize it. They want to give me Patrick Henry and go back to the first amendment and read it to mean that any restriction ''rips a hole'' in our freedom of speech. But it is not so when for the safety of people, we prohibit shouting ''fire'' in a theater; not when for national security reasons, we prohibit disclosure of classified documents; not so in the matter of obscenity and false and deceptive advertising. Just the other day, concerning a buffer zone around an abortion clinic—the Supreme Court said, oh, no, you don't have a freedom of speech in that buffer zone. That restriction is constitutional.

The contention was made that unless people were given the right to be heard in that particular area, you were ripping a hole in the first amendment. The Supreme Court said no. Get out. Don't get into this buffer zone.

So we have example after example, but none better than the Senate itself that says you cannot have unlimited debate here in this body; we can get a 60-vote majority and hush you. Over on the House side, they have to follow the 3-minute rule; the 5-minute rule. In committees, we regularly agree and conform to a 5-minute rule for all the members. We know the value of limiting speech. Don't come here with this sanctimony about the first amendment and Patrick Henry and talking about ripping a hole in the first amendment for the first time in 200 years. Buckley versus Valeo—the very basic authority that you use when you come to the floor of the U.S. Senate saying speech is money, or money is speech—ripped a hole in the first amendment. That is the exact finding of Buckley versus Valeo.

So, that will not wash.

Mr. President, I have not only the Wisconsin State Journal, I have the Cleveland Plain Dealer. I ask unanimous consent to have that article printed in the RECORD.

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

[From the Plain Dealer, Mar. 12, 1997]

ONLY A CONSTITUTIONAL AMENDMENT CAN LIMIT CAMPAIGN CASH

(By Seth Taft and Amy Simpson)

Part of the American dream is that any child can grow up to be president. Our government is to be of, by and for the people, and ordinary citizens should be elected to office by virtue of their ideas, talent and integrity.

Unfortunately, the ideal of self-government has succumbed to special-interest money in elections and only an amendment to the Constitution will restore it. The average cost of a congressional campaign exceeds $500,000. Few Americans have the desire or ability to raise that sort of money.

The latest headlines focus on Democratic donors buying coffee at the White House and on the Republicans' $250,000 a-person ''season tickets'' designed to give the largest donors more face-to-face time with elected officials.

But the problem is not that interested people have given money and in return received access; politicians will always grant audiences to their donors.

The problem is that an extremely small number of Americans can play in this big-money game. Majority rule takes on a whole new meaning when the majority of campaign cash comes from just one quarter of 1 percent (0.25 percent) of Americans.

Big contributions frequently determine who runs for public office and who wins elections. In Ohio's congressional races last year, the candidates who spent the most succeeded in capturing the House seat 84 percent of the time.

We know the solution is to limit what anyone can spend on elections, whether he is running for office or giving money to a candidate, a party or an independent advocacy campaign. But current incumbents have little incentive to change a system they have mastered.

However, even incumbents can act when public pressure is high. After Watergate, Congress took bold steps and set limits on campaign cash. But, in the now infamous 1976 decision in Buckley vs. Valeo, the Supreme Court struck down most of the law, ruling that unlimited spending on campaigns deserved protection as free speech.

Since 1994, voters in five states have passed initiatives to set low contribution limits, $100 in most races, for state elections. These initiatives have been overturned in two states by courts that thought themselves better able than the public to set ''reasonable'' limits. Proposals that would require candidates to raise their funds from within their districts face a similar fate.

When we equate spending money with speech, then speech is no longer free. Wealthy interests can pay the price, and the rest of us are free to be silent. The Buckley ruling is simply wrong. Twenty-four state attorneys general recently called for its reversal, as have a host of constitutional scholars. But the current court appears unlikely to do so.

As in the democratic struggles to end slavery and give women the vote, the only certain recourse is to amend the Constitution and overturn the court. We must clearly authorize Congress and the states to limit campaign contributions and expenditures.

A majority of the U.S. Senate has voted to support such an amendment in the past, but a two-thirds vote is required. Another vote is likely within the next week.

In the past, Sen. Mike DeWine has voted against and Sen. John Glenn has voted for such an amendment. Let's hope that this time, they read the headlines about fundraising scandals and decide to change them by voting for the amendment.

We don't like using the Constitution for this purpose, but the Buckley-Valeo decision makes it necessary. Campaign spending limits that do not apply to independent committees and individuals become meaningless.

Mr. HOLLINGS. These liberal eastern papers, the Washington Post and the New York Times make the argument of free speech. I hope you midwesterners do not get bitten by that. I want to see you stay in the U.S. Senate. I want to see you all continue to serve. The best way is not to get wrapped around and go back to the Midwest and say that the ACLU is a wonderful authority. I know how to lose an election. I have lost before. I don't know any quicker way to lose one than to run around in my backyard or your backyard, Mr. President, quoting the ACLU. You folks have to be embarrassed with this kind of argument about first amendment and the ACLU. And even more embarrassing is the anecdotal nonsense they put up relative to what could happen. The Senator from Utah even said Congress might decide not to let anyone oppose them.

He got into a wonderful discourse with the Senator from Kentucky. He said if this amendment passed, Congress could put such low limits that the opponent's name would never become known and that Congress might decide not to let anyone oppose them.

Of course, in the next breath they say it is vague, because the language says ''reasonable,'' ''reasonable limits.''

The courts said they are going to decide what is reasonable. But they put up all kinds of examples about how newspapers might write an editorial against someone. And they said that could be a contribution for or a contribution against.

Right now the newspapers do write editorials for and do write editorials against. We have the free press. No one has the gall to contend that is a contribution in the context of being a violation. No one is going to contend that now, and they are not going to contend it later on.

But these are all straw men, because they do not have the argument. But they have the frontal assault of Patrick Henry and the first amendment.

And trying to say, as the Senator from Texas said, the simple question is ''Do you believe in free speech or not?'' He says if he can answer this question, then he is home free. All 100 of us believe in that. That is not what we are voting on. The question is, Do you believe in limiting spending or not? They know it. And they do not want to hear of it. So they bring out the volume and repetition of numerous Senators talking about 200 years and the first amendment and Patrick Henry. If you pass this, you can go back to what we voted for in 1974 and have complete disclosure, rules against bundling, rules against soft money, rules against individual wealth buying elections. It would free up the speech of the poor. Buckley really freed up the speech of the rich, but it has taken away freedom of speech from the poor. That is the actual effect of the decision, and we are suffering from it.

We have lost the confidence of the people in the political institutions up here because we do not want to deal with it. We tried and tried and tried over a 30-year period without success and now we are using the octopus approach. We want to sneak off in the dark ink of a charade about Patrick Henry, the first amendment, and what may happen.

Mr. President, let us go back to better times. Let us go back to better times.

What happened was, in better times, we had the orderly process of several hearings before the Judiciary Committee. We had several witnesses. And I come to the distinguished Mr. Lloyd Cutler, who served as Counsel for the President.

But he says now on the House side:

An amendment would take too long to adopt, 4 to 10 years.

He did not testify on behalf of the Commission for the Constitutional System heretofore, but he says now that it would take too long. We know that is totally wrong. The last five amendments preceding the most recent one, which took 200 years, took an average of 20 months to ratify.

The gentleman, I think, is suffering from battle fatigue because he said: This could be a camel's-nose-under-the-tent aspect. He did not see a camel's-nose-under-the-tent aspect when he was representing the Commission for the Constitutional System. He says that the Hollings resolution in the Senate authorizes ''reasonable regulation of expenditures. Only the Supreme Court can draw the line between reasonable and unreasonable.''

The courts are always directing the jurors in determining if they have gotten a reasonable decision, the ''reasonable, sane and prudent man,'' in law talk, is the test. We did not have ''reasonable'' when we first drafted it, but we put it in there so the amendment will not look categorical and result in a legal contest. The Supreme Court is certainly going to decide if it is unreasonable, as they have decided that the matter of contributions is constitutional, if limited to that speech, but unconstitutional if you limit the speech of those who spend it.

Let me read parts of the hearing here that we had before the Judiciary Committee some 10 years ago. We had already been on this a dog-chasing-its-tail solution for 10 years.

My name is Lloyd N. Cutler. Along with Senator Nancy Kassebaum of Kansas and Mr. Douglas Dillon, I am a Co-Chairman of the Committee on the Constitutional System, a group of several hundred present and former legislators, executive branch officials, political party officials, professors and civic leaders who are interested in analyzing and correcting some of the weaknesses that have developed in our political system.

One of the most glaring weaknesses, of course, is the rapidly escalating cost of political campaigns, and the growing dependence of incumbents and candidates on money from interest groups who expect the recipient to vote in favor of their particular interests. Incumbents and candidates must devote large portions of their time to begging for money; they are often tempted to vote the conflicting interests of their contributors and to create a hodgepodge of conflicting and indefensible policies; and in turn public frustration with these policies creates cynicism and contempt for the entire political process.

A serious attempt to deal with the campaign financing problem was made in the Federal Election Campaign Act of 1974 and the 1976 amendments, which set maximum limits on the amounts of individual contributions and on the aggregate expenditures of candidates and so-called independent committees supporting such candidates. The constitutionality of these provisions was challenged in the famous case of *Buckley* v. *Valeo,* 424 U.S. 1, in which I had the honor of sharing the argument in support of the statute with Professor Archibald Cox. While the Supreme Court sustained the constitutionality of the limits on contributions, it struck down the provision limiting expenditures for candidates and independent committees supporting such candidates. It found an inseparable connection between an expenditure limit and the extent of a candidate's or committee's political speech, which did not exist in the case of a limit on the size of each contribution by a non-speaker unaccompanied by any limit on the aggregate amount a candidate could raise. It also found little if any proven connection between corruption and the size of a candidate's aggregate expenditures, as distinguished from the size of individual contributions to a candidate.

The Court did, however, approve the Presidential Campaign Financing Fund created by the 1976 amendments, including the condition it imposed barring any presidential nominee who accepted the public funds from spending more than a specified limit. However, it remains unconstitutional for Congress to place any limits on expenditures by independent committees on behalf of a candidate. In recent presidential elections these independent expenditures on behalf of one candidate exceeded the amount of federal funding he accepted. Moreover, so long as the Congress remains deadlocked on proposed legislation for the public financing of Congressional campaigns, it is not possible to use the public financing device as a means of limiting Congressional campaign expenditures.

Mind you, Mr. President, as I cover this particular testimony, it is 10 years ago. They are talking about the dilemma, the problem, and how it was exacerbating at that particular time. You can tell the frustration from the wording of this testimony.

I go to the quote of Mr. Cutler:

Accordingly, the Committee on the Constitutional System has come to the conclusion that the only effective way to limit the explosive growth of campaign financing is to adopt a constitutional amendment.

Now, my colleague from Kentucky says you do not have any authority and there is no constituency. The fact of the matter is that this particular committee is a group of several hundred present and former legislators, executive branch officials, political party officials, professors, and civic leaders who are interested in analyzing and correcting some of the weaknesses that have developed in our political system.

Not the ACLU. I do not rely on the ACLU for my case. I want to win this thing. I do not want to be spreading the dark ink of the ACLU in the Washington Post. Go down to the Washington Post and ask them for free speech. Say, ''I want a little free speech. Not a whole page, a half, maybe a quarter of a page.'' They will not give you a little tidbit of a column free.

Going back to the testimony before the Judiciary Committee:

The amendment would be a very simple one consisting of only 46 words. It would state merely that ''Congress shall have power to set reasonable limits on campaign expenditures by or in support of any candidate in the primary or general election for federal office. The States shall have the same power with respect to campaign expenditures in elections for state and local offices.''

This was 10 years ago, Mr. President, and those who have been working on this particular problem copied the language, adopted the suggestion. It was a reasonable thing because here are the best of minds, without a particular Republican bent or Democratic bent or interest, who said here is the way to do it not only constitutionally but in a constitutionally sound manner so that the court could properly interpret it.

Let me go back to the testimony of Mr. Cutler:

Our proposed amendment would enable Congress to set limits not only on direct expenditures by candidates and their own committees, but also on expenditures by so-called independent committees in support of such a candidate. The details of the actual limits would be contained in future legislation and could be changed from time to time as Congress in its judgment sees fit.

It may of course be argued that the proposed amendment, by authorizing reasonable limits on expenditures, would necessarily set limits on the quantity of speech on behalf of a candidate and that any limits, no matter how ample, is undesirable. But in our view the evidence is overwhelming by now that unlimited campaign expenditures will eventually grow to the point where they consume so much of our political energies and so fracture our political consensus that they will make the political process incapable of governing effectively.

Mr. President, I divert here to emphasize just exactly that concern that our political consensus will be so fractured that it will make ''the political process incapable of governing effectively.'' Put that on as a test to this

particular Congress. If you think we have governed effectively, I have grave misgivings with that opinion. I think that is exactly where we are, and exactly was the concern 10 years ago.

And I continue to quote the testimony of Mr. Cutler:

> Even Congress has found that unlimited speech can destroy the power to govern; that is why the House of Representatives has imposed time limits on Members' speeches for decades and why the Senator has adopted a rule permitting 60 Senators to end a filibuster. One might fairly paraphrase Lord Acton's famous aphorism about power by saying, ''All political money corrupts; unlimited political money corrupts absolutely.''

There is no question in this Senator's mind. Quoting further:

> Finally, Mr. Chairman, I would not be discouraged from taking the amendment route by any feeling that constitutional amendments take too long to get ratified.

You see, Cutler has come over from the other side earlier this year and he said it would take too long. He was not worried then, some 10 years ago, because he knew exactly that. The last five amendments at that particular time were all ratified within the 20-month period. Now he has misgivings.

Let me quote further:

> The fact is that the great majority of amendments submitted by Congress to the States during the last 50 years have been ratified within 20 months after they were submitted. All polls show that the public strongly supports limits on campaign expenditures. The principal delay will be in getting the amendment through Congress. Since that is going to be a difficult task, we ought to start immediately. Unlimited campaign expenditures and the political diseases they cause are going to increase at least as rapidly as new cases of AIDS, and it is high time to start getting serious about the problem.
>
> Mr. Chairman, on three past occasions we the people have amended the Constitution to correct weaknesses in that rightly revered document as interpreted by the Supreme Court. On at least two of these occasions—the Dred Scott decision and the decision striking down federal income taxes, history has subsequently confirmed that the amendments were essential to our development as a healthy, just and powerful society. A third such challenge is now before us. The time has come to meet it.

That was in March 1988.

Now, Mr. President, I see my distinguished colleagues on the Senate floor. At this time I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, are we operating on a time agreement now?

The PRESIDING OFFICER. There is no time agreement.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me say that it is not often on matters such as this one that I am on the floor in opposition to something that Senator HOLLINGS favors. We normally are here on either economic matters or budget matters or the like. I want to say right up front while I totally disagree that we should adopt this constitutional amendment and send it out to the States for ratification, I believe it is fair to say that among the Senators who have been talking about limiting or dramatically changing the campaign laws of this land, of limiting of the amount of money that can be spent, at least this amendment is honest.

It faces the reality right between the eyes, and the Supreme Court of the United States has said that you can't do that because you are limiting freedom of speech. And the distinguished Senator has said, OK, if that is the case, I want to change the Constitution, so we can do it. At least that is a straightforward position, instead of coming here and trying to get around the Supreme Court decisions and around the clause in the U.S. Constitution that protects freedom of speech.

Having said that, I want to take a couple of minutes to talk with the Senate about my views and version of why we should not adopt this amendment. First of all, I believe that I should lead off by saying, yesterday afternoon, I was in my office when some speeches were being delivered on the floor of the Senate. I don't think I am much different from most Senators. Normally, if you have your set on and somebody is speaking on the floor, even though we all love them dearly and they are great speakers and they have great things to say, we don't listen very often—at least, if we are busy in the office, and we do other things.

But I took time out to listen to Senator PHIL GRAMM of Texas, and I tried to tell him this personally so it would precede me saying it on the floor, I thought his remarks yesterday afternoon were very eloquent. They expressed a very good picture of the history of our Constitution and, in particular, of that part of our Constitution that we so glibly say is freedom of speech, protected by that wonderful document and the Bill of Rights.

Having said that, I was not prepared to argue that this amendment is broad enough to perhaps some day affect the editorial policy of the newspapers. I didn't come here particularly prepared to argue that point. But over the evening I read it again and read my remarks. I am prepared to say that I believe the Congress of the United States, if this amendment ever became law, will clearly then be able to determine how we can change freedom of speech in the manner described, and to what extent and when and who will be affected by our changes. I think where this amendment says that the amount of expenditures that may be made by, in support of, or in opposition to a candidate for nomination for election to a Federal office, and where it is said that you are able to put limitations on the amount of contributions that may be accepted, I believe it is entirely possible that some time out in the future, if this were in fact the law of the land, Congress could decide that a newspaper could only write one editorial a week on behalf of its favorite U.S. Senate candidate because they might equate that with an expenditure. In fact, they might be able to ask, what's the newspaper charging for advertising? And then they might say, when you write something in that paper about a candidate expressing your views, we are going to assume that it is worth at least the advertising costs of the paper.

Now, frankly, I am giving you kind of a shirt-sleeve lawyer's opinion. But I can see out there in the future where, under the right circumstances, with a Congress that is being beaten up by newspapers, or perhaps the majority party being beaten up by newspapers or editorials on television, they might indeed decide that they are going to determine the expenditures that can be made and attempt to change our most protected basic right.

Now, having said that I believe the first amendment guaranteeing free speech is the matrix of every other freedom we have, and the most fundamental and urgent application of free speech is to conduct campaigns for political office. Elections and campaigns that lead up to those elections are how the democratic process works. Therefore, I repeat, the amendment guaranteeing freedom of speech is the matrix of every other freedom because it is through the democratic process, the selection of candidates, perhaps even the selection of the philosophy or the ideology of candidates and parties, that decisions are made about our lives and are made about our future. And, therefore, freedom of speech, if controlled, can control that which affects our lives in a most profound way.

I regret to say that while I am not one who comes to the floor very often and chooses to become popular at home by beating up on Congress—in fact, I don't think I have done that very often in my life—I believe it is a mistake to put this power in the hands of a partisan Congress, with the potential for a President of the same party with a huge majority in the Congress, this absolute power to abridge freedom of speech and decide just how much can be spent by whom, what organizations can spend how much on which candidates. The power to determine how much a right-to-life organization can spend on behalf of its candidates or party, or its opposition organization in America, how much they can spend, and a myriad of other organizations that are out there trying to affect Government and how Government works and how we vote—for Congress to be able to regulate that means we are placing in the hands of Congress and a President of the party in control the absolute and unequivocal future destiny of the election process. They will determine it either directly or indirectly, just as certain as you write in black ink on white paper so that it will be most legible.

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

Mr. DOMENICI. Yes.

Mr. MCCONNELL. Since independent expenditures and so-called legislative

advocacy ads, which have been so widely condemned by the reformers, are constitutionally protected speech, doesn't the Senator think it is entirely possible that the Congress, given the power to control that speech by those outside groups, might decide to shut it off entirely, conclude there is nothing reasonable about any of those kinds of expressions, if this amendment were to be passed?

Mr. DOMENICI. I think, given the right circumstances, that is entirely possible. I can dream up a scenario in my mind where it would probably be constitutional under this amendment. You could have a situation in the country where Congress would make a finding, which may be backed up by what's going out in society. Those kinds of expenditures could cause harm in America, at least to some major group that thought the unlimited use of propaganda —this is they would call it—has been harmful to the country, so they will say that we will have none of it.

Let me say, that is one issue, it is clear to me, that in and of itself ought to cause us to say no to this amendment. I think there is even a more serious one. I guess I will choose to say, as my point No. 2, that it's hard enough to win a fight with someone who buys paper by the ton and ink by the barrel. That leads me to ask, who uses freedom of speech most in the United States? Who does? The media of America. The media of America, be it the newspapers, radio, television, or whatever other media we have. That is the principal use of freedom of speech in the United States. They, combined, are the big makers of news. They are the ones who write the news, who talk the news, who present the issues on TV. Frankly, the media sets the agenda. They have even been called the ''fourth estate,'' meaning that we have three branches of government, and they are also a branch of government. Well, we say: Protect them.

As a matter of fact, the U.S. Supreme Court, in a very historic case, New York Times versus Sullivan, a 1964 case, has even held that for a public personage to have a cause of action against the media, which has the right to freedom of speech, to have the right to sue because they told an untruth, you can't sustain a cause of action unless it is made with actual malice, with knowledge that the statement was false or with reckless disregard of whether it is false or not. That is how important we think that right is.

Should it surprise anyone that those who use freedom of the speech in the press of America—that they have their prejudices? Should it surprise anyone that they pick and choose candidates? Should it surprise anyone that they have a philosophy? Should it surprise anyone, even though they are my good friends, that they are predominantly liberal and predominantly Democrats in terms of party affiliation? That just happens to be true. If they were without opinion and used no discretion, what good would they be as the fourth estate in America? For they would be dullsville, and nobody would care what they said. So they are not that. And they can really influence a candidate or an elected officer's future. They can even do it by neglect, if they choose. They can fail to cover what somebody does in their elected office because they, either directly or in some other way, are prejudiced by what Senator Jones from Kansas says, and so it doesn't appear in the newspapers in the State of Kansas. Or, at least in one chain perhaps, or at least, if that is too far-fetched, a certain reporter won't write about Senator Jones, and he is the reporter that writes the front page story all of the time. That is kind of the benign neglect of the media.

What we know is happening in America is that we have moved away from editorial writing only appearing on the editorial pages of the paper. It now also is appearing in the stories in the media. TV has gone from just reporting news to interpreting the news and interpreting situations in America. News shows which do that abound. Should it surprise anyone that sometimes the media take a position in opposition to a President, in opposition to a Senator, in opposition to a party, in opposition to a philosophy of government?

Mr. President, if that is the case, where is the candidate or elected officeholder going to get the resources to tell his side of the story? I know where they are getting that kind of resource today. They are getting it because people contribute to their campaign, and they run ads, or they buy time, or they put out brochures, or they get on a radio show and pay for the time. And they say, ''If the media and my opponent can get on and get free time, I want to get on and pay for it.'' Whatever the media puts on is their choice, and they are free to do as much as they want.

I am not going to stand here and be critical of that. In fact, I am suggesting that they are important in this society. It leads me to the conclusion that they have a right to try to be effective in trying to change public opinion. When they do that and exercise that prerogative, they create a situation which in the combat over political ideas requires that, if you are going to respond and have a chance of being heard, you must compete either in ink, or in paper, or in voice over the radio network, or in your picture and voice on television. Or else, how can you get the message across?

Having said that, I am absolutely convinced that while I stand here and give credence to the United States Congress having great authority, and I would even say that over history, I trust its collective wisdom, I can already in my time in the U.S. Senate find many occasions when I think we weren't very wise and we passed laws that weren't the very best. But even if I were to say over time that we perhaps come out on the wise side more times than not, I am not prepared to give the United States Congress the authority to control the destiny and the lives of political figures today or in the future when it comes to how much of their resources, or resources that others want to give to them, that they can use to make their case.

I believe it is a greater and more frightening evil to control the opportunity for candidates to make their case through the exercise of free speech. That is a far more serious problem for America than the concern over too much campaign spending.

We can pass reasonable rules and regulations regarding campaign contributions. Clearly we already have. We have limited PAC contributions. We have individual contributions limited. But when it comes to those things that the U.S. Supreme Court has already said are protected because they are political speech, isn't it interesting? Some people, including this Senator, had trouble understanding what they were talking about when they said that spending is equal to free speech. If you want to spend your money on a campaign, the use of that money is speech, they said. Well, I understand it now. I hope I have expressed it today. It is precisely what I have been talking about. For what other way than through the use of resources can you get your speech heard and exercise that freedom I speak of? How can you get your message out to the public if you are limited as to how much, or when, or which organization can spend how much in behalf of your candidacy, your position, or your ideology?

So from my standpoint the issue is really very, very clear and very simple. We should not change the Constitution of the United States when it comes to that part of this protected speech that has to do with candidates and political parties getting their message across through the use of resources. Nothing, in my opinion, will suffice other than to leave the decision of what is needed and how it will be used in the hands of the person claiming the freedom. To place it in the hands of somebody else to determine for that person claiming that freedom will, in my opinion, render the freedom useless. For the more you try to tell somebody how to exercise their right to free speech and when they can exercise it, the more the freedom becomes a nonfreedom. It becomes control rather than opportunity to enter into combat in a way that is equal and able to meet any circumstance. I am fully aware that there are many other approaches that we can take to modifying our campaign laws. And some of those being discussed will be constitutional without this change.

But I for one want to close today saying to the U.S. Senate, and to the people of the United States, do you really want Congress to be the one that manages by statute the use of this freedom, political freedom, the freedom of political parties and people running for office to use resources in a way that they

think is best to get their message out, their cause, and to exercise their rights?

Mr. President, I want to make 5 points about this resolution and to make them clearly, strongly and simply.

Point one: This is an attempt to make the unconstitutional constitutional.

The first amendment guaranteeing free speech is the matrix of every other freedom we have.

The most fundamental and urgent application of free speech is to conduct campaigns for political office.

Elections and the campaigns leading up to those elections, after all, are how the democratic process works.

Point two: It's hard enough to win a fight with someone who buys paper by the ton and ink by the barrel. This amendment would make it impossible to win that fight.

The liberal news media exercises its free speech rights more than any other individual or entity in the United States. They are the Big Opinion Makers. They compose the editorials, write the news, talk the news, present the issues on TV. Frankly, they set the agenda.

The media are the ones who exercise freedom of speech as it pertains to politics. They are on the airwaves every day. It used to be that there was political speech on the news at 6 p.m. and 10 p.m. In 1997, there is news at 6 a.m., 7 a.m., noon, 4 p.m., 5 p.m., 6 p.m., 10 p.m., and 11 p.m. on the regular channels. We also have numerous 24-hour news channels.

No one would tolerate a suggestion that reporting and editorializing should be censored or otherwise limited or that there should be—to use the language of the proposed amendment—''reasonable limits.''

All of the political speech contained on the news is protected. In New York Times versus Sullivan (1964) the Supreme Court held that public officials could maintain defamation actions only upon proof that the media's statement was made with ''actual malice'' defined by the Court as made ''with knowledge that it [the statement] was false or with reckless disregard of whether it was false or not.'' As a result, the ''comfort zone of protection'' given to a political figure or candidate for public office under the defamation actions for libel and slander is very small. Public figures are given little protection.

Defamation stands virtually alone in the 20th century tort law. Every other major substantive area has expanded a plaintiff's right to recover, while in defamation the balance has shifted, and quite dramatically, in favor of the media defendant.

Point three: Government rationing of political speech by candidates will increase the power of the media, which has an unlimited free speech right.

The makers of the Constitution, influenced not only by their own experience but also by theorists such as Montesquieu, consciously provided for allocation of national authority among the executive, the legislative and the judicial branches. By insisting upon separation of powers, the Framers sought to protect against tyranny. Over the years, the media has emerged as the fourth branch of Government. Creating an elite of those with unlimited free speech will dangerously upset the balance of power and make the Fourth Estate the most powerful. This runs contrary to our fundamental notions of freedom and effective democracy.

The members of the fourth estate are mere mortals and they have strong biases.

Reporters are opinionated. Arguably, they are the most politically homogenous and biased group in American politics today. Most studies of media voting behavior show 9 out of 10 reporters and editors voting for liberal Democratic candidates. And the media coverage mimics the media's voting pattern.

A study by the Center for Media and Public Affairs, a nonpartisan Washington research group, shows that TV coverage overwhelmingly favored President Clinton this past election season.

In September, Clinton received 54 percent positive coverage on the networks' evening news programs, compared with only 30 percent for Bob Dole. The networks criticized Dole's economic views 81 percent of the time, his social policies 78 percent of the time; and his conduct as a candidate 81 percent of the time. Yet, voters view the media as balanced.

We have TV commentators who criticize ideology, personalities, and lifestyle. Yet, the quantity, quality, and content of the media programs and articles are totally protected and unrestricted.

A paper could editorialize every day of the week, every week of the year against a candidate. If an elected official or candidate wants to respond, he has to buy an ad. He has to make an expenditure.

At the other extreme, a Senator could toil tirelessly day in and day out in meetings, in committee, on the Senate floor. An unfriendly paper could ignore his efforts during his entire term. If that Senator wants to let voters know of his accomplishments he has to buy an ad. He has to make an expenditure to compensate for the medias' benign neglect of his efforts. The Supreme Court is correct, free speech is a fundamental right essential to getting reelected. The Constitution is right to protect this fundamental right.

My question to Senators is: Do you really think it is wise to exclusively vest the power of unlimited speech in the fourth branch? If the Founding Fathers were wise enough to resist tyranny by requiring a balance of power among the branches that existed when they wrote the Constitution, we should recognize this amendment as a bald-faced attempt to shift the balance of power from the candidates involved in the legislative and executive branches, over to the media. In practical terms this reserves to the media the control of freedom itself.

The ACLU has called this proposal a recipe for disaster. This amendment makes mincemeat out of the first amendment. Mincemeat belongs on a menu, not in the Constitution.

Point four: Being an incumbent is a formidable advantage and this amendment would make this advantage insurmountable.

Spending is the way challengers combat the inherent advantages of incumbency, such as name recognition, access to media, and franked mail.

Besides, the most important and plentiful money spent for political purposes is call the Federal budget—$1.6 trillion and rising.

Federal spending—along with the myriad regulations and subsidizing activities such as protectionist measures—often amounts to vote-buying.

Write a tax bill and wealth is redistributed.

This amendment will allow incumbents to write limits on campaign spending. These limits, when coupled with the inherent advantages of incumbency, will make it more difficult for challengers to compete.

History gave us 40 years of House control by Democrats. If this amendment had been law, the ''reasonable'' limits would have been written decade after decade in a self-preserving fashion to favor the ruling party. Is there any doubt that the spending limits would give any challenger a fighting chance?

Point five: When amending the constitution, err on the side of caution—you better be very careful.

Mr. President, today truly is a remarkable day. In the name of ''campaign finance reform,'' some of our distinguished colleagues have come to the floor to offer a resolution which strikes at the very heart of one of the fundamental freedoms the Founding Fathers of this great Nation sought to protect. While I agree that our campaign finance laws are in need of change, amending the first amendment to allow the Government to restrict political speech simply is not the way to reform the system.

The authors of the first amendment were very straightforward: ''Congress shall make no law * * * abridging the freedom of speech.''

Mr. President, surely none of us here today agrees with all of the ''speech'' people in this county make, especially in this town. I don't like the fact that pornography exists. I don't like violence on TV But regardless of what I like, the first amendment protects this type of speech. While the protections of the first amendment are not absolute in all circumstances—we all know that the amendment does not protect one's right to yell ''fire'' in a crowded theater—the right to free speech is nearly

absolute when that speech is directed toward the political process.

Throughout its jurisprudence, the Supreme Court has reaffirmed this notion time and time again. In recounting the history of the first amendment, the Court in the past has observed that: ''there is practically universal agreement that a major purpose of the first amendment was to protect the free discussion of governmental affairs * * * of course including discussions of candidates.'' The Court also has noted that: ''It can hardly be doubted that the constitutional guarantee [of the right to free speech] has its fullest and most urgent application precisely to the conduct for campaigns for political office.''

The Court extended these principles to campaign spending in the Buckley case and held that restrictions on campaign expenditures are improper under the first amendment. The Court's decision can be summed up very simply: restrictions on the resources needed to make political speech heard are restrictions on political speech itself. As the Court has said, ''the distribution of the humblest handbill'' costs money and the Court consistently and properly has refused to make a distinction between the humble handbill and other forms of political speech. They all deserve first amendment protection.

The authors of this proposal are not so straightforward. It will regulate who may speak, when, where, for how long, and for what purpose.

For some, this debate will be about the wisdom of the Supreme Court's decision in the Buckley case and those decisions which followed it. Supporters of this amendment believe that, if spending equals speech, then only those with a lot of money will be able to participate in the political process.

I look at the problem from a different perspective: is it at all proper to amend the organic law of this land to allow the Government to begin regulating the political speech of individuals and groups? It runs contrary to the spirit of the entire Constitution to answer that question in the affirmative.

Thomas Jefferson once wrote that ''there are rights which it is useless to surrender to the government, and which governments yet have always sought to invade. Among these are the rights of thinking and publishing our thoughts by speaking and writing.'' This amendment would be the first step toward surrender, the first step toward putting the Federal Government in control of all political speech in America.

Let us take a look at the language of the proposed amendment, because there are two areas which I believe need to be mentioned.

First, the resolution gives Congress the power to set reasonable limits on campaign contributions and expenditures. Proponents of this amendment and campaign finance reform bills like McCain-Feingold claim that the current system favors wealthy candidates and protects incumbents able to raise large amounts of money because of their name recognition, seniority or membership on important committees.

Yet—under this amendment—who would be responsible for making the initial determination of what is ''reasonable''? Incumbents. Members of Congress. Setting aside whether it is at all wise to allow the Government to regulate political speech, I also wonder whether this amendment would accomplish the goals many of its supporters would hope for. Government micromanagement of political speech, particularly by those already entrenched in government, to me seems like a recipe for more of the same problems we currently face.

The proposed amendment also allows Congress to regulate contributions and expenditures ''made by, in support of, or in opposition to'' a candidate. Under this language, Congress can regulate the political speech of candidates, parties, individuals and groups. One group that apparently remains unregulatable is the media. By limiting all political speech, except that by the media, the role and importance of the media in the political process would grow exponentially. I have already discussed that. Yet despite the power it would provide to the press, the Washington Post and New York Times oppose this amendment. I think I know why.

The first amendment is at the heart of the basic freedoms all Americans enjoy, including the freedom to promote one's political views. If we amend the first amendment to limit the political speech of candidates and parties, what is to stop us from amending the press's free speech rights if we become unhappy with their role?

While we all have felt the sting of a harsh editorial on the pages of a State or national newspaper, I do not believe that any of us feel comfortable with the possibility that Congress could be in the business of regulating the content of newspapers. Yet that seems like the logical next step if this amendment were to pass.

I understand my colleagues on the other side of this issue who seek to ''level the playing field'' or make the campaign finance system more equitable for all participants in the political process. We all would like to see candidates unburdened by the ''money chase'' and campaigns free of excessive negative ads. But this is not the way for us to get our house in order.

President Eisenhower once told Congress that ''freedom has been defined as the opportunity for self-discipline * * * Should we persistently fail to discipline ourselves, eventually there will be increasing pressure on government to redress the failure. By that process freedom will step by step disappear.'' I think that comment sums up where we are headed with this amendment.

As politicians, we have failed to bring discipline to the campaign process. Rather than give in to the pressure to redress our failure by restricting the freedoms offered by the first amendment, I believe that we should look to other, less onerous, means to achieve our goals. I support reasonable campaign finance reform legislation, and have done so in the past. But this proposal goes way beyond reform. It makes mincemeat of the first amendment.

If the concern is that money corrupts and a lot of money corrupts absolutely, there are steps that can be taken that don't require amending the Constitution. Full disclosure is a good way to provide good government.

I urge my colleagues to reject this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank my distinguished colleague from New Mexico for an outstanding speech. I think he is right on the mark. The issue here is who is going to control political discourse in this country. And the Supreme Court has said no one may do that. That is protected first amendment speech.

I just wish to thank my good friend from New Mexico for his thoughts on the first amendment and say I agree with him entirely.

Mr. DOMENICI. Might I ask the Senator a question?

Mr. MCCONNELL. Yes.

Mr. DOMENICI. I alluded to a couple of organizations that are openly engaged in trying to get their points across with the electorate and with those seeking election. Are there a number of groups that are involved in that kind of activity with the American people and with candidates that have expressed their views on this amendment?

Mr. MCCONNELL. There certainly are, I say to my friend from New Mexico. There are periodic meetings in my office with a coalition in defense of the first amendment that includes a set of groups that have never met each other before. On the left, the American Civil Liberties Union and the National Education Association; on the right, Right to Life, Christian Coalition, and all shades of philosophies in between, all of whom have one thing in common—they do not want Congress to push them out, do not want them to push them off the playing field and keep them from participating in American elections.

So this coalition is very active. You would think, listening to the broadcast media and reading the Washington Post, that there was nobody on the other side of this debate, that Common Cause was the only conscience out there pressing for these kinds of reforms. Ironically, Common Cause is against the Hollings constitutional amendment as well. But there is a broad coalition, I would say to my friend from New Mexico. They are very active, very involved, and do not intend to be taken off the playing field.

Mr. DOMENICI. Does the Senator have any idea why they would be opposed to it? Can the Senator express what they said to him?

Mr. MCCONNELL. What they say is they believe the Supreme Court was correct when it said they had a right to support or oppose whomever they choose in the American political system. They know that if Congress is given the power, either through a constitutional amendment or through a measure such as McCain-Feingold, their voices will be quieted, their ability to participate will be capped, limited. They are quite concerned about that and feel that this is not a step in the right direction, that in fact it is the worst possible thing you can do. If you look out at America, we are a seething cauldron of interests. The Founding Fathers envisioned that. The Supreme Court has made it clear that all those interests have an opportunity, a right, a constitutional right to participate in the American political system, and these groups don't want to be pushed out. They think their causes are important. They want to be able to advocate them. They want to be able to support whomever they choose.

Mr. DOMENICI. So it seems to me that if the National Education Association opposes this amendment and the National Rifle Association opposes this amendment, then they must be saying that if this were the law of the land, that some Congress in the future could do violence to one or the other of them in terms of their promoting their cause with the American people and with candidates. In fact, they must be worried about whether there might be some picking and choosing among those who might have the right to promote or to participate in the process of trying to influence candidates and elections. Is that not correct?

Mr. MCCONNELL. That is absolutely the case, I say to my friend from New Mexico. They fear that a Congress, that a future Congress, will try to quiet their voices, to push them out of the process, to make it impossible for them to support candidates of their choice. We know that there are schemes around to do that. There is a bill that we will be debating this year absolutely designed to put a limit on how many people can participate. So their fear is well-founded, I say to my friend from New Mexico.

Mr. DOMENICI. Mr. President, I just want to continue for a couple more minutes. I thought I was finished but I am prompted to say I am not.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Am I recognized, Mr. President?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Chair.

I am not here saying that Congress absolutely would do this, that this would be something that we could just expect in ordinary times, but I believe bad laws are made in unordinary times. I believe bad laws are made when things are not going well and somebody decides that they know why they are not going well. That is why I am reluctant to say Congress, over the scheme of history, would not act in some almost aberrational way to limit speech if things just were not going right and it was their decision there was just too much going on out there in the political arena. Those kinds of things have happened in our history. They have happened and you look back and say, how could it have happened? Historians say all of these different things came together at the same time and, of course, some people thought they knew precisely why and they acted accordingly.

Now, I also commented about the media collectively as being the big user of this freedom and, indeed, I think that is a fair statement. Frankly, I do not think anybody individually within that collective media would question this statement. They are not always right either. They are not always right in their conclusions, individually and collectively. Even if they are not disposed to be philosophically one way or another, they are frequently wrong. And yet their wrongness is protected by the Constitution. The quantity of that is protected in that if they have enough money and own enough papers, they can be as big as they want. Or if they happen to be a personality that now gets on the nightly news and has reached an esteemed position, then clearly they can say what they like and it becomes kind of what people think, what people talk about the next day. And they might be wrong.

So it seems to me that when you put all that together, you do not want to change that. That is a great part of America. We want to live with that. Some of us do not think that Congress ought, with that being the reality, to have the authority to say how much you can spend in a campaign to tell your side of those same facts that others are pushing on the public either through the exercise of their right or by campaigning and being in the political arena.

I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I thank the Senator from New Mexico for a very important contribution to this debate.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

Mr. President, the Senator from Rhode Island has been in the Chamber waiting to be recognized, so I will just take a few moments and ask unanimous consent to insert in the RECORD the ''American Constitutional Law Restatement on the Freedom of Speech,'' by Laurence Tribe, Ralph S. Tyler, Jr. Professor of Constitutional Law at Harvard University.

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

EXCERPT FROM ''AMERICAN CONSTITUTIONAL LAW''

(By Laurence H. Tribe)

* * * * *

COMMUNICATION AND EXPRESSION

§ 12–2. The Two Ways in Which Government Might "Abridge" Speech—And the Two Corresponding "Tracks" of First Amendment Analysis

Government can ''abridge'' speech in either of two ways. First, government can aim at ideas or information, in the sense of singling out actions for government control or penalty either (a) because the specific message or viewpoint such actions express, or (b) because of the effects produced by awareness of the information or ideas such actions impart. Government punishment of publications critical of the state would illustrate (a), as would government discharge of public employees found in possession of ''subversive'' literature. Government prohibition of any act making consumers aware of the prices of over-the-counter drugs would illustrate (b), as would a ban on the teaching of a foreign language or a prohibition against discussing a political candidate on the last day of an election. Second, without aiming at ideas or information in either of the above senses, government can constrict the flow of information and ideas while pursuing other goals, either (a) by limiting an activity through which information and ideas might be conveyed, or (b) by enforcing rules compliance with which might discourage the communication of ideas or information. Government prohibitions against loudspeakers in residential areas would illustrate (a). Governmental demands for testimony before grand juries notwithstanding the desire of informants to remain anonymous would illustrate (b), as would ceilings on campaign contributions. The first form of abridgment may be summarized as encompassing government actions aimed at communicative impact; the second, as encompassing government actions aimed at noncommunicative impact but nonetheless having adverse effects on communicative opportunity.

Any adverse government action aimed at communicative impact is presumptively at odds with the first amendment. For if the constitutional guarantee means anything, it means that, ordinarily at least, ''government has no power to restrict expression because of its message, its ideas, its subject matter, or its content * * *.'' And if the constitutional guarantee is not to be trivialized, it must mean that government cannot justify restrictions on free expression by reference to the adverse consequences of allowing certain ideas or information to enter the realm of discussion and awareness. Whatever might in theory be said either way, the choice between ''the dangers of suppressing information and the dangers of its misuse if it is freely available'' is, ultimately, a choice ''that the First Amendment makes for us.''

A government action belonging to the second category is of a different order altogether. If it is thought intolerable for government to ban all distribution of handbills in order to combat litter, for example, the objection must be that the values of free expression are more important constitutionally than those of clean streets at low cost; if a ban on noisy picketing in a hospital zone is acceptable, the reason must be that the harmful consequences of this particular

form of expressive behavior, quite apart from any ideas it might convey, outweigh the good. Where government aims at the noncommunicative impact of an act, the correct result in any particular case thus reflects some ''balancing'' of the competing interests; regulatory choices aimed at harms not caused by ideas or information as such are acceptable so long as they do not unduly constrict the flow of information and ideas. In such cases, the first amendment does not make the choice, but instead requires a ''thumb'' on the scale to assure that the balance struck in any particular situation properly reflects the central position of free expression in the constitutional scheme.

The Supreme Court has evolved two distinct approaches to the resolution of first amendment claims; the two correspond to the two ways in which government may ''abridge'' speech. If a government regulation is aimed at the communicative impact of an act, analysis should proceed along what we will call track one. On that track, a regulation is unconstitutional unless government shows that the message being suppressed poses a ''clear and present danger,'' constitutes a defamatory falsehood, or otherwise falls on the unprotected side of one of the lines the Court has drawn to distinguish those expressive acts privileged by the first amendment from those open to government regulation with only minimal due process scrutiny. If a government regulation is aimed at the noncommunicative impact of an act, its analysis proceeds on what we will call track two. On that track, a regulation is constitutional, even as applied to expressive conduct, so long as it does not unduly constrict the flow of information and ideas. On track two, the ''balance'' between the values of freedom of expression and the government's regulatory interests is struck on a case-by-case basis, guided by whatever unifying principles may be articulated.

A recurring debate in first amendment jurisprudence has been whether first amendment rights are ''absolute'' in the sense that government may not ''abridge'' them at all, or whether the first amendment requires the ''balancing'' of competing interests in the sense that free speech values and the government's competing justifications must be isolated and weighed in each case. The two poles of this debate are best understood as corresponding to the two approaches, track one and track two; on the first, the absolutists essentially prevail; on the second, the balancers are by and large victorious. While the ''absolutes''—''balancing'' controversy may have been ''unfortunate, misleading and unnecessary,'' it has generated several important observations. First, the ''balancers'' are right in concluding that it is impossible to escape the task of weighing the competing considerations. Although only the case-by-case approach of track two takes the form of an explicit evaluation of the importance of the governmental interests said to justify each challenged regulation, similar judgments underlie the categorical definitions on track one. Any exclusion of a class of activities from first amendment safeguards represents an implicit conclusion that the governmental interests in regulating those activities are such as to justify whatever limitation is thereby placed on the free expression of ideas. Thus, determinations of the reach of first amendment protections on either track presuppose some form of ''balancing'' whether or not they appear to do so. The question is whether the ''balance'' should be struck for all cases in the process of framing particular categorical definitions, or whether the ''balance'' should be calibrated anew on a case-by-case basis.

The ''absolutists'' may well have been right in believing that their approach was better calculated to protect freedoms of expression, especially in times of crisis. If the judicial branch is to protect dissenters from a majority's tyranny, it cannot be satisfied with a process of review that requires a court to assess after each incident a myriad of facts, to guess at the risks created by expressive conduct, and to assign a specific value to the hard-to-measure worth of particular instances of free expression. The results of any such process of review will be some ''famous victories'' for the cause of free expression, but will leave no one very sure that any particular expressive act will find a constitutional shield. When the Supreme Court draws categorical lines, creating rules of privilege defined in terms of a few factors largely independent of context, judicial authority speaks directly to the legislature by means of a facial examination of laws without regard to the context in which they are applied. And categorical rules, by drawing clear lines, are usually less open to manipulation because they leave less room for the prejudices of the factfinder to insinuate themselves into a decision. The jury after all is a majoritarian institution, and judges historically have been drawn from more conservative groups. Categorical rules thus tend to protect the system of free expression better because they are more likely to work in spite of the defects in the human machinery on which we must rely to preserve fundamental liberties. The balancing approach is contrastingly a slippery slope; once an issue is seen as a matter of degree, first amendment protections become especially reliant on the sympathetic administration of the law.

On track two, when government does not seek to suppress any idea or message as such, there seems little escape from this quagmire of ad hoc judgment, although a few categorical rules are possible. But on track one, when the government's concern is with message content, it has proven both possible and necessary to proceed categorically.

Mr. HOLLINGS. Mr. President, this explains the subjects outside our first amendment protections. It mentions the Sullivan case, New York Times, and others.

One. We are not talking here about free speech. We are talking about paid speech. My amendment reads ''expenditures.'' It has nothing to do with the free press. The very horrors that are mentioned could happen today, and in fact, happened to this particular Senator in his race for reelection back in 1992 with the Wall Street Journal.

I will get into that in depth, but I am delighted at this time, Mr. President, to yield, and I hope the Senator from Rhode Island can be recognized.

Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. REED. Mr. President, I rise this afternoon in support of the Hollings amendment which I think is a wonderful first step to begin to reform our campaign finance system. As many of my distinguished colleagues have mentioned in the course of this debate, at any time when you attempt to amend the Constitution of the United States, you do so with trepidation. This is the fundamental organic document of our Government. It deserves great respect and reverence, and we do not do this lightly.

But today we are facing a crisis of public confidence in the democratic order in the United States with respect to campaign finance reform. If the Constitution and the Court had remained silent on this issue, we would not be here today. But the Court has spoken, first in the case of Buckley versus Valeo, several years ago, and in its progeny. Their voice has concluded, and some would argue not correctly, but concluded that the first amendment prevents Congress from imposing limits on campaign expenditures.

If the Court refuses to reassess its ruling, we have no choice but to propose to the people of the United States that in their wisdom they consider an amendment to the Constitution of the United States, and that is why we are here today. We are not doing this in a vacuum. We are doing this because of a crisis in confidence by the public.

To be kind, the public is disenchanted with the American political system, particularly the American political campaign finance system. They see far too much money going to campaigns. They are concerned that this money is extracting special interest favors. All of this undermines a sense of democracy, a sense of participation, a sense of what it is to be a citizen in this great country. Last year's election saw record fundraising and record expenditures. An unprecedented $2.7 billion was spent in Federal elections last year, three times the amount that was spent the year the Buckley versus Valeo case was decided. As this money is poured in, the public is becoming increasingly disenchanted and increasingly disenfranchised from the process.

In a 1992 poll, 84 percent of the electorate stated that Congress was owned by special interests, a direct reflection, I think, of the perception of how the campaign finance system may work. For the first time in decades, last year's Presidential elections saw less than half of the eligible voters going to the polls to register their votes. The American public sees a great problem. Months ago, in the Washington Post, 80 percent of those surveyed indicated there was too much money in campaigns and favored the adoption of campaign spending limits.

For the well-being of our democracy, for the confidence we must have of its citizens, as we go about doing our work, I feel this amendment is in order and indeed must be enacted.

As I mentioned before, the great stumbling block to effective limits on campaign expenditures is the Supreme Court decision in Buckley versus Valeo. At the core of that 1976 decision, there is this language:

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

That seems to be the core sense of why the Court decided it. But I suggest the notion that citizens and even candidates are controlling the system today has been overwhelmed by events, overwhelmed by an avalanche of money coming into political campaigns. In fact, the system that was created under Buckley versus Valeo has collapsed, in effect, inundated by independent expenditures, special interest expenditures, money by the torrent coming into campaigns. It is not surprising, then, that the Washington Post detailed that the special interests coming into a campaign in Pennsylvania's 21st Congressional District outspent either one of the candidates. In effect, the candidates control neither the dialog nor the issues; it was outside forces, some of them anonymous or at least ambiguous.

All of this contributed not to what we think an election should be about, two candidates or several candidates presenting their ideas, arguing eloquently, reaching out to people. In effect, the candidates became a sideshow. It was the battle between special interests. That is not what the American people want to see in their elections, and if we are to control that and constrain that, we must have, in this particular moment, a constitutional amendment to do so.

The issue about the Buckley versus Valeo decision is one that constrained our thought about campaign financing for many, many years. My colleagues in this body have offered many proposals, legislatively, to correct it. There is the Feingold-McCain bill. There is other legislation. Leader DASCHLE has introduced legislation. I support all of these. But my fear is if we adopt any one of them, and I hope we do adopt campaign finance reform legislatively, the ingenuity and creativity of lawyers and consultants will find ways around it, simply because ultimately we cannot control the amount of money going into campaigns. This amendment will give us that authority.

The concept, also, that unlimited spending is good, I think, has to be looked at very skeptically. Unlimited spending can drown out free speech, can squelch someone who does not have the resources to compete. It may not, in fact, always advance the concept of a free exchange of ideas in an electoral campaign.

Many of our leading constitutional scholars, in fact, have reached this conclusion. Paul Freund, the distinguished professor at Harvard Law School wrote:

> Campaign contributors are operating vicariously through the power of their purse, rather than through the power of their ideas. I would scale that relatively lower in the hierarchy of First Amendment values. We are dealing here not so much with the right of personal expression or even association, but with dollars and decibels, and just as the volume of sounds may be limited by law, so may the volume of dollars, without violating the First Amendment.

Judge Skelly Wright, one of our most distinguished jurists wrote:

> Nothing in the First Amendment commits us to the dogma that money is speech. Far from stifling First Amendment values, campaign limits actually promote them. In place of unlimited spending, limits encourage all to emphasize less expensive, face-to-face communications, exactly the kind of activities that promote real dialogue and leave much less room for manipulation and avoidance of the issues.

In the words of a distinguished New York School of Law professor, Ronald Dworkin:

> The Buckley decision was a mistake, unsupported by precedent and contrary to the best understanding of prior first amendment jurisprudence. It misunderstood not only what free speech really is, but what it really means for free people to govern themselves.

All these experts would conclude that Buckley versus Valeo in effect is wrong. But Buckley versus Valeo as it stands today is the law and, recognizing that, we are attempting to give the people of this country a chance, through the amendment process, to change that decision, that position of the Court.

If you look at Buckley versus Valeo, though, perhaps the best argument I found against it was contained within the very confines of the decision. It was the dissenting opinion of Justice White. I do not think anyone has to vouch for Justice White's fidelity to the first amendment and the values that it holds that are dear to us all. First of all, time has proven Justice White to be very perceptive, indeed prophetic. Because he wrote:

> Without limits on total expenditures, campaign costs will inevitably and endlessly escalate, pressure to raise funds will constantly build, and with it the temptation to resort to those sources of large sums, who, history shows, are sufficiently confident of not being caught to risk flouting contribution limits.

This is in 1976. Again, recall, since he wrote those words, campaign spending has tripled.

He also went on to add:

> I have little doubt that limiting the total that can be spent will ease the candidate's understandable obsession with fundraising and so free him and his staff to communicate in more places and ways unconnected with the fundraising function. I regret that, by rejecting a limit, the Court has returned them all to the treadmill.

I would argue there is no one here in this body who would suggest that that treadmill is not still there.

I have heard in the debate notions about how this would infringe on treasured values of the first amendment. But Justice White, in his opinion, pointed out that this is not a unique issue, that the limiting of the quantity of speech is done routinely.

As he said:

> Compulsory bargaining and the right to strike, both provided for or protected by Federal law, inevitably have increased the labor costs of those who publish newspapers. Federal and State taxation directly removes from company coffers large amounts of money that might be spent on larger and better newspapers. But it has not been suggested, nor could it be successfully, that these laws, and many others, are invalid because they siphon off or prevent the accumulation of large sums that would otherwise be available for communicative activities.

We do on a routine basis require newspapers, the great champions of the first amendment, the most vociferous defenders of the first amendment, to comply with laws that effectively limit the quantity of speech that they can put out. So this notion that what we are doing today trods on the sacred core of the first amendment, I do not think is right.

Indeed, I think we would be better off to have the Court reassess its opinion of Buckley and find that these limits are appropriate under the first amendment. But today, we are left with presenting to the American people the opportunity to make that judgment. I hope that, as I said, Buckley could be reviewed and indeed be recognized by the Court to be inappropriate based on the facts today. They have the authority to do that.

We have the authority to present to the American public this constitutional amendment. I urge that we do so.

I want to commend the sponsor, Senator HOLLINGS, for his leadership, for his perception of the issue, and for his unflinching commitment to develop a campaign finance system that is fair to all.

One last point. I have also heard in this debate the notion that this Congress would impose irresponsible and reckless limits. In reality, any limits we impose we would all have to recognize and work within. They would be the same as applied to Republican candidates or Democratic candidates. They would limit the amount of money that right-wing, special-interest groups could put in or left-wing, special-interest groups could put in.

They would, in effect, return our elections to the democratic process that our citizens believe we should have, a process by which they can listen to the voices of the candidates, they can communicate their views, they can, in effect, not be drowned out by an avalanche of money and 30-second sound bites. In fact, an election can be a dialog about democracy and not about who raises how much money. I urge my colleagues to support this amendment.

Again, I commend the Senator for his great leadership.

Mr. HOLLINGS addressed the Chair.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. I will yield in a second to the distinguished Senator from Washington.

I want to thank the distinguished Senator from Rhode Island. He was tortured with the same problem as a Member of the House. As a good old West Point graduate and with the discipline and the analytical approach that he has learned over the many years in public service, we really appreciate his contribution here today.

Mr. REED. Thank you.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. GORTON. Mr. President, Senate Joint Resolution 18 almost certainly represents the most serious and fundamental attack on first amendment rights of free speech in the 210-year history of that first amendment.

Senate Joint Resolution 18 is not aimed at the entire ambit of free speech rights. It in no way grants Congress authority over obscenity, over beer advertising, over fine arts. It is focused solely on allowing the Congress sweeping authority over the freedom of political speech, not just of politicians but of all citizens and of the news media that serve those citizens.

The first Congress of the United States responded to the most serious objection to the ratification of our Constitution that was presented during those ratification debates—the absence of a bill of rights and, most particularly, the absence of a constitutional guarantee of free speech.

When James Madison and his colleagues drafted the first amendment and worked on its protection of free speech, they were not concerned, Mr. President, about defending obscenity. They were not concerned with limitations on beer advertising. They were not concerned with playwrights. They were concerned with debate over the political future of the people of the United States of America.

They believed, as did almost all of the citizens who worried about a new Constitution, that the new Government might, like its British predecessors, attempt to gag newspapers and individuals in their pursuit of a free and open debate over matters political. So they wrote a first amendment that was unconditional in that respect. They wrote a first amendment that said, ''Congress shall make no law . . . abridging the freedom of speech . . .'' They did not write, as this resolution would, in paraphrase, ''Congress shall make no law abridging the freedom of speech except such restrictions as Congress may deem reasonable.''

Mr. President, you and I and all the other Members of this body and every American who has ever run for office recognizes that, other than that vitally important meeting of people as individuals on a one-to-one basis, doorbelling, canvassing, and the like, important even to those of us who run for the U.S. Senate but obviously an impossible tactic when one represents hundreds of thousands or millions of voters, that there are fundamentally four ways in which we can communicate political ideas in the course of the campaign to the people who are constituents or whom we seek to represent.

The first of those, Mr. President, is through our own campaign committees. ''Gorton '94,'' ''McConnell '96,'' ''Hollings '98,'' formally organized and set up, receiving campaign contributions, writing advertisements, scheduling the candidates, doing so in a fairly transparent fashion. That is the first one.

The second way which our ideas can be communicated to those whom we seek to represent is through the party organizations with which we are affiliated. All candidates for Federal office are members of organized political parties. Most candidates for State office and many for local office are as well. In fact, in almost every State the only identifier on the ballot in addition to the name of the candidate is the political party that candidate identifies with. So the Republican Party and the Democratic Party, and the Socialist Worker Party also, involves itself in campaigns communicating en mass in the ways that they consider to be most effective with the voters.

The third way of communicating political ideas, Mr. President, is by the independent activity of individuals or organizations who are not, under most circumstances, directly connected with either the candidate or with any political party but who have a vital interest, on behalf of themselves as individuals or as members of organizations in which they are a part in the political future of the country, in who is elected to particular offices.

As I say, they may be individuals, they may be very wealthy individuals, they may be organizations from one end of the political spectrum to another, but they communicate quite freely and without any censorship from Congress their ideas about political elections, their support for candidates, their opposition to candidates.

Finally, the fourth way in which political ideas about elections get to the voters is through our mass media—through radio, television and the newspapers—many of which are vitally interested in these ideas, many of which literally editorialize and endorse, but even when they don't, they communicate such ideas as they deem relevant in explaining the positions of the various candidates.

Senate Joint Resolution 18 is, I must say, philosophically consistent and intellectually honest in that it permits Congress to regulate all four of those activities. It allows Congress to put reasonable limits on contributions or expenditures by, in support of, or in opposition to candidates for Federal office. That covers the candidates' committees, that covers the political parties, that covers the totally independent individuals and groups, and that covers the newspapers and television stations and radio stations that participate in these political campaigns.

I say, Mr. President, that this proposal is philosophically consistent and logical and principled in making no real distinction among those four methods of contribution, because, of course, the present campaign law does not. The law under which we operate today puts very real limits on candidates' campaign organizations, limits which, by the operation of inflation, have grown smaller in each successive election cycle on contributions from organizations or from individuals to those candidates, significant disclosure requirements on the source of those contributions, so significant that on many occasions, it would seem that our newspapers spend more time and more column inches reporting contributions than they do on reporting ideas.

The 1974 law imposes some, but vaguer, restrictions on contributions to and expenditures by political parties. It was unable, as a matter of constitutional law, to impose any significant restrictions on independent expenditures, and it made no attempt to impose any restrictions on the news media, recognizing even then the unconstitutionality of doing so.

What has been the net impact of the set of restrictions that we have today? In almost direct ratio to the restrictions on the amount of money that individuals and organizations can contribute to candidates, it has caused those individuals and organizations, when they feel passionately about a candidate, either for or against, to funnel their contributions to the political parties whom they know would support those candidates. And so we have the challenge of soft money today, largely because those who contribute soft money to political parties cannot contribute that money in hard form to the candidates themselves.

This, all by itself, has made political campaigns less satisfactory and candidates less responsible. Each of us as a candidate is responsible directly for the way in which he or she conducts his or her campaign. When our name is on the disclaimer of a television ad, we cannot disown it. When we have reported a contribution from an individual or a group, we cannot disown it. But even when that advertisement or that political activity comes from our political party, we can, to a certain extent, disassociate ourselves from the ideas or the messages involved. We may very well, we hope, benefit from it when they support us, but we cannot guarantee that we will gain such a benefit.

Now we have waiting in the wings, subject to validation only, I believe, if we adopt this constitutional amendment, a set of similar restrictions on political parties. If we adopt such a system of restrictions on political parties, Mr. President, it seems to me we know clearly what will happen, because it is already happening. Those same groups, those same individuals who feel passionately about Federal elections today and who are barred from providing the support they want to provide to the candidate directly, are barred from providing that support to the candidate's political party, will simply do it on their own.

Last Sunday's Washington Post had an interesting article about the 1996

campaigns, the headline of which is: ''For Their Targets, Mystery Groups' Ads Hit Like Attacks From Nowhere.'' The airwaves were filled with this kind of activity at the end of 1996—organizations with fictional names engaged mostly in negative advertising against particular candidates, the source of support for which was unknown and, therefore, the responsibility for the content of which was unknown. But as long as we have a Congress that impinges on every aspect of our social and individual and economic lives, we will have individuals who wish to participate and will participate in that fashion if they are not allowed to participate more directly and more openly.

So Senate Joint Resolution 18 very clearly will allow Congress to put limits on that kind of political participation. So it will say, in the ultimate analysis, we can do whatever we think is reasonable to shut people up when it comes to political debates.

Now, that still leaves the fourth element of communication: the radio, television stations, and the newspapers of this country. Very likely, the first bill that went through Congress after this constitutional amendment passed would not affect them, but they would sure be in clover, Mr. President, because then, with the candidate and the candidate's supporters and the candidate's proponents all muzzled, the only source of information would be the mass news media.

But now this passionately devoted and wealthy individual or this passionately devoted organization would soon find the answer to that question: Buy a newspaper; buy a television station. Then you are entirely free to spend all the money you want on political communication, totally divorced from any responsibility on the part of the candidate at all.

So the next law, Mr. President, will limit what the newspapers and the television stations and radio stations can do.

Mr. MCCONNELL. Will the Senator yield?

Mr. GORTON. I am happy to yield to the Senator.

Mr. MCCONNELL. There is a bill we will be discussing later this year called McCain-Feingold, which seeks, in this Senator's judgment, to essentially shut down legislative-advocacy-type independent expressions and to make almost impossible the ability of outside groups to engage in independent expenditures.

My question to my friend from Washington is, given the fact that we have bills that go that far now, given this authority under this constitutional amendment to set ''reasonable limits,'' is it not possible that Congress might decide such expenditures should be shut down entirely, that there is nothing reasonable about them, and that those voices should be quieted altogether?

Mr. GORTON. Congress, if this should be part of the Constitution, might well make just such a decision on the relatively rational grounds that all political speech they want to be directly attributable to candidates and not to permit anyone to engage in a partisan political debate except through the candidate's committees.

Now, I must say to my friend from Kentucky, I doubt that would happen in the Congress immediately after the adoption of a constitutional amendment like this. The sponsors of this constitutional amendment are all supporters of the McCain-Feingold proposal, and my inclination is that they would be content with the passage of that legislation with this constitutional provision in effect.

They know, or at least the most thoughtful and principled of them know, that McCain-Feingold is blatantly unconstitutional under the first amendment as the first amendment exists today. I rather imagine they would be satisfied with this reform as their predecessors were satisfied with the 1974 reforms. As soon as this reform showed itself to be as ineffective as 1974 has, as soon as it had pushed communication into another channel, they would be back to close off that channel.

At the present time, their frustration stems almost entirely from the fact that they are only permitted to dam one channel of the river, and all the water just goes around the other side of the island and flows into the political system to the same extent or to a greater extent than it does at the present time. This constitutional amendment allows them to dam the whole river for good and permanently.

It is for exactly that reason that I say, Mr. President, this is certainly the most fundamental attack on the most fundamental of American freedoms that has taken place in this body in the 14-plus years during which I have served and, I think, probably in the 210 years since the first amendment was adopted by the first Congress.

Mr. MCCONNELL. Will the Senator yield?

Mr. GORTON. I am happy to yield to the Senator.

Mr. MCCONNELL. Since the Congress composed entirely of incumbents has the power to determine what is a reasonable limit directly on campaigns, would it not be entirely conceivable, I ask my friend from Washington, in the very near future, if not in the very same Congress, after this became part of the Constitution, that these incumbents might seek to limit spending in campaigns directly by the candidates themselves standing for reelection and a challenger, quite dramatically?

Most incumbents start out with a pretty substantial lead unless they are running against a famous athlete, a movie star, or sitting Governor. It has often been described as the incumbent looking at it as a football field, and the incumbent at the beginning of the campaign is at the 40-yard line and sprinting toward the goalline; the challenger is back on the 5-yard line with 95 yards to go. Might not this Congress composed entirely of incumbents decide to set a spending limit of, say, $50,000 per House of Representatives race and declare that reasonable?

Mr. GORTON. Congress would certainly have the authority to pass just such a law, I say, Mr. President, to my friend from Kentucky. I think as a former State attorney general, he has argued a number of cases in the Supreme Court. I would probably be willing to take that challenge on a reasonable basis to the Supreme Court of the United States, and I might well win at that $50,000 figure.

But the vice of this constitutional amendment is that I would have to do that in the first place, and there would be an argument that that was a reasonable limitation. When we start down this road, we put the right of free speech and political matters of the people of the United States into the hands of Congress.

As the Senator from New Mexico said earlier, each of us believes sufficiently in this system to hold the opinion that most of the time we do the right thing and that almost all of the time we try to do the right thing. We are probably least likely to do the right thing when it affects our own individual fates and our own individual careers. Even when we are, we sometimes, at least, can make mistakes. That, I must say, is obviously the reason that Madison and the first Congress wrote the first amendment in unequivocal terms with a primary focus on political speech. They simply did not wish to give this authority to Congress, and they were right.

The Supreme Court of the United States, in dealing with the 1974 law in Buckley versus Valeo, I think put the issue in the simplest and clearest fashion when it says,

> In the free society ordained by our Constitution, it is not the Government, but the people individually as citizens and candidates, and collectively as associations and political committees, who must retain control over the quantity and range of debate on public issues in a political campaign.

That is the central issue here. Is this a matter that is up to the judgment of the people as individuals and as members of organizations? Or is it up to the Government—in this case a self-interested Government—to say what is reasonable? You and I, Mr. President, and the Senator from Kentucky and I believe that this is a matter for people as individuals and as members of voluntary associations. The proponents of this constitutional amendment believe this is a matter for the Government. Between us, there is a great gulf fixed which cannot be bridged. We stand on the Constitution as it was written by the Founding Fathers. We stand on a faith in the people, and we reject the interference of the Federal Government on this question.

Mr. MCCONNELL. Mr. President, I want to thank the distinguished Senator from Washington for his eloquent

defense of the first amendment. He certainly encapsulated, better than I could ever, exactly what the heart of this debate is. I thank him very much for his support and contribution.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Arizona.

Mr. MCCAIN. Mr. President, daily we are learning of new allegations and revelations regarding how last year's elections were financed. Just yesterday, we learned that the Chinese Government created a $1.8 million fund with which it sought to influence up to 30 Members of Congress with campaign contributions.

The Congress now faces a monumental task. How can the system be effectively and fairly changed? The answer is both simple and daunting: by passing comprehensive, bipartisan campaign finance reform. Some openly oppose campaign finance reform. One of the leaders, if not the leader, my friend, Senator MCCONNELL, is there. I admire him and respect the fact that he is a standup guy. He does not hide that fact. Others have said to me, ''I am for campaign finance reform, just not yours.'' I challenge my colleagues and say that every aspect of Senator FEINGOLD's and my bill is open for debate. Everyone is welcome at the table. I believe there is no excuse for inaction.

Real reform must do two things. It must limit the influence of money in campaigns, and it must level the playing field between challengers and incumbents. I believe those two principles cannot be compromised, but the rest is up for negotiation.

I find that there are fewer and fewer Americans—in fact, recent polls show that 9 out of 10 Americans believe that we must repair this system and that it is out of control. I just heard my colleagues talking about how in 1974 it didn't work, and if we passed further campaign finance reform, somehow that would be bad, as it was bad in 1974.

Now, Mr. President, I wasn't in Congress in 1974, but I am very aware that, in 1972, there were people walking around this town with valises full of hundred dollar bills. The stories I have heard concerned people being asked to contribute 1 or 2 percent of their gross income. Somehow to allege that the changes made in 1974 didn't help reform the system I think, frankly, flies in the face of facts. The facts are that, as a result of the 1974 reforms, we did fix the system for quite a while. Mr. President, when I was elected to Congress in 1982, there was a far different environment than exists today in fundraising. The fact is, it worked for quite a while, and then loopholes were exploited, Supreme Court decisions gave additional avenues for the funneling of so-called ''soft money'' into campaigns, and it is out of control again.

Mr. President, in 1986, we reformed the tax system in this country—supported overwhelmingly here in Congress—and closed some tax loopholes. We took several million people off the tax rolls, and it was generally applauded. We fixed the system to a significant degree. We all know now, in 1997, we need to fix the tax system again. I say to you, in 1974, much needed reforms were enacted by an overwhelming majority of Congress. They did some good things. It did clean up the system dramatically.

Now circumstances and times have changed. We all know the problems, Mr. President. We all know the problems. They are made abundantly clear by picking up any newspaper today. The pursuit of funds and money has become a full-time occupation, and the average citizen no longer has the same voice in Washington, DC, that they did years ago.

Earlier this week, a man who I have not only grown to respect and admire enormously, but I have also become a good friend with over the many years I have been here and worked very closely with, is Senator FORD from the other side of the aisle. I think many would describe Senator FORD, with admiration, as a partisan member of his party. I also know that there are many others of us who have had the opportunity of working with him for many, many years. If you want to reach a legislative result and you want to reach it in a nonpartisan and, if necessary, bipartisan fashion, you sit down with WENDELL FORD, along with, by the way, my friend from South Carolina, Senator HOLLINGS. Example: At the end of last year, we were able to pass legislation which was the most massive change in aviation, how we fund and structure it, since 1978 when we deregulated the airline industry. WENDELL FORD, acting in a bipartisan fashion, made that legislation possible. I intend, as is appropriate, when the time comes, to elaborate on my feelings of affection and respect for Senator FORD.

One of the things Senator FORD mentioned as the reason why he was not going to seek reelection was because he was going to have to raise $100,000 a week between now and election day. He also added, in his own inimitable style, that his wife would not allow him to rent out the spare bedroom. But the fact is, Mr. President, that every time one of our Members leaves this body, they cite the money chase. They cite the problem that money has become the overriding factor in the determination of candidacy and outcome. That should not be, Mr. President.

Ask anyone who is considering running for public office. They come here to Washington, DC, because they need the support of the party people and the money and the PAC's and the interest groups, and they will tell you they are only asked one question when they announce they are going to seek election, and one question only. It's not, ''How do you stand on taxes?'' or ''on the role of Government,'' or ''how do you feel about national defense?'' There is only one question they are asked, Mr. President: ''Where are you going to get the money?''

When we get into a full-blown debate on this issue—which I hope we will because I still hold the fervent hope and belief that we will address campaign finance reform on this floor in one way or another before this year is out, and I don't know when that will be—I suggest that it will only be done in a meaningful fashion when there is sufficient anger and outrage on the part of the American people who demand that we fix this broken system, and not until.

I don't think we really ought to debate this until we are ready to achieve a legislative result. I don't know when that will be, Mr. President. But I can tell you, we are a heck of a lot closer to that point than we were, say, 6 months ago. I believe 3 months from now, or 2 months from now—after the hearings Senator THOMPSON is going to be holding—there will be a much greater impetus and desire on the part of the American people that we more thoroughly and completely address this issue and try to fix the broken system. I believe that we can and should and will. It used to be that we waged a battle of ideas between candidates. The battle was well fought and hard won on the election battlefield. Now it is the battle of the bucks.

Again, at an appropriate time, I will talk about the well-known public facts and how much campaign costs have risen, how much it costs to run a Senate race, how much it costs in order to buy television, and how much soft money has grown in exponential numbers to the point where, according to the Washington Post not long ago, the cost of Federal campaigns was well over $2 billion, whether they be small States or large States.

Mr. President, I do not believe that the constitutional amendment is the answer. We can enact campaign finance reform without a constitutional amendment. S. 25, the McCain-Feingold bill, is fully consistent with the law. I can point out many more constitutional scholars, including a former chief counsel of the ACLU, as to constitutionality because it is based primarily on voluntary spending limits.

The Supreme Court has ruled that we cannot stop someone who is willing to spend an unlimited amount of money to campaign for a Federal office from doing so.

This bill provides strong incentives for candidates to voluntarily comply with spending limits regardless of personal wealth. Candidates who choose to spend unlimited amounts of their own money receive none of the benefits under our legislation.

Mr. President, there is an argument that is being bandied about that somehow we cannot place a limit on soft money, that it would be unconstitutional to do so. I find that curious. I find that curious because the courts

have clearly allowed the Congress to place limits on contributions to campaigns. We have placed an individual limit of $2,000. We placed a PAC limit of $10,000. We do not allow a corporation or a union to provide any direct contributions. Yet somehow people on this floor are saying somehow it would be unconstitutional to place limits on soft money. There is no rational constitutional argument there in my view. There is no justifiable need for soft money. All contributions made to the party should be done using hard, fully traceable, fully disclosed dollars. There is no constitutional right to soft money. The courts have stated that any contribution can be limited.

I will submit for the RECORD those court decisions that have stated that any contribution can be limited.

As you know, Mr. President, my good friend Paul Taylor has worked tirelessly to promote the idea of free broadcast time. Broadcasters use spectrum that is owned by the American people. As such, the Congress and the courts have agreed that when the Government gives out licenses to the broadcasters—enabling them to operate—that such licenses may be conditioned on certain activities deemed to be in the public interest.

When each broadcaster receives a license, they sign on that license that they agree to act in the public interest.

Some of the opponents of the McCain-Feingold legislation complain incorrectly that the bill will limit individuals free speech. As I have just explained, the bill is compatible with the Constitution. But there is even a greater question that must be asked. If spending is akin to free speech, then how much speech does an individual without means have? If money is free speech, how much free speech does a person without money have?

On March 2, on CNN a woman from Bartlesville, OK, called in, and, said, ''I have a question for you. I'm a Republican, supposedly. I'm more Independent than anything else. But I want to ask you something. At $735 a month, how much freedom of speech do I have? I cannot contribute to these big campaigns.''

Mr. President, men and women all over America ask in response to the equation of money and free speech about how much freedom of speech they have if they are a moderate- or low-income American. Where is her voice? Where is the voice of the woman from Bartlesville, OK? What can be done to ensure that her voice is not overwhelmed by the voices of monied special interests?

Spending limits will do more to both level the playing field between challengers and incumbents and give a voice to individuals who either give little or can afford to give nothing at all.

The most money tends to win elections. And this is the incumbent protection system. The reality is that the current, perverse system under which the richest takes all has resulted in entrenched incumbents.

The Congressional Research Service has compiled an analysis of congressional races in recent years, and the conclusion of that study is that the candidate who raises and spends the most money, even if that money is his or her own, usually wins the elections. As I have said before, elections should be about message and ideas. I do not believe it was an accident that in the last election we had the lowest voter turnout in any time in the history of Presidential elections in this century.

Mr. President, I have a letter from Common Cause. I quote:

Dear Senator: The Senate is expected to vote later this week on a proposed constitutional amendment to provide Congress with the ability to impose mandatory limits on campaign spending, thus overriding a portion of the Supreme Court's 1976 decision in Buckley v. Valeo.

Common Cause opposes the constitutional amendment because it will serve as a diversionary tactic that could prevent Congress from passing campaign reform this year. We believe that a constitutional amendment is not necessary in order to achieve meaningful and comprehensive reform.

Congress needs to act now to address the growing scandal in the campaign finance system. Congress can act now—and constitutionally—to adopt major reforms. Congress need not and should not start a reform process that will take years to complete by pursuing campaign finance reform through a constitutional amendment. Instead, the Senate should focus its efforts on enacting S. 25, comprehensive bipartisan legislation that represents real reform. It is balanced, fair, and should be enacted this year to ensure meaningful reform of the way congressional elections are financed.

Mr. President, I ask unanimous consent that this letter be made part of the RECORD.

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

COMMON CAUSE,
Washington, DC, March 12, 1997.

DEAR SENATOR: The Senate is expected to vote later this week on a proposed constitutional amendment to provide Congress with the ability to impose mandatory limits on campaign spending, thus overriding a portion of the Supreme Court's 1976 decision in Buckley v. Valeo.

Common Cause opposes the constitutional amendment because it will serve as a diversionary tactic that could prevent Congress from passing campaign finance reform this year. We believe that a constitutional amendment is not necessary in order to achieve meaningful and comprehensive reform.

Under existing Supreme Court doctrine, Congress has significant scope to enact tough and effective campaign finance reform consistent with the Court's interpretation of the First Amendment in Buckley.

The McCain-Feingold bill, S. 25, provides for significant reform within the framework of the Buckley decision. The legislation would: ban soft money; provide reduced postage rates and free or reduced cost television time as incentives for congressional candidates to agree to restrain their spending; close loopholes related to independent expenditures and campaign ads that masquerade as ''issue advocacy''; reduce the influence of special-interest political action committee (PAC) money; strengthen disclosure and enforcement.

A recent letter to Senators McCain and Feingold from constitutional scholar Burt Neuborne, the Legal Director of the Brennan Center for Justice and a past National Legal Director of the ACLU, sets forth the case that the McCain-Feingold bill is constitutional. Professor Neuborne finds that the key provisions of the bill are within the Court's existing interpretation of the First Amendment, and he thus demonstrates that a constitutional amendment is not necessary to enact reform.

Professor Neuborne concludes that the voluntary spending limits in the McCain-Feingold bill are consistent with the Supreme Court's ruling in Buckley. He further concludes that ''Congress possesses clear power to close the soft money loophole by restricting the source and size of contributions to political parties. . . .'' He also concludes that efforts to close loopholes relating to independent expenditures and so-called ''issue ads'' are also within Congress' existing authority.

It is, therefore, not necessary to amend the Constitution in order to enact meaningful campaign finance reform. Congress has the power, consistent with the First Amendment, to enact comprehensive reform by statute.

A constitutional amendment for campaign finance reform should not be used as a way to delay reform legislation. Typically, amending the Constitution takes years. After both Houses of Congress adopt an amendment by a two-thirds vote, it has to be approved by three-quarters of the state legislatures. Even then, the Congress would still have to take up enacting legislation. This is a lengthy and arduous process.

Congress needs to act now to address the growing scandal in the campaign finance system. Congress can act now—and constitutionally—to adopt major reforms. Congress need not and should not start a reform process that will take years to complete by pursuing campaign finance reform through a constitutional amendment. Instead, the Senate should focus its efforts on enacting S. 25, comprehensive bipartisan legislation that represents real reform. It is balanced, fair, and should be enacted this year to ensure meaningful reform of the way congressional elections are financed.

Sincerely,

ANN MCBRIDE,
President.

Mr. MCCAIN. Mr. President, I also would like at this time to have printed in the RECORD by unanimous consent a letter that is by Mr. Burt Neuborne who is the Legal Director at the Brennan Center for Justice.

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

BRENNAN CENTER FOR JUSTICE,
New York, NY, March 3, 1996.

Hon. JOHN MCCAIN,
Hon. RUSSELL FEINGOLD,
U.S. Senate,
Washington, DC.

DEAR SENATORS MCCAIN AND FEINGOLD. I am writing in response to a letter to Senator Mitch McConnell, dated February 20, 1997, from the American Civil Liberties Union, arguing that critical provisions of S.25, the Bipartisan Campaign Reform Act of 1997, are unconstitutional under existing Supreme Court precedent. I am the John Norton Pomeroy Professor of Law at New York University and Legal Director of the Brennan Center for Justice. I served as National Legal Director of the American Civil Liberties Union during the 1980's, and remain active in defense of the First Amendment. I

continue to serve as an ACLU volunteer counsel. I believe, however, that the ACLU letter on S.25 is simply wrong in a number of assertions, despite the fact that it was written by an able lawyer whom I respect and admire.

In assessing the ACLU's views on the constitutionality of S.25, it is important to recall that the ACLU believes that an restriction on campaign financing is unconstitutional, even those restrictions upheld by the Supreme Court in Buckley v. Valeo. The only Justice on the current Court who accepts the ACLU's position is Justice Clarence Thomas. Thus, the ACLU is quite right in predicting that Justice Thomas would find S.25 unconstitutional—but quite wrong in claiming that a majority of the Court would condemn critical parts of the statue.

I. EFFORTS TO PERSUADE CANDIDATES TO LIMIT CAMPAIGN SPENDING VOLUNTARILY BY PROVIDING THEM WITH VALUABLE INDUCEMENTS LIKE FREE TELEVISION TIME ARE CONSTITUTIONAL

The ACLU argues that Title I of S.25, which asks candidates to limit campaign spending in return for free or subsidized broadcast time and subsidized mailing rates, is unconstitutional. But, in Buckley, the Court approved precisely such an approach when it upheld the offer of campaign subsidies to Presidential candidates in return for a promise to limit campaign spending.

The fact is that the ACLU still believes the Buckley Court was wrong when it upheld Congress right to condition public campaign subsidies on a promise to limit campaign spending. But the ACLU lost that argument. It is, to say the least, difficult for the ACLU to argue that a far lesser set of inducements in S.25 would violate the First Amendment. In effect, the ACLU argues that virtually any inducement offered to a candidate to persuade her to limit campaign spending is unconstitutional as a form of indirect ''coercion''. But the Buckley Court clearly distinguished between inducements designed to elicit a voluntary decision to limit spending, and coercive mandates that impose involuntary spending ceilings. If giving a Presidential candidate a $60,000,000 subsidy is a constitutional inducement, surely providing free television time and reduced postal rates falls into the same category of acceptable inducement. Merely because a deal is too good to pass up does not render it unconstitutionally ''coercive''.

II. CEILINGS ON CONTRIBUTIONS BY PACS ARE CONSTITUTIONAL

The ACLU argues that a $1,000 cap on contributions from PACs, and a 20% limit on PAC contributions to a particular candidate violate the First Amendment. Once again, the ACLU's constitutional position is traceable to an issue that it lost in Buckley, but continues to re-argue in Congress.

In Buckley, the ACLU challenged the $1,000 ceiling on campaign contributions, arguing that campaign contributions were entitled to the same level of free speech protection as campaign expenditures. The Supreme Court rejected the ACLU's argument, and upheld the ceiling on contributions. Indeed, in the years since Buckley, the Supreme Court has upheld every contribution limit that has come before it in an election context. California Medical Ass'n v. FEC, 453 U.S. 182 (1981); FEC v. National Right to Work Committee, 459 U.S. 197 (1982). If Congress may limit contributions from individuals to $1,000, surely the First Amendment does not require preferential treatment of PACS. If individuals can be restricted to $1,000, so can PACS.

Moreover, Congress may surely determine that the greatest risk of corruption occurs in connection with campaign contributions from self-interested, interest PACS. Accordingly, placing a 20% ceiling on PAC contributions in well within Congress' power to prevent corruption, or the appearance, or the appearance of corruption, by placing limits on overtly self-interested campaign contributions.

III. LIMITS ON ENORMOUS CAMPAIGN CONTRIBUTIONS TO POLITICAL PARTIES FROM CORPORATIONS, LABOR UNIONS, AND WEALTHY CONTRIBUTORS ARE CONSTITUTIONAL

The ACLU argues that the First Amendment prevents Congress from closing the notorious ''soft money'' loophole that threatens to destroy the integrity of the Presidential campaign process. In the most recent Presidential campaign, donors poured more than $250 million through the soft money loophole to political parties, ostensibly for use in building local parties, registering voters, and increasing voter turnout. The vast bulk of soft money contributions came from corporations and labor unions, barred by law from participating directly in federal campaigns, or from wealthy individuals anxious to contribute in excess of existing contribution ceilings.

The ACLU argues that the First Amendment prohibits Congress from closing the loophole. But, once again, the ACLU's constitutional position is simply a reprise of arguments it has lost in the Supreme Court. In Buckley, the ACLU argued that any effort to limit campaign contributions violated the First Amendment, an argument the Court rejected. In later cases, the Court also dismissed the argument that corporations and labor unions have a right to use their money to influence federal elections. See, e.g., Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990); FEC v. Nat'l Right to Work Comm., 459 U.S. 197 (1982).

In 1978, the FEC, reversing an earlier ruling, opened a seemingly modest loophole in the contribution rules by allowing corporations, labor unions, and wealthy individuals to contribute funds directly to a political party free from the usual restrictions on contributions, as long as the funds were to be used in connection with local party building, voter registration or other activity not directly connected to a federal election. In the years since, the soft money loophole has become a threat to the integrity of the regulatory system. Hundreds of millions of dollars pour through the loophole each year to both major political parties from contributors who are barred from contributing directly to a federal campaign. The funds are often solicited by federal candidates and spent in ways designed to advance their candidacies. More ominously, the forbidden donors, if their contributions are large enough, are rewarded by both parties with preferred access to public officials, creating precisely the appearance of corruption that justifies restricting large campaign contributions in the first place. Thus, unless one accepts the ACLU's premise that contributions can never be limited no matter what the size and no matter what the source (and even Justice Thomas has not gone that far), Congress possesses clear power to close the soft money loophole by restricting the source and size of contributions to political parties just as it does for contributions to candidates.

The ACLU's suggestion that the recent Supreme Court decision in Colorado Republican Party provides First Amendment support for a soft money loophole is flatly wrong. Colorado Republican Party was an ''expenditure'' case, not a ''contribution'' case, and it involved hard money, not soft. It held, merely, that when a political party makes an expenditure attacking the candidate of another party six months before selecting its own candidate, the expenditure should be treated as an independent expenditure, as long as the funds come in small amounts from donors who are eligible to contribute to a federal campaign. The Court did not hold that ineligible donors, like corporations, labor unions and wealthy individuals, have a constitutional right to buy preferred access to public officials by pouring unlimited amounts of cash into a political party's coffers.

The most relevant Supreme Court decision is not Colorado Republican Party, but Austin v. Michigan Chamber of Commerce, where the Supreme Court held that corporations can be walled off from the electoral process by forbidding both corporate contributions and corporate independent expenditures because they have the capacity to distort the democratic process. Surely, the law cannot be that Congress has the power to prevent corporations from giving money directly to a candidate, or from expending money on behalf of a candidate, but lacks the power to prevent the corporation from pouring unlimited funds into the candidate's political party in order to buy preferred access to him after the election.

IV. THE NARROW LIMITS ON COORDINATED EXPENDITURES BY POLITICAL PARTIES IMPOSED BY S. 25 ARE CONSTITUTIONAL

Colorado Republican Party holds that political parties are entitled to make truly independent expenditures on the same terms and conditions as other entities. Since the expenditure at issue in Colorado Republican Party was made six months before the party's candidate was selected, there obviously was no coordination between the party and the candidate. The case says nothing, however, about coordinated expenditures. Indeed, the critical swing Justices—Justices Breyer, Souter, and O'Connor—explicitly refused to decide how to treat coordinated expenditures, noting that if coordinated expenditures were treated like independent expenditures, the critical line between contribution and expenditure would be destroyed, since every forbidden contribution could be recycled as a coordinated expenditure.

S. 25 attempts to deal with coordinated expenditures by providing that once a political party makes contributions, and engages in coordinated activities with its candidate, it can no longer be said to be making truly independent expenditures. The provision is merely a common sense effort to police the distinction between truly independent and coordinated expenditures. Since the ACLU rejects the critical distinction between expenditures and contributions put forth in Buckley, it believes that any restriction on the party's right to spend money, even a de facto contribution made in the form of a coordinated expenditure, is absolutely protected. But, if you accept the Supreme Court's ruling in Buckley that contributions may be regulated, it becomes critical to decide when an expenditure is truly independent, and when it turns into a *de facto* contribution. Thus, once again, the ACLU's opinion on the effort in S. 25 to draw a careful line between truly independent expenditures and coordinated contributions is an exercise in wishful thinking, not an accurate description of existing law.

V. THE EFFORT IN S. 25 TO DISTINGUISH BETWEEN AN INDEPENDENT EXPENDITURE DESIGNED TO AFFECT THE OUTCOME OF AN ELECTION, AND ISSUE ADVOCACY DESIGNED TO INFORM THE PUBLIC, IS CONSTITUTIONAL

Independent expenditures designed to affect the outcome of a federal election are subject to one important restriction—funds contributed to finance the expenditure must come from sources that would be lawful if contributed directly to the candidate and in limited amounts. Issue advocacy designed to

inform the public is, on the other hand, subject to no restrictions, either as to funding or disclosure.

The last election was characterized by numerous groups purporting to engage in public education outside the reach of the campaign laws. For example, both major parties spent substantial sums on so-called ''issue ads'', paid for by donors who were barred from contributing directly to a federal election campaign. Numerous private groups targeted close races and poured funds into them in the guise of issue education, even though the funds came from forbidden sources and in amounts that could not be contributed. S. 25 attempts to close that loophole by setting forth two tests to differentiate between campaign speech and genuine issue advocacy. Throughout most of an election cycle, the test is whether the speaker's purpose and effect was to advocate the election or defeat of an identified candidate. Within 60 days of the election, however, the test dispenses with an examination of the speaker's purpose and looks only to whether, applying certain enumerated criteria, a reasonable person would understand the ad to be advocating the election or defeat of a named candidate.

It is, in my opinion, unclear whether the latter test is sufficiently precise. I believe that the better approach would be to apply throughout the election cycle a purpose-and-effect test along the lines of the first one described above, but perhaps slightly more demanding. Speech should be viewed as campaign speech only if the speaker's predominant intent was to affect the outcome of a specific election, and the FEC should be required to establish the relevant intent by clear and convincing evidence, or, even, beyond a reasonable doubt before labeling speech as campaign-related. Such an approach would prevent egregious evasion of the rules governing campaign contributions, while providing ample space for genuine public education.

VI. THE EFFORT IN S. 25 TO ENHANCE THE ENFORCEMENT CAPABILITY OF THE FEC IS LONG OVERDUE

The FEC is currently powerless to cope with massive violations of existing law. For example, the last campaign saw both major parties accept illegal donations, and engage in blatantly illegal spending activities, like running phony ''issue ads'', or making phony ''independent'' expenditures in order to evade contribution restrictions. The FEC stood by like a helpless spectator while the law was turned into a mockery. S. 25 provides needed authority to seek injunctive relief against blatant violations. I would, however, tighten the enforcement provisions to permit injunctive relief only for clearly established violations. I would place a significant burden on the FEC in order to permit action against egregious violations, while preventing undue intrusion into the electoral process.

Finally, I would break the FEC's monopoly on enforcing the campaign funding laws. The FEC's current structure permits either major party to veto the enforcement activities of the FEC. The result has been an enforcement history that harasses minor parties and independents, but rarely challenges the questionable activities of the major parties. We will, I predict, never see an FEC proceeding against either or both major parties for their activities during the last campaign.

The solution is a private cause of action for violating the FEC. Abuse of such a private right of action could be minimized by provisions for attorneys fees and Rule 11 sanctions for frivolous claims.

Reasonable people can disagree over the merits of S. 25. Some believe that efforts to regulate campaign financing are misguided and doomed to failure. But opposition to the wisdom of S. 25 should not take the form of distorted descriptions of existing constitutional law. The complexity of existing campaign financing law in the Supreme Court makes it impossible to state with certainty what path the future Court will follow. But I believe that the best reading of existing precedent renders the foregoing provisions of S. 25 constitutionally defensible. Only Justice Thomas has embraced the ACLU's absolutist refusal to permit any regulation of campaign financing.

Respectfully submitted,

BURT NEUBORNE,

Legal Director, Brennan Center for Justice.

Mr. MCCAIN. Mr. President, the reason I asked that the letter be included in the RECORD is that he says:

I am writing in response to a letter to Senator Mitch McConnell, dated February 20, 1997, from the American Civil Liberties Union, arguing that critical provisions of S. 25, the Bipartisan Campaign Reform Act of 1997, are unconstitutional under existing Supreme Court precedent. I am the John Norton Pomeroy Professor of Law at New York University and Legal Director of the Brennan Center for Justice. I served as National Legal Director of the American Civil Liberties Union during the 1980's, and remain active in defense of the First Amendment. I continue to serve as an ACLU volunteer counsel. I believe, however, that the ACLU letter on S. 25 is simply wrong in a number of assertions, despite the fact that it was written by an able lawyer whom I respect and admire.

Mr. President, I think it is an interesting rebuttal to the position that the ACLU has taken on S. 25.

I would also like to point out that I have great respect for the ACLU. But there are very few occasions on which I have agreed with the positions that the ACLU has taken on a broad variety of issues.

We can argue the constitutionality of this issue, and, if we win, we will get into the major debate. But I will have a very large body of constitutional opinion—not just the ACLU—as to the constitutionality of the McCain-Feingold bill.

I also suggest again that we have to clean up this system. It is broken. It is out of control. Almost every American agrees with that. Poll after poll after poll is telling us that the American people are cynical about us, the way we are selected, and the system under which money seems to be the determinant factor in the selection of our public servants.

I will continue to seek support both inside the Halls of Congress and outside the beltway, and I and Senator FEINGOLD fully intend to bring this bill up this year. The ideal way that we would seek to do that would be us all sitting down together and coming up with a package as we did on the gift ban, as we did on lobbying reform, as we did on the line-item veto, as we have on a broad variety of reforms we have enacted by near unanimous if not total unanimous agreement.

My message to those who say I am now in favor of campaign finance reform is, as you know, so am I, so are many others, so are most Americans. So let us sit down adhering to principles and recognize what the problems are and sit down as mature individuals and move forward and reform this system for the benefit not only of those of us who have the honor and opportunity to serve today but provide an opportunity for dedicated and outstanding young men and women to serve this Nation in the future in elected office.

I intend to continue to conduct this debate with respect and appreciation for the views of my colleague from Kentucky, Senator MCCONNELL, who disagrees with me, my colleague from the State of Washington, Senator GORTON, and others. I believe that we can strongly disagree on this issue and respect each other's views, and I think the American people deserve a debate that is conducted in an environment of mutual respect. I am happy to say that at least in my view we have conducted this debate on that level during this period of time, recognizing that it is a very emotional issue on both sides. But I think the American people will be far better off if we continue to conduct this debate on the Hollings bill today as well as our overall debate on campaign finance reform in that vein in the future, and I commit to my colleagues that I will conduct it in that fashion.

Mr. President, I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I am honored to be here today with two great Senators who have been leading the discussion on a very important matter to this country.

During my campaign last fall, I was involved in a campaign in which I had two opponents spend over $1 million of their own money on a primary election, two others spent over half a million dollars—$5 million was spent really against me in the primary, which I eventually won, and we had a very contested race in the fall.

I know how difficult it is to raise money, how distasteful it is, how frustrating it is to have to deal with that problem. I came here with an idea that I would be quite willing to consider whatever reforms we could undertake to improve that system. I have given it thought. The results of my thoughts are that I have concluded that we are at a point where we have to admit the primacy of the first amendment and free speech and I have come down on that side.

We had in my general election campaign the trial lawyers association that spend hundreds of thousands of dollars, maybe over $1 million, opposing my candidacy. That frustrated me. Some of it was not properly reported. It was not required to be reported in a timely fashion to the public. So it was difficult to know where that money was coming from, and I do not think that was correct.

I ask, after having given it a lot of thought, how can we say that a group

of trial lawyers, a group of business people, a group of union people cannot get together and go on television and speak at the time of an election about candidates or issues in which they believe deeply. This is so fundamental. Some say, well, you can talk about issues; you just cannot do it at the election cycle.

Well, when else do we want to talk about it? When is it more important than when we are trying to decide the direction this country is going, when we are facing it during an election cycle. I do not see how we can avoid that.

The amendment of the Senator from South Carolina I think is an honest attempt to deal with the problem because I do not believe under the present constitutional structure we can make many of the changes that have been suggested to date. So I respect him for that. But I consider that it would be an astounding, a thunderous, a remarkable change of policy for America to adopt this proposed amendment.

It says Congress shall have the power to limit expenditures made by a candidate in an election. That is a remarkable thing to say, that a person cannot go out and say to the people, through their own resources or the resources of others, why they ought to vote for them or against their opponent. I think that is a fundamental alteration of the great democratic trends or tendencies of this Nation.

I do not think it is a complicated case. We can have professors and scholars, and they can write briefs and all this stuff, but look at this. This is a restriction on free debate in America. It is a fundamental issue that this country is dealing with, and I must say that I do not believe we should support it. I think it would be one of the most regressive actions, one of the greatest retreats from the democratic ideal that would have occurred in my lifetime, maybe in the history of this Nation.

I just wanted to take a few minutes to share those comments. I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Before the Senator from Alabama leaves the floor, I want to commend him for his statesmanship when he made the observation that our first inclination after a campaign is to think, boy, I would sure like to have shut up those people who were out there trying to beat me; wouldn't it have been easy if I could have just quieted those voices who were against what I was trying to do?

But as the Senator from Alabama has pointed out so well, America is a seething cauldron of voices, either individually or in groups who take an interest in the future of this country and try to sway our free elections one way or the other.

That is exactly what the founders of this country envisioned. And so what the amendment before us seeks to do is to take a big hunk out of the first amendment, which when it was passed over 200 years ago was almost entirely about political speech, and say that the Government now has the power to control how much not only we get to speak in our own campaigns but the Senator from Alabama knows, because he was referring to this amendment, not just the campaign that we are conducting against our opponent but this says in addition Congress may set reasonable limits on those in support of us or in opposition to us.

Given all the discussion that we have observed here in the last few months about the expressions of outside groups, whether it was through legislative activity or independent expenditures, I would just ask my friend from Alabama, does he not think it is conceivable that Congress might decide that kind of speech is unreasonable and eliminate it entirely in this environment?

Mr. SESSIONS. I think that is a very realistic possibility, and it is so incapable of enforcement or definition. Do you say that a private group that believes deeply in interests like pro-life or pro-choice cannot raise money and say don't vote for John Doe because he is opposed to our views? I think that is what America is all about. We have to be able to take the heat and defend our positions as best we can, and we should not turn that over just to the news media to do so.

Mr. MCCONNELL. I say to my friend from Alabama, I agree with him; we should not do that, but I think under this amendment we could do it.

Mr. SESSIONS. It troubles me greatly. I have read that language in this proposed amendment. I consider it frightening. That is the reason I felt obligated to come and express my opinions today, not for any other reason. I think we should not amend the Constitution in this fashion, and I want to be on record opposing it.

Mr. MCCONNELL. I thank my friend from Alabama.

The only other point I will make, now that he is an incumbent, like the Senator from Kentucky, and since all of us incumbents would get to decide what is reasonable, is it not, I ask my friend from Alabama, conceivable to think that Congress might decide it was reasonable to shut up all the outside groups and have such a low spending ceiling that a challenger to us could never get off the ground? All in the name of getting that nasty money out of the system; we want to get rid of that, want to control all that spending, stop the money chase. We could all stand up here in a chorus of 100 of us and say we are going to stop the money chase. Each of us here are going to set the spending limit in our respective States exactly where we think it is reasonable.

The Senators from Alabama would set the spending limit in Alabama, the Senators from Kentucky would set the spending limit in Kentucky, and the Senators from Idaho would set the spending limit in Idaho. I bet you we would all come up with just the right amount to make sure that nobody had a shot at us. I mean nobody. We would make sure the groups could not talk at all. We would make sure our opponent could not talk much. And, of course, under this, you could tell somebody they could not spend their own money to express themselves, the difficulty with which the Senator from Alabama was confronted in the primary. We could shut them all up under this. This in the name of healthy democracy?

The Democratic leader of the House—I just happened to have it posted. I do not want to detain the Senator from Alabama, but several people have mentioned this. I just wanted those who might be viewing to see it. The Democratic leader in the House, in support of an amendment like this, said, with a straight face, apparently—apparently with a straight face:

> What we have is two important values in direct conflict: Freedom of speech [on the one hand] and our desire for healthy campaigns in a healthy democracy. You cannot have both.

I am told he did not snicker when he said that. Everyone who heard it broke out laughing. This is one of the most astonishing comments in the history of American politics, made in behalf of a constitutional amendment, similar to the one before us today, to carve a niche out of the first amendment and give the Government, us, the Congress, the power to shut everybody up. That is what is before us today. This is about free speech. It is about political discourse in this country.

I thank the distinguished Senator from Alabama for a very important contribution to this most important debate.

Mr. SESSIONS. I thank the Senator from Kentucky. I agree with the Senator, the statement as printed behind him there on that chart is an astounding and very troubling statement. I think it reflects accurately, though, what thicket we get into when we attempt to pass laws to regulate speech in the campaign. I do not see how we can get out of this.

I think we need to make sure people report what they give so the public can know who is supporting whom. But I think this would be a historic retreat, the greatest retreat from free speech since the founding of this Nation, if we were to adopt it. It is bad policy, and I must speak in opposition to it.

I thank the Senator from Kentucky for his leadership in this effort.

Mr. MCCONNELL. I thank the Senator from Alabama.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senator from Oregon, Senator WYDEN, be added as a cosponsor.

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

The Senator from South Carolina has the floor.

Mr. HOLLINGS. I thank the Chair. I had hoped, when I see the distinguished Senator, that he and others on the other side would have an open mind. I know there was a time when that occurred. But, obviously, you can see from their strategy here that they are taking the party position. It is unfortunate when you do that and try to hide behind free speech, which is not at issue. We are talking about paid speech. But instead, they hide behind James Madison and Patrick Henry and do not want to recognize the truth.

I would be ready to vote this afternoon. I can see at a glance that time and again we face a false charge. Time and again my opponents come up with the same false representation. And time and again we met with anecdotal ''could be's,'' and ''what would happen's.''

For example, the distinguished Senator from Alabama just said, ''This is remarkable. This goes to a fundamental issue. Congress should not be amending the Constitution.''

And under my amendment, Congress is not. Instead, it will be up to the people of America. This amendment simply is a joint resolution giving authority to the Congress to limit expenditures, should the States approve this. We have to get 34 States to approve of this joint resolution, and this joint resolution only gives to the people an opportunity to vote. I wrote the first version of this resolution 10 years ago with, ''The Congress is hereby authorized to regulate or control expenditures in Federal elections.'' The States and the Governors and everyone else said, ''Include us.'' So we amended the joint resolution giving the people a chance to vote. So it is not Congress that is running around amending the Constitution.

Then the Senator from Washington, Senator GORTON, ''When we put the rights of free speech in the hands of Congress''—we have done it. But we did it with respect to false and deceptive advertising. On television and radio, we gave Congress the right to regulate free speech when Congress acted in controlling obscenity. We told the Federal Communications Commission, as the administrative arm of the Congress, ''We want you to watch these programs and rule out obscenity.'' And then in Buckley, in a 5-to-4 decision by the Supreme Court, they held—as the Senator from Washington says, if we put the rights of free speech in the hands of Congress, oh, that would be a terrible thing. But if we look closely at the Buckley decision, it has been put there and has been found constitutional by none other than the U.S. Supreme Court.

When the Congress acted in 1974 to control expenditures in Federal elections, the U.S. Supreme Court, in Buckley v. Valeo, to use the opposition's expression, took a big hunk out of the first amendment. And there are those who would, in political discourse, see their freedom of speech to contribute as they choose limited. So don't come around here with the call of horrors—''this is fundamental''; ''this is so terrible''; or, ''this is remarkable.''

Their conduct in the treatment of this joint resolution is what is remarkable. They don't want to admit that what is involved here is limiting spending, not freedom. There is nothing free here at all but our chance to limit expenditures in political campaigns. If you want to limit spending, if you want to excise the cancer on the body politic that has grown so now that we can't even do our business except in a party fashion, so be it.

We have tried over the years in every way. I don't want to clutter the RECORD with the entire article in Congressional Quarterly a few years back discussing the need for campaign finance reform, but it I will read part of it:

> Most Democrats supported spending limits which would allow challengers to spend on a level equal to incumbents. Under the 1976 Supreme Court decision in Buckley v. Valeo, spending limits had to be voluntary. The Court said that public financing was a legitimate carrot to encourage compliance with those voluntary limits, a concept some Democrats supported anyway, calling public funding ''clean money.'' Most Republicans, however, strenuously oppose taxpayer financing of congressional campaigns which they liken to welfare for politicians. Many Republicans also argued that spending limits locked in incumbent advantages. They said challengers needed the option to outspend incumbents to make themselves equally viable to voters.

Then, Mr. President, going along:

> In 1987, debate over these issues threw the Senate into a virtually unprecedented procedural fit. Consideration of a bill that included spending limits and Federal funding stretched over 9 months and forced a record 8 cloture votes in an effort to break a Republican filibuster, a 53-hour-24-minute session and a Senator injured and dragged to the floor under arrest highlighted the episode. In the end, the Senate failed to overcome partisan divisions, and the bill succumbed to the process.

The article goes on to talk about a bill in 1992. They wrote:

> In the years that followed with a Republican in the White House pledging to veto any bill approved by the Democratic Congress, neither party showed much interest in restaging the drama. Instead, when an ethics scandal broke, such as the Keating Five affair in 1990 and 1991, in which five Senators were accused of accepting favors from a savings and loan magnet, campaign finance legislation was trotted out as a symbol of reform. The two Chambers reached agreement on a bill in 1992, after the House came under siege over the House bank scandal. That bill stapled a plan House Democrats had crafted for their campaigns to an entirely different plan Senate Democrats had sanctioned. Both plans, however, included spending limits and public finance and, as promised, President Bush vetoed the bill.

I only mention this because it has been a long, hard road, and I hoped, as that article said, that we would have another fit here. I thought that we would get a fit of conscience here and really do away with the partisanship stonewalling, because they know that is what is involved. They have the advantage, in spite of all that the White House did in the last Presidential race. Just mark it down in Senator THOMPSON's hearing that the Republicans got $150 million more. So whatever the Democrats did, the Republicans did better. We all know it, and you can ask anybody in the public.

We have been in the game, we have watched it, we have read about it, everybody knows about it, and we have tried over the years to correct it. In 1966, Congress adopted public financing for Presidential elections, and then in 1967, they repealed public financing for Presidential elections.

In 1971, there was the passage of the Federal Election Campaign Act.

In 1974, the amendments to that.

In 1976, a further amendment.

In 1979, another amendment.

By 1985, we had the Boren-Goldwater amendment—we had bipartisanship then—to change the contribution limits and eliminate the PAC bundling, but that was tabled.

Then, in 1986, the Boren-Goldwater amendment was adopted, but then it didn't go far.

In 1988, Senator BYRD forced nine votes on the motion to instruct the Sergeant at Arms and request the attendance while trying to get a vote on S. 2. That is when they arrested a Senator, only the second time in history, dragging him in.

In 1988, we had the Hollings constitutional amendment to limit campaign expenditures, and we got a 53 to 47 vote on cloture. Of course, we needed 60 votes at that particular time, and the majority didn't control.

In 1989, S. 139, a comprehensive reform passed the Senate but never made it out of the conference.

In 1991, of course, as I just mentioned, a comprehensive reform passed, which President Bush vetoed.

In 1993, we had a sense of the Senate by this Senator that Congress should adopt a constitutional amendment limiting campaign expenditures which passed 52 to 43.

In 1993, we had a comprehensive reform pass the Senate but it never made it out of conference.

In 1995, again the Hollings constitutional amendment to limit campaign expenditures offered as amendment to the balanced budget amendment. That was tabled by a vote of 52 to 45.

And, in 1995, the Senate passed the sense-of-the-Senate amendment to address the campaign finance reform during the 104th Congress. Again, we got a majority vote.

Then, in 1996, we had cloture on the McCain-Feingold campaign finance reform, and that cloture vote failed by a vote of 54 to 46.

So we keep hammering and hammering and trying every kind of which way. But we know that the intent in 1974 was to prevent individuals from buying their way into office. And now

we are continuing our fight in trying to overturn the Buckley decision that held the office must be bought. We are trying to remove that requirement, because the money in campaigns has gone up, up, and away. Good people are being withheld from public service, and the public is losing confidence in the democratic process.

The only way to save this democracy is amend the Constitution. And rather than recognize this fact, the opposition simply raises strawman after strawman.

The distinguished Senator from Kentucky and the Senator from New Mexico, Senator DOMENICI, say, ''Might a Congress not come up and cut off speech entirely?'' The Senator from New Mexico says, ''I could dream up a scenario where that would be constitutional.'' He said he did not think it was going to happen, but he could think of that later on at a time when Congress would act in an inordinate fashion.

Then he turns to the Senator from Washington. He asks, ''Can't you think of a Congress that may shut down entirely any opposition that just comes?'' Well, Senator GORTON, the Senator from Washington, said, ''I doubt that that would happen, but it is the most fundamental attack on the freedom of speech since the adoption of the Constitution.''

So they continue the same rhetoric about the freedom of speech. But if Buckley says that freedom of speech can be limited with respect to those contributing in politics, then why not for those spending? They do not want to answer that question.

Chief Justice Burger, in the better of the opinions in that case, said they are two sides of the same coin, contributions and expenditures.

To quote exactly, he said, ''The Court's attempt to distinguish the communication inherent in political contributions from the speech aspects of political expenditures simply will not wash.''

But, no, we come here with the Senator from Alabama, ''Congress should not amend the Constitution.'' I agree with him. It cannot. But instead, we let five Justices of the Supreme Court—over the opposition of four individuals—amend the Constitution whereby they limit freedom of speech as to contributions.

I put it word for word in this particular joint resolution. I wanted to show how we had come and aimed right down the barrel of the U.S. Supreme Court on the so-called freedom of speech. ''Congress shall have power to set reasonable limits on the amount of contributions that may be accepted by * * *.'' That is word for word the Buckley versus Valeo decision. You can limit the amount of contributions.

That is what Congress did in the 1974 act. It is a frustrating thing that is going on today because we try and try over a 30-year period. We arrest people, get into a 9-month debate, and have cloture resolutions.

But now they ignore the need for action. They go in the back room and say, we are going to vote as a party so do not worry about it. We let it go on over the weekend, discuss it maybe on Friday or Monday, and vote on Tuesday, because no one is going to listen. All that is required is for someone to come out from time to time, mention freedom of speech, and talk about how remarkable, how untoward, how drastic this amendment is.

Then they have the Senator from Kentucky get up and say, ''Don't you think the Congress could do all these horrible things?'' Well, it has already occurred. Congress passed the 1974 act, and the Supreme Court has held it binding. Our mistake was in figuring that conscience and common sense would say, as Chief Justice Burger said: two sides of the same coin.

We say, ''Congress shall have power to set reasonable limits on the amount of contributions that may be accepted * * *.'' We have done it, and we are doing it. Then we add ''* * * and the amount of expenditures''—which is what we try to get—''that may be made in these campaigns.'' That is all it is. And it is said, let the people vote on it.

I wish I could get enough publicity to get the people focused on what is involved here and break down the stonewall thrown up by most on the other side of the aisle against limiting expenditures. We tried in a bipartisan way in 1974 to limit expenditures, and we said so much per our votes at that particular time.

After Watergate, Congress did not say, ''Heavens above, let's limit the campaigns to $50,000,'' or any such thing. We had limits in a small State like South Carolina where we could spend $510,000, and inflate that over the 20-year period. That is not $50,000. But no, they come up and say what Congress could do and how the U.S. Supreme Court, under the mandate of being reasonable, would agree with them.

You know and I know that is a straw man. It should not even be considered seriously. But they come here with a very analytical argument about, ''The media sets the agenda, the fourth branch,'' and try add to their parade of horribles as to what the media could do. Well, look at this particular joint resolution. It has nothing to do with the freedom of the press, absolutely nothing to do with the freedom of the press. And on the other hand, you have that freedom of the press right now.

I related in the debate yesterday that I was running along with a nice little lead going into the election in 1992, and along comes the Wall Street Journal and Paul Gigot. We had not heard of him before and we have not heard of him since. But it was coordinated with the London Economist and Robert Novak and others. Articles started being written about the right to work. They know South Carolina is a right-to-work State. And they said, by cracky, I was opposed to it, but in fact I voted for it as a member of the State legislature and have stuck with it throughout my political career. Organized labor knows that.

My opponents try to make the claim that I could say that the editorial was a contribution against me or a contribution for my opponent and therefore set it aside. Nonsense. They know that.

If you get a violent, caustic, scavenging editorial against you as a politician, wake up, because you are in the game. As Harry says, you have to take the heat or get out of the kitchen. If you are in the kitchen of politics, that is going to happen. There is no such thing as stopping it under our Constitution. Certainly not this amendment, which is to limit campaign expenditures, not the free press.

But they try to distort and stretch with this strawman exercise and charade that we have been going through here all day today. Here and now, and I have experienced it, that kind of activity has already occurred.

What we say here, and it is as simple as was testified before the Judiciary Committee in 1988, is 43 very simple, very clear-cut, words to limit expenditures in Federal, State, and local elections. That is all it is. Shall we do it? Shall we have the authority? It does not address those questions. It does not say how you do it or that you must do it.

The Senator from Kentucky, Senator MCCONNELL, has been forthright. He says we have not spent enough money on politics. He talks about how we spend way more money on cat food and dog food and Kibbles 'n Bits and yogurt. You would think that there would be some kind of dignity in the silly things they put out as real arguments against this particular mission. But the Senator from Kentucky has come forward and said we are not spending enough. Well, that is forthright. Maybe he can persuade others, as he has persuaded the stonewalling opposition here today, and he might get it increased. Then we can all get out and let the idle rich come in here and make the laws for the people of America, because we will not have any regular folks that are willing to listen to the people, who demand we get this money out of politics, that we limit this thing, that we get this corruption out of politics.

Everybody admits to it and everybody says, ''I am for reform, reform, reform, campaign finance reform.'' But you cannot get reform unless you have the authority. This has been proven over the last 30 years by all of these failed attempts. So if you want new authority, which does not say whether or not to do it, does not try to limit newspapers, does not say what it is expenditures, vote for this amendment. As a politician, you are not going to get anything free from the free press. Go to them and ask them for a quarter- or half-page ad and they will laugh at

you. They just do not give free coverage. I have not ever heard of a newspaper doing it yet.

The same with the radio and the TV advertisements. Go tell them how much you want to buy, and we are couched in a very sinister way into these 30-second ads. You cannot discuss intelligently the issues before the American people. That is the real burden on an incumbent. They say, ''Well, HOLLINGS, you voted in 1974 one way and now in 1994 you are voting another way.'' Well, you come forward and try to explain that, but you cannot explain that in a 20-second bite on TV. And try to buy 5 minutes. They will say, ''No, we are not selling that, and there is nothing you can do about it. Nothing you can do about it. We control the prime time that you need to do it. We control that freedom of your speech.''

It is already controlled here in the U.S. Senate with the filibuster rules, and over on the House side with the 1-minute, 2-minute, 5-minute rules, and in the committee with 5 minutes per Senator to examine the witnesses. We all agree and understand and know the reason for the limits, but then they bring on the dog and pony show, saying ''remarkable, fundamental, never heard of it before.'' Who believes that?

Mr. President, for 21 years Buckley versus Valeo has been on the books and we have abided by it, as the distinguished Senator from Arizona says. We have the PAC limits and individual contribution limits. But there is no limit on the individual candidate. That is what we were after back in 1974. I was there. I voted. We said, ''Mr. Rich Man, you cannot buy this office.'' Now with this half a haircut solution, what we have is the ones who contribute are totally limited, but the ones with the wealth are totally unlimited. In reality, then, you have taken away the speech of the poor. You have indirectly limited the speech of the poor in spending.

The Supreme Court, five individuals against four, have amended that Constitution. You know it and I know it, but yet you come up here and talk about what is remarkable and fundamental and ''the first time in 200 years'' and on and on and on. Congress was given the authority to prohibit false and deceptive advertising and it has been upheld by the Court. Congress has amended the right of free speech with respect to obscenity. It has been exercised, and in the decision of the U.S. Supreme Court upheld. In a sense, we now have the rights of free speech in the hands of Congress. They said that is fundamental, and do not ever do that. Like this is something new, putting the right of free speech in the hands of Congress. But Congress has done it, and it has been upheld in Buckley versus Valeo. To use their expression, the Court ''took a big hunk'' out of the first amendment, and found that among those who want to exercise their free speech by contributing, free speech is limited.

So we should get the real facts out about what we have here. We have a bottom line. Do not come here congratulating on a misdescription by the Senator from Texas as to whether or not you are for free speech. We say expenditure. We do not say anything about ''free'' in this amendment. It has nothing to do with free. It has to do with paid speech, paid expression.

I was really moved by the Senator from Texas, who tried to change the debate. That is what you have constantly with the stonewall against limiting spending on the other side of the aisle. That is what we have. They do not want to limit spending. They will say, ''Well, you have the advantages of people. You have the AFL–CIO, the organization labor fellows, but we have the banks and we have the money and you expect us to give up our money.''

Well, well, well, I think that both sides have the cancer of money. They ought to be able to recognize the reality that faces us after the 30-year trying. They ought to give the people of America the right to vote and amend the Constitution.

When my Southern State and a lot of other Southern States had the poll test, we amended the Constitution. I told the story about the poor minority that presented himself to the polls in the early years and we had the literacy test. They said to the poor minority, ''Boy, read that paper.'' They gave him a Chinese newspaper. What goes around comes around; we are back to China. And the poor individual just looked at it and he said, ''Yes, sir, I can read it.'' He said, ''You can? What does it say?'' ''It says, 'Ain't no poor minority fellow going to vote in South Carolina today.''' Yes, he could get the message. There were all kinds of devices to prevent some from voting. However, we have amended the Constitution to fix that.

If Madison, Patrick Henry, and Jefferson and all that crowd that the other side has been celebrating were so good, with their slaves, why did we have to pass the 14th amendment? We didn't agree with what they found, so we had the discrimination cases and the civil rights movement. In my lifetime, we have had the poll test. We changed the Constitution to fix that.

We changed the Constitution when we made a mistake in Prohibition. We changed the Constitution when we made a mistake with respect to the Federal income tax law.

Now, professors, all the studied minds, jurists, attorneys general, and the like have, said the Supreme Court made a mistake in Buckley versus Valeo, and the only way to correct it is with a forthright, restricted, limited kind of constitutional amendment. An amendment that says expenditures are limited in Federal, State, and local elections. It is not free speech, it is paid speech. We are just as assiduous as any other Senator in the protection of the freedom of speech. We know its value, but we know it must have exceptions.

I put in the RECORD, Mr. President, a statement by Prof. Lawrence Tribe of the freedom of speech and some of its exceptions that have developed over the years. So don't come here on the floor of the Senate with the act about fundamental, how remarkable this is. Egads, the U.S. Senate has voted for a constitutional amendment to grant Congress the authority to limit campaign spending three times. We just voted 4 years ago for a Sense of the Senate Resolution. Is there any sense of history and experience around here that we can finally come to grips with the fundamental—yes, it is a fundamental—money is a cancer on the body politic.

If money corrupts in political campaigns, then unlimited money corrupts absolutely in political campaigns. We know that, in warfare, he who controls the air controls the battle. We know and understand and appreciate that, in campaigns, he who controls the airwaves controls the campaign.

What you have here is the rich, as we saw 2 years ago in California, spending $30 million to be a Senator, and we think that is legitimate. It is a disgrace. It is buying the office, and everybody knows it.

The rich who walk in and say, ''I am making so much money, but I need another tax cut, a flat tax,'' and they sell it by controlling the airwaves with their millions of dollars in a Presidential race—they ought to hang our heads in shame. That kind of activity is going on and is even covered by the free press. They ought to understand that freedoms really are in jeopardy when we allow the rich to come along and buy the office.

My amendment says reasonable limits on expenditures, not on speech.

Mr. President, if others want to be heard, I will be glad to yield the floor, but I have plenty here with respect to the authorities and the witnesses that appeared before the Judiciary Committee. We have had hearings. The former Senator from Illinois, Paul Simon, was on the other side. He withheld in that committee for a long time. I had to struggle to get a majority vote. But we had the witnesses. They were heard, and a majority of the Judiciary Committee voted the amendment out and to the floor.

Please, my gracious, they reported it out. Once out, we didn't get it passed, but we got a sense of the Senate that it should be passed. Senators want to get that political credit. It's a pollster politician that says, ''I am for reform and that is what we ought to do.'' ''Yes, sir, I believe we ought to limit this financial cancer.'' ''Yes, I voted reform when it was only a Sense of the Senate.'' And then when they get to real reform, they put on this big show here trying to quote Mr. GEPHARDT and saying, ''You can't have a strong democracy and freedom of speech.'' They know and I know, this democracy is strong because of free speech—none of us believe otherwise. I think it is a distortion. I think it is a distortion perhaps

of what the gentleman said, but be that as it may, no one ascribes to that in this particular body.

Everybody knows how we got here. Incidentally, we all got here not through free speech—unless somebody was appointed, and I can't think of any appointments now that we have had the election—but every one of the 100 have had to pay through the nose to be heard on the TV, to be covered in the newspapers, to be heard on the radio, and seen on the television, billboards, and yard signs. So we know all about the paid speech.

That is what we are trying to do, put an ultimate limit on it because, once done, then we can get a handle on some of the real abuses. Then we control all of the monkeyshines that go on.

Once you get it limited and fully disclosed, like in the 1974 act where every dollar that I receive in a campaign is recorded in the secretary of the senate's office in my State capital and with the Secretary of the Senate, then you get it under control. With that limit and disclosure, you can see from whence they come, and who has, if at all, tried to buy or has been subject to undue influence.

After all, it is the people who are the ultimate jury. They decide on election day. You can refer to that public record and say, see, he is bought and paid for by such and such an industry or such and such an interest, whatever it is that comes out in the campaign. That is what the disclosure requires. You can't receive huge sums and have it obscured.

We ran it the right way back in 1974. But the justices who amended the Constitution in that Buckley decision, they created the system we have been tortured with now for the past 20 years. And every time we make the good college try to fix it, they come out here, and I am surprised, frankly, at this particular charade because they got a lot of good conscientious Members that have come to the Senate, and they say we will not fix it.

Some of those Members have run on the proposition of trying to limit spending. Here is the one opportunity to ask the American people if that is what they want to do. HOLLINGS is not amending the Constitution. The Senate is not amending the Constitution. The Congress is not amending the Constitution. We simply, in a little closely worded amendment, said the people will have a chance to vote on it in the several States.

The last amendment to the Constitution took 200 years to pass. That is the 27th amendment. ''No law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened.''

Congress submitted the text of the 27th amendment to the States as a part of the proposed Bill of Rights on September 25, 1789. The amendment was not ratified with the first 10 amendments, which became effective on December 15, 1791. The 27th amendment was ratified on May 7, 1992, by the vote of the State of Michigan.

Just like the 27th amendment, you can put this Hollings-Specter amendment up and let the people decide. You don't have to talk about this amendment being so remarkable. It is not remarkable to let the people decide. Only the people will change our fundamental rights. Don't believe those who say it is going to guarantee incumbency or any other of those parade of horrors that they bring up. Just remember, we are just giving the people, the good, commonsense American people, the chance to vote.

When the people looked at the 27th amendment, it wasn't until 203 years later, in 1992, that they finally got the State of Michigan to ratify it and the people decided. So there you are. It is just a chance to give the people chance to clear up this Buckley versus Valeo decision.

The distinguished Chief Justice said, ''The Court's result does violence to the intent of Congress.'' There isn't any doubt about it. I was there. Chief Justice Burger,

> The Court's result does violence to the intent of Congress in this comprehensive scheme of campaign finance. By dissecting the act bit by bit and casting off vital parts, the Court fails to recognize the whole of this act is greater than the sum of its parts. Congress intended to regulate all aspects of Federal campaign finances.

I read again Chief Justice Burger:

> Congress intended to regulate all aspects of Federal campaign finances. But what remains after today's holding leaves no more than a shadow of what Congress contemplated.

This decision, a 5-to-4 decision, and they are talking about what Congress might do. Look at what those five individuals have done.

Look what Justice White said in dissent,

> The judgment of Congress was that reasonably effective campaigns could be conducted within the limits established by the act and that the communicative efforts of these campaigns would not seriously suffer. In this posture of the case, there is no sound basis for invalidating the expenditure limitations so long as the purposes they serve are legitimate and sufficiently substantial, which in my view they are.

So there is Justice White finding them ''substantial'' back 20 years ago, long before any kind of Keating Five, long before the Lincoln Bedroom, long before the soft money scourge with the Colorado decision. Long before all these things, there was ''substantial'' then, and they are more than ''substantial'' today. ''Expenditure ceilings reinforce the contribution limits and help eradicate the hazard of corruption.''

Justice Byron ''Whizzer'' White couldn't be more correct. He couldn't be more on target. We know it. The American people outside this Chamber know it. They have asked for a chance to correct it. Let me read further from Justice White.

> I have little doubt, in addition, that limiting the total that can be spent will ease the candidate's understandable obsession with fundraising and so free him and his staff to communicate in more places and ways unconnected with the fundraising function. There is nothing objectionable, indeed, it seems to me, of weighing the interest in favor of the provision in the attempt to insulate the political expression of Federal candidates from the influence inevitably exerted by the endless job of raising increasingly large sums of money. I regret that the Court has returned them all to the treadmill.

Mr. President, when you talk of that treadmill, you can't ignore the description that was used by the distinguished writer some 15 years ago, Elizabeth Drew, in the New Yorker when she described, if you please, the same situation with respect to that treadmill in her article ''Politics and Money.'' And I read:

> Until the problem of money is dealt with, it is unrealistic to expect the political process to improve in any other respect. It is not relevant whether every candidate who spends more than his proponent who wins—though in races that are otherwise close, this tends to be the case. What matters is what the chasing of money does to the candidate and to the victor's subsequent behavior. The candidates' desperation for money and the interests' desire to affect public policy provide a mutual opportunity. The issue is not how much is spent on elections but the way the money is obtained. The point is what raising money, not simply spending it, does to the political process. It is not just that the legislative product is bent or stymied. It is not just that well-armed interests have a head start over the rest of the citizenry—or that often it is not even a contest . . .
>
> It is not even relevant which interest happens to be winning. What is relevant is what the whole thing is doing to the democratic process. What is at stake is the idea of representative Government, the soul of this country.

That was written in 1982, some 15 years ago. We were worried then about Buckley versus Valeo. That was 6 years after everybody had looked at it and seen the treadmill, exactly as Justice White called it, and the damage to the soul of the country as a result of this treadmill. It was an injury to our democracy, according to Elizabeth Drew.

There is no question that this has to be dealt with. They might run, as Joe Louis said, but they can't hide. I am not going to let them hide behind this freedom of speech babble. I have it in here word for word. Mr. and Mrs. American people, you are given the authority to vote. You are not controlling it unless you vote yea, allowing Congress to have the power to set reasonable limits on the amount of contributions.

That is already in place under the Buckley versus Valeo constitutional decision. We have that limit on the freedom of speech which is so remarkable and so fundamental that they inaccurately continue to caterwaul about. Now, we are attempting to limit the amount of expenditures, not freedom of speech. It is limits on the amount of contributions, limits on the amount of expenditures, nothing free. It is contributions and it is expenditures, and it is limits thereof, and it is

whether or not the American people shall have the right to vote on it after this 30-year trial.

Otherwise, as Justice Thurgood Marshall in another one of the distinguished dissenting opinions stated, and I quote:

It would appear to follow that the candidate with the substantial personal fortune at his disposal is off to a significant head start. Of course, the wealthy candidate can potentially overcome the disparity in resources through contributions from others, but ability to generate contributions may itself depend upon a showing of a financial base for the campaign or some demonstration of preexisting support, which in turn is facilitated by expenditures of substantial personal sums. Thus, the wealthy candidate's immediate access to a substantial personal fortune may give him an initial advantage that his less wealthy opponent can never overcome. And even if the advantage can be overcome, the perception that personal wealth wins elections may not only discourage potential candidates without significant wealth from entering into the political arena but also undermine public confidence in the integrity of the electoral process.

There it is, that last phrase—''not only discourage potential candidates without significant personal wealth, but also undermine public confidence in the integrity of the electoral process.'' That is exactly what is occurring

That is the trouble. As Marshall said:

Large contributions are the less wealthy candidate's only hope of countering the wealthy candidate's immediate access to substantial sums of money. With that option removed, the less wealthy candidate is without the means to match the large initial expenditures of money of which the wealthy candidate is capable. In short, the limitation on contributions puts a premium on a candidate's personal wealth.

Think about that. This is, as expressed, ''a big hunk of the first amendment,'' as expressed by my distinguished colleague from Kentucky. We are capable of limitation on contributions. And that is sustained here by the U.S. Supreme Court in the Buckley case. That puts a premium on a candidate's personal wealth because the only way that a less wealthy candidate can catch up is with large expenditures. But the Court, has ''limited the freedom of speech for the first time in 200 years.'' I will use their expression and see if anybody believes it. This happened in 1976. It happened after many other times the Court has upheld limits, but let us use their expression if that is what everybody wants to believe. The Supreme Court, in Buckley versus Valeo, for the first time in 200 years, limited a contributor, his expression, and his freedom of speech in politics and therefore has put a premium on the candidate's personal wealth. He is penalized. The speech of the less affluent candidate is taken away because the less affluent candidate can only make it up, if he has no personal wealth, by larger contributions. But the Court, in limiting contributions, limited free speech for the first time in 200 years.

Maybe that is the way they will understand it. I do not know how to get their attention and get them out from this stonewalling on limiting spending in political campaigns.

Everywhere we go, they all say, what about campaign finance reform, Senator? I say, ''Oh, yeah, I am for reform.'' And then one chance we get here this week to vote for it, we decide to put it off until next week. We hope it does not appear on the Sunday programs or anything of that kind so the people will never know we had that chance. And once we have done that, then they will tell Senator FEINGOLD and Senator MCCAIN, ''Well, you had your vote; you can see Congress does not want to limit it. We cannot spend a whole year on reform. You have had your chance, and the majority voted against that chance. You did not pass the joint resolution of Hollings-Specter so let's go on to something else.'' Thereby, the entire thing is supposed to be swept under the rug. Well, it was almost swept under the rug on Monday. On Monday, they had it greased. They had a majority vote out of that Rules Committee, Mr. President, to just look at the illegal and not look at the improper, and they thought they had a majority vote along party lines. But Senator THOMPSON of Tennessee won out. He said we had a fit of conscience of at least eight or nine on that side. They were going to have egg on their faces. They were going to lose to a Democratic amendment.

''My gracious, we cannot ever let that happen. We are so bipartisan around here,'' they said. My Aunt Ida. Instead they said, ''we just cannot have a Democratic amendment prevail in this particular score. So, we will just all join in, then, and vote the 99 votes and adopt it.'' They had a fit of conscience.

Maybe we will get a fit of conscience. Maybe not today, maybe not tomorrow or next week, but we will keep coming back. We have had it three other times. We will get this the fourth time. We keep picking up steam.

My difficulty over the years has been in trying to put up an amendment again and again, because they tell me at the desk, that according to parliamentary rules, you cannot amend a simple bill—three readings in the House, three in the Senate, signed by the President—because this is a joint resolution. It is not to be signed by the President, but to go directly to the people for their ratification in the several States.

So, if I bring it up on any and every bill—which I am prepared to do, because I know the people are demanding it, and we will finally make a breakthrough—I have to wait for a joint resolution. That is why I finally got it up on the balanced budget amendment to the Constitution, for the simple reason that last year Senator Dole would not let me up. He just would not bring up a joint resolution on anything. When he got his unanimous consent to bring up the balanced budget amendment, I told them that I had an amendment to offer. They said later on, ''Oh, that is not relevant and our agreement meant relevant amendments on the balanced budget amendment to the Constitution.''

So I struggled all last year, 1996, and could not even get it up. I am going to look for any joint resolution that quietly comes by, and I will draft my resolution so that it is separate and apart from the other resolution, so that it would not interrupt it, and we, maybe we can get an up or down vote at that particular time again. But I can tell what the strategy is here, now. It is to get an arguable reason to stonewall McCain-Feingold. We can say, ''Well, we have had enough debate. We debated it 3 or 4 days, and everything else. Everybody has considered it. They are not going to limit campaign expenditures, so why do McCain-Feingold? If you do this, you are going to limit it. If you do that, we are going to limit it. We have already voted on limits in the Hollings amendment and that is it. Forget about it and let us all go home and say we all tried. We were all for reform.''

Oh, yes, we are all for limiting it any time it is in a sense of the Senate. It is kind of hard to hide behind that. Maybe that is what I will continue to do, on every bill, get a sense-of-the-Senate resolution. I think you have to get 25—we can get 25 Senators to cosponsor that right easily, and keep bringing it up until they get that fit of conscience.

They do not have it now. They are not interested in the soul of democracy. They are not proud to be in public service. What they are proud to do is outmaneuver; what they are proud to do is avoid and evade; what they are proud to do is finesse, in a clever, parliamentary way. What they are proud of is parliamentary maneuver. So, then they all vote up or down on this. They smile at each other. And they will give that praise to the Senator from South Carolina. They will say, ''We know he is sincere, but he is so misdirected, the poor fellow. He has tried hard. We respect him for trying so hard, but, bug off, son. You are not going to pass anything here that has to do with limiting expenditures in Federal elections.''

That is what we have considered, time and time and time again. And it is not freedom of speech—it is the protection of speech. But if they want to say it is the freedom of speech, then we have drafted it after Buckley versus Valeo, which said that part of the speech is already limited. Let us give a neat little other side. There are two sides to the Buckley coin, as Justice Burger said. Let us take care of the expenditures themselves and not dance around the mulberry bush with Patrick Henry and James Madison and anybody else from the time that they believed in slavery.

That is the forefathers. I think we have come a long way. They did not have to go down the road in the wagon and solicit $14,000 every week. They did

have freedom of speech and free elections.

They did a pretty good job, though. We got a good Constitution, generally. But we have had to amend it because they did believe in slavery and we have outgrown that particular cancer. We are trying this afternoon to outgrow this particular cancer. We can get elections back to the issues and the confidence of the people back in their Congress and their democracy. And we can get participation. But why did less than 50 percent come out to vote? The votes say, ''What is the reason? The money controls the whole blooming thing.''

Look at what is in the headlines, that is all we have had—January, February, down into March. There is another shoe that falls every day. They begin to think this political contribution character is a centipede. I have never seen so many shoes falling.

We go from Indonesia to China to all these different countries to everything else of that kind. It would be helpful to me if they all would say: ''Look, we tried to compete. We stretched every law. We intentionally stretched every law. We asked Philadelphia lawyers, 'Can you do it?' And when the Philadelphia lawyers said, 'You can do it,' then we said, 'We have to do it, because that Republican crowd is going to outraise us anyway you look at it.''' And they did. They raised over $150 million more than the Democrats were able to raise.

So, why don't they admit to what exactly occurred and then let us pass this amendment and give the people an opportunity to vote on what they have been asking for 30 years now. I went down the litany of failed reforms, Senator, from 1966 right on.

But when we get the distinguished former chairman of the Judiciary Committee, and now ranking member of the Foreign Relations Committee, to come to the floor, the Senator from South Carolina knows when to hush. I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Delaware.

Mr. BIDEN. Mr. President, I want to apologize to my friend from South Carolina because, as usual, he has been carrying the heavy load here. He has been carrying the water for all of us. I do apologize for not being here, to be more engaged in this debate. Frankly, I say to my friend from South Carolina, everything else we talk about—all the other talk about what we are going to do about campaign financing and campaign finance reform, and who has more money and who has less money, and how to avoid the stain and stink of money—ultimately, cannot make a difference until, we do what you have been telling us we need to do for the last decade or more.

We have a Supreme Court that has interpreted the first amendment in a bizarre way. This is not only with regard to the Buckley case. Take, for example, all this talk about soft money. We would not be in the spot we are in with soft money in terms of both political parties had it not been for the Supreme Court decision last year. At least there used to be a couple of veils left in this dance of seven veils. Now, you have major, major contributors who can come in and just change the whole dynamic of Senate and House races.

I just came from a meeting on chemical weapons. This is sort of the biological agent of politics that we are trying to eliminate here. Two years ago, in the last cycle, if somebody wanted to come in and put up $100,000, $500,000, $1 million, $5 million—if they did it all by themselves, did not coordinate it with a political party, put up billboards and advertisements and did not collude with the one or the other political parties against a specific candidate, then they could spend all the money they wanted. But there was this little veil that sat there. It did not allow the multimillionaire to pick up the phone and call the chairman of the Democratic Party or Republican Party in Delaware and say, look, I want to defeat BIDEN or I want to defeat the other guy and I have a million bucks; how do you want me to spend it?

The Supreme Court came along—a fellow I voted for, a brilliant guy—and wrote an opinion and said in effect, ''Oh, no, there's no distinction between you going out and spending it yourself, in first amendment terms, and giving it to and coordinating with a political party.''

What happened? We have a thousand dollar limit on individual contributions. But what does that mean? In my campaign this last time out, all of a sudden I find—I assume in coordination with the political party; by the way, I am not saying Democrats would do the same thing if they had the money—all of a sudden, I am finding all these ads on the radio with our good friend Malcolm Wallop. He was a good friend; he is a good man. He was heading up Americans for Freedom or some organization with a name like that.

He said, ''This is Americans for Freedom. Do you realize Senator JOE BIDEN is taking away your freedom?'' Another group came in and did specific radio ads against me, coordinated by the Republicans.

All of a sudden, my opponent had money. When he had to go out and get little pieces at a time, he had a hard time convincing people to give him the money. But, you get a couple of those big guys, they come along, and here is 10, 20, 50, 70, 100,000 bucks.

The point I am making is, all that is legal now. So what are we going to do? We can pass all the laws. I support McCain-Feingold. I am going to vote for it. But, I am reminded of that person who once said, ''You know, moderate reform is like moderate chastity.'' That is about what we are getting here with legislation.

When I arrived here, one of the first things I did, to the best of my recollection—it was Dick Clark and JOE BIDEN—was propose Federal funding of elections, congressional elections, because I wanted to get the private money out of this deal. I wanted to challenge incumbents, to let challengers have the same money incumbents had. I did not want public officials to be beholden to anybody but the American taxpayer.

I will never forget, some Democratic Senators, God bless their souls, like Warren Magnuson—''Maggie,'' as we used to call him—from Washington State, and some very prominent Republicans, looked at me and said, ''Kid, do you know what you're doing here? Do you understand this?'' I am not joking about this. ''Do you understand this?''

One Senator I will not name but has long since passed, called me into the Cloakroom, pulled me aside and said, ''JOE, come here.'' I was 30 years old at the time. I walked in and said, ''Yes, sir?''

He said, ''Enough of this stuff now, all right?''

I said, ''Enough of what?''

He said, ''This thing about giving the other guy the same amount of money we get.'' He said, ''I worked too''—I won't quote him precisely—''I worked too darn hard to get to the point where some little sniveling brat will get the same money I have to run against me.''

Well, that is why nobody in here wants to have it that way. I am not crazy about the fact. I have been around longer now. I am a senior Senator, so I can raise more money than the other guy. But, the other guy should have as much money as me to run, and neither of us should have to go around with our hats in hand saying, ''Will you help me?'' because it is a corrosive process, especially for a new guy and a new woman.

The reason I am saying that is this. I believe the vast majority of people who contribute to campaigns contribute to campaigns because they, in fact, find a Senator who already has a position they agree with. The problem I worry about is the young person who decides to run for the first time.

I will repeat this story. I told it in a hearing once, and I paid for it. But I will repeat it again and probably will pay for it again.

Toward the end of my first campaign, when I was 29 years old, I had no money, didn't have a thing—no television money—and all of a sudden, the guy that couldn't possibly be beaten, I am within a point of him, the polls said.

About 10 days before the election, I get a phone call from a group of men I never heard from before in an area of my State, I say to the Presiding Officer, where we used to only ride through and say, ''My God, look at the size of those houses.'' I get a phone call. They were decent men, by the way, decent, honorable men. They called me, and we went out to this place they call ''the hunt country'' in my area. You know it. You know some of the people. I was just so flattered they invited me.

I was thinking, 10 days. My brother, who is 6 years younger than me, was my campaign finance chairman. You can tell how effective we were. We had no money. He was 24 years old. The Senator from South Carolina knows my brother. Jimmy says, while driving me out there, ''You know, Joe, we got a call from the radio stations. If tomorrow we don't have the check for next week, we're off the air.'' Now, like anybody who is running for office, you pour your heart, your soul, everything into this.

Mr. HOLLINGS. That's what they call free speech.

Mr. BIDEN. Right, free speech. You pour everything into it. So I was sitting there, and I was within a point, according to the polls, of pulling off at that time, that year, what was viewed as the upset of the year. I wasn't even old enough, Mr. President, to be sworn in the day I got elected.

So I was riding out there. I walked into this room with nice big leather couches. I get offered, like we do in the Foreign Relations Committee, a sherry. That is a kind of foreign relations thing, sherry. I get offered a sherry. I don't drink, so I politely said, ''No thanks.''

These guys are real nice guys, five or six of them, and most of them made a living, God bless them—I don't begrudge them this—by clipping coupons. They came from wealthy families with a lot of money, and they are decent guys. Two of them had already been helping me. They thought this was a nice little revolution, this kid coming up doing this.

They sat there and looked at me. The one guy who was the older of this group—I say I was 29, so they were probably between the ages of 32 and 40. One guy looks at me and says, ''JOE, can you tell us your position on capital gains?'' Now, Mr. President, I knew the right answer for $30,000. I knew the right answer. Capital gains had not been an issue in the campaign. I had never spoken out on capital gains. No one had talked about it, but I am not stupid.

I was sitting there—and this is the God's truth—I was sitting in that room seeing what I worked for for 2 years about to go down the drain because I don't have $20,000 to keep my radio ads on the air. $20,000 wouldn't get you anything these days, but it would have kept me on the air for 10 more days with my radio ads, which were very effective, as it turned out.

I sat there, and I don't know why I did it—not because I am so honorable and brave or anything—I just blurted out, ''I don't think we have to change the capital gains structure.'' That was the end of the conversation. Everybody was very polite to me, said, ''Great idea,'' and talked about a few other things. They said, ''JOE, lots of luck in your senior year.'' I got up and left. I didn't raise any money from them.

I could have said, ''You know, gentlemen, I think the capital gains rate should be reduced.'' I knew that is how they all made their living. By the way, there is a legitimate, serious argument that capital gains should be reduced. It is not like it is something that is immoral or bad. I just happen to disagree with it. The truth is, I had not even thought that much about it, so it would not have been like I was selling my soul had I changed a position. But, the contrariant instinct got the better of me. I heard the words come out of my mouth and I thought, ''Oh, my God, what did I just say?''

Maybe I should not be so honest, but I have been around here too long. I have been here 24 years. And, this story illustrates the corrupting nature of the process. I have never known anybody I have worked with where a contributor says, ''Here, I got some money for you if you go ahead and take a certain position.'' That is not how it works. That is not the corruption. The corruption is sort of an insidious thing. It is insidious. But, in the public's mind, it is all bad now, even when we get support from people for positions we die for politically—whether somebody contributed to us or not, we would hold them dear, we would go down.

I always say to young people when they say they want to run for office, answer one question: Is there something you are willing to lose over? If you are not willing to lose over something, you should not get involved in politics; you should go do something else.

And for all the women and men in the Senate, there are positions over which they are willing to give up their seats rather than yield on. Somebody who contributes to them, who happens to share their view on that issue—now it is tainted in the public's mind. When we get support from people who are supporting us because we are of like mind, not because we changed our mind to get their support, we are viewed in a way that we must have done it because of the contribution. That is how bad it has gotten.

So what I do not understand, I say to my friend from South Carolina, is, you would think out of mere self-preservation and our own honor——

Mr. HOLLINGS. Right.

Mr. BIDEN. You would think we would want to change the system. I would say, to the best of my knowledge, all 100 Senators here are honest and decent people. But the perception out there is that there must be—must be—something wrong because all this money is in here.

So, it seems to me, I say to my friend from South Carolina—and I am not being solicitous—as usual, you have cut to the quick of the matter. Nothing can fundamentally change—fundamentally change—with regard to the way in which the process works until we have the ability under the law to limit the amount of money we spend, to determine how we can raise it, and to limit certain outside excesses that presently exist. If we did the things that we all would agree privately we have to do, the Supreme Court, I believe, would rule under their recent case law that it was a violation of the first amendment.

So what I am saying to my friend from South Carolina is, besides thank you, that you are dead, dead, dead right. I am going to vote for things in addition to this amendment, but not because I think without this amendment they are going to work, but because I think they are the only things we can do. And, I hope that I am wrong in terms of my reading of the Court's assessment of the first amendment.

My colleagues sometimes kid me, Mr. President, because they know I teach constitutional law in law school now. I think it must send shutters through Justice Scalia and others that I have been teaching the last 5 years a course on constitutional law and separation of powers issues. But you know what they say, if you want to learn a subject, teach it. If you want to learn a subject, teach it.

I am an adjunct professor at Widener University Law School, and I have taught a seminar on constitutional law for the past 5 years on Saturday mornings. I might add for the record, I do it without any conflicts to my job in the Senate. I do it Saturday mornings, on my time. Nobody helps me with it.

I am telling you, Senator HOLLINGS, you are right. Without changing the Constitution and giving us the power to determine what parameters we set or how we raise money for elections or how much we can spend, then anything we do here is subject to significant change by the Supreme Court.

Twenty-one years ago the Supreme Court ruled that spending money was the same thing as speech. The Court said that writing a check for a candidate was speech, but writing a check to a candidate was not speech.

The Supreme Court made a supremely bad and, I believe, supremely wrong decision. By saying that Congress shall make no law abridging the freedom to write a check, the Court is saying that Congress cannot take the responsible step of limiting how much money politicians can spend in trying to get elected. And we have to start putting limits on this because money is just permeating the system.

I am sure I am going to repeat a few things here that have been said by others, but I think they are worth being repeated.

In just the last 4 years, the total amount of money given to the political parties has increased 73 percent—73 percent. The total amount of money spent on races for Congress has increased 600 percent in the last 20 years. These are in real dollars—600 percent.

I ask you, how do these young pages, some of whom hopefully have dreams and aspirations of standing where I am right now—hopefully, a number of you have that aspiration—how do they get started.

When I started to get involved in public office, I had to raise the awful

sum of $150,000 to make the race credible, $250,000 to be in the game, and $350,000 to win in little old Delaware.

Today, somebody who wants to beat an incumbent, me or BILL ROTH, they better be able to raise a minimum of $2 million. But guess what? We only have 700,000 people in my whole State. But you know why they need so much money in Delaware? The reason is, we are in the fourth most expensive media market in the country. And as everybody knows, just to get to the point where 60 percent of the people in your State know enough about you to make a judgment whether they should vote for you or not, costs a lot of money. Just to get to know you—nothing else, not even to get to the point where they have any idea what your views are. Just to get to the point you are known. You know what it costs, I say to my friends who are from States much bigger than mine but in places where it is a lot cheaper to buy television? You know what it costs to air one 30-second ad at a good time on Philadelphia television on one of the network stations? It is $30,000 for 30 seconds.

Mr. HOLLINGS. You do not have a TV station.

Mr. BIDEN. I do not have a TV station. I believe we are the only State in the Nation that does not have its own commercial television station. That is not because we are good, bad, or indifferent. It is because it would make no economic sense. I live within 22 miles of the antennae of every one of the major stations—every one of the major networks in America. They are located in Philadelphia. I live in Delaware.

And so what happens when I buy an ad or my opponent buys an ad on television? For every 100 people who see the ad, 96 of them live in New Jersey, Maryland, or Pennsylvania and are unable to vote for or against me. But I have to pay for them all. Now I am not complaining because I have an advantage. I am an incumbent. It is an advantage and a disadvantage. The disadvantage is that you are an incumbent. People do not like incumbents. The advantage is that people know your name.

If you are an unknown person running, like I was the first time, how do you get to the point where even enough people know your name—unless you have a lot of money? And, my goodness, what it must be in the State of Michigan or Pennsylvania or South Carolina. Nevada is a little bigger now, but when I got here we were bigger than Nevada. Those States are bigger in population than Delaware.

I can speak knowledgeably only about one of our colleagues who did not run the last time. I will not mention his name. I know why he did not run. He would have won, and most people say he would have won. The State he happened to represent required him to raise at least, he thought, $12 million. He did not want to do that anymore—did not want to do that.

Look, the way we can raise the money is we can raise it at $1,000 a shot. That is the most we can raise from an individual. How many phone calls—from non-Federal property—do you make to be able to raise, in $1,000 increments, $12 million? That is a lot of money.

But guess what that does now? It means that you have to go from a circle of people who you know—and you know you do not have to worry about their backgrounds, their circumstances, where they came from, what their objectives were—to the universe. And, I want to tell you there is not a single U.S. Senator, myself included, who, I believe, could vouch for the character or motive or motivation of all the people who contributed to them unless they have the FBI working for them. We would have to spend more money than we raise to do background checks.

You know what I always think of, I say to my friend from South Carolina? I think of the guy who was probably more chaste than Caesar's wife, Jimmy Carter. I will never forget when he was running for President. He showed up at a fundraiser, and there was a guy named John Gacy—remember him, the mass murderer? Seriously, I am not joking. This literally happened. Gacy walks in and he contributes to Carter. And he is standing between Rosalynn Carter and Jimmy Carter. Then, later, we find out that the guy is a mass murderer. I say that not just because it is kind of humorous and we all laugh about it. But, I say that because there is no way, no matter how thorough you are as a candidate, that you can know about all your contributors. And I would have thought by now that we would all be worried about how it reflects on our reputation if a contributor turns out to be somebody that should not have contributed.

For example, recently there was a name of somebody who was an unsavory contributor, as it turned out, in the newspaper. It was a Chinese man. One of my guys said, ''My God, we have a man by that name that contributed to you,'' and I said, Oh, my God, find out who this guy is. It is a name that is a relatively common Chinese name, I found out later, like Smith or Jones. Guess what? It turns out the guy with that name who contributed to me was a librarian with the Library of Congress. I will never forget sitting in my seat going, Oh, thank God, thank God. Because, really and truly, what would have happened if it turned out to be the guy everybody was writing about? If I were up for election I would have to spend $100,000 in television ads to prove I did not know the guy.

Now, maybe we are counting on the people being so cynical that they will not hold anybody accountable for this. But I just think for pure self-preservation—not self-preservation of our jobs, self-preservation of our reputations and our integrity—that we would very much like the system to change.

I might add, you know how they kid around here. We joke when we have colleagues who announce they are not running again and they have been here for some time. We always joke and say things like, Well, now you will be able to tell them what you think. There was a guy that my friend from South Carolina knows well, and I will never forget him. Remember Steve Young—Senator Young from Ohio? Senator Young had been out of office about 2 or 4 years, but he was a guy I think who was widowed at that time, a man in his eighties, if I am not mistaken. And, he hung around here. He did not lobby anybody but he hung around, in the gym, in the dining room.

You may remember this story, Senator HOLLINGS, and I apologize for being so personal. But, the reason I am telling these stories is I want to communicate to the American people who are listening in real personal terms how this system works. I will never forget the effort of the distinguished Senator from South Carolina who took me under his wing when my first wife was killed in an automobile accident. When I got remarried and wanted to introduce my new wife, Jill, to the people, he had a reception for me up in the famous caucus room and everyone from the Vice President, President, the Supreme Court, really laid it out to welcome my wife. And, I might add, as they say, a point of personal privilege, I still appreciate that.

I will never forget there was a reception line and, Senator HOLLINGS, you introduced me to people. Later in the night the reception line was still going on but you were having to entertain some of the people you brought along. Old Steve Young came in the line, Senator Young was being nice, welcoming people who were coming in. This is a true story. And, a guy walked up to Senator Young—he was to my left—put out his hand, and said, ''Senator, I bet you don't know my name.'' I can't quote what Senator Young said exactly because I am on the Senate floor and it would be inappropriate, but Senator Young turned to me and said, ''Joe, will you tell this horse's tail his name? He has forgotten it.''

All of us would like to say that once in a while. So we joke and we say when someone leaves this place, Well, guess you will be able to tell them what you think now. The implication in that comment is that how nice would it be if you were totally unfettered, even indirectly, totally unfettered? I envy, and I mean this sincerely, the women and men in here who have close to unlimited wealth, and I do not begrudge that. I mean that sincerely. I would love nothing better than to be able to run for office and say I do not want anybody's money. I do not want one single penny from anybody, thank you very much, because then I know people would look at me and no one would be able to even think or imply that anything I did was because of anything anybody contributed to me.

I do not know why there is not a stronger instinct on this floor for that

notion of not having to be beholden to any contributors—and more support for public funding. We may never get to the point where we even get television time made available to challengers. We may never get to the point, and I am a distinct minority, where we have public financing, so the taxpayers are deciding whether they in fact, support a candidate. But, at least we could get to the point, if we have the Senator's amendment, where we could limit the amount of money in the process for everybody across the board, for everybody. Boy oh boy, do you not think it would be nice not to have to go out and do all those fundraisers?

Let me say what our friend from Nebraska, Senator KERREY, says. The danger in having this kind of discussion is that we imply that the 99 percent of the honorable people who contribute to us are somehow motivated by a bad reason. The vast majority of people who contribute to both political parties are people who contribute because it is their way of participating in the system and they want to promote the person whose ideas they agree with. That sounds naive to say after all these years, but it is true. I understand why the public does not believe any of it. I understand why the public does not believe any of that.

I will conclude, Mr. President, because I see there are others here who wish to speak. I will never forget thinking as a young man when I arrived here that the best thing to do, and I still think it is, is to bring everything out in the cold light of day. That is why I have spent time explaining how the system works. I am often reminded of that phrase, that saying, that comment attributed to Bismarck in Germany. Bismarck allegedly said there are two things you should never watch being made. One is sausage and the other is legislation. I would amend that slightly. Once the American people got a chance to see exactly how this worked, with all the disclosures which I think are necessary and good in the long run, I think the thing that suffered was our collective integrity—our collective integrity.

To the average person like my dad, anybody who was able to contribute $1,000 to a public official for a campaign must be doing it for a reason, and maybe is not so altruistic.

So, what does it say now that they pick up the paper and realize that individuals and corporations and unions and anybody else can contribute $20,000, $30,000, $50,000, $100,000, $1 million? Why do we expect them to say, ''Well, it must be nobly motivated, it is not for selfish reasons.'' In many cases it probably is totally nobly motivated.

Mr. President, I think that the single most important thing that has to be done from a purely practical sense is to amend the Constitution and give us the right to limit the amount of money that candidates are able to spend. I lay you 8 to 5 that if you ask every Senator to stand up and say whether or not they thought too much money was being spent in public elections, 90 out of 100 would say yes. I bet that if you asked them, do you think we should limit the amount of money that is spent, at least 70 would say yes. But if you asked them, ''Will you or your party lose political advantage if you do that?'' they may change their views. The truth is that it is not just the Republicans who don't want this reform; it is some Democrats, too. And, the truth of the matter is, if we do what you and I, Senator HOLLINGS, talked about a long time ago—essentially make it available for everybody to have the same amount of money, either by establishing a limit so that everybody would be able to be equal, or by providing public funding—every one of us would have a race every time. None of us like having those races.

Mr. HOLLINGS. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. HOLLINGS. I know others want to be recognized, and I am hopeful to hear from them. As usual, you are unfettered, and you don't wait until you get out of office to do that. You have been masterful, because in this exchange we have had, talking about charades, there is no charade in your presentation here this afternoon; it is right on target. I thank the Senator for yielding and for his talk today.

Mr. BIDEN. I thank the Senator. I must tell you that there is a piece of me that says keep the system the way it is, because it is awful hard to beat me the way the system is. There is a Senator we used to know who was very powerful here. I would say, ''Senator, how in the Lord's name did you get that person to contribute to me?'' He said he told them, ''It's not so much what BIDEN can do for you; it's what BIDEN can do to you.''

The truth of the matter is, if you are here and you have gained seniority and you are in a good position—better in the majority than the minority—it is a lot easier for you to stay if you are challenged. So I have to admit to you that I know if I ever prevail in making sure everybody running has the same amount of money, or by practically making it low enough so everybody could raise the same amount of money—I might say, ''Oh, my God, what have I done?'' But it is the right thing to do. I don't have a lot of hope that we can do it.

I thought when I got here in the midst of Watergate that maybe that episode would shock us into doing something serious—and we did it, until the Supreme Court overruled it. I hope we take advantage of the current situation and have the courage to act at a time when the spotlight is going to be on not only potentially illegal, but clearly unseemly, aspects of how these funds are raised.

I want to make it clear that I am not suggesting that I am any better or worse than anybody else in this body. I am merely suggesting that we should change, for our own safety's sake and for our reputations, the way we do it now. I don't know how to really do it unless you first have the authority under the Constitution to be able to do it.

I thank the Chair and yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the gentleman for yielding, and I appreciate the opportunity to speak on this issue because I think it is so important. When we are talking about amending the Constitution, and especially the first amendment to the Constitution, which is, in effect, what this would do, I suggest that we think very carefully about the ramifications.

So what are we doing here? We are actually considering an amendment that would open the door for restriction on first amendment political speech and freedom of association of many kinds. It seems to me, if we are rating the amendments, the free speech amendment is one of if not the most revered in our country. If we are going to dissect the freedom of speech that we have known for over 200 years in our country and effectively establish various levels of free speech, I think we must examine the impact this would have. By allowing restrictions on political speech, as this amendment would do, but not other forms of speech, we are opening the door to rendering political speech secondary to commercial advertising or even pornography. What could we be thinking? Of all of the rights we have, the ability to have freedom of political expression is perhaps the greatest, and must be preserved at least as vigorously as other rights.

Additionally, Mr. President, I would suggest that this amendment might also be called the Incumbency Protection Act of 1997. If we unduly restrict the ability of people to spend money to support the candidate of their choice and to likewise have the ability to raise adequate funds to run against incumbents in political office, as this amendment would allow, what we are doing is saying that, forever more, incumbents will have an advantage that challengers will not have. In fact, the reason we have the ability to have relatively free access to campaign funds or free access to the news media by challengers is so our democracy will work. Our democracy will only work if everyone gets a fair chance to do his or her very best to run against an incumbent or anyone else for political office. The idea that we would allow for almost limitless restrictions on that fundamental right is unthinkable.

Mr. President, many of us believe that campaign reform is essential, that we would look at our system and that we would make sure that there is accountability, openness, and transparency—that whoever contributes to campaigns would be known to the voting public. We need to make sure that

is the case. But to say that we would open the door to allowing restrictions on free access to the media or that we would require the media to, in effect, give access to anyone who might decide that they are going to pay a filing fee is really an inhibition not only of free speech but of the right of free press, which is also a crucial element of our first amendment. This resolution raises this as a real possibility and encroaches unacceptably on our hallowed Bill of Rights—that document that has made our democracy work and has kept our Government in the hands of the people. Our democracy will simply not be as strong if we do not preserve the freedom to be able to go out into the news media, or the sidewalk, or anyplace else and proclaim why we are running and what cause we care about for public office.

So I applaud Senator MCCONNELL for standing up for the first amendment, for making sure that we do not do something that would amend our Constitution without careful consideration.

I know that many in this body are frustrated. They are frustrated with our campaign system. I am sure that Senator HOLLINGS is frustrated and is clearly trying to fix a system that has problems. I would just say to my colleague from South Carolina that I think we need to address campaign reform, but this is not the vehicle. Amending the Constitution to provide for the ability for any State legislature or any Congress in the future to limit access to the airwaves or freedom of speech or association or of any organization to lawfully contribute to a campaign is simply not the way to go.

Let us in Congress come together on real campaign finance reform so that the people of America will be informed voters. But whatever we do, we should never relegate political speech to second-class status. Rather, we must work to ensure that the basic right to speak one's mind in the political marketplace of ideas remains the most protected of all of our rights.

Thank you, Mr. President.

Mr. MCCONNELL. Mr. President, I want to congratulate the Senator from Texas for a very important contribution to this important debate. We have finally gotten on to the real subject. The real subject is the first amendment, free speech, and protecting political discourse in this country. I just wanted to congratulate the Senator from Texas for her contributions today.

Mrs. HUTCHISON. Mr. President, I appreciate the opportunity to speak today, and I appreciate the Senator from Kentucky managing this amendment in opposition because we are exercising that free political speech that we enjoy. I think the ability for us to disagree while not being disagreeable is very important in the process.

I thank the Senator from Kentucky for leading the opposition.

Thank you, Mr. President. I yield the floor.

Mr. KENNEDY. Mr. President, I oppose the amendment offered by my friend Senator HOLLINGS. I respect his leadership on campaign finance reform, but it is a mistake to write it into the Constitution.

The current system of financing elections clearly needs reform. Something must be done to curtail excessive spending on the campaign trail. The billions of dollars spent by candidates and the massive exploitation of loopholes in current law have led to a growing cynicism and distrust of our system of government. We must act on reform, but amending the Constitution is the wrong way to do it.

In the entire history of the Constitution, we have never amended the Bill of Rights, and now is no time to start. It would be wrong to carve an exception in the first amendment. Campaign finance reform is a serious problem, but it does not require that we twist the meaning of the Constitution.

Campaign finance reform is clearly possible without a constitutional amendment. The Buckley decision does not make it impossible for Congress to pass legislation achieving far-reaching reform. In fact, a large number of experts believe that the Supreme Court's 1976 decision in Buckley versus Valeo went too far, and that the Court is likely to reconsider it in an appropriate case. Over 50 prominent lawyers have said that the Buckley decision is ''a mistake, unsupported by precedent and contrary to the best understanding of prior first amendment jurisprudence.''

These lawyers and other constitutional scholars believe that Congress should pass campaign finance reform legislation and give the Supreme Court the opportunity to revise the Buckley decision.

The McCain-Feingold legislation provides us with that opportunity. As President Clinton commented during his State of the Union Address, Senator MCCAIN and Senator FEINGOLD have reached across party lines to develop a solution to uncontrolled campaign spending. Contrary to what Majority Leader LOTT believes, this legislation is not, ''food stamps for politicians.'' It is a serious bipartisan effort to solve this problem, and the Senate should make it a priority.

The constitutional amendment before us today—unlike statutory reform—will not make a difference. It merely empowers Congress to pass legislation that would place mandatory limits on campaign spending in Federal elections. After the long ratification process, Congress would still have to actually pass legislation setting those limits. Though well-intended, this constitutional amendment is simply a distraction. We should get on with the business of enacting reform, without waiting for ratification of a constitutional amendment, and certainly without tampering with the Bill of Rights.

UNANIMOUS CONSENT AGREEMENT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate resume consideration of Senate Joint Resolution 18 at 11:30 a.m. on Tuesday, March 18, and that there be 1 hour remaining for closing remarks to be equally divided between myself and Senator HOLLINGS; that the Senate then resume consideration of the resolution at 2:15 p.m. on Tuesday for 30 minutes equally divided; and, finally, following that time on Tuesday, the joint resolution be read for the third time and the Senate proceed to vote on passage of S.J. Res. 18 with no intervening action or debate with paragraph 4 of rule XII being waived.

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

Mr. MCCONNELL. Mr. President, as a reminder to all Senators, this consent agreement allows for a rollcall vote on the measure currently before us at approximately 2:45 on Tuesday, March 18.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Nevada.

Mr. REID. Mr. President, I am a sponsor of Senate Joint Resolution 18. I am proud to be a sponsor of that resolution.

What we have to understand is that the present system must change. It is hard for me to comprehend that since I was first elected to Congress more than 14 years ago the system is still the same as it was. It has not gotten better. It has gotten worse. Ten years ago when I was elected to the Senate, I came to this floor, and one of the first speeches I gave was about the need for campaign finance reform. It is hard for me to really believe that here it is 10 years later and it has not gotten better. It has gotten worse. I thought it might stay the same. In my most pessimistic thoughts I thought there was a possibility that the system would remain the same. It has gotten worse.

What our friend from Delaware just talked about in this very remarkable good speech is what other abuses take place. Independent expenditures—we didn't have independent expenditures when I was first elected to Congress. What is an independent expenditure? That is a good question. No one really knows. But they are legal. They are legal. They are not illegal. If a group gets together, they don't have to identify themselves. They can make up a name. Senator BRYAN, for example, was Governor of the State Nevada, and he ran for the Senate. A group of individuals got together and they represented the automobile industry. They ran a bunch of ads, hundreds of thousands of dollars' worth of ads, tens of thousands. I don't know how much money. There is no way to know. They do not have to list how much they spent against Senator BRYAN, using Social Security as their issue. It had nothing to do with their field of interest. But it was a way to embarrass my friend, the Governor of the State of Nevada, who was running for the Senate. That is an independent expenditure.

In my race the last time I ran for the Senate, a wealthy person from Las

Vegas ran ads against me dealing with something about the military on submarines and aircraft carriers because I didn't visit with one of his grandchildren when they came to Washington. I was busy. I don't know what it was. I didn't visit with his grandchild when they came to Washington to visit me. He is a rich man who spent money trying to defeat me. He doesn't have to list where the money comes from. That is an independent expenditure.

Early this century Congress outlawed corporate money in Federal elections. They are not illegal anymore. The Supreme Court ruled last year that you can give unlimited amounts to State parties, and they can spend the money any way they want. That is what happened this election. That is what all this campaign mess is about—State parties spending all of their money.

So things have gotten worse; they have not gotten better since I have been in the Congress. It is really too bad that the system has reached a point where it is.

I have heard a lot of speeches here today about our Founding Fathers and about the first amendment. Well, the Founding Fathers who drew up this little instrument, the Constitution of the United States, would turn over in their graves if they saw how money was being used in campaigns. The first amendment wasn't meant to allow unlimited spending of money in campaigns. Should we wind up in this Congress with 535—it can't just be a millionaire—multimillionaires? The answer is no, that isn't the way it should be.

When I first was elected to the House of Representatives, we had a plumber, a tradesman, who represented a congressional district from Missouri. He ran and he won. He could not win working on those wages anymore; he couldn't win.

We cannot let what has now become the status quo—which is worse than the status quo of the election before—continue. Under the current campaign finance laws, Government is restricted from regulating campaign spending. This is a result, as we have heard here several times, of a U.S. Supreme Court in a 5 to 4 decision equating spending money in a campaign to free speech.

There are all of these speeches here about first amendment rights. If the resolution of the Senator from South Carolina passes, there is nothing that will violate the first amendment. Every day that we come on this floor to pass legislation we have to be aware of the first amendment. We are not going to do anything to denigrate the first amendment rights. The Supreme Court struck down the expenditure limits imposed by the Federal Campaign Practices Act of 1974 as an unconstitutional restriction on free speech. The intent of that legislation which restricted campaign spending was to equalize the ability to run for office between persons of differing wealth. The Supreme Court, through their decision, made the playing field not level.

What happens in a relatively small State like Nevada is, if someone wants to come in and spend, it will cost now $4 million to run in the State of Nevada, or more. What if somebody wants to come in and spend $10 million, a third as much as was spent in the California race an election ago where a man came in and spent $30 million of his own money—$30 million. He could save $20 million if he decided to move to Nevada.

I have to say, as popular as the present Governor is in the State of Nevada, as popular as my friend, the junior Senator from Nevada is, $10 million would test their ability. The airwaves would be drowned with TV messages, radio, and, of course, newspapers throughout the State. Is that fair? I really do not think it is. I think that we need to be able to stop that. The playing field is not level.

Most Americans believe that the current system is flawed. Their central concern is special interest influence. It is ironic that the Court equated free speech with money. Their decision has the opposite effect. It actually ensures that those with money can talk and those without money cannot talk.

I want to also spread across the record of this Senate my appreciation for the courage of the Senator from South Carolina for continuing on this issue. We are only here today as a result of the persistence of the Senator from South Carolina. We are here by virtue of a unanimous consent agreement that was entered into sometime ago saying we are going to debate this issue or I am not going to let something else move forward on the Senate floor. That is what the Senator from South Carolina did. And it took someone with experience, prestige, and abilities to get us to the point where we can at least talk about it.

I also say to my friend from South Carolina, I think we know we are not going to get 67 votes. I am disappointed. And maybe a miracle will happen. But that does not mean we are not right. That does not mean what the Senator from South Carolina is leading is not right. And we are going to win some day. It is only a question of when. I say thank you from the people of the State of Nevada to the Senator from South Carolina for allowing us to have the opportunity to talk about this.

Campaign finance is a sore that is festering in the body politic of America, and we have to do something to change it. We may not change it with this resolution passing, but we are going to change it because we are going to keep talking about it, because what is going on now is wrong. It is wrong you have independent expenditures, somebody spending money against people because they refused to see their grandchild. And in the middle of the night they go to the TV station and run these ads because they are wealthy. Is that the way to conduct business in this country? I say no.

I say people can stand up and say, well, it is free speech; they can do what they want. But they can play by the rules everybody else plays by. If somebody wants to contribute to my campaign under the Federal law that I thought existed when I came here—you have to list how much they give and they cannot give more than $1,000 an election, their occupation, where they live—why shouldn't they have to do the same. You do not know who these groups are that come in the middle of the night. I did not learn until after the election someone was mad at me because I did not see their grandchild.

I repeat, the Supreme Court equated free speech with money. Their decision has the opposite effect. It actually ensures that those with money can talk and those without money cannot talk.

Over the last decade we have seen an unsettling trend in American politics. Most of our candidates for Federal office have money. There are some estimates which say $1.6 billion was spent on campaigns this past year. And campaigns have become more expensive with each election. You can call it free speech; call it whatever you want. That is wrong. You cannot make something wrong right by saying it is wrong enough times. It is wrong to have the ability to be elected depend on how much money you have.

Thomas Jefferson was a bad speaker. He could not be elected today. As much of a genius as Thomas Jefferson was, he could not be elected today unless we change these rules.

The skyrocketing costs are prohibitive and serve as a deterrent for average Americans who want to participate in the political process. As long as costs continue to rise, so will the need for more money. Limiting spending is the only way of keeping the cost of campaigns down.

I wish we had a way of shortening the election cycle. The Presidential election just finished and people are already beginning to run for President.

Over the past 10 years, Congress has tried to get around the Buckley decision with at least 100 different proposals. There are numerous proposals now pending. But we are never going to slow the amount of money associated with campaigns until we address the Buckley decision head on. That is what the Senator of South Carolina has done.

Congress must undo the Buckley decision and reinstate campaign spending limits. This legislation amends the Constitution to authorize Congress to cap campaign expenditures in Federal elections. I do not take lightly amending the Constitution or our precious freedom of speech, but it is the only way to undo the Buckley decision.

No one is in favor of free speech more than I am, and I think I have the record to indicate that. I represented newspapers before I came here. Some of my clients went to court on first amendment cases. But equating free speech with campaign spending simply

creates a constitutional protection for wealthy candidates to buy Federal elections.

An alternative to this amendment is to continue to spin our wheels, working on hundreds of different initiatives designed to provide public financing, financial inducements in exchange for voluntary spending limits or one of the other failed proposals we have debated over the years.

I have been in the Senate 10 years, so I do not want to go back further than that, but let me read to my friend, the prime sponsor of this resolution this year and the years gone by: During the years I have been in the Senate, we have had 6,742 pages of hearings. We have had 3,361 speeches, 62 now with this one, 1,063 pages of committee hearings, 113 Senate votes on campaign finance reform, and we even had one bipartisan Federal commission which went nowhere. The vast majority of those votes, I would say 90 of the 113 votes were for cloture—stop debate so we could get to vote on one of the issues.

Now, I am a cosponsor of McCain-Feingold, an imperfect piece of legislation, but I say I do not know how we could make things worse than what they now are. I support McCain-Feingold; I hope it passes, but I think the chances of passing are pretty remote. I have to tell you that. I hope it passes. I am a sponsor of it. But until we do what the Senator from South Carolina suggests we do—and I am cosponsoring the amendment, an original cosponsor—I think we are just going to add to this. We are going to have probably by the time this year is over 7,500 pages of hearings, maybe 500 floor speeches, maybe 1,300 pages of committee reports, and probably 125 votes rather than 113, and accomplish nothing.

So I think we have to stop talking about limiting spending and look for a way to hit Buckley head on. We cannot enact powerful campaign spending limitations as long as this is the law.

Overall funding for the Democratic and Republican Parties totaled almost $1 billion last year, a 73 percent increase over the same period during the 1992 cycle. We can get up and say all we want that this is just part of free speech. I do not buy that. I do not think we can be whipsawed into cowering because the free speech argument is raised. I am not going to be. I am going to talk about this issue every chance I get.

I would like to be able to spend more of my time debating issues dealing with education, dealing with the trade deficit, dealing with juvenile crime, adult crime; I have some environmental things I would like to come here and talk about. That is one of my prime responsibilities on the Environment and Public Works Committee. I would like to come here and talk about that. I would like to spend some time talking about the ISTEA bill. But, frankly, a lot of us have to spend a lot of time making phone calls to raise money.

It is too bad, isn't it.

Mr. HOLLINGS. Yes, siree.

Mr. REID. The public believes that escalating cost of elections puts a price tag on our democracy. So why is there this call for campaign finance reform? Let us go over the issues.

No. 1, record-breaking spending. As I said, we hear all kinds of estimates, but just the parties spent over $1 billion; in overall spending, $1.6 billion at least.

No. 2, Americans feel shut out. Americans, more than ever, believe that the emphasis on money in elections excludes them from meaningful participation. They believe that special interests who contribute large sums of money have more influence on elected officials and that candidates are forced to spend too much time raising funds and too little time listening to voters' concerns.

No. 3, campaigns are too expensive. Campaigns have become more expensive with each election. The skyrocketing costs are prohibitive and serve as a deterrent to the average American who wants to participate in the political process. As long as the costs continue to rise, so will the need for more money. Limiting spending is the only way of keeping these costs down.

My friend, the Senator from Delaware, talked about these pages. We have serving in the U.S. Senate today a fine senior Senator from the State of Connecticut who was a page. I am sure, years ago, he sat where you young people are sitting and heard speeches delivered by various Senators. I am almost embarrassed to stand here and talk to you four young people about this issue. It is embarrassing to me, to admit the system is failing. I don't like to talk about the system failing. I started last summer coming on this floor talking about how good Government was, that we should be proud of Government. And I do believe that. There are many things we should be proud of: Our National Park System, how well FEMA reacts to crisis, our Consumer Safety Products Commission—many, many things we should be very proud and happy over. But this is one thing I am not proud of. I am embarrassed to come here and admit a Government failure, and that is what this is. I hope you young people are not so turned off by the speeches that are relating to this proposed constitutional amendment that you turn against Government, because you should not.

No. 4, comprehensive reform is the only lasting solution, and comprehensive reform can only come about as a result of our amending the Constitution to allow us to get around the 5–4 decision made by the Supreme Court.

We need bipartisan action. I say to my friend, the junior Senator from South Carolina, that we have a sponsor on this resolution, Mr. SPECTER, who is second in line. The second sponsor of this amendment is the Senator from Pennsylvania, the senior Senator from Pennsylvania [Mr. SPECTER]. I commend and applaud his courage for stepping out on this issue. We need more bipartisanship. This is a bipartisan resolution. I wish we had a few more from the other side of the aisle, but this is bipartisan and I, again, want to congratulate my friend from the State of Pennsylvania for having the guts to step forward and say he also believes that this resolution should pass.

No one can say anything about his ability to analyze the law. I have heard him give hours of speeches here, with detailed legal analysis. I am sure he has spent time, recognizing we are not violating any free speech. If there is no other reason that we should feel good about this, it would be because we have bipartisan support from a Senator who has joined us who has great qualifications as a legal scholar. So we need bipartisan action and I think we need to move forward now and pass this resolution.

I hope that I am wrong. I hope that over the weekend—we are going to vote on this early next week—I hope that people get the idea that this is the only way to go and that we are surprised and get 67 votes, enough to pass this constitutional amendment. I hope so.

The time to act is now. Over the next 2 years, Congress will deal with changes in regulations and programs that affect virtually every American, from clean air and water to education programs for our children and Medicare and Medicaid for our Nation's elderly. In order to address these concerns, Congress must first act to reform itself. That is what we are talking about. We talk about reforming everybody else, why don't we reform ourselves? Why don't we reform ourselves? Because the present system is pretty comfortable. We, who have access, have the ability to raise money and, unless you are independently wealthy, access is really, really important. Why don't we do something that would level the playing field, like we tried to do in 1974?

So I close with the plea that we can reform the way we handle campaigns in this country. The only way we can reform the way we handle campaigns in this country is if we follow the admonition and the courageous activities of the junior Senator from South Carolina, ERNEST F. HOLLINGS, who has worked so hard and so long on this issue. I am proud to be a cosponsor of this resolution.

Mr. HOLLINGS. Would the distinguished Senator yield? I know others want to be recognized, so before you yield the floor, let me take this opportunity to thank the distinguished Senator from Nevada. He has really given a very, very cogent analysis of the dilemma that we face, the real-life experience, now, that we have all engaged in, and what we are trying, in the best of our ability, to reform, and reform ourselves, as you so sincerely pointed out.

So I cannot thank you enough for your presentation and joining with us. I have been delighted to work, over the many years that we have been here, together. This is one more time. I, again, admire the Senator from Nevada. He has sincerity and bipartisanship. I have seen him work with the other side of the aisle so often. So he is looking at getting something done and making headway rather than headlines. It is with that knowledge, listening again this afternoon to your sincerity of purpose, that I truly thank you for your support and your cosponsorship.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business.

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

The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 438 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to speak in support of the pending business, the constitutional amendment which will authorize the Congress or State legislatures to control campaign finance spending. I believe it is a matter of great urgency that the Congress of the United States deal with the subject of campaign finance reform.

Day after day we have seen disclosures about very serious violations of existing Federal law and disclosures of very substantial improprieties which call for additional Federal legislation. Regrettably, the opportunities for Federal legislation are sharply restricted by decisions of the Supreme Court of the United States which have limited Congress' ability to act on the stated grounds that such action would violate the first amendment relating to freedom of speech.

The case of Buckley versus Valeo, decided on January 30, 1976, equated speech with money in a very curious manner. It said that an individual could spend as much of his or her money as he or she chose, but upheld congressional limitations on what others could spend in support of a person's candidacy.

The Court also left an exception on what is called the independent expenditure. That decision was a very forceful one for me personally, because at that time I was a candidate for the Republican nomination for U.S. Senate. I was running against John Heinz, who later became a colleague of mine in the U.S. Senate and a very, very close personal friend. At that time, we were friends, too, but we were political opponents.

Senator Heinz at that time was a Congressman. I had been district attorney of Philadelphia, and we entered that race in April looking forward to the primary. The Federal election provided that someone running in a primary in Pennsylvania would be limited to spending $35,000, computed on a per capita basis for the size of the State. That was about as much money as I had, having been in the practice of law for a short time after having been district attorney of Philadelphia. So it was an even playing field.

On January 30, the Supreme Court of the United States said that an individual could spend as much of his money as he chose, and John Heinz chose to spend millions. I was limited to my own bank account which was $35,000. As a matter of fact, I spent that.

At that time, I had a brother who could have financed my campaign, although not on the size perhaps of some others. But my brother, Mort Specter, was limited by law to contributing $1,000 to my campaign.

It struck me then, and strikes me now, as being curious. Mort Specter's speech was limited to $1,000 in support of his brother, but John Heinz' speech was unlimited. There have been cases of others having come to this body after having spent into the millions of dollars and overwhelming their opponents. Last year, we saw a Presidential election where Steve Forbes came into the field and declined to be bound by Federal spending limits and spent in excess of $30 million, as the reports have demonstrated.

I believe that there ought to be authority in the Congress to regulate campaign expenditures. The Supreme Court in Buckley and a number of my colleagues here in the Senate have stated that limiting campaign spending would violate first amendment protection of freedom of speech. I take second place to no one in defense of the first amendment and the freedom of speech clause, as well as freedom of religion, freedom of right to assembly, freedom of right to petition the Government. But I believe, as someone who studied the Constitution in depth for some years, that the Buckley decision was wrong as a matter of legal interpretation.

There are many who agree with that. In fact, on November 10, 1996 some 26 scholars joined together to urge the Supreme Court to reconsider and reverse the decision in Buckley versus Valeo. Among them are some of the most prominent constitutional scholars in the United States, including Pro. Bruce Ackerman of the Yale Law School, Pro. Ronald Dworkin of the New York University Law School, Pro. Peter Arenella of the University of California Law School, Pro. Robert Aronson of the University of Washington Law School, and many, many others.

Following the statement of the professors, the attorneys general of 24 States called for the reversal of the Buckley decision in January 1997.

The simple fact is that the Buckley decision makes no sense as a matter of law. Why should an individual be able to spend an unlimited amounted of money when an individual's brother is limited to $1,000 in speech? If freedom of speech applies to a candidate, why does not the same freedom of speech apply to a candidate's brother?

Freedom of speech has traditionally been limited by Supreme Court decisions. It is not an unlimited, absolute right. You have the famous decision by Oliver Wendell Holmes on clear and present danger. If there is a clear and present danger, speech may be limited.

The most famous example of limiting free speech is the rule that you cannot cry ''fire'' in a crowded theater. If you cry ''fire'' in a crowded theater that endangers other people who would be injured in the stampede for the exits.

Likewise, you are not free to use a racial or religious slur against somebody. There is a famous Supreme Court opinion on this issue by Justice Murphy. An individual had uttered a racial slur and the target of the slur punched the speaker in the nose. The speaker then sued the individual who hit him for assault and battery. Justice Murphy ruled that the person who had uttered the slur and was punched could not sue. He held that racial slurs were fighting words, and you cannot utter fighting words even within the context of freedom of speech.

We know from very complex decisions by the Supreme Court that there is a limit as to what you can say in the way of obscenity. If material appeals to the prurient interest, if it is contrary to accepted moral standards, it can be restricted.

In addition, this body has gotten involved in some very controversial issues in the effort to protect children's viewing on television. So there are clearly limits to first amendment protection.

As I say, I take second place to no one in wishing to safeguard the first amendment. But I have heard a lot of talk in the U.S. Senate that this amendment would be an invasion of cherished freedoms of speech. I disagree. Money is not speech. Just on its face it is not speech. And to enable the wealthy to, in effect, buy elections is not sound public policy. Congress ought to have the authority to make that change.

We have seen the most recent decision of the Supreme Court of the United States on the subject in Colorado Republican Campaign Committee versus Federal Election Commission, a 1996 decision which defies logic, defies reason, and defies reading to understand what this opinion means.

There is an opinion by Justice Kennedy concurring in the judgment and dissenting in part with Chief Justice Rehnquist, and Justice Scalia joining.

There is an opinion by Justice Thomas, concurring in the judgment and dissenting in part, in which Chief Justice Rehnquist and Justice Scalia joined in part.

There is an opinion by Justice Stevens with a dissenting opinion, with Justice Ginsburg joining.

There is another opinion by Justice Breyer joined by Justice O'Connor and Justice Souter.

All that to the viewing audience on C–SPAN sounds extraordinarily complicated, but you ''ain't heard nothing yet.'' It is a lot more complicated than that.

In order to have an opinion of the Supreme Court, you have to have five Justices who state a judgment and then articulate an opinion so you know what the ruling of the Court is. There is no opinion which five Justices joined in. You have four Justices saying they have one conclusion, which leads them to the judgment that results, and other Justices saying they have different reasons leading to a judgment. In other words, you have a majority of the Justices agreeing on the conclusion but not agreeing on the reasons.

You hear the Supreme Court often criticize legislative intent, criticize what the Congress of the United States does because it is not clear. Some Justices, Justice Scalia in particular, say they do not pay any attention to legislative intent because they cannot find it.

We spend a lot of time on the floor of this Senate seeking to clarify legislative intent: stating what we are trying to accomplish and asking the managers if they agree with that and expect that to be followed, trying to give some guidance because we cannot anticipate every last conclusion and every last consequence when we have legislated. But our muddled congressional activities and actions are clear as crystal compared to what the Supreme Court does frequently as illustrated in this Colorado case.

By the time you finish reading this case about what parties can do and about what soft money can do, there is absolutely no guidance. That guidance ought to be presented by the Congress of the United States. If we had a constitutional amendment on campaign spending, all of the confusion of the Buckley opinion and the Colorado opinion would be eliminated.

You have an extraordinary situation where the President of the United States is reported, in the book by his campaign director, Dick Morris, as sitting down and editing the campaign commercials paid for by millions of dollars of soft money collected by the Democratic National Committee.

Federal election law provides that soft money must be spent on independent expenditures. But money is certainly not being spent independently of President Clinton's campaign if President Clinton sits and edits the commercials. But that is precisely what President Clinton did.

Some have argued that President Clinton did not violate the election law because the DNC spent soft money and the soft money was used for issue advocacy instead of express advocacy on behalf of a specific candidate.

The general rule of what constitutes express advocacy for a specific candidate is ''vote for Senator BENNETT.'' That would be express advocacy. Or ''vote against Senator BENNETT.'' But if someone engages in issue advocacy and lists all the votes which Senator BENNETT has made which they claim are undesirable and mentions all of the good qualities of Senator BENNETT's opponent, that is often considered issue advocacy. That is often not controlled by the Federal election laws. Let's face it, the line between issue advocacy and express advocacy is impossible to draw.

We are approaching the issue of campaign finance reform in the activities of the Governmental Affairs Committee. This was the subject of heated discussion on this floor, though maybe not as heated as it was in the Republican caucus. The distinguished Presiding Officer was there. I might say, parenthetically, it is very troublesome to have our deliberations among Republican Senators in the caucus reported to the press. I was called by the press. My standard answer is, ''I will tell you what I said, but I won't tell you what anybody else said.'' Then the reporter says, ''Well, do you mind confirming this?'' And they repeat exactly what happened in the Republican caucus, which was limited to Republican Senators. Very distressing. That really is a confidential communication that ought to be respected.

But when we looked at that issue, we came to the conclusion that we have to have a wider scope which includes not only illegal but improper activities. That is because we want to correct what has gone on, and not only with the use of these millions of dollars in soft money, but what has gone on in foreign expenditures. We have seen very substantial moneys contributed illegally by foreigners. We know it is illegal because the Democratic National Committee has returned the money.

When I talk about the Democratic National Committee, I do not wish to be unduly partisan. I favor an inquiry which would take in not only the Democratic Presidential campaign, but the Republican Presidential campaign, and not only the Presidential campaigns but congressional campaigns, so that we would take a look across the board and not with a limited scope.

But the foreign contributions as disclosed to the media have been received by the Democratic National Committee. And we know they are illegal because the Democratic National Committee has returned a great many. We do not know if they returned them all. This is a matter that we ought to look into.

Although contributions by foreigners, noncitizens, are illegal, maybe we ought to extend our laws beyond the bounds which we have now. If we are to really be able to regulate campaign money, we are going to have to have the authority to do it without having the Supreme Court hand down the Colorado case and without having loopholes virtually as broad as the planet.

These are issues of great importance. We have really seen our democracy, our Republic, on the line in terms of what has happened on campaign irregularities. This is something that the Congress ought to take up. The Congress cannot take it up realistically unless we have a constitutional amendment.

I see my distinguished colleague, Senator HOLLINGS, has come back to the floor. I am happy to start again. I am not sure where he came in.

Mr. HOLLINGS. If the Senator will yield, I came in at the very beginning. I could not repeat it better than what the distinguished Senator from Nevada said when he congratulated the Senator from Pennsylvania not just on the guts to be able to cosponsor this, because he takes it from his side—there is no more erudite attorney and legal scholar within this body. I would not miss a word of it.

Mr. SPECTER. I am glad I know that Senator HOLLINGS was here. Otherwise, he would not have made those flattering, complimentary statements.

I know Senator HOLLINGS has been here all day today and all day yesterday, because I came over to look for an opportunity to speak yesterday and the floor was taken, and earlier today I was looking for a chance to speak, and I came out of hearings on the Agriculture Subcommittee where we have a major problem with dairy pricing in Pennsylvania, which occupied me all afternoon.

As I was about to say, Senator HOLLINGS has been the leader on this, and it has been the Hollings-Specter constitutional amendment for the better part of a decade. Senator HOLLINGS asked me to join him in the news conference Tuesday morning at 11:30 where we talked about this amendment and campaign finance reform generally, and then questions from the media got into the issue of what the Governmental Affairs Committee would be doing, more broadly than the constitutional amendment. Some of that got on to the wires and stimulated some of the discussion we had later at the Republican caucus. It was synergistic and moved the issue right along.

It is very difficult to pass this amendment because it takes a two-thirds vote. There is no doubt about that. On May 27, 1993 the Senate adopted by a vote of 52–43 a sense-of-the-Senate resolution that this amendment should be passed, and my sense is that one day this constitutional amendment will pass. It will take a lot of effort. I am not optimistic about its chances at the present time. I do not believe there will be campaign finance reform until the Congress has to act.

We have in here a conflict of interest in passing campaign finance reform because it benefits incumbents. Some say that the absence of campaign finance reform benefits the Republican Party. I disagree with that. I believe the Republican Party would do just fine with

campaign finance reform. I think it would be tougher on incumbents, but we are not going to get it until we do overturn Buckley versus Valeo.

The Supreme Court has often reversed itself when the Court was wrong, and there have been constitutional amendments when the Court was wrong. We have an amendment process where two-thirds of the House of Representatives and the Senate, and three-fourths of the States, can change the Constitution—because the U.S. Supreme Court is not the last word. They can be overturned.

There have been proposals to overturn Supreme Court decisions by a two-thirds vote of the Senate. I would hate to see that happen because we muster two-thirds of the Senate sometimes on issues which may not really reflect long-range interests of the United States. I think it is important to have a high barrier to have a constitutional amendment. I think one day the public alarm, the public dismay, the repugnance of the public will reach a level which will motivate the Congress to have campaign finance reform and to have a constitutional amendment.

I think it is a solid constitutional principle that money ought not to be equated with speech, and we ought to overturn Buckley versus Valeo and then Congress ought to have sensible legislation to ensure that democracy is protected and our Republic is protected.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

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

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

Mr. LOTT. Mr. President, I want to thank the cooperation of the Senator from South Carolina and all the other Senators involved in this debate for their cooperation. It certainly has been a full debate and not a lot of quorum calls were taken. I believe we have entered into, now, an agreement where we will get a final vote on this on Tuesday at 2:45.

Mr. HOLLINGS. That is correct.

Mr. LOTT. We will have further debate on the issue?

Mr. HOLLINGS. Early Tuesday morning, just immediately after the party caucuses.

Mr. LOTT. So all Members will understand there will be a vote on this issue, then, on Tuesday at 2:45.

We are about ready to propound a unanimous-consent request and/or take other action if it is necessary. We have been communicating with the Democratic leader about getting some agreements entered into that could affect Monday and Tuesday and perhaps even Wednesday.

So that we can have a final opportunity to consult, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

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

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

CONGRATULATIONS TO PROFS. ROBERT F. CURL AND RICHARD E. SMALLEY

Mr. GRAMM. Mr. President, I would like to congratulate Profs. Robert F. Curl and Richard E. Smalley of Rice University in Houston for their work in the field of molecular chemistry. Along with Prof. Harold Kroto of England, Professors Curl and Smalley were awarded the 1996 Nobel Prize in chemistry for their discovery of the third molecular form of carbon.

Professor Curl, a native Texan from Alice, and Professor Smalley are co-discoverers of the carbon molecule called Buckminsterfullerene. It was named after R. Buckminster Fuller, the architect famous for his geodesic domes, because this new molecule closely resembles his designs. In fact, the term used to describe these molecules is ''buckyballs.''

This breakthrough discovery by Professors Curl and Smalley promises to revolutionize the world we live in. This new carbon molecule will have scientific and practical applications across a wide variety of fields, from electrical conduction to the delivery of medicine into the human body. These extremely stable molecules are impervious to radiation and chemical destruction, and can be joined to form carbon nanotubes which are 10,000 times smaller than a human hair, yet 100 times stronger than steel. Buckyballs will establish a whole new class of materials for the construction of many products, from airplane wings and automobile bodies to clothing and packaging material.

The work of Professors Curl and Smalley is just one example of the excellent work being done at Rice University and at the many other fine research institutions in Texas. Rice University has long been a premier research center, and with the new Center for Nanoscale Science and Technology, Rice is the first university in the United States to focus on submicroscopic methods for fabricating new structures on the atomic and molecular scale. As Professor Smalley himself described it, ''This is the ultimate frontier in the game of building things.''

Given that nanoscale science and technology requires an interdisciplinary approach, Rice University is the ideal setting for this new center for nanoscale research. The collaborative scientific approach, which is common at Rice but less customary at larger research institutions, encourages the sort of scientific breakthroughs exemplified by the discovery of buckyballs. These discoveries are essential if we are to guarantee that America will remain the world leader in research. We must be sure we do all we can to support our Nation's scientists, because our Nation's future depends upon the work of people like Professor Smalley and Professor Curl.

Once again, I congratulate Professor Robert Curl and Professor Richard Smalley, as well as Rice University, for earning the Nobel Prize in chemistry. Their contribution to the body of scientific knowledge has been invaluable and will touch the lives of millions.

MESSAGES FROM THE HOUSE

At 1:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker appoints Ms. Jo Anne Barnhart of Virginia as a member from private life on the part of the House to the Social Security Advisory Board to fill the existing vacancy thereon.

The message also announced that the Speaker appoints the following Member on the part of the House to the U.S. Holocaust Memorial Council: Mr. YATES.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1408. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the notice of a multi-function cost comparison; to the Committee on Armed Services.

EC–1409. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a rule entitled ''Government Securities Sales Practices'' (RIN1557–AB52) received on March 12, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1410. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, a rule entitled ''Policy and Planning Guidance'' received on March 6, 1997; to the Committee on Energy and Natural Resources.

EC–1411. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a memorandum of justification and a schedule of proposed obligations; to the Committee on Foreign Relations.

EC–1412. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation entitled ''The Saving Law Enforcement Officers' Lives Act of 1997''; to the Committee on the Judiciary.

EC–1413. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, seven rules received on March 11, 1997; to the Committee on Commerce, Science, and Transportation.

EC–1414. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report of indemnification actions approved during calendar year 1996; to