and expenditures used to engage in issue advocacy. As originally drafted, the Federal Election Campaign Act FECA would have required disclosure of all contributions over $10 received by any organization which publicly referred to any candidate or any candidate's voting record, positions, or official acts of candidates who were federal officeholders.

The D.C. Court of Appeals struck down this ''issue advocacy'' provision in *Buckley* v. *Valeo,* 519 F.2d 821, 869–78 (D.C. Cir. 1975). The invalidation of the issue advocacy disclosure provision was the only part of the D.C. Circuit's decision that was not appealed to the Supreme Court. Back then supporters of regulation at least accepted the constitutional impossibility of regulating issue advocacy.

In *Buckley* v. *Valeo,* 424 U.S. 1, 43 (1976), the Supreme Court expanded upon the D.C. Circuit's view that issue advocacy could not be regulated and limited the scope of FECA's contribution limits and other regulations to cover only money used for ''communications that include explicit words of advocacy of election or defeat of a candidate.'' This includes money contributed to a candidate, his committee and the hard money account of his party.

The court stated that ''funds used to propagate * * * views on issues without expressly calling for a candidate's election or defeat are * * * not covered by FECA.''

And such funds cannot be covered by any bill Congress adopts because the Supreme Court said in *Buckley* that its narrow construction of the Federal Election Campaign Act (FECA), limiting its scope to money that can be used for ''express advocacy,'' was necessary to avoid ''constitutional deficiencies.''

In sum, the *Buckley* Court looked at Congress' effort to cover ''all spending'' intended to ''influence'' elections and said we cannot regulate beyond the realm of express advocacy. *Buckley* held that:

> So long as persons and groups eschew expenditures that in express term advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want to promote the candidate and his views.

As one former FEC chairman, Trevor Potter, has written, *Buckley*.

> Clearly meant that much political speech Congress had intended to be regulated and disclosed without instead be beyond the reach of campaign finance laws.

The outer bounds of constitutionally permissible regulation of political activity. The farthest the Supreme Court has ever gone in permitting constraints on political speech was its decision in *Austin* v. *Michigan Chamber of Commerce,* 494 U.S. 652 (1990).

In this case the Court upheld prohibitions on independent expenditures—non-coordinated ads that expressly advocate the election or defeat of a candidate—paid for directly from corporate treasuries.

There is no basis for construing this case as justifying restrictions or prohibitions on contributions or expenditures that are not express advocacy.

In fact, any argument that *Austin* provides a basis for contribution or expenditure limits on funds that do not go to a candidate and are not otherwise used for express advocacy is foreclosed by the Supreme Court's decision in *First National Bank of Boston* v. *Bellotti,* 435 U.S. 765 (1978).

In *Bellotti* the Court ruled that a Massachusetts statute prohibiting ''corporations from making contributions or expenditures for the purpose of . . . influencing or affecting the vote on any question submitted to the voters'' was unconstitutional because it infringed the first amendment right of the corporations to engage in issue advocacy and, more importantly, the wider first amendment right ''of public access to discussion, debate, and the dissemination of information and ideas.''

The case made clear the distinction between portions of the challenged law ''prohibiting or limiting corporate contributions to political candidates or committees, or other means of influencing candidate elections'' (which were not challenged) and provisions ''prohibiting contributions and expenditures for the purpose of influencing . . . issue advocacy.

The Court explained that the concern that justified former ''was the problem of corruption of elected representatives through creation of political debts'' and that the latter (issue ads) ''presents no comparable problem'' since it involved contributions and expenditures that would be used for issue advocacy rather than communications that expressly advocate the election or defeat of a candidate.

Bellotti conclusively rejected prohibitions on contributions and expenditures for issue advocacy, while expressly leaving open the possibility that the government ''might well be able to demonstrate the existence of a danger of real or apparent corruption in independent expenditures by corporations to influence candidate elections.''

And *Austin* merely confirmed that the state government could regulate or even prohibit independent expenditures by corporations, which are used to expressly advocate the election or defeat of a candidate. But *Austin* has nothing to do with contributions and expenditures for communications discussing issues.

The reformers are fond of the Supreme Court's statements in *Austin* concerning the corrupting influence of aggregated wealth. But this dicta does not support regulation of party soft money. And arguments predicated on it do not withstand scrutiny.

This clear from the fact that after *Austin* the Supreme Court stated in the 1996 Colorado Republican Committee case that ''where there is no risk of ''corruption'' of a candidate, the government may not limit even contributions.''

Moreoever, the Court has explained that the prohibitions on corporations and unions making contributions or independent expenditures that expressly advocate the election or defeat of a candidate are permissible to the extent that they ''prohibit the use of union or corporate funds for active electioneering on behalf of a candidate in a federal election'' the Court does not consider contributions and expenditures used for issue advocacy and purposes other than expressly advocating the election or defeat of a federal candidate to involve such risks because it has held that the government cannot prohibit ''corporations any more than individuals from making contributions or expenditures advocating views,'' that is a quote from Citizens Against Rent Control, 454 U.S. 290, 297–98 (1981).

Moreover, the Court has explained that ''Groups [such as political parties] . . . formed to disseminate political ideas, not to amass capital'' do not raise the specter of distortion of the political process necessitating regulations on the use of the treasury funds of unions and for profit corporations because the resources of groups such as political parties and other issue groups ''are not a function of [their] success in the economic marketplace but popularity in the political marketplace.''

Restrictions on issue advocacy, including contributions for it are always invalidated by the Supreme Court. Consistent with this narrow definition of the legislative power to intrude into this most protected area of free speech, the Supreme Court has declared unconstitutional the most rudimentary state and local restrictions on individuals, political committees and corporations when it involved regulation of issue advocacy and the funds that pay for it, as opposed to contributions or expenditures for express advocacy.

See *McIntyre* v. *Ohio Elections Comm'n,* 514 U.S. 334, 356 (1995), invalidating requirement that issue-oriented pamphlets identify the author;

Citizens Against Rent Control v. *City of Berkeley,* 454 U.S. 290, 197 (1981), invalidating city ordinance limiting contributions to committees formed to engage in issue advocacy.

First National Bank v. *Belotti,* 435 U.S. 765 (1978), invalidating law banning corporate contributions and expenditures for issue advocacy.

PROGRESS ON EAST TIMOR

Mr. KENNEDY. Mr President, the Indonesian Parliament acted wisely today in ratifying the overwhelming vote of the East Timorese people for independence and recognizing the right of self-determination for these people.

The militias that have terrorized the East Timorese people since the historic August 30 referendum should end their campaign of violence. From their bases in West Timor, the militias have continued to act with impunity against

East Timorese refugees in camps in West Timor. Through intimidation tactics, they have undermined the efforts of international humanitarian agencies to provide assistance and to facilitate repatriation.

Many of us have been alarmed by persistent reports that the Indonesian military has continued to aid and abet the militias. On October 11, the commander of the international peace keeping force in East Timor demanded a formal explanation from the Indonesian government as to whether any Indonesian soldiers or police officers were involved in a militia attack against the international peacekeepers on October 10. Officials from the peacekeeping force said that uniformed soldiers and police officers had escorted the militias and did nothing as militia members opened fire on the peacekeepers. I urge the Indonesian military and security forces to sever all links with the militias.

I welcome the establishment by the United Nations Human Rights Commission of a commission of inquiry to investigate the atrocities that occurred in East Timor following President Habibie's decision to hold the referendum on East Timor's status. The Indonesian government must end collaboration with the militias if this investigation of the atrocities is to be credible.

In the coming weeks, the United States should do all it can to see that the transition to independence is accomplished peacefully and that those responsible for atrocities are brought to justice.

HATE CRIMES PREVENTION ACT IN THE COMMERCE JUSTICE STATE APPROPRIATIONS BILL

Mr. HARKIN. Mr. President, I want to express to the conferees of Commerce Justice State Appropriations the importance of keeping the Hate Crimes Prevention Act in the spending bill.

I am a cosponsor of this legislation that expands the federal criminal civil rights statute on hate crime by removing unnecessary obstacles to federal prosecution and by providing authority for federal involvement in crimes directed at individuals because of their race, color, religion, national origin, gender, sexual orientation or disability.

In particular, prejudice against people with disabilities takes many forms. Such bias often results in discriminatory actions in employment, housing, and public accommodations. Laws like the Fair Housing Amendments Act, the Americans with Disabilities Act, and the Rehabilitation Act are designed to protect people with disabilities from such prejudice

But disability bias also manifests itself in the form of violence—and it is imperative that the federal government send a message that these expressions of hatred are not acceptable in our society.

For example, a man with mental disabilities from New Jersey was kidnaped by a group of nine men and women and was tortured for three hours, then dumped somewhere with a pillowcase over his head. While captive, he was taped to a chair, his head was shaved, his clothing was cut to shreds, and he was punched, whipped with a string of beads, beaten with a toilet brush, and, possibly, sexually assaulted. Prosecutors believe the attack was motivated by disability bias.

In the state of Maine, a married couple both living openly with AIDS, struggling to raise their children. Their youngest daughter was also infected with HIV. The family had broken their silence to participate in HIV/AIDS education programs that would inform their community about the tragic reality of HIV infection in their family. As a result of the publicity, the windows of their home were shot out and the husband was forcibly removed from his car at a traffic light and severely beaten.

Twenty-one states and the District of Columbia have included people with disabilities as a protected class under their hate crimes statutes. However, state protection is neither uniform nor comprehensive. The federal government must send the message that hate crimes committed on the basis of disability are as intolerable as those committed because of a person's race, national origin, or religion. And, federal resources and comprehensive coverage would give this message meaning and substance. Thus, it is critical that people with disabilities share in the protection of the federal hate crimes statute.

Senator KENNEDY's Hate Crimes bill has the endorsement of the Administration and over 80 leading civil rights and law enforcement organizations. It is a constructive and sensible response to a serious problem that continues to plague our nation—violence motivated by prejudice. It deserves full support, and I am hopeful that it is included in the final version that the President signs.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

PORT MCKENZIE PROJECT

Mr. STEVENS. Mr. President, I would like to ask the chairman of the Subcommittee on Transportation to clarify a provision in the fiscal year 2000 transportation appropriations conference report. The conference report refers to the ''Anchorage Ship Creek intermodal facility.'' The Ship Creek area of Anchorage is undergoing an important redevelopment that will include intermodal access across Knik Arm to the Matanuska-Susitna Valley. This grant will help improve the Port McKenzie facility, a multi-use facility which will support transit between Anchorage and the Mat-Su area. The Matanuska-Sustina Borough is the sponsor of this project and the logical applicant for this funding. Do I understand correctly that is the intent of the committee?

Mr. SHELBY. The chairman of the full committee is correct. That is the intent of the conference committee.

REPORT ON THE CONTINUATION OF EMERGENCY WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA—MESSAGE FROM THE PRESIDENT—PM 66

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the emergency declared with respect to significant narcotics traffickers centered in Colombia is to continue in effect for 1 year beyond October 21, 1999.

The circumstances that led to the declaration on October 21, 1995, of a national emergency have not been resolved. The actions of significant narcotics traffickers centered in Colombia continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and to cause unparalleled violence, corruption, and harm in the United States and abroad. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to maintain economic pressure on significant narcotics traffickers centered in Colombia by blocking their property subject to the jurisdiction of the United States and by depriving them of access to the United States market and financial system.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 19, 1999.*

MESSAGES FROM THE HOUSE

At 1:19 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed to the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 71. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

H.R. 462. An act to clarify that governmental pension plans of the possessions of