The Senate met at 9 a.m. and was called to order by the Honorable Judd Gregg, a Senator from the State of New Hampshire.

PRAYER

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

Gracious Father, as this workweek comes to a close, we praise You for Your love that embraces us and gives us security, Your joy that uplifts us and gives us resiliency, Your peace that floods our hearts and gives us serenity, and the presence of Your Spirit that fills us and gives us strength and endurance.

Help the Senators to remember that debate and voting in the Senate is like members of a family playing on opposite teams in scrub football. After the wins and losses, they still are all brothers and sisters in the same family.

We dedicate this day to You. Help us to realize that it is by Your permission that we breathe our next breath and by Your grace that we are privileged to use all the gifts of intellect and judgment You provide. Give the Senators and all of us who are privileged to work with them a perfect blend of humility and hope so we will know that You have given us all that we have and are and have chosen to bless us this day. Our choice is to respond and commit ourselves to You. Through our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable Judd Gregg led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Thummond).

The legislative clerk read the following letter:

U.S. SENATE
PRESIDENT PRO TEMPORE

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Judd Gregg, a Senator from the State of New Hampshire, to perform the duties of the Chair.

Strom Thurmond
President pro tempore

Mr. GREGG thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, today the Senate will resume consideration of the campaign finance reform legislation. There will be numerous amendments offered with a time limitation of 30 minutes. Senators should be aware that all amendments must be offered prior to 11 a.m. By previous consent, any votes ordered will be stacked to occur at 11 o’clock this morning.

A vote on final passage, as everyone 1 think now knows, will occur on Monday at 5:30.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under a previous order, leadership time is reserved.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 27, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 27) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

Pending:

Reed amendment No. 164, to make amendments regarding the enforcement authority and procedures of the Federal Election Commission.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, was any time reserved for any closing discussion of the subject prior to the final vote prior to the 5:30 vote on Monday? The ACTING PRESIDENT pro tempore. No time was reserved.

Mr. MCCONNELL. It seems to me, Mr. President, that both the proponents and the opponents might want maybe 10 minutes or so each. I will discuss that with Senator Dodd and proponents of the legislation and come back to that later.

Mr. DODD. Mr. President, we may want to allocate an hour, I suspect, between the two authors of the bill and others who would want to use 5 minutes or so to put in final statements.

Mr. MCCONNELL. Mr. President, we will discuss that off the floor because we will be running time on the budget resolution. That will be the main business next week. We certainly are not going to enter into an agreement that interrupts that in any major way. We will discuss that off the floor of the Senate.

We are open for business, and we will be processing amendments throughout the morning.

Mr. DODD. Mr. President, I ask unanimous consent to be added as a cosponsor of S. 27.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Without objection, the pending amendment will be set aside.

AMENDMENT NO. 165

Mr. MCCAIN. I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 165.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment reads as follows:

On page 26, beginning with line 23, strike through line 2 on page 31 and insert the following:

SEC. 214. COORDINATION WITH CANDIDATES OR POLITICAL PARTIES.

(a) IN GENERAL.—

(1) COORDINATED EXPENDITURE OR DISBURSEMENT TREATED AS CONTRIBUTION.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended—

(A) by striking “or” at the end of subparagraph (A)(i)—

(B) by striking “purpose.” in subparagraph (A)(ii) and inserting “purpose”; and

(C) by adding at the end of subparagraph (A) the following:—

“(iii) any coordinated expenditure or other disbursement made by any person in connection with a candidate’s election, regardless of whether the expenditure or disbursement is for a communication that contains express advocacy; or

“(iv) any expenditure or other disbursement made in coordination with a National committee, State committee, or other political committee of a political party by a person (other than a candidate or a candidate’s
authorized committee) in connection with a Federal election, regardless of whether the expenditure or disbursement is for a communication that contains express advocacy.''.

(2) CONFORMING AMENDMENT.—Section 315(a)(6) of the Federal Election Campaign Act of 1971 (U.S.C. 441a(6)(7)) is amended by striking subparagraph (B) and inserting the following:

"(B) a coordinated expenditure or disbursement described in—"

"(i) section 301(b)(C) shall be considered to be a contribution to the candidate or an expenditure for the candidate, respectively;

"(ii) section 301(b)(D) shall be considered to be a contribution to, or an expenditure by, the political party committee, respectively; and"

(b) DEFINITION OF COORDINATION.—Section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(b)), as amended by subsection (a), is amended by adding at the end the following:

"(C) For purposes of subparagraph (A)(iii), the term ‘coordinated expenditure or other disbursement’ means a payment made in concert or cooperation with, at the request or suggestion of, or pursuant to any general or particular understanding with, such candidate or the candidate’s authorized political committee, or their agents, or a political party committee or its agents.”

(2) REGULATIONS BY THE FEDERAL ELECTION COMMISSION.—

(1) Within 90 days of the effective date of the legislation, the Federal Election Commission shall promulgate new regulations to enforce the statutory standards set by this provision. The regulation shall not require collaboration or agreement to establish coordination. In addition to any subject determined by the Commission, the regulations shall address:

(a) payments for the republication of campaign materials;

(b) payments for the use of a common vendor;

(c) payments for communications directed or made by persons who previously served as an employee of a candidate or a political party;

(d) payments for Communications made by a person after substantial discussion about the communication with a candidate or a political party;

(e) the impact of coordinating internal communications by any person to those restricted class has on any subsequent “Federal Election Activity” as defined in Section 301 of the Federal Election Campaign Act of 1971.

What we are trying to do is allow legitimate communication within organizations, whether they be organizations such as the National Rifle Association, National Right to Life, or any other organization—protect their legitimate right to communicate and, at the same time, prevent the so-called coordination which has been the exploitation of the loophole which has allowed huge amounts, hundreds of millions of dollars, literally, of funds to flow into a political campaign.

I think it is a very legitimate compromise. It favors neither one side nor the other. Again, I would like to emphasize, the present language in the bill is not satisfactory, as viewed by both sides. I hope that this is far more satisfactory, if not totally satisfactory, language so we can enforce the law and at the same time not prevent any organization from legitimate communication within that organization.

I yield the floor.

The Acting PRESIDENT pro tempore.

Mr. McCain, Mr. President, this is an amendment on coordination. We have been trying now for 2 weeks to reach an agreement. We have come a long way with the hard work of both staffs and a lot of other people involved. We have narrowed the gap from our original language, which all agreed was not satisfactory to what we believe is a reasonable compromise.

Basically, we are talking about any coordinated expenditure or other disbursement, means of payment made in concert or in cooperation with, at the request or suggestion of or pursuant to any general or particular understanding with such candidate, candidate’s authorized political committee, or their agents or political party or its agents.

We are talking about how we can prevent what is really in major circumvention of the intent—indeed, in my view, the letter of the law—and that is to coordinate soft money, which means that additional funds are funneled into political campaigns on behalf of candidates.

Mr. President, the amendment states:

Within 90 days of the effective date of the legislation, the Federal Election Commission shall promulgate new regulations to enforce the statutory standards set by this provision. The regulation shall not require collaboration or agreement to establish coordination.

That is an important point in this amendment.

In addition to any subject determined by the Commission, the regulation shall address (a) payment for the republication of campaign materials, (b) payment for the use of common vendor, (c) payments for communications directed or made by persons who previously served as an employee of a candidate or a political party, (d) payments for communications made by a person after substantial discussion about the communication with a candidate or a political party.

The impact of coordinating internal communications by any person to those restricted class has on any subsequent “Federal election activity” as defined in section 301 of the Federal Election Campaign Act of 1971.

What we are trying to do is allow legitimate communication within organizations, whether they be organizations such as the National Rifle Association, National Right to Life, or any other organization—protect their legitimate right to communicate and, at the same time, prevent the so-called coordination which has been the exploitation of the loophole which has allowed huge amounts, hundreds of millions of dollars, literally, of funds to flow into a political campaign.

I think it is a very legitimate compromise. It favors neither one side nor the other. Again, I would like to emphasize, the present language in the bill is not satisfactory, as viewed by both sides. I hope that this is far more satisfactory, if not totally satisfactory, language so we can enforce the law and at the same time not prevent any organization from legitimate communication within that organization.

I yield the floor.

Mr. Feingold, Mr. President, I am pleased to support this amendment. It would replace section 214 of the Federal Election Campaign Act of 2000 with this bill concerning coordination. Section 214 was designed to override an FEC regulation issued in December 2000 and scheduled to become effective soon that many observers of campaigns who are concerned about evasions of the law think is far too narrow to cover what really goes on in campaigns.

Senators McCain, Levin, Durnin, and I wrote the FEC during the rulemaking and expressed our concern about the overly narrow interpretation of the law that the FEC had accepted. But almost from the very first day we introduced the bill, we have heard from people about this provision, and what we have heard has not been pretty. It is clear that the provision was not well drafted. It caused what we wanted to catch—groups coordinating activities with candidates without a specific agreement concerning a specific ad or other communication, but it also caught much more, including perhaps legitimate conversations between Members of Congress and groups about legislation without touching on a campaign.

I committed to these groups and to my colleagues who expressed concern we would address the problems with 214. But this amendment simply defines “coordination” in a general way, using language from current law and language from the Supreme Court opinion in the Colorado Republican case that came down in 1996.

The amendment instructs the FEC to do a new rulemaking, to interpret and enforce this new and admittedly general statutory provision. The amendment, therefore, gives some guidance to the FEC as to what issues it should address, without actually dictating the result.

I think this is a reasonable solution to a difficult problem. I thank all the Senators and staff who have been involved in working on this amendment.

There is one thing I want to make very clear and reiterate: While this amendment instructs the FEC to consider certain issues in the new rulemaking, it doesn’t require the FEC to consider any certain way or come to any definite conclusion one way or another.

Of course, I also want to note that the Senate from Kentucky has repeatedly said this change is being made at the behest of organized labor. That is not true. It is true that labor didn’t like the original 214, but neither did a lot of other groups, including the Christian Coalition and the National Right to Life Committee.

I ask unanimous consent that the letters from these groups that contacted us and criticized section 214 be printed in the RECORD.

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

(E-mail from National Right-to-Life)

Here are some of the key ways in which the McCain-Feingold bill (S. 27) violates First Amendment protections for groups that engage in free speech and communicate with elected officials and their staffs;
Coordination Traps: Under current law, "coordination," a candidate's interaction with an "independent expenditure-only" organization, e.g., a PAC, is prohibited unless the organization is specifically identified as communicating on behalf of the candidate. For such coordination to be considered, the IRS requires that the expenditure be made based upon information about the candidate's needs or views provided by the candidate. Such requirements are a form of "guilt by association." However, the new legislation is likely to remove such barriers to "coordination" if it is determined that the expenditure would be considered an illegal contribution for the purpose of the candidate's campaign if it were coordinated or coordinated in any way. The expenditure would be considered an illegal contribution to the candidate's campaign if it were coordinated or coordinated in any way.

Another section of the bill, Section 201, would prohibit incorporated organizations from funding television or radio communications to the public which mention the name of a candidate within 30 days of a primary or 60 days of a general election. This proposed restriction is blatantly unconstitutional. The Supreme Court has repeatedly protected the First Amendment right of like-minded citizens to educate the public on issues and who candidates stand for in the public marketplace of ideas, even if it is "guilt by association." This would be a boon to some powerful officeholders—incumbent governor seeking a Senate seat, for example—who could then influence campaigns by threatening to withdraw contributions or refuse to sell airtime for the ads, or to back out of debates. For example, if Congress lacks the authority to demand that NRTL declare in advance when and where we intend to vote against a candidate, it just as lacks authority to utter a politician's name to the public. Congress lacks the authority to impose such a burden on newspaper editors.

Endorsements by Members of Congress: Section 101 of S. 27 would prohibit members of Congress from endorsing the fundraising efforts of advocacy groups that use any part of the money for any communication to the public—by any medium, at any time of the year—that "promotes," "supports," "attacks" or "opposes" a member of Congress (or "other candidate"). This would effectively impose a ban on advertising in the media associated with the candidate's campaign, even if the candidate did not contain the candidate's name. It would be considered a "campaign" advertisement. For example, if Senator McCain has introduced an awful bill that would utterly destroy the public, remotely suggesting that the public communicate with the public about the voting records of members of Congress. Please write to Senator Jones and urge him to oppose the bill. Likewise, Senator Baucus has not only voted to keep the brutal partial-birth abortion method legal, but the bill is coming up again soon. Please call Senator Baucus and urge him to support the bill this time.

[From the Christian Coalition of America]

PROTECT FREE SPEECH—OPPOSE H.R. 30, THE SHAYES-MEEMAN BILL


DEAR REPRESENTATIVE: The Christian Coali
tion of America strongly opposes H.R. 30, the Shayes-Meehan campaign finance bill. H.R. 30 contains numerous unconstitutional provisions which are in direct opposition to Supreme Court rulings which have repeatedly protected the right of like-minded citizens to educate the public on issues and who candidates stand for in the public marketplace of ideas, even if it is "guilt by association." This would be a boon to some powerful officeholders—incumbent governor seeking a Senate seat, for example—who could then influence campaigns by threatening to withdraw contributions or refuse to sell airtime for the ads, or to back out of debates. For example, if Congress lacks the authority to demand that NRTL declare in advance when and where we intend to vote against a candidate, it just as lacks authority to utter a politician's name to the public. Congress lacks the authority to impose such a burden on newspaper editors.

One of the most egregious of the unconstitu
tional provisions contained in H.R. 30 applies year-round during the entire two-year election cycle (or six-year cycle with respect to Senators). Section 206 contains a broad definition of "coordination" between a can
didate and an outside group—so broad that if a representative or an organization were to discuss with an officeholder his "message" on a legislative issue, such as partial-birth abortion, anytime during the two-year election cycle, and the officeholder were to later campaign in the issue, the organization would be viewed as having "coordinated" with the candidate. The organization could then be accused of violating the federal election laws if it were to disseminate a communica
tion to the public that is deemed to be "coordinated" with the candidate, even if it did not mention the officeholder by name.

Section 206 also broadens the definition of "coordination" to the point where if an in
corporated organization making a voter educa
tion expenditure and a campaign were to merely use the services of the same firm, "coordination" would be presumed to have occurred. As a result, the public would be unable to act as a "check" on the candidate's campaign. This is what the Constitution has called, a form of "guilt by association."
The Federal Election Commission (FEC). This vague language (in similar language) has been put forth by the Federal Election Commission in regulations and been rejected in court. Congress should reject it as well.

Last week, the Thompson-Meehan bill purports to contain an “exception” for voter guides. But under this exception, an organization could not verbally clarify the voting record or position of an officeholder or candidate pur-

pose of the compacting the voter guide. Moreover, the “exception” prohibits the voter guide from containing “words in context of campaign” meaning other than to urge the election or defeat of one or more clearly identified candidates,” as well as requiring that the voter guide “when taken as a whole ... not express unmistak-

able and unambiguous support for or opposition” to a candidate—vague wording that would leave organizations that issue voter guides constant at risk of being the subject of an FEC complaint and investigation. Fur-

thermore, organizations that wish to issue voter guides will still have to fear violating the “election generation” prohibition elaborated on at the beginning of this letter.

In light of the serious First Amendment ramifications that this bill would have on the world of political organizations, as well as on our nation’s ability to dis-

cuss and debate issues, we urge you to vote against H.R. 388, the Shays-Meehan campaign finance bill.

Sincerely,

SUSAN T. MUSKETT, J.D.,
Director, Legislative Affairs.

The ACTING PRESIDENT pro tem.

SUSAN T. MUSKETT, J.D.,
The Senator from Connecticut.

Mr. DODD. Mr. President. I rise in support of this amendment as well. I think this has been worked out carefully. I commend the Members and staffs who worked on this amendment. This is in very sound shape. It avoids the potential problems of being overly broad or too vague with respect to the language, which would expose too many honest and good people who want to be involved in the political process from new criminality or loopholes.

As my colleague’s amendment that may be offered provides that the amount of such cam-

paign balances must be taken into ac-

count before a wealthy candidate’s con-

tributions to his or her own campaign trig-

ger the higher contribution limits for the incum-

bent. Last Tuesday, the authors of this amendment described the situation of a wealthy candidate financing his or her own election as a constitutionally pro-

tected loophole. But my colleagues’ so-

lution, as adopted last week, unwittingly opens a more insidious loophole. One that protects incumbents and, more precisely, incumbents’ campaign treasuries, from a wealthy candidate.

In describing the purpose of their amendment, which I opposed, my col-

league contended that the Buckley de-

cision created a substantial disadvan-

tage for opposing candidates who must raise campaign funds under the current fundraising limitations.

That was last Tuesday. This week we adopted the Thompson-Feinstein amendment which doubled the indi-

vidual hard money contribution limits and indexed those limits for future in-

flation. The Thompson-Feinstein amendment also doubled the contribution amount a Senate campaign committee can make directly to candidate to $35,000 per election cycle and indexed it for inflation also.

In a period of 1 short week, we poten-

tially gave an incumbent facing a wealthy challenger an additional $17,500, plus an additional $4,000 per pair election. So the substantial disadvantage that incumbents sus-

pectedly faced last Tuesday has been substantially eliminated by the actions we took during this week on the bill.

Even so, the entire premise of the Domenici amendment that somehow incumbents need protection from wealthy opponents ignores one simple fact: Many nonwealthy opponents are actually incumbents sitting on healthy campaign accounts. Those campaign war chests can be equal to or greater than the personal wealth used by a so-called wealthy opponent.

For example, based on FEC disclo-

sures, some of my colleagues facing re-

election next year are sitting on campa-

ign accounts with cash balances ranging from $100,000 to in excess of $3 million.

Surely my colleagues cannot be seri-

ous that with $1 or $2 million sitting in their treasuries, and the advantages of incumbency we have automatically, in-

cluding increased hard money limits, that they somehow need protection from a candidate who decides to put $900,000 into their own race.

For example, take a State the size of mine, a State with a little over 3 mil-

ion people. The threshold amount would be $270,000. A wealthy candidate who contributed or spent $600,000 of his or her own money in that race would trigger contribution limits three times the normal for that incumbent, or $12,000 per individual per election, or $24,000 per couple. If you double that for primaries, as well as an election, you actually get $48,000. That is a sub-

stantial increase from where we were a week ago.

If that same incumbent has a war chest of $1 million, he actually has a cash balance of $400,000 more than the wealthy challenger.

Are we really serious that the incumbent in that situation is somehow disad-

vantaged—should he or she be able to raise $24,000 from a couple until the difference in the balances are reached? Yet that is exactly what the Domenici amendment, which I opposed, will pro-

vide.

Although my colleagues have argued that the tiered trigger system of the Domenici amendment is proportional, and that proportionality levels the playing field, that is simply not the case when a nonwealthy candidate is an incumbent.

In the case of a nonwealthy incum-

bent, the provision does anything but level the playing field. It becomes es-

sentially an incumbent protection pro-

vision.

The amendment that was adopted last week simply goes too far under the present circumstances.

The amendment that may be offered by Senator DURBIN, myself, and others restores some balance between the incum-

bents with healthy campaign treasuries and individuals with per-

sonal wealth. It requires that the per-

sonal wealth of an opponent be offset by the amount of campaign treasury funds of a nonwealthy incumbent before any trigger of benefits to that incum-

bent occurs.

This amendment effectively adds the amount of the cash-on-hand balance re-

serves of an incumbent’s war chest into the calculation of the opposition per-

sonal funds amount. So in my example, until the “wealthy” challenger spent $1 million in personal funds, that “poor” incumbent with the war chest would enjoy the advantage of the increased limits.

Just as my colleague’s amendment last week was an attempt to correct
the unintended effects of the Buckley decision, this amendment, which I believe we'll offer, corrects the unintended effects of the amendment adopted last week; namely, protecting incumbents from wealthy opponents.

When that amendment is offered, I urge my colleagues to support it.

AMENDMENT NO. 36

Mr. MCCONNELL. Mr. President, is the pending amendment the McCain amendment on coordination?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. MCCONNELL. Mr. President, unfortunately, the McCain amendment coordination provision lets big labor continue to coordinate its ground game with the Democrats. As you know, I have been predicting for 2 weeks that there would be an effort to water down provisions in the bill that were offensive to big labor.

With all due respect to the author of the amendment, the intent is quite clear: to mitigate the damage that has caused concern among those in organized labor about this bill. I note there is apparently not enough concern to get many Democratic votes against on final passage Monday, but they are very upset about the coordination provisions of this bill, thus the reason for the amendment that has been sent to the desk.

Let me make it clear, the coordination provision lets big labor continue to coordinate its ground game with the Democratic Party. It does this by changing the "concept of coordinated activity" that includes the union in-kind activity to "coordinated expenditures or disbursements" which are legal terms of art that do not encompass in-kind contributions. This new coordination provision is still unconstitutional and will result in Government witch hunts because it does not require actual collaboration or agreement to have a finding of coordination. This is in direct contravention to Colorado 1 and will result in a lengthy onerous investigation of citizens groups.

Mr. President, there will be a need to have a rollcall vote on the McCain amendment at 11 a.m. I do not know whether this is the appropriate time to request that rollcall vote or not.

The ACTING PRESIDENT pro tempore. If the Senator wishes to request a vote.

Mr. MCCONNELL. Mr. President, I request the yeas and nays on the McCain amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered. Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant bill clerk proceeded with the call to the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 166

Mr. BOND. Mr. President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 166.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Federal Election Campaign Act of 1971 to increase the penalties imposed for making or accepting contributions in the name of and to prohibit contributions from (1) making any campaign-related disbursements)

On page 37, between lines 14 and 15, insert the following:

SEC. 306. INCREASE IN PENALTIES IMPOSED FOR VIOLATIONS OF CONDUIT CONTRIBUTION BAN.

(a) INCREASE IN CIVIL MONEY PENALTY FOR KNOWING AND WILLFUL VIOLATIONS.—Section 309(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraph (5)(B), by inserting before the period at the end thereof—"(or in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1000 percent of the amount involved in the violation)"; and

(2) in paragraph (6)(C), by inserting before the period at the end the following: "(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1000 percent of the amount involved in the violation)."

(b) INCREASE IN CRIMINAL PENALTY.—

(1) In general.—Section 309(d)(1) of such Act (2 U.S.C. 437g(d)(1)) is amended by adding at the end the following subparagraph:

"(D) Any person who knowingly and willfully commits a violation of section 320 involving an amount aggregating $10,000 or more during a calendar year shall be fined, or imprisoned for not more than 2 years, or both. The amount of the fine shall not be less than 300 percent of the amount involved in the violation and shall not be more than the greater of $50,000 or 1000 percent of the amount involved in the violation."

(2) Conforming Amendment.—Section 309(d)(1)(A) of such Act (2 U.S.C. 437g(d)(1)(A)) is amended by inserting "(other than section 320)" after "this Act."

(c) MANDATORY REFERRAL TO ATTORNEY GENERAL.—Section 309(a)(5)(C) of such Act (2 U.S.C. 437g(a)(5)(C)) is amended by inserting "other than section 320) or any case of a violation of section 320 shall refer such apparent violation to the Attorney General (of the United States)" after "United States."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring after the date of enactment of this Act.

Mr. BOND. Mr. President, we talked about imposing a lot of new laws and new provisions in some areas where I think we may not be doing what we wish to achieve. We are in this bill proposing to take political parties out of the campaign process inevitably is going to shift money into other channels. One of the things I don't think we have adequately considered is what we do about people who have violated existing laws. Certainly, to the extent we have heard concerns about campaign finance, it has been about the failure to provide adequate penalties for those who violate the laws that are already on the books.

Under current campaign finance laws, there is no meaningful punishment of campaign violators. Over the last several years, we have had hearings, investigations and read about key figures in campaign scandals only to learn later that they walk. It is small wonder that the offenders are handed minimal fines and no jail time. The message from the so-called prosecutions is that there is no threat of jail time for those who break campaign finance laws. If it feels good, do it.

As simply a misdemeanor offense, those intent on corrupting the process do not fear the consequences. Despite the scale of some of the abuses, the offense is rarely prosecuted. When it is, the offenders are handed minimal fines and no jail time. The message from the so-called prosecutions is that there is no threat of jail time for those who break campaign finance laws. If it feels good, do it.

As the gross abuses of the 1996 presidential campaign came to light, we heard from the perpetrators of the abuses themselves that what was needed was not enforcement of the law but new laws and reform of the campaign finance system. Despite their gross indifference to the law, it appears they got their wish. We are here debating more laws with no discussion about increasing penalties and cracking down on lawbreakers.

If we are truly serious about reforming the system, we must crack down on the lawbreakers. Abusers must be punished accordingly or no new law is going to make a difference in cleaning up the system.
Violators have to fear punishment or they will continue to violate the law as they have abused existing law. There is no reason that lawbreakers will not break tomorrow’s laws unless they understand there are consequences. New laws cannot be effective if “teeth” are not put in the law. Without this change, “reform” talk is just that: talk.

My amendment would make it a felony to knowingly make conduit contributions, knowingly permit your name to be used for such a contribution or knowingly accept a contribution made in the name of another. The amendment does not change the conditions of the underlying offense, but by making it a felony, it adds some “teeth” to the law. Maybe the Johnny Chungs and the Charlie Tris of this world will understand there are consequences for their actions and no longer violate campaign finance laws with impunity.

As a felony offense, violators will be subject to either jail time or a stiff fine, or perhaps both. Fines will be increased dramatically to a minimum of not less than 300 percent of the amount involved. The amendment requires, not suggests, that the FEC refer these cases to the Justice Department. Finally, it broadens the prohibition on donations from foreign nationals, ensuring that clever lawyers won’t be able to move funds to accounts like “redistricting” or others. There is a prohibition on donations from foreign nationals. This takes away an exploitable loophole.

By taking this step, Congress will be sending a clear message that it considers the funneling of illegal campaign contributions a serious offense to be punished accordingly.

It becomes an offense that prosecutors can use in pursuing a case. Currently there is little incentive for a suspect to cooperate if they are threatened only with a misdemeanor. There is less incentive for busy prosecutors to dedicate the time and resources to prosecute this offense if it remains a misdemeanor. This amendment gives prosecutors something they can use.

This amendment goes after lawbreaking contributors to any candidate of any party. Contributors to all parties are required by law to disclose their donations properly. Concealing the source of a donation is illegal. If you do it, you can expect punishment. Similar legislation has been introduced on the House side and has strong bipartisan support.

We in Congress should be very concerned about the growing willingness we have seen in recent cycles for people to break our laws in order to corrupt our democracy. We should be further concerned with the meaningless punishments handed down and the signal it sends that we will tolerate corruption.

According to news accounts, what has become of these notorious abusers of our campaign finance law? The late railroad tycoon and convicted felon John Hsin, Tri Viet, was convicted of funneling over $1 million in conduit contributions during the 1996 cycle. A large percentage of the money was traced to Macau. For this, Mr. Tri was sentenced to 3 years probation and 3 months home detention and fined $5,000—but he received no jail time.

Mr. Johnny Hsin funneled $300,000 received from a general in the Chinese Military Intelligence Agency and made another $350,000 in conduit contributions. This individual who bravely said “the White House is like a subway, you have to put in coins to open the gate,” was sentenced to 3 years probation, 80 hours of community service for bank fraud, tax evasion, and his role in aiding donations to the Clinton campaign, but he received no jail time.

Mr. President, 3,000 hours of community service is enough that ought to be a good year’s work for anybody. They ought to be willing to do community service not as a punishment but as their contribution.

Next, John Huang pleaded guilty on August 12, 1999, to arranging illegal political contributions from overseas. It was found that he arranged over $1 million in illegal contributions, primarily with money from Indonesia. He was fined $10,000 and sentenced to 1 year probation and 500 hours of community service but no jail time.

I suspect that whatever source provided him the millions of dollars probably helped him cover the amount of that fine. And 500 hours of community service, well, that would be a nice year’s work.

Maria Hsia, who funneled over $100,000 through nuns and monks at a temple was tried and convicted of five counts in December, 1996. On February 6 of this year to a whopping 90 days—90 days—of home confinement—that is really tough; you have to stay home for 90 days—250 hours of community service, 3 years of probation and she was fined a whopping $5,000. The “home confinement,” of course, permits Ms. Hsia to work each day, care for her elderly parents and attend religious services—but no jail time. So you can’t really say this is an onerous penalty.

Billions of dollars have already agreed on January 11 of this year to pay an $8.6 million fine and plead guilty to unlawfully reimbursing donors to the 1992 campaign of President Bill Clinton—but he will see jail.

But for a billionaire, $6 million is like me reaching in my wallet to buy lunch at the sandwich shop. Do you think that hurt him very much? I do not believe so. For $8.6 million, he has every incentive to come back and do his trick again. That is a small price to pay for being able to exercise inappropriately, unwarranted, and illegal influence on a campaign.

Until this point, this body has focused exclusively on making it more difficult for candidates to raise money openly while remaining rampant on blatant abuses. If we are to get serious about reform, at least we should go after those who are willing to break the law. If campaign violators refuse to respect the law, then maybe they will respect the threat of meaningless, punishment. Congress needs to get tough and send a clear message that the days of tolerance for these illegal, unlawful, and improper practices are coming to an end. I urge my colleagues to adopt this very simple amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields the time?

Mr. MCCAIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN, Mr. President, I thank the Senator from Missouri.

There is a great deal of redundancy in the amendment. The addition of foreign campaign contributions increases the penalties in some areas. But I think the Senator from Missouri makes very valid points. I think his amendment probably addresses some very helpful areas. I am prepared to accept the amendment. I do not know about all Members yet, but we would like to run it by them and see if we can get some agreement on the amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MCCONNELL, Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCCONNELL. Would the Senator from Iowa withhold for just a moment? We have an amendment that is cleared. I would just like to process it if I could.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. MCCONNELL, Mr. President, the pending amendment is the Bond amendment.

The ACTING PRESIDENT pro tempore. The Senate is correct.

Mr. MCCONNELL. I ask unanimous consent it be temporarily set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 167

Mr. MCCONNELL. Mr. President, there is an amendment by Senator HATCH with regard to expedited review that has been dropped on the Senate side. I send that amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.
The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCon- nell], proposes an amendment numbered 167.

Mr. McCONNELL. I ask unanimous consent reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tem- porary. Without objection, it is so or- dered.

The amendment is as follows:

(Purpose: To provide expedited review) On page 38, after line 3, add the following:

SEC. 403. EXPEDITED REVIEW.

(a) EXPEDITED REVIEW.—Any individual or organization that would otherwise have standing to challenge a provision of, or amendment made by, this Act may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that such provision or amendment violates the Constitution. For purposes of the expedited review provided by this section the ex- clusive venue for such an action shall be the United States District Court for the District of Columbia.

(b) APPEAL TO SUPREME COURT.—Notwith- standing any other provision of law, any order or judgment of the United States Dist- rict Court for the District of Columbia fin- ally disposing of an action brought under subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. A notice of appeal shall be taken by a notice of appeal filed within 10 calendar days after such order or judgment is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order or judgment is entered.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the Dist- rict of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible ex- tent the disposition of any matter brought under subsection (a).

Mr. HATCH. Mr. President, I am of- fering an amendment that will provide for expedited judicial review of the pro- visions of the McCain-Feingold Bipar- tisan Campaign Finance Reform Act of 2001. Without this amendment, Amer- ican citizens and public interest groups, among others, will be subject to controversial, unworkable, and in my mind, likely unconstitutional provi- sions that infringe free speech rights protected by the first amendment.

Supporters of the bill should welcome this amendment as well. All of us, sup- porters and opponents alike, stand to gain by a prompt and definite deter- mination of the constitutionality of many of the bill’s controversial provi- sions.

For those who oppose the bill, these controversial provisions pose imminent danger not only to individuals’ rights to free speech, but also to our cher- ished two party system. Because the harm these provisions will cause is se- rious, it is imperative that we afford the Supreme Court the opportunity to pass on the constitu- tionality of this legislation as soon as possible.

The way the amendment works is simple, and I believe it should be non- controversial. Those who challenge the elec- tion process must bring their case in the district court of the District of Columbia. Fur- thermore, only those who can show cognizant harm under the legislation will be permitted to bring a case. The district court, of course, has the au- thority to consolidate all the chal- lenges brought against the legislation. To make certain that the district court considers the case promptly, my amendment directs the court to “expe- dite to the greatest possible extent the disposition of [the] matter.”

My amendment also provides for an expedited appeal of the district court’s ruling to the Supreme Court. The hear- ing of this appeal by the Supreme Court is expedited; however, follows the customary procedures for a writ of certiorari— that is, the Supreme Court has the dis- cretion whether or not to review the case. If the Supreme Court declines to review the ruling, then the district court’s ruling will stand.

Now some may complain that with this approach we are bypassing the Cir- cuit Courts of Appeal. To them I say this: Such a procedure is not preced- ential. Indeed, the Supreme Court’s own rules allow for such a procedure when it is authorized by law or when the case is of such imperative public importance as to justify deviation from normal appellate practice. I think we can all agree that the issues presented by this legislation meet that threshold.

I hope that my colleagues—whether they support or oppose the underlying legislation—will support my amend- ment. It is in all of our interests to have the prompt, authoritative, and final resolution of these issues that an expedited amendment can provide.

Mr. FEINGOLD. Mr. President, this amendment is acceptable to those who support this bill because we agree with the Senator from Utah that questions about its constitutionality should be resolved promptly. A procedure similar to the one set up in this amendment was used when the 1974 act was chal- lenged, and although not all of us agree with everything that the Supreme Court decided in the Buckley case, the process served the country relatively well.

Let me make just a few points of clarification. First, the amendment makes no change in what would other- wise be the law on the issue of who has legal standing to sue. The text of the amendment is absolutely clear on that point. Second, as the Senator from Utah notes, the venue for actions chal- lenging the constitutionality of the bill will be in the United States District Court of the District of Columbia, not in the Supreme Court. The district court will have the power to consolidate related challenges into a single case.

Finally, and most importantly, al- though the amendment provides for the expedition of these cases, the great- est benefit will be to the Supreme Court. The constitutional questions—whether we ultimately uphold this legislation and it will be in the United States District Court of the District of Columbia. If the 2001 Act is to be constitutional, it is the Supreme Court that will decide this question.

Mr. DOSS. Mr. President, we have been able to work out the amendment offered by my colleague from Utah, Senator HATCH, with regard to an expedited review of the McCain-Feingold measure.

While I strongly disagree with my colleague’s conclusion that absent re- view, the citizens of this Nation will be subjected to unconstitutional provi- sions that infringe on speech, I do sup- port the intent of this amendment. I believe that this measure, § 27, is a balanced attempt to follow the require- ments laid down in Buckley and the Shrink Missouri PAC cases. The Court has essentially invited Congress to ex- press our will in this area, and the McCain-Feingold legislation does just that.

My support for the Senator’s amend- ment should in no way be read to sug- gest that I think there are provisions of this measure that are constitu- tional. To the contrary, I believe it will pass constitutional review. However, I understand the Senator’s desire to put this question to the test in an expedi- dited manner.

This is not an unusual request for such far-reaching and important legis- lation. The purpose of this amendment is to provide expedited judicial review of this legislation. In this Senator’s mind, this is a good idea. I am con- fident that the Supreme Court will ul- timately uphold this legislation and it is in everyone’s best interest to know that as soon as possible.

But by saying that, however, I do not want to suggest that the Court should not take adequate time to review any provision of this measure. I am not suggesting that such an expedited re- view be conducted at the expense of al- lowing all interested parties to inter- vene in this matter in order to provide

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But by saying that, however, I do not want to suggest that the Court should not take adequate time to review any provision of this measure. I am not suggesting that such an expedited re- view be conducted at the expense of al- lowing all interested parties to inter- vene in this matter in order to provide
assistance to the Court in its decision. This may be the first major effort to reform this Nation’s campaign finance laws in nearly 25 years that becomes law, and there is a wealth of expertise on this issue in both Congress and the private sector which can be of immense assistance to the Court in its review.

Finally, I express my appreciation to the Senator from Utah for his willingness to clarify that any such expedited challenge to this measure must be brought exclusively in the District Court for the District of Columbia.

I urge the adoption of the amendment.

Mr. MCCONNELL. Mr. President, I believe we are ready to adopt it.

Mr. DODD. Mr. President, there is no objection to the amendment on this side.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? The question is on agreeing to the amendment.

The amendment (No. 167) was agreed to.

Mr. DODD. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MCCONNELL. I yield the floor.

AMENDMENT NO. 168

The PRESIDING OFFICER (Mr. KYL), The Senator from Iowa.

Mr. HARKIN. 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 Iowa [Mr. HARKIN] proposes an amendment numbered 168.

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

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

The PRESIDING OFFICER. The amendment is as follows:

TITLE IV—NONSEVERABILITY OF CERTAIN PROVISIONS; EFFECTIVE DATE

SEC. 401. NONSEVERABILITY OF CERTAIN PROVISIONS

(a) In General.—Except as provided in subsection (b), if any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, such amendment made by sections 101 or 308 (relating to modification of contribution limits), and the application of each such amendment to any person or circumstance, shall be invalid.

Mr. HARKIN. Mr. President, this is a very simple amendment. All it does is provide that if the soft money ban is struck down in the courts, then the hard money increases now included in the bill will also be taken out.

During the debate on raising the hard money limits, we heard a lot of discussion about, if we are going to ban all the soft money, then we at least ought to raise the hard money limits. I happened to personally oppose that, but obviously I was on the losing side of that issue. So the hard money limits were raised. There is some question as to whether or not the ban on soft money is going to be upheld in the courts. There are those who say that it can withstand constitutional scrutiny, but there are others who say it won’t. I don’t know. It is sort of a tossup on that one.

All my amendment says is that if the courts strike down the ban on soft money, then the increase in hard money that we included will go back to the limits we now have in law. It is very simple. I don’t know that I need to describe it any more than that.

We would be a laughing stock if, in fact, the courts struck down that soft money ban so that now we have soft money and an increase in hard money. What kind of reform is that? Obvi- ously, if the soft money ban is found to be constitutionally secure, then we have the increases in the hard money.

That is all this amendment does. There is more I could say about how much people give in hard money, but that has already been discussed. I don’t need to go through that. It would cast a great deal of doubt on the courts struck down the soft money ban so now we have soft money and more hard money. That would be the total antithesis of what we are trying to do here.

That is what the amendment is. It is very simple. It is straightforward. Again, my amendment says, if the courts strike down the ban on soft money, then the increases we have put in here on hard money will go back to the limits we have had for the last 25 years.

Mr. DODD. Will my colleague yield for a question?

Mr. HARKIN. I am glad to yield.

Mr. DODD. I think this is an amendment that makes some sense. He is absolutely correct. There is some question about the soft money constitutionality. If that ban is found to be unconstitutional, then the door is wide open again. As any campaign finance lawyer knows, while I supported the Thompson-Feinstein compromise, I did so reluctantly, having spoken out against the increases. I agree with my colleague on that point. I have some concerns over the so-called millionaires amendment, as well which allows for an exponential increase in contributions if someone challenges us with personal wealth. I know that makes Members uneasy, but it allows for a factor as high as presently six times the hard dollar limits.

Mr. HARKIN. Yes.

Mr. DODD. I don’t know if his amendment includes reaching that provi- sion. Even if we go back to the original hard dollar limits, we still include the millionaires which would allow the millionaires which would allow the millionaires which would allow... I was curious as to whether or not the amendment touched on that provision.

Mr. HARKIN. I don’t think it touches that. No, we did not touch on that provision with the amendment.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, the Senator from Iowa voted against non- severability yesterday. After Senator McCain and Senator Thompson and others went through this painful compromise of working out an appropriate hard money increase that only had 16 votes against it, the Senator from Iowa wants to come in here at the last minute and unravel that compromise. I thought we were past that on this bill. I say to the Senator from Arizona. I thought we were down to a few wrap-up items. This amendment ought to be defeated overwhelm- ingly, and we should stick with the compromise that was so painstakingly worked out the other day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCONNELL. Mr. President, the Senator from Arizona voted against non- severability yesterday. After Senator McCa-...
The PRESIDING OFFICER. The clerk will call the roll.

Mr. HARKIN. 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. HARKIN. Mr. President, it is my understanding that the pending amendment is one I had sent up earlier. To summarize the amendment, which is now under consideration, it is simple and straightforward. It says if the courts strike down the ban on soft money, we get to raise soft money and also get the increases in the hard money limit.

Senator Dodd pointed out that my amendment does not reach to the millionaire amendment that we adopted. It doesn’t. I did not include that. These are the things I understand that are going to have to be worked out in conference with the House. I am hopeful that as we go into conference, the problem I just pointed out would also be addressed. We certainly don’t want to wind up having both the soft money and the increases in the hard money limit.

Mr. MCCONNELL. Mr. President, there is bipartisan opposition to the amendment of the Senator from Iowa. We will vote on the voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 168) was rejected.

Mr. MCCONNELL. I move to reconsider the vote. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

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

Mr. MCCONNELL. 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. MCCONNELL. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The Bond amendment No. 166.

AMENDMENT NO. 166, AS MODIFIED

Mr. MCCONNELL. Mr. President, on behalf of Senator Bond, I send a modification to the amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. 303. INCREASE IN PENALTIES IMPOSED FOR VIOLATIONS OF CONDUCT CONTRIBUTION BAN.

(a) INCREASE IN CIVIL MONEY PENALTY FOR KNOWING AND WILLFUL VIOLATIONS.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraph (5)(B), by inserting before the period at the end the following: “; or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1000 percent of the amount involved in the violation”;

(2) in paragraph (6)(C), by inserting before the period at the end the following: “; or, in the case of a violation of section 320, which is not more than the greater of $50,000 or 1000 percent of the amount involved in the violation”;

(b) INCREASE IN CRIMINAL PENALTY.—

(1) IN GENERAL.—Section 309(d)(1) of such Act (2 U.S.C. 437g(d)(1)) is amended by adding at the end the following new subparagraph:

”And any person who knowingly and willfully commits a violation of section 320 involving an amount aggregating $10,000 or more during a calendar year shall be fined, or imprisoned for not more than 2 years, or both. The amount of the fine shall not be less than 300 percent of the amount involved in the violation and shall not be more than the greater of $50,000 or 1000 percent of the amount involved in the violation.”

(2) CONFORMING AMENDMENT.—Section 309(d)(d)(A) of such Act (2 U.S.C. 437g(d)(1A)) is amended by inserting “(other than section 320)” after “this Act”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring on or after the date of enactment of this Act.

Mr. DODD. Mr. President, while I will not object to the adoption of the amendment by my colleague from Missouri, Mr. Bond, I do not believe that it presents the best approach for ensuring comprehensive enforcement of this new law. In particular, I disagree with the method of appearing to single out one type of violation for enhanced enforcement or prosecution, namely conduit contributions in the name of another.

My lack of objection should not be read to infer that either this Senator, or this body, believe that conduit contributions represent the most serious abuse of campaign finance laws nor that such an abuse requires selective enforcement and prosecution apart from other violations of the Act.

I also want to be clear that I do not completely agree with the characterization of the Senator from Missouri of the alleged campaign finance abuses in the 1996 Presidential and Congressional elections. Let me also be clear, campaign finance violations are already subject to civil enforcement and prosecution as both misdemeanor and felony offenses. The remedies Senator Bond is proposing appear to already be available in law if the facts or evidence in such cases include aggravated circumstances.

An unintended result of the amendment Senator Bond may be the appearance and reality of selective prosecution. Such a result is avoided by the approach of my colleagues from Tennessee, Senator Thompson, and Connecticut, Senator Lieberman. Theirs is the preferred approach which provides for comprehensive enforcement of all violations of the new law. I am pleased that their provision has also been included in S. 27, the McCain-Feingold legislation, and believe that it should be applied across the act to all violations.

We all agree that existing civil and criminal laws must be vigorously and uniformly enforced. I believe that this will be the case.

Mr. MCCONNELL. Mr. President, this has been worked out now and is acceptable to both sides.

Mr. DODD. The Senator from Kentucky is correct.

The PRESIDING OFFICER. Without objection, the amendment, as modified, is agreed to.

The amendment (No. 166), as modified, was agreed to.

Mr. DODD. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. 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. MCCONNELL. Mr. President, I am very cognizant of the very short period of time remaining under the UC agreement on amendments. We have been working on a modification of the so-called millionaires amendment. I believe we are very close in trying to equilibrate this situation so that when a person contributes a certain amount of money, then the incumbent or the candidate without the money will be able to have not an unfair advantage.

We have been in consultation, and I hope we can reach an agreement under the UC, if all sides agree, to have an amendment adopted after the vote. That is up to Senator MCCONNELL. I want to hear from him on this issue.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I missed the first part of the comment of
the Senator from Arizona. I gather it was whether this amendment can be offered after 11 o’clock. We have been on this bill 2 weeks. This was adopted the first day of the 2-week debate, and here we are at 2 minutes to 11 still trying to fix it. With all due respect to the Senator from Michigan, I am not going to agree to a modification of the consent agreement so it can be offered after 11 o’clock. I will be happy to work with him on whether it can be included as a technical amendment at the end on Monday. I am not going to agree to change the consent under which we are currently operating.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I understand Senator MCCONNELL’s position. It has been long debated. I had hoped we could reach agreement that by unanimous consent we could offer an amendment after 11 o’clock because we are still working on some of the technical aspects of this amendment. But if the Senator from Kentucky believes he has to object to that unanimous consent request, then I will offer this amendment at this time. I ask the Senator if that is his position.

Mr. MCCONNELL. I think the Senator should offer the amendment because this, at the risk of repeating myself, is the first amendment we dealt with 2 weeks ago, and here we are 1 minute to 11 trying to modify it. My colleague had plenty of time to do that. The Senator can go ahead and do that if he wants.

Mr. DURBIN. I thank the Senator.

AMENDMENT NO. 169

Mr. DURBIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois (Mr. DURBIN) proposes an amendment numbered 169.

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

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

The amendment is as follows:

(Purpose: To limit the increase in contribution limits to response to expenditures from personal funds by taking into consideration a candidate’s available funds)

On Page 37, between lines 14 and 15, insert the following:

SEC. ...Audits.

Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437(g)(a)) is amended—

(i) by adding at the end the following:

(1) Net Cash-on-hand Advantage.—For purposes of paragraph (i), the term ‘net cash-on-hand advantage’ means, if any, of—

(A) the aggregate amount of 50% of the contributions received by a candidate during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 30 of the year in which a general election is held, over

(B) the aggregate amount of 50% of the contributions received by an opposing candidate during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 30 of the year preceding the year in which a general election is held.

(ii) the public interest would be best served by the issuance of an injunction;
the Commission may institute a civil action for a treble the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

(ii) if the Commission determines that

SEC. 314. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL ELECTION COMMISSION

Section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended—

(A) 60 DAYS PRECEDING AN ELECTION.—If a complaint is filed within 60 days immediately preceding a general election, the Commission may take action described in this paragraph.

(B) RESOLUTION BEFORE ELECTION.—If the Commission determines, on the basis of facts alleged in the complaint and other facts available to the Commission, that there is clear and convincing evidence that a violation of this Act has occurred, is occurring, or is about to occur and it appears that the requirements for relief stated in clauses (ii), (iii), and (iv) of paragraph (13)(A) are met, the Commission may—

(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

(ii) if the Commission determines that

(A) by striking ''and'' after ''1978,''; and

(B) the use of the candidate's name has been authorized to the Commission, that the commission may—

(i) order expedited proceedings, shortening the time periods for proceedings under paragraphs (1), (2), (3), and (4) as necessary to allow

in paragraphs (1), (2), (3), and (4), (5) or (6)''.

may be found, or in which the violation is occurring, has occurred, or is about to occur;'',

in the United States district court for the district in which the defendant resides, transacts business, or

paragraphs (1), (2), (3), and (4) as necessary to allow the matter to be resolved in sufficient time before the election to avoid harm or prejudice to the interests of the parties; or

(ii) if the Commission determines that

"(B) A political committee that is not an authorized committee shall include the name of the candidate who authorized the committee under paragraph (1)."

"(B) VENUE.—An action under subparagraph (A) shall be brought in the United States district court for the United States district court for the district in which

"(B) by striking ''the greater of $15,000 or an amount equal to 300 percent''.

"(b) The $50,000,000 under subsection (a) shall be increased with respect to each fiscal year based on the increase in the price index determined under section 313(c) for the calendar year in which such fiscal year begins, except that the base period shall be calendar year 2000."

"(B) by striking ''the greater of $10,000 or an amount equal to 200 percent''.

"(a) by striking ''(5) or (6)''.

"(A) by striking ''and'' after ''1978,''; and

"(B) by striking paragraph (7), by striking ''(5) or (6)'' and inserting ''(6) or (13)''.

"(ii) except in the case of a national, State, or local committee of a political party, or with the express authorization of the candidate, if any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate."

"(C) The Commission may at any time, by an affirmative vote of at least 4 of its members, refer a possible violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, to the Attorney General of the United States, without regard to any limitation set forth in this section."
The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I urge the amendment be opposed. I particularly want to get the attention of the Republican Senators. I have been predicting for 2 weeks that at the end there would be an effort to water down offending language that big labor did not like that was inadvertently included, or maybe on purpose included, in the original McCain-Feingold. This is that effort. What it does is let big labor continue to coordinate its ground game with the Democratic Party. This is a modification of the original language in McCain-Feingold which the AFL-CIO thought was offensive. It is now being modified in a way that makes it bite less. So this will complete the job.

You noticed, all the amendments during the course of the last 2 weeks that had any impact on labor at all were defeated. Now the provision that was in the bill that was offensive to labor is being watered down. I urge that this amendment be opposed.

Mr. DODD. Mr. President, is there any time remaining?

The PRESIDING OFFICER. All time has expired.

Mr. DODD. Mr. President, I ask unanimous consent for 20 seconds, if I can.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. I ask unanimous consent for 20 seconds.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. This amendment covers every organization. If you are for McCain-Feingold, you don’t want to put people in the situation where you are potentially becoming a criminal because you had a conversation. So this covers the NRA, pro-life groups, every organization. Without the adoption of this amendment, you have a situation that is inviting criminality. I do not think any of us want to see that be the case. Senator MCCAIN and others have worked this out. I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 20 seconds.

Mr. MCCONNELL. Let me sum this up. This is the last gift to the AFL-CIO right here at the end of the bill. It will allow them to continue to coordinate their ground game with the Democrats. I urge opposition of the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 165. 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 Senators from Nevada (Mr. ENYARD), the Senator from Texas (Mr. GRAMM), the Senator from North Carolina (Mr. HELMS), the Senator from Alaska (Mr. MURkowski), and the Senator from Wyoming (Mr. THOMAS), are necessarily absent.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from Louisiana (Mr. UREAUX), the Senator from Minnesota (Mr. DAYTON) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

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

The result was announced—yeas 57, nays 34, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—57

Akaka
Baucus
Bayh
Biden
Boxer
Cantwell
Carnahan
Caspian
Chafee
Clendian
Conrad
Corzine
Cleland
Coburn
Cochran
Collins
Conrad
Corzine
Daschle
Dodd
Dorgan
Durbin
Edwards
Feinstein
Graham
Hoeckens
Hutchison
Inouye
Jeffords
Johnson
Lautenberg
Leary
Levin
Lieberman
Lincoln
Logan
McCain
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Rockefeller
Rodino
Rogers
Snowe
Speight
Specter
Stabenow
Thompson
Torricelli
Warner
Wolstein
Wyden

NAYS—34

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Craig
Crapo
DeWine
Domencic
Enzi
Fitzgerald
Frist
Grassley
Gregg
Hagel
Hatch
Hutchinson
Inhofe
Kyl
Lieberman
Lott
Mikulski
Nelson (NH)
Nelson (OR)
Nickles
Roberts
Santorum
Sensations
Shelby
Smith (NI)
Smith (OR)
Smith
Stevens
Thurmond
Voinovich

Not Voting—9

Ringland
Bingaman
Dayton
Heims
Miller
Murkowski
Thomas

Mr. REID. The amendment (No. 165) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, there is one amendment remaining, and I believe it has been worked out. I believe Senator DURBIN has to modify it.

The amendment (No. 169), as modified, was agreed to, as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. 6. RESTRICTION ON INCREASED CONTRIBUTION LIMITS BY TAKING INTO ACCOUNT CANDIDATE’S AVAILABLE FUNDS.

Section 315(i) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(i)), as added by this Act, is amended by adding at the end the following:

(E) SPECIAL RULE FOR CANDIDATE’S CAMPAIGN FUNDS.—

(1) In general.—For purposes of determining aggregate campaign contributions from personal funds under subparagraph (D)(ii), such amount shall include the gross receipts advantage of the candidate’s authorized committee.

(2) Gross receipts advantage.—For purposes of clause (1), the term “gross receipts advantage” means the excess, if any, of—

(I) the aggregate amount of 50% of gross receipts of the candidate’s authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

(II) the aggregate amount of 50% of gross receipts of the opposing candidate’s authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.

Mr. DURBIN. Mr. President, I ask unanimous consent that Senators DOMENICI, DeWINE, and LEVIN be shown as cosponsors of the modified amendment.

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

Mr. DODD. Mr. President, I am going to oppose the modified Durbin amendment. Quite simply, it preserves all of the incumbency protection provisions of the original Domenici amendment.

I compliment my colleague from Illinois on his attempt to correct his mistake of last week. This modification does not get the job done.

Let me review for my colleagues what happened last Tuesday and which provisions of the Domenici amendment are most objectionable to this Senator.

Last Tuesday the Senate adopted amendment number 115 offered by Senators DOMENICI, DeWINE, DURBIN, MCCONNELL and others regarding wealthy candidates. The proponents of this amendment claimed that it addressed an unintended effect of the Buckley decision—namely, that wealthy candidates have a constitutional right to use their own resources to finance a campaign. My colleagues argued at the time that the Buckley decision created a substantial disadvantage for opposing candidates who must raise campaign funds under the current fund-raising limitations.

That is an outrageous statement. Who among us really believe that wealthy candidates are not disadvantaged by hard money contribution limits? The benefits of incumbency are well known and are recognized obstacles for challengers to overcome.
The contention of my colleagues, who supported the Domenici amendment last week, is that the current limits are simply too low for incumbents to overcome challengers who have independent wealth. Consequently, their amendment establishes threshold amounts, based on the voting population of the state, which if exceeded by contributions of personal wealth by a candidate, would trigger outlandish benefits to an incumbent. Benefits of 4 to 6 times the contribution limits of current law.

I opposed that amendment because it clearly created yet another advantage of incumbency—that of ignoring the significant wealth that incumbents also have in the form of campaign treasuries.

Moreover, the benefits afforded to an incumbent with a war chest were way out of line with the threshold limits that triggered these benefits. For example, in my State of Connecticut, the voting age population is roughly 2.5 million. Under the Domenici amendment, a wealthy candidate would only have to expend $250,000 of his or her own resources to trigger benefits to an incumbent. And what are those benefits? Well, it depends upon how much the wealthy candidate spends.

If the wealthy candidate spends $500,000 of his or her own money—not an insignificant sum, but not huge either—the amendment would triple the contribution rates for the incumbent. That means that the incumbent could raise funds, equal to 110% of the $500,000, in amounts three times as large as current law. The incumbent facing this moderately wealthy challenger in the State of Connecticut would be able to solicit $5,000 per individual for a total of $12,000, or $24,000 per couple. That is hardly reform.

But what if that moderately wealthy challenger expends twice that amount in personal resources, or $1 million? In that case, the so-called disadvantaged incumbent can raise contributions from individuals at 6 times the current rate. In that instance, the incumbent could legally solicit funds from an individual in the amount of $12,000, or $24,000 per election cycle, or $48,000 per couple.

Is there anyone who believes that asking a couple to write a check in the amount of $48,000 is reform or in the best interest of this Democracy? I think not.

But let me add another twist. Suppose this same incumbent, facing the wealthy challenger, has a campaign account—as almost all incumbents do. And in that campaign account there is a balance of $1,000,000, not an unrealistic amount for many incumbents. And yet, even though that incumbent has $1 million in the bank, and the wealthy candidate spends only $500,000 of their personal funds, the incumbent still gets 3 times the benefits. What is fair about that?

Mr. President, the current limits of $500,000 that my colleagues suggest that their campaign accounts are not the same as a challenger’s personal wealth—that they have worked hard to raise those campaign dollars, living within the current limits of only $1,000 per individual per election. Before my colleagues feel too sorry for themselves, let me point out that I am sure that wealthy candidate believes he has worked equally hard for his personal wealth. And like the wealthy candidate who, alone, controls whether to spend those resources, the incumbent is similarly in charge of his or her campaign account.

There is simply no way to justify treating an incumbent’s war chest differently than a challenger’s personal wealth. And yet, both the original Domenici amendment and this so-called fix offered today do.

The amendment by the Senator from Illinois also ignores what has transpired since last Tuesday and the adoption of the original amendment. Since that time, the Senate has adopted the Thompson-Feinstein amendment which doubled the hard money contribution limits for individuals and indexed them for future inflation, so we no longer have to do it again.

And yet, both the original Domenici amendment and this so-called fix offered today do.

Moreover, the benefits afforded to an incumbent would be higher if the amendment did not address—that is, whether the benefits of this provision providing for a triple or 6 times current rates, are now too great. When the original amendment was drafted, the contributions limits were one-half of what they are today. Consequently, any benefits offered by this amendment should recognize that fact.

However, this so-called fix is not a fix at all. To fairly level the playing field, the incumbent's campaign treasury should be matched dollar-for-dollar by a wealthy candidate’s spending of personal funds before any benefits accrue to the incumbent. But that is not what the amendment before us does. Rather, it allows an incumbent to disregard 50% of the funds in his or her war chest before matching such balances against the personal spending of a challenger.

So again, in the example of a race in Connecticut, the incumbent has a war chest of $1,000,000, but only $500,000 of that is considered. So when the wealthy candidate spends $500,000 of his or her own money, no benefits are triggered. But as soon as that wealthy candidate spends $1,000,000, the triple limits apply. That simply does not make sense. The entire balance of the incumbent’s campaign treasury should be counted.

I opposed the original amendment because it did not appear to me to be reform, and I oppose this so-called fix as well. I urge my colleagues in the House to take a close look at this provision and either completely eliminate the Domenici provision from the bill— which would be preferable—or amend it to eliminate the substantial loophole for incumbents.

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

The bill was ordered to be engrossed for the third reading and was read the third time.

Mr. McCONNELL. Mr. President, I want to begin by saying that this is an issue that I have been concerned about. Mr. President, that essentially completes the underlying bill, upon which final passage will occur at 5:30 on Monday. There will be no more rollcall votes.

Mr. DODD. Mr. President, I know the leaders were discussing this.

I ask unanimous consent that there be 1 hour on Monday, off the budget resolution, prior to the vote at 5:30 for Members to come over to make final comments about the adoption of this important piece of legislation.

Mr. McCONNELL. Reserving the right to object, we need to check with our leader in terms of how that might impact the running of the clock on the budget resolution, which is the most important item for next week, obviously. I will have to object, until I get some word from the leader.

The PRESIDING OFFICER. Objection is heard.

Mr. McCONNELL. Mr. President, I think it is appropriate to have at least a brief discussion before final passage—very brief because we have been on this 2 weeks. People do have a sense of what this issue is about.

One possibility, of course, would be to let that time we use on this subject count on the budget resolution. That would probably smooth the passage to approving this. We will get a report from our leader shortly.

Mr. DODD. Mr. President, I point out that essentially the underlying bill, upon which final passage was finished with business for today, and
anybody who believes they need to express themselves on this matter further after today. It's my hope that some of you might want to take advantage of morning business, or something along those lines, today.

Mr. DODD. Mr. President, I suggest the absence of a quorum until we come to some understanding.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, Stuart Taylor, Jr. of the National Journal, has been among the more insightful and persuasive voices emerging against the so-called reformers campaign finance effort.

In the January 1, 2000 edition of that publication, in a piece entitled The Media Should Beware of What It Embraces, Mr. Taylor cautions the media to reconsider its hypocrisy in so zealously attacking the first amendment freedoms of every other participant in the political process.

This is especially significant because at one point not long ago, Mr. Taylor had advocated banning party soft money.

I ask unanimous consent that this article by Mr. Taylor and an article by Michael Barone, which ran in U.S. News, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the National Journal, Jan. 1, 2000]

The Media Should Beware of What It Embraces

(By Stuart Taylor, Jr.)

The uninvolvement of most media organizations for abolishing "soft money" and restricting issue advertising by "special interests" prompts this thought: How would the networks and The New York Times like a law imposing strict limits on their own rights to editorialize about candidates? After all, some of their favored proposals were to be enacted, the media would be the only major interest still enjoying unrestricted freedom of political speech.

A few liberal legal scholars have proposed such laws as a long-term component of any "reform" aimed at purging the influence of private money and promoting true political equality. Associate Professor Richard L. Hasen of Loyola University Law School (Los Angeles) put it this way in the June issue of the Texas Law Review:

"If we are truly committed to equalizing the influence of money on elections, how do we treat the press? Principles of political equality could dictate that a Bill Gates should not be permitted to spend unlimited sums in his capacity as an individual. But different rules [now] apply to Rupert Murdoch just because he has channeled his money through media outlets that he owns. . . . The principle of no money means that the press too should be regulated when it editorializes for or against candidates."

Far-fetched? Politically impossible? Blatantly wrong? In order to pursue the effort to abolish soft money, most reformers see that move as only a temporary, tactical concession.

A far more realistic expectation is that the current Supreme Court majority will strike down the Shays-Meehan restrictions on independent groups, even if it upheld the provision abolishing soft money.

The reason is that the danger of corruption that has persuaded the Justices to uphold caps on hard-money contributions to candidates (and that might stop them from upholding a ban on soft-money contributions to parties) seems far more remote when independent groups are raising and spending the money.

Indeed, the urge of many reformers to restrict independent groups has less to do with preventing corruption than with equalizing the political clout of all citizens by reducing that of (people and groups) with money. And that goal clashes with the Court's crucial holding in Citizens United vs. FEC—"the concept that government may restrict the speech of some elements of our society in order to enhance the relative voices of others which foreign to the dominant interest." Suppose, however, that Congress does eventually abolish soft money and tightly restrict issue ads and that the Supreme Court goes along—and thereby abandons its First Amendment ruling in Buckley. One result would be to weaken the political parties and the independent groups alike by restricting their fund raising.

Another result, liberal and conservative scholars agree, would be to enlarge greatly the power of the big business-driven interest groups because they would be the only major organizations still free to raise and spend unlimited amounts of money to amplify their speech about political campaigns. A.J. Liebling's line—"freedom of the press is guaranteed only to those who own one"—would become truer than he ever imagined.

In such an environment, what justification would remain for continuing to exempt the institutional media from the pervasive regulation of everyone else?

How would the media be protected by their image of themselves as disinterested, politically neutral guardians of democracy? Hardly. The public is already properly skeptical of the institutional media and far more interested in the big business companies. Many of them are already owned by commercial conglomerates, such as General Electric (which owns NBC and half of MSNBC), Disney (which owns ABC), and Rupert Murdoch's empire (which owns the Fox network, The New York Post, The Weekly Standard, and more). Many are even big soft-money donors.

And a media monopoly on freedom of political speech would enhance the already considerable influence of those interests seeking political clout to go into the media business.

Could the media count on the Supreme Court to strike down any congressional restrictions on their rights to editorialize? Dellinger believes so. I'm a bit less confident. For if we ever reach that point, Buckminster Fuller was right: The First Amendment will be unrecognizable, and political speech will no longer be deemed a fundamental freedom, but rather a privilege to be owned by a few.
paid for either by an individual (such as the CEO of a company) or by the media and set up by the media corporation for this purpose. The media corporation should be required to charge the CEO or the PAC the same rates that other advertising customers pay for space on the op-ed page.

This scenario seems very remote now. But it suggests some questions that we should ask ourselves. How far do we want to go? Is there a good place to stop? Who will be at the controls? And will we be able to ensure that the campaign finance reformers of 1974 have been with the system they helped create?

(From U.S. News, Nov. 15, 1999)

MONEY TALKS, AS IT SHOULD
(By Michael Barone)

"How a company lets its cash talk," read the headline in the New York Times last month. That article tells of the success of Samuel Heyman, chairman of GAF Corp., in lobbying for a bill to change rules for asbestos lawsuits. The article sets out how much money the asbestos companies have been paying in the way of contingent fees to attorneys and action committee have contributed to politicians and both parties, and the reader is invited to conclude that this billionaire and his competing legislation that will benefit them. Money buys legislation, which equals corruption: It is the theme articulated by John McCain in the Senate last month and on the campaign trail; it was the premise of questions asked at the Hanover, N.H., candidates' forum and taken for granted by Al Gore and Bill Bradley in their responses to questions of corruption that will benefit them. Money buys legislation, which equals corruption: It is the theme articulated by John McCain in the Senate last month and on the campaign trail; it was the premise of questions asked at the Hanover, N.H., candidates' forum and taken for granted by Al Gore and Bill Bradley in their responses to questions of corruption that will benefit them. Money buys legislation, which equals corruption: It is the theme articulated by John McCain in the Senate last month and on the campaign trail; it was the premise of questions asked at the Hanover, N.H., candidates' forum and taken for granted by Al Gore and Bill Bradley in their responses to questions of corruption that will benefit them.

Heyman's proposal, altered somewhat by a proposed House compromise, would stop nonsick plaintiffs from getting any money, while setting up an administrative system to determine which plaintiffs are sick and to offer them quick settlements based on previous recoveries. The statute of limitations would be tolled, which means that nonsick plaintiffs could recover whenever signs of sickness appear. Sick plaintiffs would get more money more quickly, while companies would be less likely to go bankrupt; 15 asbestos firms are bankrupt now, and the largest pays only 10 cents on the dollar on asbestos claims. A cease-and-desist order issued to Christopher Edley, a former Clinton White House aide and Harvard Law professor who has worked on the legislation, would be nonincumbent. A member of Congress (or someone who might get some small) settlements under the current system and the trial lawyers who have been taking huge contingent fees.

These strong arguments, strong enough to win bipartisan support for the bill, from Democratic Sens. Charles Schumer and Robert Torricelli as well as House Judiciary Chairman James Sensenbrenner and Majority Leader Trent Lott. You would expect Hyde and Lott to support such a law, but for Schumer and, especially, Torricelli, it goes against the political calculus: they hold the Senate Democrats' campaign committee, and Democrats depend heavily on trial lawyer money. One can only conclude that there was a deal before Heyman's bill was proposed. When McCain charged that the campaign current finance system was corrupt, Republican Mitch McConnell challenged him to name a senator who had voted corruptly. Certainly no one who knows the issues and the senators involved would have cited this case.

The pollution? And not just this case. When a government affects the economy, when it sets rules that channel vast sums of capital, when the companies who are going to try to affect government. They will contribute to candidates and exercise their First Amendment right to petition the government for a redress of grievances, lobby. Both things will continue to be true even if one of McCain's various campaign finance will be passed. There is no prospect for full public financing for candidates, which was featured in the New York Times last March issue.

To act on his convictions. Money talks, as it always will in a free society. But in America, money Heyman with, as Edley puts it, "the moxie and the right to comment on politicians' fitness for office. And to communicate political ideas in the public interest: Torricelli chairs the Senate Committee for a redress of grievances, lobby. Both things will continue to be true even if one of McCain's various campaign finance will be passed. There is no prospect for full public financing for candidates, which was featured in the New York Times last March issue.

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To act on his convictions. Money talks, as it always will in a free society. But in America, money Heyman with, as Edley puts it, "the moxie and the right to comment on politicians' fitness for office. And to communicate political ideas in the public interest: Torricelli chairs the Senate Committee for a redress of grievances, lobby. Both things will continue to be true even if one of McCain's various campaign finance will be passed. There is no prospect for full public financing for candidates, which was featured in the New York Times last March issue.
field toward (a) incumbent politicians, who enjoy the megaphone of public offices and the very rich, who buy unlimited megaphone time (which is why so many now populate the Senate); and (b) media moguls, who own the megaphone.

The conceit of McCain-Feingold is that politicians prostitute themselves only for big corporate or individual contributors. But they get far more care and feeding, flattery and deference to the lords of the media. It stands to reason.

They can be helped or hurt infinitely more by the networks and other news shows than by any lobbyist. By restricting the power of contributors, McCain-Feingold magnifies the vast power of those already entrenched in control of the Norman.

How to mitigate the effects of money? By demanding absolute transparency, say, full disclosure on the Internet within 48 hours of a contribution, so that contributions can be the subject of debate during, not after, the campaign. And by requiring TV stations, in return for the public licenses that allow them to print money, to give candidates a substantial amount of free air time.

Far better to reduce the demand for political money rather than the supply. For the Robespierres of American politics, however, such modest steps are almost contemptible. McCain’s mission is not the mitigation of sin but its eradication. Yet like all avengers in search of purity, McCain would leave only wreckage behind: a merely different configuration of influence-peddling—and far less freedom.

Mr. MCCONNELL. Mr. President, William Raspberry has also made some astute observations on this issue over the years. In the March 23, 2001 Washington Post, in a column entitled “Campaign Finance Frenzy,” Mr. Raspberry makes a refreshing observation, conceding that while he is drawn to “reform” he is not sure just what “reform” means. What is it? A fair question.

“I don’t quite get it,” Mr. Raspberry writes. He’s for it but confesses to not being sure of how to bring it about.

I venture to guess Mr. Raspberry speaks for a lot of people who are not intimately familiar with the McCain-Feingold bill and the jurisprudence which governs this arena.

I ask unanimous consent that Mr. Raspberry’s column be printed in the RECORD.

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

[From the Washington Post, Mar. 23, 2001]

CAMPBELL FINANCE FRENZY
(William Raspberry)

When it comes to campaign finance reform, now being debated in the Senate, I don’t quite get it.

I know what the problem is, of course: People and organizations with big money (usually people and organizations whose interests are inimical to mine) are buying up our political parties and politicians. It is disgraceful, and I’d like it to stop.

What I don’t get is how the reform proposals being debated can stop it.

Up to now, I’ve been too embarrassed to say so publicly, but I am opposed to McCain-Feingold, but that’s largely because all the people whose politics I admire seem to be for it. Besides, John McCain looks so sincere (I don’t really have a picture of him in my mind) and the Arizonans have made campaign finance reform such an important matter that he was willing to risk offending a president of his own party. I’m attracted to people of principle.

Similarly, I’ve been denouncing the substitute lately put forward by Sen. Chuck Hagel (R-Neb.) because my colleagues who know about these things say it is a sham—even a step backward. I don’t like shams.

The problem is (boy, this is humilating!) I don’t know what I want.

Do I want to keep rich people from using their money to support political issues? Political parties? Political candidates? No, that doesn’t seem right.

Do the Supreme Court say money is speech, thereby bringing political contributions under the protection of the First Amendment? That pronouncement, unlike many the courts have made, makes sense to me. If you have a First Amendment right to use your time and shoe leather to harvest votes for your candidate, why shouldn’t Mr. McCain have the money to support his candidate? If it’s constitutional for you to campaign for gun control, why shouldn’t it be constitutional for me to send money to campaign against it?

If money is speech—and it certainly has been speaking loudly of late—how reasonable is it to put a cap on the amount of permissible speech? Is that any different from saying I can make only X number of speeches or stage only Y number of rallies for my favorite politician or cause?

But if limits on money-speech strike me as illogical, the idea that there should be no limits is positively alarming. Politicians—and policies—shouldn’t be bought and sold, as is happening far too much these days.

The present debate accepts the distinction between “hard” and “soft” contributions—hard meaning money given in support of candidates and soft referring to money contributed to political parties or on behalf of issues.

McCain-Feingold would put limits on hard money contributions to political parties. Hagel would be happy with no limits on contributions to parties but has said that if campaign finance reform is passed, he would accept a cap of, say, $60,000 per contribution.

Hagel’s view is that the soft money given to parties is not the problem, since we at least know where the money is coming from. More worrisome, he says, are the “issues” contributions that can be made through non-public channels and thus protect the identity of the donors.

Why has money—hard or soft—come to be such a big issue? Because it takes a lot of money to buy the TV ads without which major campaigns cannot be mounted. Politicians jump through all sorts of unseemly hoops for money because they’re dead without it.

So why aren’t we debating free television ads for political campaigns? Take away the politician’s need for obscene sums of money and maybe you reduce the likelihood of his being bought. I’d be arguing about how much free TV to make available or the thresholds for qualifying for it, but at least that is a debate I could understand.

All I can make of the present one is that I’m for campaign reform, and I’m against people who are against campaign finance reform. I just don’t know what it is.