Let me just sum it up. This is a unique opportunity for a large majority of the Senate to vote against a proposal and be in concert with the Washington Post, Common Cause, Senator FEINGOLD, and Senator MCCONNELL. That is truly a unique opportunity in the course of this debate.

I commend the Senator from South Carolina. His intentions are clear and honorable. He understands that in order to do what is sought in McCain-Feingold you need to amend the first amendment for the first time in over 200 years, or the first time ever—carve a niche out of it to give both the Congress and State legislatures an opportunity to get complete control of all of this pernicious speech that is going on out there that offends us. That is at the core of this debate.

This is a constitutional amendment. It should be overwhelmingly defeated, as it was last year when we had the same vote. There were 67 Senators who voted against it and only 33 Senators who voted for it. I thought the 67 Senators exercised extraordinarily good judgment. I hope that will be the case again when the roll is called at 6 o'clock.

I do not know if anyone else wishes to speak.

Mr. President, is all the time used on this side?

The PRESIDING OFFICER. There are 2½ minutes under the control of Senator HATCH.

Mr. HATCH. I yield back the time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HATCH. Mr. President, I ask that we proceed with the vote.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Montana (Mr. BURNS) and the Senator from Colorado (Mr. ALLARD) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BURNS) would vote ''no.''

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BAUCUS) would vote ''aye.''

The result was announced—yeas 40, nays 56, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—40

Bayh	Dayton	Mikulski
Biden	Dodd	Miller
Bingaman	Dorgan	Murray
Boxer	Durbin	Reed
Breaux	Feinstein	Reid
Byrd	Graham	Rockefeller
Cantwell	Harkin	Sarbanes
Carnahan	Hollings	Schumer
Carper	Inouye	Specter
Cleland	Kerry	Stabenow
Clinton	Levin	Stevens
Cochran	Lieberman	Wyden
Conrad	Lincoln	
Daschle	McCain	

NAYS —- 56

Akaka	Frist	Murkowski
Allen	Gramm	Nelson (FL)
Bennett	Grassley	Nelson (NE)
Bond	Gregg	Nickles
Brownback	Hagel	Roberts
Bunning	Hatch	Santorum
Campbell	Helms	Sessions
Chafee	Hutchinson	Shelby
Collins	Hutchison	Smith (NH)
Corzine	Inhofe	Smith (OR)
Craig	Jeffords	Snowe
Crapo	Johnson	Thomas
DeWine	Kennedy	Thompson
Domenici	Kohl	Thurmond
Edwards	Kyl	Torricelli
Ensign	Leahy	Voinovich
Enzi	Lott	Warner
Feingold	Lugar	Wellstone
Fitzgerald	McConnell	

NOT VOTING—4

Allard	Burns
Baucus	Landrieu

The PRESIDING OFFICER. On this vote, the yeas are 40, the nays are 56. Two-thirds of the Senators voting, a quorum being present, not having voted in the affirmative, the joint resolution is rejected.

Mr. MCCONNELL. I move to reconsider the vote by which the amendment was agreed to.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001—Continued

AMENDMENT NO. 145

The PRESIDING OFFICER. Under the previous order, there are 15 minutes of debate on the Wellstone amendment. The time is to be divided between the sponsor and Mr. FEINGOLD of Wisconsin.

Mr. WELLSTONE. Mr. President, I think we are in a critical time regarding the direction and prospects for this bill. This is an important piece of legislation. It started out weaker than it once was. It is still a very important effort.

The question is whether or not reformers will support amendments that are proreform that will improve the bill or whether we will go in the direction, for example, of taking the caps off hard money and having yet more big money in politics.

This amendment improves this bill. This amendment says when you have the prohibition on soft money in parties and then you have a very important effort by Senator SNOWE and Senator JEFFORDS to also apply that prohibition of soft money to the sham issue ads when it comes to labor and corporations, in the Shays-Meehan bill, that prohibition on soft money applies to all the groups and organizations. In the other McCain-Feingold bill, it applied to all of these organizations.

If you don't have that prohibition of soft money, you will take the soft money from parties and it will all shift to a proliferation of the groups and organizations that are going to carpet bomb our States with all these sham issue ads. This is a loophole that must be plugged.

My amendment is what is in the Shays-Meehan bill.

Third, colleagues, I want to be very clear. I have written this amendment in such a way that severability applies. Even if a Supreme Court in the future were to say this amendment is not constitutional, there is complete severability here and it would not apply to any other provisions, including the Jeffords-Snowe provision.

Also, looking over at my colleague from the State of Tennessee, Senator THOMPSON, we accepted the millionaire amendment which will in all likelihood be challenged by the courts. That is why I am so clear there is severability of principle that applies to this amendment.

Finally, if we are going to pass this bill and we are going to try to get some of the big money out of the politics, please let's not, when we have a chance to fix a problem, not fix it. Don't let the soft money no longer apply to parties and all shifts to these sham ads. Let's be consistent.

I do not believe that an effort to improve this bill is an effort to kill this bill. The argument that if the majority of Senators vote for this amendment and improve the bill, then later on the majority of Senators who voted for this amendment will vote against the bill that the majority just voted for on the amendment, doesn't make any sense. I have heard this argument too many times. We ought to fix this problem.

I hope I will have your support.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Reluctantly, I move to table this amendment, both for concerns of its constitutionality and also the practical considerations of what it will take to get our piece of legislation through this Senate and maintain the bipartisan spirit and reality that it has had.

With regard to the issues of constitutionality, I yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Let me also add to what Senator FEINGOLD said. I agree with Senator WELLSTONE, that what he is trying to do makes a great deal of sense in terms of basic equity and fairness. The problem is that 501(c)(4) corporations, at which his amendment is aimed, have not been treated the same by the U.S. Supreme Court as unions and for-profit corporations.

Snowe-Jeffords is very carefully crafted to meet the constitutional test of Buckley v. Valeo. Basically, it meets the two fundamental requirements of Buckley:

First, that there can be a compelling State interest. The Buckley Court found that exactly what is being done with Snowe-Jeffords constituted a compelling State interest.

Second, it be narrowly tailored. Snowe-Jeffords is limited to the 60 days before the election. It is narrowly tailored, limited to broadcast advertising.

It also requires the likeness or name of the candidate to be used.

What has been done with Snowe-Jeffords is a very careful effort to make sure the constitutional requirements of Buckley v. Valeo have been met. In fact, they have been met. It is not vague; it establishes a very clear bright-line test so we don't have a vagueness constitutional problem. We also don't have a problem of substantial overbreadth because all of the empirical evidence shows 99 percent of ads that meet the test are, in fact, election campaign ads and constitute electioneering.

Snowe-Jeffords has been very carefully crafted. It is narrow. It specifically meets the requirements of Buckley v. Valeo, the constitutional requirement.

The problem with what Senator WELLSTONE is attempting to do is there is a U.S. Supreme Court case, the FEC v. The Massachusetts Citizens for Life, that is directly on point, saying that these 501(c)(4)s have a limited constitutional right to engage in electioneering to do campaign ads. There are some limits, but unfortunately if you lump them in with unions and for-profit corporations, you create a very serious constitutional problem because the U.S. Supreme Court has already specifically addressed that issue.

So the reason Senator FEINGOLD and Senator MCCAIN are opposing this amendment is the same reason that I oppose this amendment: It raises very serious constitutional problems. The U.S. Supreme Court, in fact, in 1984 specifically ruled on this question.

What we urge the Members of the Senate to do is not support this amendment, to vote for tabling. Those people who are in favor of real and meaningful campaign finance reform we hope will support Snowe-Jeffords, support McCain-Feingold, and vote to table the Wellstone amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this is a situation that is very similar to what happened in the other body when they sought to pass the Shays-Meehan bill. There were times that amendments that were very attractive had to be defeated to maintain a coalition to pass the bill. They were tough votes. Members of the House on both sides of the aisle stuck together and made sure the most important consideration was that the reform package pass.

We also face a political test with this amendment. Those who remember the debate we had a few years ago will remember that Senators SNOWE and JEFFORDS developed their provision and then joined the reform effort while under enormous pressure to kill reform by voting for the so-called paycheck protection proposal. They agreed to work with us and to vote with us to defeat those unfair proposals once the Democratic caucus agreed to the Snowe-Jeffords language. And our entire caucus voted to add this provision to the McCain-Feingold bill in place of the previous provision that would have treated 501(c)(4) advocacy groups the same as for-profit corporations, similar to the approach and effect of the amendment of the Senator from Minnesota.

I think we saw last week that the Senators from Maine and Vermont, along with other Republican supporters of reform, have been true to their word. If we adopt this amendment, in a way, we will be going back on our word. I have worked for years with the Senator from Maine and the Senator from Vermont on this bill. I know how sincerely they want to pass it. So I stand with them to defend the Snowe-Jeffords provision which I have come to believe is our best chance of making a significant difference on this issue of phony issue ads and also the best chance we have, as the Senator from North Carolina has so well expressed, to actually have this provision approved by the U.S. Supreme Court in the inevitable court challenge that will ensue if we manage to get this bill all the way over there.

Once this bill has been enacted and upheld by the courts, and once we see whether and how the Snowe-Jeffords provision works, I would have no objection to revisiting the issue with the Senator from Minnesota and others to see if there is a way we can constitutionally expand this to include these other groups that have traditionally been treated by the courts differently from the corporations and the unions.

For now, I think we should stick with the provision that is in our bill and vote against this well-intentioned amendment.

I understand under the unanimous consent agreement it is only appropriate to have an up-or-down vote on this amendment; is that correct?

The PRESIDING OFFICER. The agreement did not specify. It simply said a vote would occur in stacked sequence.

Mr. FEINGOLD. The amendment was offered in good faith. I see no reason to avoid the request, and instead of moving to table at the appropriate time, I will simply ask my colleagues to vote no on the Wellstone amendment.

Mr. WELLSTONE. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 4 minutes 19 seconds.

Mr. WELLSTONE. I yield 1 minute to the Senator from Louisiana, 1 minute to the Senator from Illinois, and reserve the remainder of my time for myself and Senator HARKIN.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. One of the most popular misconceptions of the underlying bill is we are eliminating soft money in Federal elections. Nothing could be further from the truth. The Senator from Minnesota is absolutely correct in what he is attempting to do.

There are literally hundreds, if not thousands, of organizations, single interest, special interest organizations, which will be able to continue to raise unlimited amounts of soft dollars to argue their cause after this underlying bill would be passed.

You all remember the Flo ads, Citizens For Better Medicare. There is nothing in the underlying bill, without the amendment of the Senator from Minnesota, that would prohibit Flo and all of our citizens for Medicare from doing exactly what they did, attack Members across the board time after time after time. There are literally thousands of groups that are not affected without the amendment of the Senator, that would continue to use soft money to affect elections, unrestricted. We are not going to be able to do anything with that unless the amendment of the Senator from Minnesota is adopted.

Mr. WELLSTONE. I thank my colleague.

The Senator from Illinois?

Mr. DURBIN. Mr. President, it is naive to believe we can eliminate soft money from candidates and political parties and that that money will disappear. That money will find its venue in these issue ads that we will then face. Believe me, the voters of your home State will not be able to distinguish where the soft money is being spent. It is going to be soft money spent for the purpose of influencing political campaigns.

The Senator from Minnesota has adopted the Snowe-Jeffords standard in terms of these ads. It is not changing it in any respect. I say, with all due respect to my colleague from North Carolina, the Senator from Minnesota has included a severability clause. If we are wrong, if this is unconstitutional, it can be stricken without having any damage to the rest of this McCain-Feingold bill as written.

In 1974, when the Senate and House presented to the Supreme Court our version of campaign finance reform, they decided spending limitations were unconstitutional but, in terms of contribution limitations, they were constitutional. When it comes down to it,

they can make that same decision on this provision.

I hope if it is in the bill they will leave it there because then we will clearly takeout all soft money. Unfortunately, the Senator from Minnesota is not part of the bargain today. What he has brought before us is not something that has been bargained for by those who have written this bill. But his is a good-faith and valuable addition to this, and I hope my colleagues will vote for it.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator has 54 seconds.

Mr. FEINGOLD. Let me be clear. When the Senator from Illinois argues that there is a severability clause, the fact is there is going to be an effort on this floor to make this entire bill nonseverable. That raises the stakes to the point of threatening the entire piece of legislation because if any one piece of this bill—if we lose on nonseverability—is determined to be unconstitutional, the whole bill falls. I think we are going to win on the severability issue, but if we do not, this amendment raises the very distinct prospect, which I believe all of us fear, that the entire effort will fall if the U.S. Supreme Court finds one defect. This is a critical amendment in that regard.

Mr. SARBANES. That is not true. Does the Senator have any time?

Mr. WELLSTONE. Mr. President, how much do I still have?

The PRESIDING OFFICER. The Senator has 1 minute 43 seconds.

Mr. WELLSTONE. I am glad to yield.

Mr. SARBANES. Mr. President, I want to get campaign finance reform, but I am not going to be bum-rushed down a path where you forgo all analytical abilities. This severability issue is an important issue. In 1974, we passed campaign finance legislation and the Supreme Court threw out a number of very important provisions in that legislation and totally changed the scheme. Much of what we are suffering today is a consequence of that Court's decision.

Now we are being told you can't have nonseverability; you have to stick with this thing through thick or thin. I am told, suppose the Court throws out a minor provision. You want the whole bill to go down?

The answer to that is no. But then the question is, Suppose the Court throws out a major provision. Suppose the Court throws out a major provision. Do you want the whole bill to go down there?

The Senator from Minnesota has made an exceedingly good-faith effort because he has included the provision if the Court throws out this amendment, the rest of the bill will stand. I do not understand these arguments on the constitutionality, given that provision of the Senator's amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WELLSTONE. This is a reform. The soft money, it doesn't let it channel into all these sham ads. It makes the bill stronger, I say to my colleagues.

Mr. GRAMM. Regular order.

The PRESIDING OFFICER. Who yields time?

Mr. FEINGOLD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 15 seconds.

Mr. FEINGOLD. I yield the remaining time to the Senator from North Carolina.

Mr. EDWARDS. Mr. President, I say in response to what the Senators from Maryland and Illinois said, without regard to severability, we also have a responsibility not to pass an amendment that the U.S. Supreme Court has already ruled is unconstitutional, black and white, in 1984. That is the issue.

Mr. WELLSTONE. Will my colleague yield? That amendment applied to broadcasting. The Senator knows that.

Mr. FEINGOLD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 145. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Montana (Mr. BURNS) is necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BURNS), would vote ''no.''

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS) and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BAUCUS), would vote ''aye.''

The PRESIDING OFFICER (Mr. ALLEN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—51

Allard	Dorgan	Lott
Bennett	Durbin	McConnell
Biden	Fitzgerald	Murkowski
Bingaman	Frist	Murray
Bond	Gramm	Nelson (FL)
Boxer	Grassley	Nelson (NE)
Breaux	Gregg	Nickles
Bunning	Harkin	Reed
Byrd	Hatch	Santorum
Cantwell	Hollings	Sarbanes
Cleland	Inhofe	Smith (NH)
Clinton	Inouye	Smith (OR)
Cochran	Johnson	Stevens
Conrad	Kennedy	Thurmond
Craig	Kerry	Torricelli
Dayton	Leahy	Warner
Domenici	Lincoln	Wellstone

NAYS—46

Akaka	Chafee	Edwards
Allen	Collins	Ensign
Bayh	Corzine	Enzi
Brownback	Crapo	Feingold
Campbell	Daschle	Feinstein
Carnahan	DeWine	Graham
Carper	Dodd	Hagel
Helms	McCain	Snowe
Hutchinson	Mikulski	Specter
Hutchison	Miller	Stabenow
Jeffords	Reid	Thomas
Kohl	Roberts	Thompson
Kyl	Rockefeller	Voinovich
Levin	Schumer	Wyden
Lieberman	Sessions	
Lugar	Shelby	

NOT VOTING—3

Baucus	Burns	Landrieu

The amendment (No. 145) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, is the Fitzgerald amendment the pending business?

The PRESIDING OFFICER. It is the pending amendment.

Mr. MCCONNELL. I inquire of the Senator from Illinois if he has plans for that amendment.

Mr. DODD. Mr. President, I thought maybe my colleague might want to inform our Members as to what the program is tonight and tomorrow.

Mr. MCCONNELL. I inform all of our colleagues that the next amendment to be dealt with is the Hagel-Breaux amendment which will be laid down shortly. It is my understanding that it is agreeable on both sides to have very limited debate on that amendment tonight, with the remainder of the debate coming in the morning and a vote before the noon policy luncheons tomorrow. I say to my friend from Connecticut, is that his understanding as well?

Mr. DODD. It is, Mr. President. We may have additional requests. I think 10 minutes is what Senator HAGEL wanted. We may have a request for 15 or 20 minutes over here tonight because people want to be heard. After the Hagel amendment, Senator KERRY of Massachusetts has been waiting. We would be prepared to offer his amendment after the consideration of the Hagel amendment.

Mr. MCCONNELL. Mr. President, that is where we stand for the evening. I believe the Senator from Illinois would like to dispose of his amendment.

Mr. MCCAIN. Mr. President, may I ask what the parliamentary procedure will be?

Mr. MCCONNELL. Mr. President, I say to my friend from Arizona, what I thought I would do is give the Senator from Illinois a chance to withdraw his amendment; is that correct?

Mr. FITZGERALD. Mr. President, I would like consent to withdraw it and resubmit it. I am still working on getting it so that it technically complies with all I want to achieve.

Mr. MCCONNELL. I say to my friend from Arizona, what I had hoped was to enter into an agreement where there would be 10 minutes on the side of the Hagel amendment.

Mr. DODD. Fifteen minutes is what I need.

Mr. MCCONNELL. Fifteen minutes opposed to the Hagel amendment, with the remainder of the time being reserved. We would go into session at 9 o'clock in the morning; is that correct?

After consultation with the leader, the thought was that we would come in at 9:15 and resume debate on the Hagel amendment, with the remainder of the time on each side reserved for the morning. Is my friend from Arizona comfortable with that arrangement?

Mr. MCCAIN. Yes. I thank the Senator.

Mr. MCCONNELL. Mr. President, for the purposes of withdrawing his amendment, I yield the floor. I see the Senator from Illinois is here.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

AMENDMENT NO. 144, WITHDRAWN

Mr. FITZGERALD. Mr. President, I ask unanimous consent to withdraw the amendment I introduced on Friday, to be resubmitted later in the week, as there are now some technical glitches.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. FITZGERALD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that tonight there be 10 minutes of debate on the proponents' side of the Hagel-Breaux amendment and 15 minutes on the side of the opponents of the Hagel-Breaux amendment. I see Senator HAGEL is present.

I yield the floor.

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

Mr. HAGEL. Mr. President, may I ask the Senator from Kentucky: Senator BREAUX, I believe, wanted to speak. He may need 5 minutes. We may not use all of the time, but is that agreeable for an additional 5 minutes?

Mr. MCCONNELL. I say to the Senator from Nebraska, he may carve up that 10 minutes any way he would like.

AMENDMENT NO. 146

(Purpose: To amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes)

Mr. HAGEL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. HAGEL] proposes an amendment numbered 146.

Mr. HAGEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

(The text of the amendment is printed in the RECORD of Friday, March 23, 2001, under ''Amendments Submitted.'')

Mr. HAGEL. Mr. President, in this final week of debate on campaign finance reform, we have an opportunity to achieve something relevant and important. Our hope has always been to get a bipartisan bill approved by the Senate that brings reform to the system, is constitutional, does not weaken political parties, and that our President Bush will sign.

It is in that spirit that we offer our amendment, my colleagues and I, Senators BREAUX, BEN NELSON, LANDRIEU, DEWINE, KAY BAILEY HUTCHISON, GORDON SMITH, THOMAS, ENZI, HUTCHINSON, ROBERTS, ALLARD, BROWNBACK, CRAIG, and VOINOVICH.

Whatever we do this week to reform our campaign finance system, we must look to expand, not constrict, opportunities for people to participate in our democratic process.

The amendment we offer today is very similar to the legislation we first offered in the fall of 1999. It will improve the way Federal campaigns are finance and has three main components.

First, hard money limits:

This is just a matter of fairness and common sense. Today's hard money contribution limits are worth less than one-third of their value when the 1974 act was passed. They haven't been adjusted in more than 26 years. Hard money is the most accountable method of political financing. Every dollar contributed and every dollar spent is fully reported to the Federal Elections Commission. The individual limit of $1,000 in 1974 now equates to $3,300 in today's purchasing power. Our amendment raises this limit to $3,000 and indexes it for inflation.

Second, our amendment focuses on disclosure. This is the heart of real campaign finance reform. We start from a fundamental premise that the problems in the system do not lie with political parties or candidates' campaigns but with unaccountable, unlimited outside monies and influence that flows into the system where there is either little or no disclosure.

In recent years, we have seen an explosion of multimillion dollar advertising buys by outside organizations and individuals. These groups and wealthy individuals come into an election, spend unlimited sums of money and leave without anyone knowing who they were or how much they spent or why.

Our amendment increases disclosure requirements for candidates, parties, independent groups, and individuals. We ensure that the name of the individual, or the organization, its officers, address, phone numbers, and the amount of money spent are made public.

It is a very relevant question. Why do we want to ban soft money only to political parties—that funding which is accountable and reportable now? This ban would weaken the parties and put more control in the hands of wealthy individuals and independent groups that are accountable to no one.

Our amendment caps soft money contributions to political parties to $60,000 per year—far below the unlimited millions that are now poured into the system. This is a very real and very significant limit. The Wall Street Journal recently reported that nearly two-thirds of the soft money contributions in the last election cycle came from those who gave more than the $120,000 election cycle soft money ban that would be in our bill. Two-thirds of the soft money contributions, or a total of nearly $300 million, in the last election cycle would have been prohibited by this cap.

Regarding the State parties, our amendment codifies a defined list of activities that State parties must pay for with a percentage of hard dollars. For activities that promote candidates in Federal elections, State parties would follow a funding formula determined by the number of Federal candidates. For example, if 50 percent of the candidates promoted are Federal candidates, then 50 percent of the funding must come from Federal, or hard dollars. We agree with curbing the abuse of soft money.

Finally, we believe our campaign finance reform proposal would pass constitutional muster. As Senator SARBANES said on the floor of the Senate a half hour ago, what good does it do to pass legislation we know will be struck down by the courts?

I look forward to debating the merits of our proposal with my Senate colleagues.

Now I turn to my friend and colleague from Louisiana, who was an original cosponsor of this bill in October of 1999, Senator JOHN BREAUX.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I thank the distinguished Senator from Nebraska for his contribution in working so diligently to try to bring a degree of reform to our system and yet at the same time recognizing the practicalities of what we do in the real world. One of the most popular misconceptions that members of the press, as well as many Members of this body, the other body, and many people in the general public have of the underlying bill, the McCain-Feingold bill, is that somehow it takes the so-called soft money out of Federal elections.

It simply does not do that. It only does it, as the distinguish Senator has pointed out, to probably the two most responsible organizations out there involved in Federal elections, and that is the Democratic Party, of which I am a member, and the Republican Party, of which the Senator from Nebraska is a member.

It takes the so-called soft money out of the party operations, but it leaves it available to every other group in the United States, all of the so-called 501(c)(4) organizations and the 527 organizations, which under the McCain-Feingold bill would continue to be able

to raise large sums of money—that is, unrestricted as to the amounts—to be used in Federal elections and, in most cases, against Federal candidates. I do not know how anybody writing about what we are doing in this body tonight can say that this type of a bill, which leaves all of those areas unrestricted, somehow eliminates soft money in Federal elections. If you look at the list of groups that are single issue groups, special interest groups, that have been running ads since January of 1999—just that group—I have two columns of print that is so small I can hardly read it without putting it as far away from my eyes as I possibly can. But every group on this list would be untouched by the McCain-Feingold amendment—at least outside of 60 days before the election—with the adoption of the Wellstone amendment.

It is very clear that most of the damage these groups do is not within 60 days of an election; it is the year before the election. It is the 2 years before the election. As in my State of Louisiana, when the election is not until the next November, one of these groups is already on the air running television advertisements, using soft dollars, unrestricted—unrestricted today and after if the McCain-Feingold bill were to be adopted. They would do the same thing right up until the election. At that time, they don't need to do it anymore. The damage is done, and the impression is created about a particular candidate, whether he or she is good or bad. Sixty days means nothing to them because they have already accomplished their purpose for the 2 years prior to that time when they did the damage, armed with all of the soft money they would want. That is one of the reasons why I am concerned.

I will mention very briefly the type of ads that will still be allowed under McCain-Feingold and the damage they can do. If they are unanswered by our State parties and the Republican Party and the Democratic Party, they will do serious damage to the integrity of our elections.

Rather than say we are taking ourselves away from the shackles of special interests, I daresay that candidates will be more prone to listen to all of these special interests, single interest organizations, which will continue to use all of the money that they need.

Now pick your poison because they have them from both sides. But these groups would continue to be able to do anything they want with soft dollars up until 60 days. Here are the National Abortion Rights League and the National Right To Life. Which side would you want attacking you in your State? Do you remember the TV ads with Harry and Louise on the Clinton health plan? Some of the folks on that side of the aisle thought they were great but not this side. Harry and Louise represented the Health Insurance Association of America. They would do exactly what they did 2 years ago and 4 years ago. Somebody said candidates would not be able to help them raise money. Does anybody think they need candidates to help them raise money—the Health Insurance Association of America? They will have more money than they know what to do with.

Do you remember Flo? She did a terrific job. On my side of the aisle, they didn't like what Flo had to say. Citizens For Better Medicare was Flo. It is a 501(c)(4) organization. They will continue to raise unlimited amounts of money and do exactly what they did several years ago.

Therefore, I think the Hagel-Breaux approach—we will call it that for the purpose of our discussion tonight—is a balanced and proper approach and one that makes a great deal of sense. It is real reform, and it is something that should merit our support.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I rise in strong opposition to this amendment proposed by the Senator from Nebraska. The Hagel amendment is very simply antireform. Over the course of this debate, many Members of this body have proposed thoughtful, and even provocative, amendments that have made important contributions to the substance of the McCain-Feingold bill. I thank my colleagues sincerely for their efforts.

But this amendment clearly does not contribute to the strength of the bill. On the contrary, the Hagel amendment would weaken McCain-Feingold beyond recognition. My colleague from Nevada, Senator REID, has said he can't imagine a system worse than the one we have today. I think we have found it today in the Hagel amendment.

I am sorry to say that because I know my friend Senator HAGEL is sincere in his attempt to improve the campaign finance system. As many colleagues know, the centerpiece of the McCain-Feingold bill is a ban on soft money. The ban on soft money defines the legislation. Banning soft money is the most vital reform we can enact and, without it, all the effort that the Senate has put into the bill would be meaningless.

Make no mistake, as we vote on this amendment, the Hagel amendment simply guts the soft money ban. Under Hagel, the soft money that is so outrageous to the public, and that so few Members of this body are even willing to defend at this point, is suddenly, permanently, forever written into our law. That is unacceptable, and it is certainly not reform.

We can't be credible to the American people if we are going to characterize as reform changes in the law that give even more power to the wealthiest people in our country.

We are not here to sanction or institutionalize the soft money system. We are here to stop it. We did not fight for 6 years to get to the place where we are today, within a few days of passing a bill to ban soft money from our system, only then to step back at the last minute and say: Never mind; soft money creates a dangerous appearance problem for Members of this body.

It is sad to say—you know it, Mr. President, and I know it—we pick up the phone to raise soft money with one hand and we vote with the other hand. Is the answer for the Congress to officially sanction this system, to say it is OK forever for Members of Congress to ask for $50,000 checks from corporations and unions, and make it live forever? That is what this amendment will allow. I think most of my colleagues understand that for this body to have any credibility with the American people, the answer to that question must be a resounding no.

When this body succeeded in stopping the appearance of corruption in the past, we did not do it with half-hearted measures that sanctioned our own behavior. When the Senate responded to concerns about the honoraria system, the Senate banned honoraria. It did not say we would just take a little less in speaking fees than we did before.

When the Senate responded to the public's concern about Members receiving lavish gifts from outside interests, we enacted the gift ban. We did not say the system that was in place was OK and open a new and permanent loophole.

We did not take the easy way out in those circumstances because we knew the American people would see through any attempt to dodge the reforms that needed to be made.

Those were important moments where the Senate acted to renew the people's faith in us and the work we do. We sent the message with those reforms that we understood that just because something is standard practice around here does not make it right. We understood that our inaction fostered the appearance of corruption, and so on those occasions we took decisive action to change the system.

I say to my colleagues, we are only going to get credit where credit is due. The American people may not be following every nuance of this debate and every detail of each amendment, but they know phony reform when they see it. If we simply engrave soft money into law and allow soft money to continue to flow unchecked to State parties, we are not fixing the system; we are perpetuating it. We are continuing to allow, in effect, two sets of books: The hard money system and the soft money system; if you will, a second secret-secret fund that involves enormous amounts of money.

That is not why we are here. I for one cannot go home to Wisconsin to one of my listening sessions and town meetings and say to a constituent: We just passed campaign finance reform in the Senate; isn't that great?

It used to be legal for a couple to give up to $100,000 in an election cycle to candidates, parties, and PACs, and now it is $540,000 per cycle. That is what the Hagel bill does. That is what the Hagel

amendment does. It allows every couple in America to give $540,000 every 2 years of hard and soft money combined.

I do not know about the other States—actually, I think I do. It would seem ridiculous to the people of any State to suggest you could have a campaign finance reform bill that allowed any couple in America to give $540,000 every 2 years. I could not say it with a straight face, and I think every other Member of this body would be in the same boat.

My friend from Nebraska says this amendment at least limits the amount of soft money. I am sorry to say that just is not the case. While it is true the Hagel amendment caps what a corporation or union or wealthy individual can give to the national parties in soft money, that same soft money can still be raised and spent by the State parties—by the State parties—on Federal elections. It leaves a gaping, complete loophole for wealthy donors to funnel unlimited money to the States.

In contrast, the State loophole is sealed shut in the McCain-Feingold bill, and it is not even addressed by the Hagel bill. McCain-Feingold does not prohibit States from spending their money on campaigns as long as it does not relate to Federal elections, but when it comes to States spending money on Federal elections, soft money is strictly prohibited.

I know this provision in our bill has led to a new argument, a new charge that I have had some fun debating with the Senator from Nebraska. The new charge is that our bill ''federalizes'' State election law.

Let's put this matter to rest right now. We only address State spending on Federal elections—on Federal elections. Federal elections should be conducted under Federal rules, and that is what McCain-Feingold ensures. You cannot leave open loopholes that we already know exist, as the Hagel amendment does, and somehow purport to be doing something about or limiting soft money. It just is not true. That is just a roadmap. The Hagel amendment is just a roadmap to the parties to just restructure their operations and continue what they have been doing.

I ask my colleagues whether they think the donors on this chart might send soft money donations to the States under the Hagel amendment. What do they think? Look at the growth under each of these amounts. For donors of $200,000 or more, $400,000 or more, or $500,000 or more, one can see the enormous growth from 9 people who gave $500,000 or more to 167 people giving $500,000 or more. Do we really think these donors will just reduce their contributions to $60,000 per year if the Hagel amendment becomes the law? Of course they will not, and they will not have to because the Hagel amendment tells them exactly how to get the rest of that cash to whom they want it to get to just running it through the State parties that can spend it freely on Federal elections, every dime under the Hagel amendment.

It is a roadmap for continuing to exert influence over the Congress and the administration by contributing all that money to the State parties and then having it spent on the Federal elections.

I thought this category of donor deserved its own chart because this is phenomenal. Since the 1992 election cycle, the number of $1 million donors—I say to the Senator from Connecticut, when I came here, I could not even imagine—and I came here only 8 years ago—the idea of a $1 million donor. I did not think it possible to even give $25,000. Million-dollar donors have developed in the last few years, and it has gone through the roof.

This chart shows the astronomical growth of these mega-donors. There was only one in 1992. I did not know about it when I got here. It sure did not help me. In 1996, it rose to seven—seven $1 million donors. In the year 2000 cycle, it was really moving: 50 different groups, interests, corporations, unions, or individuals gave over $1 million— 50.

I have a feeling that some of these donors would be very happy to exploit the State loophole under the Hagel amendment. Members of Congress will, unbelievably, still be able to ask for these contributions.

Members of this body are allowed under the Hagel amendment to call somebody up, to call a CEO, or the president of a labor union or an individual and say: We need a million-dollar check from you. That is what the Hagel amendment would permit; it just has to be done through the State laws. They will still be able to ask for them because, unlike the McCain-Feingold bill, the Hagel amendment does not contain any restriction on Federal officials or officeholders raising soft money, and to me that is the very worst thing about this whole system, that people elected to this institution are allowed not only to do this, but they are pressured into asking for those contributions every day by their political parties and by their political leaders.

Finally, I think some of these donors would certainly be giving soft money to the States under the Hagel amendment. I think this chart shows better than any how savvy soft money donors are. They can have it both ways because they can give unlimited amounts to both parties. They pay tribute to both of the parties and exert influence on the entire Congress. These are the kinds of donors who will choose to take the State soft money route mapped out for them under the Hagel amendment—Federal Express, Verizon, AT&T, Freddie Mac, Philip Morris—all giving to both parties, covering their bets. Believe me, they will proceed through the loophole in the Hagel bill with every dime they want to contribute.

We can hardly be naive enough to think that just because the soft money to the national parties would be capped, soft money donors would not give heavily to State parties, as plenty of soft money donors already do.

As I mentioned, there is another crucial difference between McCain-Feingold and the Hagel proposal. We prohibit officeholders and candidates from raising this soft money. The Hagel amendment does nothing to address this problem. Under the Hagel bill, for the first time in American history, we would legitimize soft money, having politicians call up every CEO and every corporate head, saying ''I need your $60,000.'' That is what you can give. That is the price of admission.

It has been the wisdom of the Nation for 100 years, starting with Teddy Roosevelt, that we should not do that. Under the Hagel amendment, it becomes the norm; it becomes standard procedure. Call up the union and say it is time for your $60,000. Call up a corporation and say it is time for your $60,000. I hope we do not go down that road.

I have been asked whether I think the Hagel bill is better than nothing at all. With all due respect to my colleague from Nebraska, that is exactly how I feel. The Hagel amendment doesn't pass the commonsense test. If there is one thing Americans have plenty of, it is common sense. We can't support the Hagel amendment and call the bill reform. If anybody wants to go home to their State to tell people that our answer to the soft money problem was to sanction soft money and ensure that it lives forever, good luck. You will need it.

The Hagel bill also triples the hard money limits from the current $2,000 a donor can give a candidate per cycle. To most Americans, $2,000 is still a large sum of money; $2,000 is what an individual can give to a single candidate in an election year under the current law. They can give $1,000 in the primary and another $1,000 in the general election. This bill is about closing loopholes that allow the wealthiest interests in our country to exert undue influence in our political system.

As I said before, it is only a first step to cleaning up the system. There are many provisions we can consider down the road that affect our campaigns. I know some in this body would like to increase the amounts that donors can give to our campaigns. But a tripling of the hard money limits, combined with a codification of the soft money system, is simply beyond the pale. There is no way a bill that contains those two provisions can be called reform.

Finally, what is most troubling about the Hagel amendment is that it allows corporations and unions to give directly to parties. That is what writing soft money into the law would achieve. It actually sends the campaign finance laws back in time to the very beginning of the 20th century before the Tillman Act banned direct corporate donations to the parties and before Taft-Hartley banned direct labor

contributions to the parties. I know this is understood with the Hagel amendment. People don't seem to give it a second thought.

I think it is worth pausing to consider just what a throwback the Hagel amendment really is. How often do lawmaking bodies consciously dismantle reforms that have stood for nearly 100 years. The Hagel amendment isn't just a codification of the soft money status quo; it is actually a step backward in time. Teddy Roosevelt signed the Tillman Act in 1907, in the days when the public was so concerned about the power of certain corporate interests, the power of railroads and the trusts. It was a landmark reform that has helped to shape everything that has come after it. It wrote into law the understanding, the most important part about this whole bill, that direct corporate contributions to the parties create enormous potential for corruption. With the stroke of a pen, Teddy Roosevelt wrote that into law and now we are considering whether to write it out of the law.

I say to my colleagues, that would be a grave mistake and an embarrassment for this Senate. I hope my colleagues will take a careful look at the amendment, and I hope the Senate will soundly reject it. The Hagel amendment undermines McCain-Feingold in every conceivable way. McCain-Feingold bans soft money while Hagel makes sure we can have it forever, unlimited amounts through a loophole to the State parties.

Hagel combines the codification of soft money with a tripling of the hard money limits, allowing a couple to give $540,000 in donations to a given cycle. I almost can't say it without laughing at that amount of money.

Finally, the Hagel proposal would undue the ban on corporate and union contributions to the parties that are at the very foundation of the campaign finance reforms of the last 100 years.

There are some reform proposals in the Hagel bill that deserve some consideration, but a vote for the Hagel amendment is simply a vote to unravel the most basic reforms of the McCain-Feingold bill.

The Hagel amendment would remove the ban on corporate and union contributions to the parties, replacing it with a soft money system that would have the Senate's stamp of approval. I urge my colleagues to think about what it means to turn back the clock on the laws that protect the integrity of this government.

This campaign finance debate is about moving forward, not going back. We must defeat this amendment and bring this debate to a conclusion. It is time to pass real reform. The Hagel amendment must not be adopted.

Mr. MCCONNELL. As the manager of the bill on this side and a supporter of the Hagel-Breaux amendment, I ask unanimous consent the last 5 minutes prior to the vote be under my control.

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

Mr. MCCONNELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as the Senate continues consideration of campaign finance reform this week, I want to commend Senator LOTT and Senator DASCHLE for their leadership in bringing this important issue before the Senate for a full and open debate. And I thank Senator MCCAIN and Senator FEINGOLD for their commitment and hard work in crafting meaningful, bipartisan campaign finance reform legislation.

The enormous amounts of special interest money that flood our political system have become a cancer in our democracy. The voices of average citizens can barely be heard. Year after year, lobbyists and large corporations contribute hundreds of millions of dollars to political campaigns and dominate the airwaves with radio and TV ads promoting the causes of big business.

During the 2000 election cycle alone, according to Federal Election Commission records, businesses contributed a total of $1.2 billion to political campaigns. A recent Wall Street Journal article reported that $296 million, almost two-thirds of all ''soft money'' contributions given in the last election, came from just over 800 people each of whom gave an average of $120,000. With sums of money like this pouring into our political system, it's no surprise that the average American family earning $50,000 a year feels alienated from the system and questions who's fighting for their interests.

The first step in cleaning-up our system is to close the gaping loophole that allows special interests to bypass existing contribution limits and give huge sums of money directly to candidates and parties. These so-called ''soft-money'' contributions have become increasingly influential in elections. From 1984 to 2000, soft money contributions have sky-rocketed from $22 million to $463 million an increase of over 2000%. We cannot restore accountability to our political system, until we bring an end to soft money. McCain-Feingold does just that.

Another vital component of meaningful reform is ending special interest gimmickry in campaign advertising. Today, corporations, wealthy individuals, and others can spend unlimited amounts of money running political ads as long as they do not ask people to vote for or against a candidate. These phony issue ads—which are often confusing and misleading—have become the weapon of choice in the escalating war of negative campaigning. The limits McCain-Feingold places on these ads will help clean-up the system and make it more accountable to the American people.

So far, all the Republican leadership in Congress and the President have proposed is reforming the system to allow more money in politics, not less. Increasing hard money contribution limits across-the-board and legalizing soft-money will not restore the public's confidence in our political system. Instead, it will only enhance the influence of big corporations and other special interests.

What is even more troubling are Republican efforts to use campaign finance reform as an excuse to silence working families and to prevent their unions from speaking up on the issues they care about. In the 2000 election, corporations outspent labor unions 14–1, yet Republicans would have us believe that muzzling unions—the voice for working families is real campaign finance reform.

The reality is that the Republican amendments offered last week to regulate union dues are not reform, but revenge for the extraordinary grassroots effort that the labor movement exerted in the last three Presidential campaigns. Fortunately, the Senate stood up for working families by defeating these anti-union amendments.

For the first time in over two decades, the Senate has a real chance to meaningfully reform our campaign finance laws. We will learn a lot during the debate this week about who is committed to real reform and who is committed to maintaining the status quo.

Finally, Mr. President, I happen to be one who, along with Senator Scott and Senator Stafford in 1974, offered public financing for House, Senate, and Presidential campaigns. That was in the wake of the Watergate financial scandals. The Senate took a good deal of time debating those issues. We were successful in passing it. So we would have had public financing for primaries for the House of Representatives, the Senate, and the Presidency.

In the course of those negotiations with the House of Representatives, we were unable to get movement in the House of Representatives. As a result, we eliminated the public financing for the House and Senate and took a partial public financing for the Presidential elections, which is the basis of a good deal of the challenge we are trying to face today.

I personally believe we are not going to get real reform until we have a public financing program. Many people say—and I have heard it here on the floor—if we do that, we are using the public's money in politics and somehow this is evil and wrong. They say politics should not include the public's money.

The tragic fact of the matter is that the public is paying for campaigns, and they are paying for them every day with the large loopholes that are being written into our Tax Code day after day, year after year, that are favoring many of the special interests that are making the largest campaign contributions.

We would save the American public, I believe, a good deal in terms of their taxes, should we move toward a public finance kind of system. That is not the issue that is before the Senate now, but

I do believe that the steps that were included in the proposed legislation before us provide for some progress. I intend to support it. I do believe that ultimately we are going to have to come to some form of system for public financing. I hope this will not require that we have a change in the Constitution. There will be those who will debate this issue this afternoon who think that is absolutely essential.

At this point, I do not support those changes, but we need to take the necessary steps to address the larger issues, which I think will include public financing, in order to get a handle on this situation.

I am a strong believer that public officials ought to be accountable to the people, not to financial interests. We ought to have the debates on the floor of the Senate and the House of Representatives with people who are representing their own best judgment and the interest of their States rather than—which I am afraid is too much the case—the interests driven by special interests and the largest contributors.

Until we return to that kind of integrity in the financing of our election system, we are going to have difficulty assuring the American electorate that we are really meeting our responsibilities and have an institution that is of the people, by the people, and for the people, and responsive only to the people.

I thank the Chair, and I yield the floor.

Mr. MCCONNELL. Mr. President, I would like to refer to an article by David Tell which recently appeared in the March 26, 2001 edition of The Weekly Standard entitled ''Shut Up, They Explained.'' In it, Mr. Tell explains the tenth amendment problems that would result from McCain-Feingold's federalization of State and local campaign activities, and he notes the first amendment problems with the bill's restrictions on outside groups. This article begins:

This week and next, the U.S. Senate will consider amendments to a piece of omnibus campaign finance reform legislation—and then approve or reject the result by a majority vote.

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The substantive pretext for a soft-money prohibition has always been deeply flawed. To pay for an expensive campaign of nationwide image advertising, the 1996 Clinton-Gore reelection effort organized an unprecedented harvest of soft-money contributions to the Democratic National committee. Eventually publicized, the scheme became infamous for its abuses, responsibility for which the Democratic party was thereafter eager to evade. The problem, they told us over and over, was bipartisan: ''the system.'' And McCain-Feingold was the reform that would make it go away. Except that all the misdeeds charged to Clinton and Gore in 1996 were illegal under existing law. And it was the irrationality of a previous ''reform''—the suffocating donation and expenditure limits imposed on publicly financed presidential campaigns—that inspired those misdeeds in the first place. Soft money per se had nothing to do with it.

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The Democratic and Republican parties exist to do more than elect members of the House and Senate. They are national organizations with major responsibilities, financial and otherwise, to state and local affiliates that act on behalf of candidates for literally thousands of non-federal offices—in campaigns conducted according to non-federal laws, most of which still permit direct party contributions by businesses and unions. The McCain-Feingold soft-money ban would criminalize those contributions by requiring that virtually all state-party expenditures, during any election in which even a single candidate for federal office appears on the ballot, be made with money raised in strictly limited increments, and only from individual donors. By unilaterally federalizing all American electioneering practices, in other words, the McCain-Feingold bill would violate our Constitution's Tenth Amendment.

Even so stalwart a Democratic interest group as the AFL–CIO has lately adopted some form of this argument. Since it happens to be true, it would be nice to hear it echoed more broadly.

As it would be nice to hear more widespread warnings about a still more pernicious feature of the McCain-Feingold bill as presently constituted: its harsh assault on independent political activity by business, union, and non-profit issue groups. Some sympathy is certainly due to congressmen and senators who find themselves, late in a reelection campaign, subjected to a televised barrage of soft-money-funded criticism from such groups. Constrained by hard-money rules, most incumbents are never able to respond at equal volume. Nevertheless, this problem, real as it is, cannot possibly justify the elaborate and draconian restrictions McCain-Feingold seeks to impose on private citizens who might so dare to criticize their elected officials: rules about whom the critics are allowed to consult or hire before they open their mouths in public, for example, and other rules about what they can say, and with whose money, when they do.

An unbroken, quarter-century-long line of Supreme Court jurisprudence makes clear: Under the First Amendment, all this stuff is unconstitutional.

Mr. President, I would like to refer to an article from November 15, 1999 from The New Republic written by Professor John Mueller entitled ''Well Off. Good riddance, McCain-Feingold.'' In it, Professor Mueller notes that the influence of ''special interests'' in the democratic process is not ''a perversion of democracy,'' but ''it's the whole point of it.'' He also notes that ''campaign finance reform'' will not be able to stifle the special interests; if certain forms of political speech are suppressed, citizens groups will simply use other methods.

The article begins:

Once upon a time, carping about campaign finance abuse was mainly the province of Democrats.

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But it is the defenders of money in politics, the ones so widely reviled in the elite press, who speak the truth about campaign finance reform. In a democratic system of government, there will always be some inequality of influence. Yet that is not necessarily a flaw, and it is rarely as debilitating to good government as reformers would have you believe. When you dig beneath the rhetoric of campaign finance reform, you discover that the ''reforms'' being proposed would, in practice, constitute anything but an improvement.

The essential complaint of reformers is that the present system gives too much influence to so-called special interest groups. This is also the most popular complaint. Who, after all, supports special interests? Actually, we all should. Democracy is distinguished from autocracy not as much by the freedom of individual speech—many authoritarian governments effectively allow individuals to petition for redress of grievances and to complain to one another, which is sometimes called ''freedom of conversation''—as by the fact that democracies allow people to organize in order to pursue their political interests. So the undisciplined, chaotic, and essentially unequal interplay of special interest groups that reformers decry is not a perversion of democracy—it's the whole point of it.

Nor is campaign finance reform likely to subdue special interests. People and groups who seek to influence public policy do so not for their own enjoyment but because they really care about certain issues and programs. If reformers somehow manage to reduce the impact of such groups in election campaigns, these groups are very likely to find other ways to seek favor and redress, no matter how clever the laws that seek to inconvenience them are. For example, if Congress prohibited soft money donations to political parties—which is what the ill-fated McCain-Feingold bill promised to do—special interests would merely spend more money on their own advertising and get-out-the-vote efforts, which are known in the political business as ''independent expenditures.''

* * * * *

What makes the philosophy of campaign finance reform so ironic is that the laws have such a poor track record of rooting out the alleged abuses they are intended to eliminate. In fact, many of the ills reformers now seek to address are the byproducts of earlier attempts to clean up the system.

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Reformers of all stripes argue that political campaigns cost too much. But the real question is, compared with what? The entire cost of the 1996 elections was about 25 percent of what Procter & Gamble routinely spends each year to market its products. In what sense is this amount too much? Some people do weary of the constant barrage of advertising at election time, but democracy leaves them entirely free to flip to another channel, the same method used so effectively by anyone who would rather not learn about the purported virtues of Crest toothpaste.

There is also the related gripe that the ever-increasing need for donations means that politicians spend too much of their time raising money. But much of this problem arises from the absurdly low limit the reformers have placed on direct campaign contributions. If anything, rather than restricting soft money (as the McCain-Feingold bill would have), it's time to raise or eliminate altogether the $1,000 limit on individual contributions to candidates. Politicians seem to find it politically incorrect to advocate this sensible change, even though it would probably reduce the amount of time they spend campaigning or campaign funds. Getting rid of special interest influence by other means—say, by regulating independent groups' expenditures—would only work if reformers successfully dispensed with the right to free speech. Since the advocacy of special interests is the very stuff of the democratic process, the unintended goal of the campaign reformers ultimately seems to be the repeal of democracy itself.

Mr. President, I would like to refer to an excerpt from an article by Washington Post columnist David Broder

that ran on February 21 of this year entitled ''Campaign Reform: Labor Turns Leery.'' In it, Mr. Broder notes that Big Labor has echoed my concerns about the unconstitutionality of the McCain-Feingold bill. Specifically, Mr. Broder writes that:

Last week the AFL–CIO, which in the past had endorsed a ban on soft money contributions, announced that it has serious misgivings about other provisions of the McCain-Feingold bill. Limiting ''issue ads'' that criticize candidates by name—even if not calling specifically for their defeat—in the period before an election would inhibit its ability to communicate freely with union members, the memo said. Other sections would make it impossible for labor to coordinate its voter-turnout efforts with those candidates it supports. None of these concerns is trivial. But they point up some of the very same constitutional objections Mr. McConnell and other opponents—including a variety of conservative groups and, yes, the American Civil Liberties Union—have made for years.

Lastly, Mr. President, I would like to refer to another article by Professor Kathleen Sullivan, professor of constitutional law and dean of Stanford Law School. This article is entitled ''Sleazy Ads? Or Flawed Rules?'' and appeared on March 8, 2000 in the New York Times. In this article, Professor Sullivan notes the controversy that surrounded the running of television ads last year by supporters of then-candidate George W. Bush. She explains why the real problem with today's campaign finance system is the quarter-century-old contribution limits, and that real reform would be to raise these limits, bringing them into the 21st century. Specifically, Professor Sullivan notes:

Many have professed to be shocked, shocked that recent television commercials attacking Senator John McCain's environmental record turned out to be placed by Sam Wyly, a wealthy Texas investor who has been a strong supporter of Gov. George W. Bush.

Predictably, many have called for more campaign finance reform to stop such stealth politics, and Senator McCain filed a formal complaint on Monday with the Federal Election Commission, alleging that the ads, though purportedly independent, were in reality a contribution to the Bush campaign that exceeded federal contribution limits.

Such calls for greater regulation of campaign donations, however, ignore the real culprit in the story: the campaign finance laws we already have. Why, after all, would any Bush supporter go the trouble of running independent ads rather than donating the money directly to the Bush campaign? And why label the ads as paid for by Republicans for Clean Air, rather than Friends of George W. Bush?

The answer is the contribution limits that Congress imposed in the wake of Watergate and that the Supreme Court has upheld ever since. The court held that the First Amendment forbids limits on political expenditures by candidates or their independent supporters, but upheld limits on the amount anyone may contribute to a political campaign.

The result: political money tries to find a way not to look like a contribution to a political campaign. Unregulated money to the parties—so-called soft money—and deceptive independent ads are the unintended consequence of campaign finance reform itself.

This result is not only unintended but undemocratic. Contribution limits drive political money away from the candidates, who are accountable to the people at the voting booth toward the parties and independent organizations, which are not.

If Governor Bush places sleazy ads misleading the voters about Senator McCain's record on clean air, voters can express their outrage through their votes. No similar retribution can be visited on private billionaires who decide to place ads themselves.

The answer is not to enlist the election commission to sniff out any possible ''coordination'' between the advertisers and the official campaign, or to calculate whether the ads implicitly supported Mr. Bush.

It is unseemly in a democracy for government bureaucrats to police the degrees of separation between politicians and their supporters. And it is contrary to free-speech principles for unelected censors to decide when an advertisement might actually incite voters to vote. What else, after all, is political speech supposed to do?

The solution is simple: removal of contribution limits, full disclosure and more speech. If it had been clear from the outset that the dirty ads on dirty air had come from Mr. Wyly, a principal bankroller of the Bush campaign, the voters could have discounted them immediately—with vigorous help from the vigilant press and the McCain campaign. A requirement that political ads state their sources clearly is far less offensive to free-speech principles than a rule that the ad may not run at all.

Better yet, the removal of contribution limits would eliminate the need for stealth advertising in the first place. If Mr.. Wyly could have given the money he spent on the television spots directly to the Bush campaign, the campaign alone would have been held responsible for any misleading information that might have been put out. And such accountability would have made it less likely that such ads would have run at all.

As it turned out, Senator McCain was able to use the Wyly commercials to attack Governor Bush's campaign tactics. So, in the end, who gained more from the flap? All Mr. McCain really needed to preserve his competitive edge was the First Amendment, which protects his right to swing freely in the political ring. The people are far more discerning than campaign finance reformers often give then credit for; they can sift out the truth from the cacophony.

Mrs. MURRAY. Mr. President, I rise to indicate that if I were present last Friday, March 23, I would have voted ''yes'' on the motion to table amendment No. 141, to the campaign finance reform bill, offered by Senator JESSE HELMS of North Carolina.

I was unable to participate in Friday's session because I flew home to Seattle to attend the funeral services for Grace Cole. Grace served on the Shoreline School Board for 13 years and represented North Seattle in the Washington House of Representatives for 15 years.

Grace was my mentor and led the way for advocates like me to follow her from the local school board to the Washington State legislature. Grace made a difference for thousands of families throughout our State by standing up for education, the environment and social justice.

Mr. ALLARD. Mr. President, I would like to announce that I was unable to cast a vote on rollcall vote No. 47, due to unavoidable airline delays. If I was present, I would have voted ''no.''

MORNING BUSINESS

Mr. MCCONNELL. I ask unanimous consent there be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

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

RESPONSE TO PRESIDENT'S PROPOSAL TO CUT FUNDING FOR CHILDREN'S PROGRAMS

Mr. DODD. Mr. President, I rise to discuss an issue that came to light at the close of business last week in an article that appeared in the New York Times by Robert Pear, ''Bush's Budget Would Cut Three Programs to Aid Children.'' It goes on to describe child care, child abuse programs, early learning programs, and children's hospitals that would receive significant cuts in the President's budget proposal when that proposal arrives.

We haven't seen the budget yet. My hope is that maybe the administration might reconsider these numbers that we are told are accurate. I tried to corroborate this story with several sources, and while no one wants to step up and be heard publicly on it, no one has also said that the numbers are wrong. I suspect they are correct.

The President campaigned on the promise to leave no child behind. If we heard it once, we heard that campaign slogan dozens and dozens of times all across the country. I don't recall seeing the President campaigning when he didn't have that banner behind him saying: Leave no child behind.

Those of us who took the President at his word were shocked, to say the very least, by the news on Friday that the President intends to cut funding for critical children's programs, programs that address basic survival needs of these young people and their families.

Certainly his actions beg the question, when he pledged to leave no child behind, which children did he mean? Apparently not abused and neglected children, since he would cut funding for child abuse prevention and treatment by almost 20 percent.

Almost 900,000 children are victims of child abuse each year in America. Is the President going to ask those children to choose amongst themselves which 20 percent of them shouldn't have their abuse investigated? Is he going to ask them to decide which 20 percent are going to have their abusers brought to justice?

When the President promised to leave no child behind, he must not have meant sick children. The President would cut funding for children's hospitals by some unspecified ''large'' amount. I am quoting from the story. This funding, which supports the training of doctors who care for the most seriously ill children in our country, had