

I wish a law requiring background checks had been in effect at the time. . . . It was too easy. I wish it had been more difficult. I wouldn't have helped them buy the guns if I had faced a background check.

Of all the testimony that came out of Columbine, Robyn Anderson's is among the most memorable. The citizens of Colorado and Oregon, States with high rates of gun ownership, reacted by supporting referenda to close the gun show loopholes in their States. Now, Congress should do the same and enact legislation to close the gun show loophole nationwide.

CAMPAIGN FINANCE

Mr. BIDEN. Mr. President, I rise to call my colleagues' attention to an article by the distinguished First Amendment scholar, Ronald Dworkin, "Free Speech And The Dimensions Of Democracy." The article appears in *If Buckley Fell: A First Amendment Blueprint for Regulating Money in Politics*, sponsored by the Brennan Center for Justice at New York University's School of Law.

Professor Dworkin's work illustrates a point some of us made during the recent debate on campaign finance reform: the shocking state of our current political life is a perversion of the public discourse envisioned by the Founding Fathers, a perversion directly rooted in the mistaken understanding of the First Amendment underlying the Supreme Court's decision in *Buckley v. Valeo*, 424 U.S. 1 (1976).

As Professor Dworkin puts it, "[o]ur politics are a disgrace and money is the root of the problem."

There is no need to detail the disgraceful state of our political life brought about by politicians' need to chase dollars. Members of this body, myself included, described the current state of affairs in all its painful and embarrassing detail during the recently concluded debate on campaign finance reform.

Professor Dworkin's article makes explicit what many of us have argued in supporting Senator HOLLINGS' proposal to amend the Constitution so that reasonable limits can be placed on campaign expenditures: Senator HOLLINGS' Amendment is not an affront to the First Amendment, as some have portrayed it; it is an affront to Buckley, which was wrongly decided. Senator HOLLINGS' Amendment is restorative: it returns First Amendment jurisprudence to what it was before the ill-conceived Buckley decision.

In holding that limitations on campaign expenditures violate the First Amendment, Buckley mistakenly equates money and speech. But, as Justice Stevens pointed out recently in *Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377 (2000), money is not speech; money is property.

Professor Dworkin's article shows that the mistaken factual premise in

Buckley is rooted in a fundamental misconception of First Amendment jurisprudence. Senator HOLLINGS' effort to make clear that reasonable limits can be imposed constitutionally on campaign expenditures would restore that jurisprudence by overturning Buckley.

The First Amendment and most of the important decisions interpreting it presuppose a democracy in which citizens are politically equal, not only as judges of the political process through voting, but also as participants in that process through informed political discourse. Reasonable regulations on campaign expenditures would enhance speech and contribute to a more rational political discourse. Professor Dworkin illustrates this point through a historical and philosophical analysis of First Amendment precedent and the threat that unrestricted campaign expenditures pose to the values underlying the First Amendment. Treating money as speech debases genuine democratic dialogue.

Justice Brandeis made this point in another way in his justly famous dissent in *Whitney v. California*, 274 U.S. 357, 375 (1927):

Those who won our independence believed that the final end of the state was to make men free to develop their faculties, and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means. They believed liberty to be the secret of happiness and courage to be the secret of liberty; . . . [They believed] that the greatest menace to freedom is an inert people; that public discourse is a political duty; and that this should be a fundamental principle of the American government.

The damage that unrestricted campaign expenditures has done to our public discourse is clear. If money is speech, then inevitably one will need money, and large amounts of it, to speak politically. The result, in Professor Dworkin's words, is that our last two presidential campaigns were "as much a parody of democracy as democracy itself."

I will not repeat Professor Dworkin's analysis of the legal precedents interpreting the First Amendment and Buckley's distortion of them, except to point to the oddity that Buckley at times recognizes the constitutional jurisprudence it undermines. It does so in holding that, in contrast to campaign expenditures where any limit purportedly violates the First Amendment, Congress may constitutionally place limits on campaign contributions. The latter holding, as Professor Dworkin points out, is premised on a principle deeply rooted in First Amendment jurisprudence: reasonable restrictions on activity in the political realm, like contributing money, may be erected to protect core First Amendment values, like equality of political discourse. That is all that most proponents of campaign reform want to do, and that

is all that the Hollings Amendment will do.

AMERICAN PRISONERS OF THE HOLOCAUST

Mr. HOLLINGS. Mr. President, in September of 1944, the 106th Infantry Division embarked for Europe and soon joined heavy fighting at the Battle of the Bulge. But one member of the division, the Academy Award-winning filmmaker Charles Guggenheim, was left behind in Indiana due to a minor illness. His connection with this brave group and the 350 American soldiers taken prisoner after the battle and sent to a Nazi camp in Berga, Germany led Mr. Guggenheim to undertake a new documentary, which is the subject of an excellent New York Times article by Roger Cohen. So that more Americans can be educated about the events leading up to the Holocaust and the unspeakable horrors inflicted upon Americans as well as Europeans, I ask that Mr. Cohen's article be printed in the RECORD.

The article follows:

[From the New York Times, Apr. 17, 2001]

WHERE G.I.'S WERE CONSUMED BY THE HOLOCAUST'S TERROR; A FILMMAKER HELPS THAW MEMORIES OF WARTIME GUILT

(By Roger Cohen)

BERGA, Germany. Four plain wooden crosses stand in the cemetery above this quiet town in eastern Germany. One of them is inscribed "Unknown Allied Soldier." He is unlikely to be an American, because the G.I.'s who died here were exhumed after World War II and taken home. But the mystery of this soldier's identity is only one of many hanging over Berga and its former Nazi camp.

On a cold, late March day, with snow falling on the graves, a thin, soft-spoken American stands filming in the cemetery. He has hired some local volunteers, one of whom is portraying a Nazi guard, as two others turn the earth in preparation for the burial of the simulated corpses whose limp feet dangle out of sacks. The scene has an eerie luminosity in the silence of the snow.

The weather is cinematographically perfect. It is also unseasonably cold and infernally damp. The American, Charles Guggenheim, shivers as he says: "This is a slow business, filming something like this. Sort of like watching grass grow."

But for him the fate of the American soldiers imprisoned and worked to death more than a half-century ago in Berga has become something of an obsession.

Time may be needed for an obsession to take hold, time for the half-thoughts, nagging regrets and suppressed memories to coalesce into a determination to act. Mr. Guggenheim, a documentary filmmaker who has won four Academy Awards, waited a long time to embark on this movie. His daughter, Grace Guggenheim, has a theory as to why. "This is sort of a survivor's guilt story," she said.

In September 1944 Mr. Guggenheim, now 77, was with the American 106th Infantry Division, preparing to go to Europe. But when the other soldiers embarked, he was immobilized with a foot infection. He remained in Indiana while his fellow infantrymen were plunged, within weeks, into the Battle of the